FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3182 Merged w/3145

DATE FILMED 6/29/95 CAMERA NO. 2

CAMERAMAN EES

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OGC 8813

The Republican Party of Kentucky

Capitol Avenue at Third Street ★ P.O. Box 1068 ★ Frankfort, Kentucky 40602
Phone (502) 875-5130 FAX (502) 223-5625

FEDERAL ELECTION COMMISSION
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MUR 3145

RECEIVED
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OFFICE OF GENERAL COUNSEL
90 OCT 23 AM 11:17

October 19, 1990

Mrs. Lee Ann Elliott
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Madam Chairman:

This sworn complaint, filed pursuant to 2 U.S.C. 437g(a)(1), alleges that the Democratic Party of Kentucky, the Sloane for Senate Committee, the firm of Greer Margolis Mitchell & Associates, Inc., and the Association of Trial Lawyers of America have engaged in collusive activity which violates both the expenditure and contribution limits of the federal election laws.

I. The Defendants Engaged In Conspiratorial Activity To Make An Illegal "Expenditure" Under The Federal Election Laws.

It is alleged that the Democratic Party of Kentucky made an "expenditure", as that term is defined at 2 U.S.C. 431 (9) (A), for the purpose of influencing the election of its Senate candidate, G. Harvey I. Sloane, in the general election to be held on November 6, 1990. This "expenditure" was derived from funds in the so-called "non-federal" account maintained by the Democratic Party of Kentucky. This account is regulated by state law and, thus, funds in the account are not raised or spent in accordance with the provisions of the Federal Election Campaign Act (hereinafter "the Act"). Contributions and expenditures to and from this account are not subject to the limits and disclosure requirements or the prohibitions on corporate and labor contributions contained in the Act.

It is a violation of section 441a (f) of the Act to use any funds in a state party "nonfederal" account to influence a federal election. The section reads as follows:

Paid for by The Republican Party of Kentucky, Larry J. Steinberg, CPA, Treasurer

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No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section. 2 U.S.C. 441a(f).

The Democratic Party of Kentucky began to air a series of television advertisements on October 18, 1990, which will cost $300,000, according to the Louisville Courier Journal. See Exhibit "A". The Courier Journal also quoted unnamed party officials who refused to disclose the source of the funding for the ad campaign and noted that any contributions would "not have to be disclosed until after the November 6 election". Ibid. Without question, these funds were taken from the state party's so called "non-federal" account. Strict disclosure requirements for a state party's federal account and a small cash balance in the account as of September 30,1990, make a virtual certainty that this activity is being financed through the "non-federal" account of the Democratic Party of Kentucky. See Exhibit "B".

Transcripts of the two television advertisements and a tape of the ads themselves demonstrate conclusively that the purpose of this activity is to influence a federal election. See Exhibits "C" and "D".

The central theme of both ads is the national budget debate, an issue which clearly is designed to influence federal elections on November 6, 1990. Ibid. Both ads refer to "Wealthy Washington Republicans", the Social Security program, and President Bush's role in the Congressional budget debate, all matters which are clearly federal in nature. Ibid. Both ads also show pictures of former Presidents Roosevelt, Truman, and Kennedy as further evidence of an intent by the Defendants to influence a federal election. Ibid.

The two advertisements mention issues which have been used in recent advertisements for the Democratic Party's Senate nominee for the 1990 general election, G. Harvey I. Sloane. The state party ads mention "good-paying jobs, Social Security, health care, and education." Ibid. Remarkably, a recent Sloane ad refers to "health care, education, jobs". See Exhibit "E".

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Additionally, it should be noted that the state party ads close with the tag line: "That's why we need Kentucky's Democrats fighting for us". See Exhibits "C" and "D". This tag line is virtually identical to the campaign slogan currently being used by the Sloane campaign, which concludes with the tag line: "Kentucky's Democrat fighting for us". See Exhibit "E". According to a recent article in the Lexington Herald Leader, the party ads also use footage from previous Sloane commercials. See Exhibit "F".

Lastly, it must be noted that the creator, producer, and media buyer of the state party ads is Frank Greer of Greer Margolis Mitchell & Associates, Inc. of Washington, D.C. Greer is also the creator, producer, and media buyer currently being used by the Democratic Senate candidate, Mr. Sloane.

As noted in Exhibits "A" and "G", the Sloane campaign has nearly exhausted its financial resources. In fact, the Courier Journal also reports that Mr. Sloane has met with representatives of Kentucky's Democratic Governor in an effort to have the Governor raise contributions for his "cash starved" Senate campaign. See Exhibit "H". Given the lack of financial resources available to the Sloane campaign and given that the Kentucky Democratic Party has assigned most, if not all, of its so-called "coordinated expenditures" on behalf of Mr. Sloane to the Democratic Senatorial Campaign Committee, pursuant to 2 U.S.C. 441 (a)(d), the sole remaining alternative facing the Democratic state party was to employ illegally its "non-federal" funds to pay for this advertising campaign. This problem has been exacerbated further by the lack of a substantial cash balance in the state party's federal account. See Exhibit "B".

It is clear that the state party's ad campaign has been carefully coordinated with the Sloane campaign, utilizing the same media consultant, film footage, and campaign message. The central theme of the ads is not on state matters, but on federal policymaking issues and the ongoing budget debate between the President and Congress.

These ads have no relevance to state and local elections in Kentucky, and, instead, are illegal "expenditures" designed to influence the outcome of a federal election.

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II. The Defendants Conspired To Organize Illegal "Contributions" to State Party Accounts

This complaint also alleges that the defendants permitted illegal federal contributions to be made to the "nonfederal" account of the Democratic Party of Kentucky.

On September 26, 1990, the Louisville Courier-Journal reported that the Association of Trial Lawyers of America had contributed $50,000 to the "Kentucky Democratic Party's coordinated campaign to elect (Harvey) Sloane and other Democrats". See Exhibit "I". The article also stated that a second contribution of $50,000 to the state party was expected in October from the same organization. This contribution was not placed in the federal account of the state party and the reported cash balance for that account on September 30, 1990, totaled only $9312.60. See Exhibit "B".

Section 441a(a) of the Federal Election Campaign Act limits contributions to the federal account of any state party to $5000 per calendar year. 2 U.S.C. 441 a(a).

The contributions by the Association of Trial Lawyers of America exceed the federal contributions limits in section 441a. These contributions are a violation of section 441a(f) of the Act if these funds are being used "for the purpose of influencing any election for Federal office". 2 U.S.C. 431(8)(A)(i).

III. The Federal Election Commission Must Begin An Immediate Investigation To Halt These Alleged Violations Of The Federal Election Campaign Act.

Clearly, the defendants have engaged in collusive activity to make "expenditures" and "contributions" on behalf of G. Harvey I. Sloane which are prohibited by the Federal Election Campaign Act. The advertising campaign organized and financed by the defendants is specifically designed to influence a federal election on November 6, 1990, and it must be halted immediately.

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At least one of the defendants, the Democratic Party of Kentucky, has shown a consistent pattern of illegal conduct, having been fined at least three times during the last two years for violations of the Federal Election Campaign Act. See Exhibits "J" and "K".

For all these reasons, I urgently request that the Commission undertake an investigation of these allegations and take immediate steps to stop on-going violations of the Act.

Sincerely,

Robert E Gable

Bob Gable
Chairman
Republican Party of Kentucky

Sworn to and subscribed before me this 19th day October 1990.

Enclosures

Marilyn W Donaldson
Notary Public

My Commission Expires: Feb 13 1992

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Exhibit "A"

McConnell, Sloane tug over tax issue

By AL CROSS, Political Writer

FRANKFORT, Ky. — As Congress debates tax increases to reduce the federal deficit, both sides in Kentucky's U. S. Senate campaign are using television to exploit the issue — on which Republican Sen. Mitch McConnell has shifted his position slightly.

McConnell, who had long rejected the idea of any tax increases, said through a spokesman yesterday that he was willing to consider eliminating some tax deductions for the wealthy — and began saying in a TV commercial, "I think everyone should pay their fair share, including the rich."

The spot and McConnell's new stance are designed to counter the frankly couched campaign theme of the state Democratic Party and its Senate nominee, former Louisville mayor and Jefferson County judge-executive Harvey Sloane.

Today, the party will begin commercials that open with headlines about the budget debate and say Republicans "protect the rich and make the middle class foot the bill." The ads contrast pictures of hallowed Democratic presidents Roosevelt, Truman and Kennedy with film clips of people in fancy restaurants and limousines. The ads do not mention specifics.

Party officials wouldn't say where they got the money for the ad campaign, which they said is costing close to $300,000 and is produced by Sloane's media consultant. The source of money apparently does not have to be disclosed until after the Nov. 6 election.

Such a large expenditure from undisclosed sources "ought to raise people's eyebrows a little bit," McConnell's campaign manager, Steven Law, said at a news conference in Frankfort yesterday, held to counter the Democrats' news conference about their commercials.

Law also took aim at Sloane, saying his "vicious, ugly" campaign tactics show that he is overwhelmed with lust for power or "he's got a screw loose."

Law said the McConnell campaign started its commercial because Sloane "lies about what our position actually is" on the No. 1 issue facing the nation. He said the campaign has not polled on the budget-and-taxes issue — controversy over which has generated voter resentment against incumbents.

McConnell has been steadfast in his opposition to higher taxes, and has twice broken on the issue with President Bush, with whom he has been closely allied.

When Bush said in late June that he would agree to "tax revenue increases" as part of a deficit-reduction plan, McConnell and 35 other Republican senators sent Bush a letter saying they opposed any new taxes.

McConnell voted against the first budget agreement endorsed by Bush and congressional leaders of both parties, which would have raised several excise taxes and deducted more for Medicare premiums from Social Security checks.

The senator kept calling for unspecified spending cuts instead, and said he liked a conservative think tank's proposal to eliminate the deficit by 1997 by limiting total federal spending to increases of 4 percent per year.

Law said that plan assumes that the economy will grow as it did in the 1980s, and would take longer to reduce the deficit if there is a recession. But he said big tax increases could cause or worsen a recession.

Last month, Sloane signed a pledge saying that if taxes must be raised, he would work for higher taxes on the richest 1 percent of Americans before they are raised on average-income families.

McConnell responded with a pledge of his own, reading, "I pledge to oppose any increases in taxes, period. I am against any more taxes on American families."

Law said McConnell's newly announced willingness to cut tax deductions for the wealthy — such as mortgage interest for second homes — is not a reversal. Asked whether eliminating a taxpayer's deduction would increase that person's taxes, he laughed and said, "I'd like to move on."

Pressed again for an answer, he said, "I suppose for the class of people that we are taking about, which would be the most rich members of society, in certain cases, the elimination of favorable deductions that they've enjoyed would increase their share of the tax burden."

McConnell said Monday night that if taxes must be raised, they should be raised on the wealthy. That doesn't mean McConnell will vote to do that, Law said.

In his new commercial, over a background of somber piano music, McConnell says, "I haven't voted for one of these lousy budget packages for years, and I won't vote for this one."

Asked which budget McConnell means, Law said the plan passed by the House seems likeliest to pass — then said all proposals under consideration would cut Medicare. However, the House plan would not cut Medicare.

Law said it is clear that whatever package is passed will raise taxes on middle incomes. He said the House plan would do that by freezing "tax indexing," which raises tax brackets at the same rate as inflation.

At the end of his news conference, Law said Sloane was using "mudslinging at its filthiest" by calling McConnell "a liar, a sewer rat, a weasel, a fraud, a fink, Howdy Doody and jack-o'-lantern face. Now this is not the voice of a United States senator. It is the voice of impotent desperation."

He added, "We can only come up with two explanations — either Harvey Sloane is hating for power so badly he can't stand it, or else he's got a screw loose. Maybe something happens to someone mentally when they lose and lose over and over again." Sloane lost primaries for governor in 1979 and 1983.

Law said he wasn't saying Sloane is mentally ill, but, "It appears he's just got no control over his comments."

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REPORT OF RECEIPTS AND DISBURSEMENTS
Other Than An Authorized Committee
(Summary Page)

EXHIBIT B

USE FEC MAILING LA. OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)
Kentucky State Democratic Central Executive Committee

ADDRESS (number and street) ☐ Check if different than previously reported
Millville Road, P.O. Box 694

CITY, STATE and ZIP CODE
Frankfort, Kentucky 40602

2. FEC IDENTIFICATION NUMBER
C 000111 97

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

4. TYPE OF REPORT

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

Monthly Report Due On:
☐ 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 _____ (Type of Election) election on _____ in the State of _____

☐ Thirtieth day report following the General Election on _____ in the State of _____

(b) Is this Report an Amendment? ☐ YES ☒ NO

SUMMARY

5. Covering Period 7-1-90 through 9-30-90

		COLUMN A This Period	COLUMN B Calendar Year-to-Date
6. (a)	Cash on Hand January 1, 1990		$ 72.11
(b)	Cash on Hand at Beginning of Reporting Period	$ 72.11	
(c)	Total Receipts (from Line 18)	$ 48,100.00	$ 48,100.00
(d)	Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$ 48,172.11	$ 48,172.11
7.	Total Disbursements (from Line 28)	$ 38,850.51	$ 38,850.51
8	Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 9,321.60	$ 9,321.60
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)	$ 2,990.25	

For further information contact:
Federal Election Commiss
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
Richard Rankin

Signature of Treasurer
Pat Harris, Executive Assist.

Date
10-11-90

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 3 (revised 4/

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DETAILED SUMMARY PAGE

of Receipts and Disbursements
(Page 2, FEC FORM 3X)

Name of Committee (in full): Kentucky State Democratic Central Executive Committee

Report Covering the Period from 7-1-90 to 9-30-90

	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	5,100.00	5,100.00
(i) Itemized (use Schedule A)	-0-	-0-
(ii) Unitemized	-0-	-0-
(iii) Total of contributions from individuals	-0-	-0-
(b) Political Party Committees	23,000.00	23,000.00
(c) Other Political Committees (such as PACs)	28,100.00	28,100.00
(d) TOTAL CONTRIBUTIONS (add 11(a)(iii), (b), and (c))	20,000.00	20,000.00
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES	-0-	-0-
13. ALL LOANS RECEIVED	-0-	-0-
14. LOAN REPAYMENTS RECEIVED	-0-	-0-
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	-0-	-0-
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	-0-	-0-
17. OTHER RECEIPTS (Dividends, Interest, etc.)	48,100.00	48,100.00
18. TOTAL RECEIPTS (add 11(d), 12, 13, 14, 15, 16 and 17)		
II. DISBURSEMENTS		
19. OPERATING EXPENDITURES	5,000.00	5,000.00
20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES	-0-	-0-
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	-0-	-0-
22 INDEPENDENT EXPENDITURES (use Schedule E)	33,850.51	33,850.51
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES (2 U.S.C. 441a(d)) (use Schedule F)	-0-	-0-
24. LOAN REPAYMENTS MADE	-0-	-0-
25. LOANS MADE		
26. REFUNDS OF CONTRIBUTIONS TO:	-0-	-0-
(a) Individuals/Persons Other Than Political Committees	-0-	-0-
(b) Political Party Committees	-0-	-0-
(c) Other Political Committees (such as PACs)	-0-	-0-
(d) TOTAL CONTRIBUTION REFUNDS (add 26(a), (b), and (c))	-0-	-0-
27. OTHER DISBURSEMENTS	38,850.51	38,850.51
28. TOTAL DISBURSEMENTS (add 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)		
III. NET CONTRIBUTIONS/OPERATING EXPENDITURES		
29. TOTAL CONTRIBUTIONS (other than loans)(from Line 11(d))	28,100.00	28,100.00
30. TOTAL CONTRIBUTION REFUNDS (from Line 26(d))	-0-	-0-
31. NET CONTRIBUTIONS (other than loans)(subtract Line 30 from 29)	28,100.00	28,100.00
32. TOTAL OPERATING EXPENDITURES (from Line 19)	-0-	-0-
33. OFFSETS TO OPERATING EXPENDITURES (from Line 15)	-0-	-0-
34. NET OPERATING EXPENDITURES (subtract Line 33 from 32)	-0-	-0-

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SCHEDULE B — ITEMIZED DISBURSEMENTS

Separate schedule(s) required for each category of the Detailed Summary Page

PAGE 1 OF 2

FOR LINE NUMBER

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NAME OF COMMITTEE (In Full)

KENTUCKY STATE DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE

	Purpose of Disbursement / Disbursement for	Date (month, day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code Steve Bachar 172 Summerwalk Circle Chapel Hill, NC 27514	(travel,lodging) Payroll/Reimburse expenses Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	8-15-90 to 9-7-90	4.329.83
B. Full Name, Mailing Address and ZIP Code Neville Blakemore 424 MayFair Lane Louisville, Kentucky 40207	Purpose of Disbursement (travel,& lodging) Payroll/reimburse expenses Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-6-90 to 9-7-90	Amount of Each Disbursement This Period 1,521.82
C. Full Name, Mailing Address and ZIP Code James Lyle Cauley 1161 South First St. #3 Louisville, Kentucky 40203	Purpose of Disbursement (travel & lodging) Payroll/Reimburse expenses Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-15-90 9-7-90	Amount of Each Disbursement This Period 1,629.00
D. Full Name, Mailing Address and ZIP Code Margaret Conlon 414 West Sixth St. Lexington, Kentucky 40508	Purpose of Disbursement (travel) Payroll/Expenses Reimburse Disbursement for: ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-15-90 to 9-7-90	Amount of Each Disbursement This Period 4,716.87
E. Full Name, Mailing Address and ZIP Code Pat Goins 380 Harrodswood Dr. Frankfort, Kentucky 40601	Purpose of Disbursement (travel & lodging) Payroll/Expenses Reimburse Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-21-90	Amount of Each Disbursement This Period 714.12
F. Full Name, Mailing Address and ZIP Code Jackie Hollar 128 West State Street #3 Frankfort, Kentucky 40601	Purpose of Disbursement (travel & lodging) Expenses Reimbursement Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-31-90	Amount of Each Disbursement This Period 449.80
G. Full Name, Mailing Address and ZIP Code Kentucky Democratic Party P.O. Box 694 Frankfort, Kentucky 40602	Purpose of Disbursement (Salaries,phones,travel) Reimburse Adminstrative Exp. Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-21-90	Amount of Each Disbursement This Period 5,000.00
H. Full Name, Mailing Address and ZIP Code Andrew "Skipper" Martin 10007 Greenock Court Middletown, Kentucky 40243	Purpose of Disbursement (travel & lodging) Payroll/Expense Reimburse Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-15-90 9-7-90	Amount of Each Disbursement This Period 11,004.23
I. Full Name, Mailing Address and ZIP Code Printmaster P.O. Box 8268 Lexington, Ky. 40533-8268	Purpose of Disbursement Printing Disbursement for ☐ Primary ☒ General ☐ Other (specify)	Date (month, day, year) 8-23-90	Amount of Each Disbursement This Period 874.38
SUBTOTAL of Disbursements This Page (optional)			30,240.05
TOTAL This Period (last page this line number only)			

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DULE B

ITEMIZED DISBU[illegible]MENTS

Use separate schedule(s) for each [illegible] of the Detailed Su[illegible]y Page

PAGE 2 OF 2

FOR LINE NUMBER

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NAME OF COMMITTEE (In Full)

KENTUCKY STATE DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE

	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A. Full Name, Mailing Address and ZIP Code Jim Reed 214 Blackburn Avenue Louisville, Kentucky 40206	Computer Repair Disbursement for: [ ] Primary [X] General [ ] Other (specify)	9-14-90	$147.09
B. Full Name, Mailing Address and ZIP Code Danny Ross 1003 Berry Blvd. Louisville, Kentucky 40215	Purpose of Disbursement (travel & lodging) Payroll/Reimburse Expenses Disbursement for: [ ] Primary [X] General [ ] Other (specify)	8-31-90 9-7-90	5,116.71
C. Full Name, Mailing Address and ZIP Code Ridder/Braden Union Station, Suite 239, 17th Wynkoo[illegible] Denver, CO 80202	Purpose of Disbursement Voter List Disbursement for: [ ] Primary [X] General [ ] Other (specify)	8-28-90	1,184.99
D. Full Name, Mailing Address and ZIP Code Doris Saunders 416 Powhathan Trail Frankfort, Kentucky 40601	Purpose of Disbursement (travel) Expense Reimbrusement Disbursement for: [ ] Primary [X] General [ ] Other (specify)	8-31-90	47.07
E. Full Name, Mailing Address and ZIP Code South Central Bell P.O. Box 32440 Louisville, Kentucky 40232-2440	Purpose of Disbursement Phones Disbursement for: [ ] Primary [X] General [ ] Other (specify)	8-21-90	2,114.60
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		

SUBTOTAL of Disbursements This Page (optional)	8,610.46
TOTAL This Period (last page this line number only)	38,850.51

SCHEDULE A **ITEMIZED RECEIPTS**

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

PAGE 1 OF 2

FOR LINE NUMBER

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NAME OF COMMITTEE (In Full)

KENTUCKY STATE DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE

A. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
UAW V CAP 8000 E. Jefferson Detroit, Michigan 48124 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	UAW V CAP Occupation Aggregate Year-to-Date > $ 5,000.00	7-25-90	5,000.00
B. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Committe of Political Education, AFL-CIO 815 16th Street, N.W. Washington, D.C. 20006 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	AFL-CIO Occupation Aggregate Year-to-Date > $ 5,000.00	8-13-90	5,000.00
C. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Drive Political Fund 25 Louisiana Avenue N.W. Washington, D.C. 20001 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Drive Political Fund Occupation Aggregate Year-to-Date > $ 5,000.00	8-30-90	5,000.00
D. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Laborer's Political League 815 16th Street, N.W. Washington, D.C. 20006 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Political League Occupation Aggregate Year-to-Date > $ 3,000.00	9-14-90	3,000.00
E. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Carpenters Legislative Improvement Committee 101 Constitution Avenue NW Washington, DC 20001 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Occupation Aggregate Year-to-Date > $ 5,000.00	8-23-90	5,000.00
F. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Carl J. Bensinger 1517 Home Life Building Louisville, Ky. 40202 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Bensinger & Associates Occupation Attorney Aggregate Year-to-Date > $ 100.00	9-21-90	100.00
G. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
Mary C. Bingham 4309 Glenview Glenview, Kentucky 40025 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Retired Occupation Retired Aggregate Year-to-Date > $ 5,000.00	9-17-90	5,000.00
SUBTOTAL of Receipts This Page (optional)			28,100.00

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SCHEDULE A

ITEMIZED RECEIPTS

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

PAGE 2 OF 2

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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)

KENTUCKY STATE DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE

A. Full Name, Mailing Address and ZIP Code Democratic Senatorial Campaign Committee 430 S.Capitol St. S.E. Washington, D.C. 20003 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Name of Employer Committee Occupation Aggregate Year-to-Date > $10,000.00	Date (month, day, year) 8-7-90	Amount of Each Receipt this Period 10,000.00
B. Full Name, Mailing Address and ZIP Code D.N.C. Servies Corp 430 South Capitol St. S.E. Washington, D.C. 20003 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Name of Employer DNC Occupation Aggregate Year-to-Date > $ 10,000.00	Date (month, day, year) 8-9-90	Amount of Each Receipt this Period 10,000.00
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
D. Full Name, Mailing Address and ZIP Code Receipt For ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
E. Full Name, Mailing Address and ZIP Code Receipt For ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year to Date > $	Date (month, day, year)	Amount of Each Receipt this Period
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period

SUBTOTAL of Receipts This Page (optional) 20,000.00

TOTAL This Period (last page this line number only) 48,100.00

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SCHEDULE D
(Rev. 3/80)

DEBTS AND OBLIGATIONS
Excluding Loans

Page 1 of 3 for LINE NUMBER 20
(Use separate schedules for each numbered line)

Name of Committee (In Full) Kentucky State Democratic Central Executive Committee	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
Full Name, Mailing Address and Zip Code of Debtor or Creditor Mrs. Joe T. Litton 402 Breckinridge Lane Louisville, KY 40200	143.75			143.75
Nature of Debt (Purpose): Escrow - Print Sales				
Full Name, Mailing Address and Zip Code of Debtor or Creditor Frank K. Sewell 29 N. Maysville Street Mt. Sterling, KY 40353	285.50			285.5
Nature of Debt (Purpose): Escrow - Print Sales				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor William N. Richardson Deepwood Circle Cadiz, KY 42211	285.50			285.5
Nature of Debt (Purpose): Escrow - Print Sales				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor William F. Edmunds 615 Deepwood Drive Hopkinsville, KY 42240	144.25			144.
Nature of Debt (Purpose): Escrow - Print Sales				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor H. C. Wittenberg, Jr. 1898 Tyler Lane Louisville, KY 40205	285.50			285.
Nature of Debt (Purpose): Escrow - Print Sales				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor William G. Allen 1937 Central Avenue Ashland, Kentucky 41101	143.75			143
Nature of Debt (Purpose): Escrow - Print Sales				
(1) SUBTOTALS This Period This Page (optional)				

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...3/80)

DEBTS AND OBLIGATIONS
Excluding Loans

Name of Committee (In Full)	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstand Balance at E of This Pe
Kentucky State Democratic Central Executive Committee				
A. Full Name, Mailing Address and Zip Code of Debtor or Creditor Junior Odam 1101 Nicholasville Road Lexington, KY 40507	285.50			285.5
Nature of Debt (Purpose): Escrow- Print Sales				
B. Full Name, Mailing Address and Zip Code of Debtor or Creditor Archie Craft 1645 LInstead Drive Lexington, KY 40504	143.75			143.
of Debt (Purpose): ow - Print Sales				
ame, Mailing Address and Zip Code of Debtor or Creditor M. N. McTyeie 1314 Cherokee Road Louisville, KY 40204	285.50			285.
Nature of Debt (Purpose): Escrow - Print Sales				
D. Full Name, Mailing Address and Zip Code of Debtor or Creditor Joe M. Rodes P. O. Box 1140 Louisville, KY 40202	285.50			285
Nature of Debt (Purpose): Escrow - Print Sales				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor Lyman D. Wagers, DMD 1036 Nicholasville Road Lexington, KY 40504	270.50			270
Nature of Debt (Purpose): Escrow - Print Sales				
F. Full Name, Mailing Address and Zip Code of Debtor or Creditor L. D. May P. O. Box 655 Pikeville, KY 41501	143.75			14:
Nature of Debt (Purpose): Escrow - Print Sales				
1) SUBTOTALS This Period This Page (optional)				
2) TOTAL This Period (last page this line only)				

(Committee Name Full) Kentucky State Central Executive Committee	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
Full Name, Mailing Address and Zip Code of Debtor or Creditor Wayne Currans 541 Bryanwood Parkway Lexington, KY 40505	143.75			143.75
Nature of Debt (Purpose): Escrow - Print Sales				
Full Name, Mailing Address and Zip Code of Debtor or Creditor Robert C. Deen 708 Old Dobbins Road Lexington, Kentucky 40500	143.75			143.75
Nature of Debt (Purpose):				
C. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
E. Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
Full Name, Mailing Address and Zip Code of Debtor or Creditor				
Nature of Debt (Purpose):				
1. SUBTOTALS This Period This Page (optional)				2,990.25
2. TOTAL This Period (last page this line only)				
3. TOTAL OUTSTANDING LOANS from Schedule C (last page only)				2,990.25
4. Add 2 and 3 and carry forward to appropriate line of Summary Page (last page only)				

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES, INC.

Exhibit C

Include Time

KY STATE DEM. PARTY
"END"

VIDEO:	AUDIO:
(KY Post/USA Today Newspaper Headlines) "Taxes to Flatten Wallets" "Bush: Yes then No on Taxing Rich"	When it comes to taxes, you ... Republicans to protect the rich and make the middle class pay the bill.
CG (Words on Screen)	Democrats have always fought to make sure the rich pay their fair share of taxes.
KY Families Footage	That's the difference between Wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good-paying jobs, Social Security, health care, and education.
Limos Footage	Republicans haven't changed...they're still protecting the rich and ignoring the rest of us.
CG (Words on Screen)	That's why we need Kentucky's Democrats fighting for us.
(disclaimer)	

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GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES, INC.

Exhibit D

Include Tape

KY STATE DEM. PARTY
"1980s"
10/18/90

VIDEO:	AUDIO:
(KY Post/USA Today Newspaper Headlines) "Taxes to Flatten Wallets" "Bush: Yes then No on Taxing Rich"	When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
CG	During the 1980s, the rich got **huge** tax breaks while the middle class actually paid **more** taxes.
KY Families footage Presidents Footage	That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
Chryon	Republicans haven't changed...they're still **protecting** the rich and **ignoring** the rest of us.
Chron (Blue/Black) We Need Kentucky's Democrats Fighting for Us.	That's why we need Kentucky's Democrats fighting for us.
(disclaimer)	

2504365540

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700 • FAX (202) 338-2334 •
• 1145 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9000 • FAX (213) 443-9086 •

2504365354 1

SLOANE R.I.O. SPOT

Announcer:

For 26 years, he's dedicated himself to serving the people of Kentucky.

He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.

He's walked every corner of the Commonwealth, listening to Kentucky.

Harvey Sloane -- health care, education, jobs, our environment.

With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.

Harvey Sloane -- Kentucky's Democrat, fighting for us.

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LEXINGTON HERALD-LEADER
CITY/STATE
Section B
Thursday, October 18, 1990

Democratic Party targets rich in TV ads

By Jack Brammer
Herald-Leader Frankfort bureau

FRANKFORT — The state Democratic Party, which never before has run television commercials, will begin running ads today that accuse Republicans of protecting the rich on tax issues.

Meanwhile, Republican U.S. Sen. Mitch McConnell's re-election campaign unveiled a TV ad yesterday that tries to portray him as a fighter against the budget "mess" in Washington.

Both ads emphasize that the rich should pay their fair share of the federal tax burden, a theme that Democratic challenger Harvey Sloane has been stressing on the campaign trail for the last week.

Steven Law, McConnell's campaign manager, said McConnell was considering whether some tax deductions for the rich should be eliminated. McConnell has vowed that he will not vote for any tax increase.

Mike McKinney, the Democratic Party's vice chairman, said the party's two 30-second commercials were for all Democratic candidates and not solely intended to boost Sloane's

Please see ADS, B2

Exhibit "F"

ADS: Kentucky Democrats cite breaks for rich

From Page B1

campaign.

They do not mention by name any Democratic candidate but borrow heavily from various resources, like slogans and film footage, used in Sloane's campaign against McConnell. The party's ads and Sloane's all were produced by the consulting firm of Greer Margolis Mitchell and Associates in Washington.

The ads mark "the largest ever television advertising campaign" by the state's majority party, McKinney said.

He and Skipper Martin, manager for the Kentucky Democratic Coordinated Campaign, would not say how much the ads cost but said only that it would be a substantial amount.

The party advertising could be a big help to the financially strapped Sloane campaign, which had $550,000 to spend as of Sept. 30. McConnell, who has already been advertising heavily, reported still having nearly $1.9 million on hand.

Democratic officials also refused to say where the party was getting money to pay for the ads. That will be spelled out in campaign finance reports filed later with the state, they said.

The ads are to run up to Election Day, Nov. 6. They accuse Republicans of making the middle class pay the bulk of taxes.

"That's why we need Kentucky's Democrats fighting for us," the ads say, borrowing a line from the Sloane campaign.

The new McConnell ad, which began running statewide Tuesday, showed the senator giving his view of "the mess in Washington."

He said he has not voted for "one of these lousy budget packages for years and I won't vote for this one. It would raise taxes on the wrong people.

"Unlike some folks around here, I think everyone should pay their fair share, including the rich ... I don't care if the president or the congressional leaders twist my arm, I won't support any deal that's not a fair deal for the working families of Kentucky."

McConnell's campaign manager, Law, was asked why McConnell, who always has said he opposes any increase in taxes, is now talking about taxing the rich.

"He has said everyone should pay their fair share, including the rich," Law said during a news conference in the Capitol. "While he's not talking about an increase in rates, he thinks there may be some tax deductions that should be looked at that were created during the 1980s and possibly eliminated."

P 5 0 4 3 6 5 3 5 4 2

Election '90

Sloane trails McConnell in funds for final push

By AL CROSS
Political Writer

Democrat Harvey Sloane headed into the last month of his U. S. Senate campaign in precarious financial shape to compete with Republican Sen. Mitch McConnell.

The Sloane campaign's latest report to the Federal Election Commission shows that it had $553,899 in the bank on Sept. 30, $250,000 of it borrowed with Sloane's personal guarantee.

McConnell's report showed him with a balance of $1,873,896, more than enough to run a full-scale, statewide advertising campaign until Election Day Nov. 6. But Sloane's balance is not inadequate, said his campaign manager, Jim Cunningham.

"I do not have any doubt that we have enough money, with the situation going on in Washington, where the Republicans are working hard not to tax the rich and to tax the hard-working families of Kentucky," Cunningham said.

Sloane has called for raising the taxes of the richest 1 percent of Americans before increasing the tax burden of low- and middle-income people. McConnell, who opposes any tax increases, said on a radio talk show Monday night that if taxes must be raised, the rich should pay more.

The candidates' financial reports covered the third quarter of the year, July through

See SLOANE
Back page, col. 5, this section

Sloane trails McConnell in funds

Continued from Page One

September. The only other disclosures that must be made before Election Day are reports of contributions of $1,000 or more.

After a brief turnaround following Sloane's primary victory, McConnell resumed outraising his Democratic opponent during the quarter, collecting $456,537 to Sloane's $321,077 (not including the loan).

McConnell spent $1,225,212, most of it on television advertising. Sloane spent $440,423, but that does not include TV expenses paid by the national Democratic Senatorial Campaign Committee.

The committee has paid $170,000 of the maximum legal $260,500 in expenses for Sloane. The National Republican Senatorial Committee and the state Republican Party have been promoting McConnell in similar fashion.

Sloane has not broadcast a commercial since Oct. 2, but the state Democratic Party plans to begin a $300,000 TV campaign for its entire ticket today, and Cunningham said the Sloane campaign will resume its own spots "very soon."

Sloane has continued to seek money, largely out of state. He said yesterday that he did not know how much he had received this month. "We're still collecting money from the places I went, and I don't have the final figures," he said.

The campaign borrowed $250,000 from Republic Bank and Trust Co. of Louisville on Sept. 30, the last day of the reporting period, at an interest rate of 8.45 percent. The report says the loan is due Nov. 2, four days before the election.

During the quarter, the Sloane campaign repaid $400,000 in loans that it took out earlier in the year to avoid penalties for early withdrawal of certificates of deposit.

Those loans were guaranteed by campaign funds, but the latest loan is personally guaranteed by Sloane. McConnell has long said Sloane would dip into his personal wealth, as he did in his 1979 and 1983 primary races for governor. Sloane declined to reveal the collateral that he put up to get the money.

Out-of-state lawyers and labor unions continued to be major backers of Sloane's campaign during the third quarter.

Plaintiffs' lawyers are strongly behind Sloane because they oppose the changes McConnell has proposed in rules governing lawsuits, and labor dislikes the senator's voting record.

Sloane got $86,836 from political-action committees during the quarter, about 27 percent of his total contributions not counting the loan. Of that figure, $41,000 came from labor organizations.

Labor groups giving the $5,000 legal maximum for the general election included the American Federation of Teachers, which also gave Sloane the maximum during the primary election; the International Brotherhood of Electrical Workers; and the International Union of Electronic Workers.

Sloane also got the maximum $10,000 total for both elections from Democrats for the '90s, a political-action committee formed by activist Pamela Harriman of Washington, D. C.

He received the same amount as an in-kind donation of research from the National Committee for an Effective Congress. The Almanac of Federal PACs says the organization "identifies winnable congressional elections and provides liberal candidates in those races with financial support and technical campaign assistance."

Sloane got similar aid from the League of Conservation Voters, which paid $5,000 in salary for Pat Larkin, a member of his campaign staff. She is now being paid by the Sierra Club PAC.

Another maximum giver to Sloane was the Air Line Owners and Pilots Association, which strongly opposed McConnell's proposal to shoot down planes suspected of smuggling drugs into the United States.

Notable names among Sloane's contributors included Lt. Gov. Brereton Jones and first lady Martha Wilkinson, who are running for governor next year; state House Speaker Pro Tem Pete Worthington of Ewing, who is running for lieutenant governor; and former U. S. Rep. Geraldine Ferraro, the Democratic nominee for vice president in 1984.

McConnell got 35 percent of his money, or $142,800, from political-action committees — most of them business PACs and many with interests in committees on which he sits. He picked up an additional $61,980 from national Republican committees.

Many of McConnell's maximum legal contributions during the quarter came from pro-Israel PACs. Sloane got money from a pro-Israel PAC in the Chicago area, but its members are also interested in women's issues and civil rights.

9504365354 4

Sloane talks to Wilkinson consultant in indirect plea for governor's help

By ROBERT T. GARRETT
Staff Writer

GREENSBURG, Ky. — Anxious over whether they could raise the money needed to defeat U. S. Sen. Mitch McConnell, Democratic senatorial candidate Harvey Sloane and his wife, Kathy, sent an indirect plea for help to Gov. Wallace Wilkinson 2 ½ weeks ago.

The Sloanes made a Sunday-morning visit to Washington political consultant Robert Shrum, who recently signed on as the TV image-maker for the gubernatorial campaign of first lady Martha Wilkinson.

The Sloanes asked Shrum to implore the governor to raise money for the cash-starved Sloane campaign, Harvey Sloane acknowledged yesterday during a swing through the 5th Congressional District.

Sloane said he and his wife did not seek Shrum's advice on such matters as television advertising, strategy or whether to attack McConnell with negative TV spots.

Sloane described the impromptu visit Sept. 30 as largely social in nature. "Shrum and his wife, Cassie, are friends," he said. "I just went by for half an hour. We were staying just a block away in Georgetown."

Sloane said the visit to Shrum's residence did not signify any displeasure or disagreement with his campaign's media consultant, Frank Greer of Washington.

To have two consultants who normally compete for business "second-guessing each other" would be foolish and would "set the campaign into turmoil," Sloane said.

"You've got disagreements in the campaign all the time," Sloane acknowledged. "But I didn't see Shrum because I was dissatisfied with Greer. That's just not true."

Shrum could not be reached for comment yesterday.

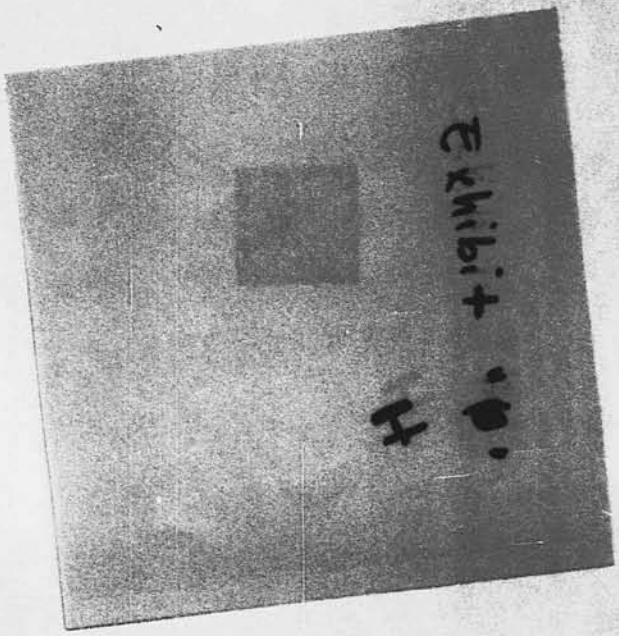
Greer, one of the Democrats' most successful consultants in recent years, said last night that "There hasn't been any spill. There's never been a disagreement about the strategy in this campaign — ever. And I've got to tell you, they (the Sloanes) talked to Bob (Shrum) about Wallace Wilkinson and fund-raising."

Whether Wilkinson has responded to the Sloanes' appeal with any fund-raising help was unclear yesterday.

Sloane said he has "not yet" seen evidence of recent fund-raising on his behalf by the governor. (Wilkinson held a fund-raiser for Sloane at the Governor's Mansion in Frankfort in early summer.)

But Doug Alexander, Wilkinson's press secretary, and State Democratic Chairwoman Mary Ann Johnson both insisted that Wilkinson has raised money recently for Sloane, although neither was able to provide any details. The Sloane campaign's latest finance report only covered a period ending Sept. 30. It shed no light on whether many people who are politically connected to Wilkinson have contributed to Sloane this month.

Wilkinson was the chief fund-raiser for Sloane's 1983 campaign for governor, but after Sloane backed another candidate in the 1987 gubernatorial primary, Wilkinson supported Superintendent of Public Instruction John Brock in this year's Senate primary. He later endorsed Sloane and held a fund-raiser for him.



2 5 0 1 3 6 5 3 5 4 5

For Senate, doctors endorse lawyer while lawyers endorse the doctor

By AL CROSS
Political Writer

Kentucky's U.S. Senate race hasn't grabbed the interest of most Kentucky voters, but it has drawn much attention from two powerful lobbies.

The groups are the chief protagonists in part of the national debate over health care, and in Kentucky they have swapped seemingly natural allegiances.

Republican Sen. Mitch McConnell, a non-practicing lawyer, got continued support yesterday from the political arm of the Kentucky Medical Association, the state's major organization of physicians.

And Democratic challenger Harvey Sloane, a non-practicing physician, got a much-needed financial boost this month from the Association of Trial Lawyers of America, the leading group of plaintiff's attorneys.

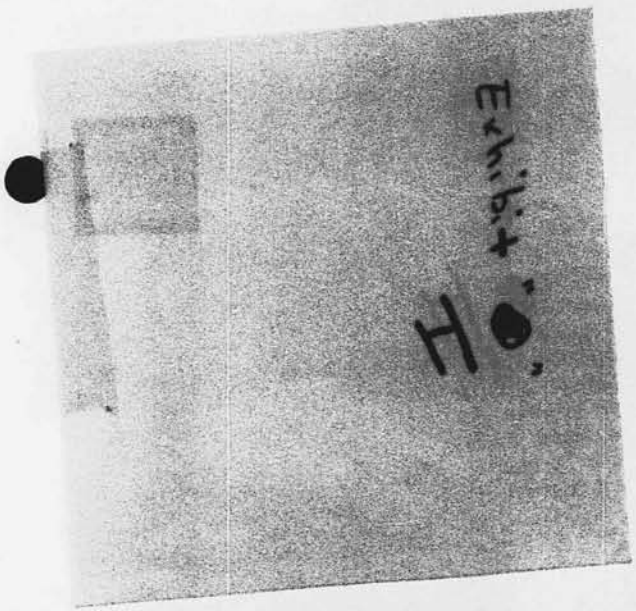
The political arm of the lawyers' group made the largest single contribution to the Kentucky Democratic Party's coordinated campaign to elect Sloane and other Democrats — $50,000, with another $50,000 expected next month.

Contributions to parties are not limited by law, unlike those to candidates. The lawyers' group had already given Sloane's campaign the legal maximum of $5,000 each for the primary and general elections.

McConnell got $5,000 from the American Medical Association's political arm for the primary election and is expected to get the same for the general election because of yesterday's recommendation by the AMA's Kentucky affiliate.

Why are the doctors for the lawyer and the lawyers for the doctor?

See ENDORSEMENTS Back page, col. 5, this section



Endorsements cross fields

Continued from Page One

In large part because McConnell takes the doctors' side in a long-running battle with lawyers over the cost of medical-malpractice claims, insurance and lawsuits.

McConnell has introduced legislation to change malpractice-suit rules in ways that he says would hold down costs — including requiring losing parties to pay winners' costs, and disallowing the practice of allocating damages according to the ability to pay rather than the degree of liability.

Sloane argues that malpractice accounts for a tiny part of the nation's health-care bill, and that states should be allowed to try alternative ways to resolve disputes without federal involvement.

Kentucky malpractice-insurance premiums have declined 18 percent in the last two years, but they remain a concern of doctors. For McConnell, the topic remains a key part of the overall health-care issue, which he said Monday night is "a close second" in priority to reducing the federal deficit.

In Washington because the Senate was meeting, McConnell spoke by telephone to the Kentucky Educational Medical Political Action Committee — whose directors voted in Louisville yesterday to recommend that it and the AMA's committee continue to support him.

Sloane asked for support in person, stressing his medical background and saying health care is his top priority.

Sloane and McConnell have both proposed plans to provide health care for the uninsured, hold down costs and expand government health services, particularly to children and the elderly.

Sloane would require businesses with 100 or more employees to provide basic health coverage and, among other things, give tax breaks and change insurance rules to help smaller businesses provide coverage.

McConnell, who generally opposes federal mandates, says most of the uninsured work for small firms and wouldn't be guaranteed coverage under Sloane's plan.

McConnell's alternative, announced before Sloane's, would give tax credits for low- and moderate-income people to buy health insurance. He announced Monday night that Republican Sens. Orrin Hatch of Utah and David Durenberger of Minnesota are co-sponsoring his bill.

McConnell acknowledged that the credits wouldn't be large enough to buy current policies, but says insurance companies would design cheap, basic hospitalization coverage if such credits were offered.

Sloane says McConnell's plan was written by insurance companies for their benefit. McConnell says Sloane opposes federal action on malpractice because he's too beholden to the trial lawyers.

McConnell's campaign manager, Steven Law, said the lawyers' big contribution "proves which side Harvey Sloane is on. He wants to protect the rich plaintiff's lawyers who are forcing high insurance costs on the backs of Kentucky working families."

As for the insurance industry's contributions to McConnell, Law said, "Insurance companies just report the bad news, where plaintiff's lawyers *create* the bad news."

Sloane told the doctors' group that his background would help him find common ground between the sides — something he said McConnell can't do because he has become a champion for one side.

But Sloane acknowledged in an interview that some doctors are suspicious of him because all his medical work was for government-funded agencies. He said in his speech that he is concerned about over-regulation and red tape.

Sloane also raised concern by writing himself prescriptions for unusual combinations and quantities of sleeping pills in 1987-89, said David Stevens, chairman of the state medical political-action committee. "Most physicians would say that was a mistake," said Stevens, a Lexington surgeon.

Sloane, who suffers from arthritis, says he is following the advice of the Kentucky Board of Medical Licensure not to self-prescribe.

The board decided last week to re-examine Sloane's practices after The Courier-Journal reported that he wrote the prescriptions under an expired Drug Enforcement Administration registration. He referred to the episode as he began his well-received speech Monday night.

"I just want to make sure that all of you have seen that your DEA registration is current. I know I have," he said to mild laughter. "With all the publicity the last few days, I feel a little bit like the fellow who was tarred and feathered and run out of town."

Information for this story was also gathered by staff writer Gideon Gil.

XC REG

Exhibit "J"

Kentucky's Democrats fined $1,000

Associated Press

WASHINGTON — Federal records show that the Kentucky Democratic Party has agreed to pay a $1,000 fine for failing to file four election-finance reports on time.

The reports were filed between 18 and 224 days late, although the party was notified in advance each time they were due and warned that fines could occur for repeated violations, records made public yesterday by the Federal Election Commission showed.

The problem "has to do with a turnover, with a change in the head bookkeeper position. The person was not familiar with final reports" and when they were due, party treasurer Richard Rankin said.

"It was an accidental oversight," Rankin said.

He said he did not anticipate future problems with filing reports.

The party was fined $7,500 for a violation in January.

In that case, the FEC said the party had given too much money to the 1986 congressional campaign of former state Rep. Terry Mann of Newport, who lost to Republican Jim Bunning in the 4th District.

The Campbell County Democratic Party and Covington lawyer Paul J. Vesper were also fined.

95043653546

Exhibit K

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 14, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert E. Gable, Chairman
Republican Party of Kentucky
P.O. Box 1068
Frankfort, Kentucky 40602

RE: MUR 2702

Dear Mr. Gable:

This is in reference to the complaint you filed with the Federal Election Commission on September 26, 1989, concerning the Kentucky State Democratic Central Executive Committee and the Dukakis/Bentsen Committee, Inc.

The Commission found that there was reason to believe that the Kentucky State Democratic Central Executive Committee and Richard A. Rankin, as treasurer, violated U.S.C. §§ 441a(f) and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On November 3, 1989, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on November 3, 1989. A copy of this agreements is enclosed for your information. In addition, on May 2, 1989, the Commission found no reason to believe that the Dukakis/Bentsen Committee, Inc., and Robert A. Farmer, as treasurer, violated 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code, and closed the file as to these respondents.

If you have any questions, please contact Frances B. Hagan, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

2504365347

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2702
Kentucky State Democratic Central Executive Committee	)	
Richard A. Rankin, as treasurer	)	

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Robert E. Gable, Chairman of the Republican Party of Kentucky. The Federal Election Commission ("Commission") found reason to believe that the Kentucky State Democratic Central Executive Committee and Richard A. Rankin, as treasurer, ("Respondents") violated 2 U.S.C. §§ 441a(f) and 441d(a).

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

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

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

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

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

1. The Kentucky State Democratic Central Executive Committee is a political committee within the meaning of 2 U.S.C.

9504365348

§ 431(4).

2. Richard A. Rankin is the treasurer of the respondent committee.

3. 2 U.S.C. § 441a(d) provides that notwithstanding any other provisions of law with respect to limitations on expenditures or contributions, a national party committee may make certain limited "coordinated party expenditures" in connection with general election campaign of its party's Presidential candidate. 11 C.F.R. § 110.7(a)(4) states that a national party committee may make coordinated party expenditures through any designated agent, including state and subordinate party committees. Commission policy requires that written authorization of Section 441a(d) expenditures be made before the expenditure of funds.

4. 2 U.S.C. § 441a(f) provides that no political committee shall knowingly make any expenditure in violation of the provisions of Section 441a.

5. On the 1988 October Quarterly Report, Respondents reported expenditures of $3,824.54 to the Kentucky Press Association for "newspaper advertising" dated September 12, 1988. In an amendment to the 1988 October Quarterly Report, the Committee reported coordinated expenditures of $3,824.54 on behalf of the Dukakis/Bentsen Committee.

6. On September 22, 1988, ten days after the advertising expenditures were made, Respondents signed an agreement with the Democratic National Committee ("DNC") in which the DNC authorized Respondents to make expenditures up to $6,000

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pursuant to 2 U.S.C. § 441a(d).

7. 2 U.S.C. § 441d(a)(2) requires that whenever any person, including a party committee, makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any newspaper or other general public political advertising, such communication, if paid for by other persons, but authorized by a candidate's committee, shall clearly state that the communication is paid for by such other persons and authorized by such authorized committee.

8. The newspaper advertisements noted in Section IV. 5 above, contained the disclaimer "Victory 88 Paid for by the Kentucky State Democratic Party." This statement does not indicate whether the ad was authorized by the candidate or an authorized committee.

V. 1. Respondents made expenditures without prior written authorization in connection with the 1988 Presidential election in violation of 2 U.S.C. § 441a(f).

2. Respondents failed to place the appropriate disclaimer on advertisements in violation of 2 U.S.C. § 441d(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one thousand two hundred dollars ($1,200), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any

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requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: _____ 11-13-89
Lois G. Lerner
Associate General Counsel
Date

FOR THE RESPONDENTS:

_____ October 18, 1989.
(Name) Michael T. McKinney
(Position) Counsel for Kentucky Democratic Party and Richard A. Rankin, its Treasurer
Date

9504365351

OGC 8367

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 OCT 23 PM 4:12

The Republican Party of Kentucky

Capitol Avenue at Third Street • P.O. Box 1068 • Frankfort, Kentucky 40602
Phone (502) 875-5130

October 22, 1990

Ms. Lee Ann Elliott, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Elliott:

I filed with you a formal complaint dated October 19, 1990 against the Democratic Party of Kentucky (et al), regarding two TV spots which they are currently running illegally.

Enclosed with that complaint was a "broadcasters-size" cassette containing the two spots. I now enclose copies of the same spots on VHS cassette. Your staff may find this more convenient.

Please add the enclosed cassette to the official complaint.

Yours very truly,

Robert E. Gable

Robert E. Gable
State Chairman

REG:mhd

9 5 0 4 3 6 5 3 5 5 2

Paid for by The Republican Party of Kentucky, Lawrence H. Owens, Treasurer

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Bob Gable, Chairman
Republican Party of Kentucky
Capitol Avenue at Third Street
P.O. Box 1068
Frankfort, KY 40602

RE: MUR 3145

Dear Mr. Gable:

This letter acknowledges receipt on October 23, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Democratic Party of Kentucky, Sloane for Senate Committee, the firm of Greer, Margolis, Mitchell & Associates, Inc., and the Association of Trial Lawyers of America. 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 3145. 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

9504365365 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Richard Rankin, Treasurer
Kentucky State Democratic Central
Executive Committee
Millville Road
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3145

Dear Mr. Rankin:

The Federal Election Commission received a complaint which alleges that the Kentucky State Democratic Central Executive 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 3145. 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.

9504365354

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

29504366553555

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Pat Goins, Executive Director
Kentucky Democratic Party, Non-Federal
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3145

Dear Ms. Goins:

The Federal Election Commission received a complaint which alleges that the Kentucky Democratic Party, Non-Federal 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 3145. 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.

9504365356

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

95043655357

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Victoria Buster, Treasurer
Sloane for Senate Committee
835 W. Jefferson #105
Louisville, KY 40202

RE: MUR 3145

Dear Ms. Buster:

The Federal Election Commission received a complaint which alleges that the Sloane for Senate 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 3145. 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.

9504365358

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

9504365355 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Joan C. Pollitt, Treasurer
Association of Trial Lawyers
of America PAC
1050 31st Street, N.W.
Washington, D.C. 20007

RE: MUR 3145

Dear Ms. Pollitt:

The Federal Election Commission received a complaint which alleges that the Association of Trial Lawyers of America PAC 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 3145. 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.

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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

95043653561

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Association of Trial Lawyers
of America
1050 31st Street, N.W.
Washington, D.C. 20007

RE: MUR 3145

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that the Association of Trial Lawyers of America 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 3145. 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 Association 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.

2504365356 2

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

29044366535563

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 25, 1990

Greer, Margolis, Mitchell & Associates
2626 Pennsylvania, N.W.
Washington, D.C. 20037

RE: MUR 3145

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Greer, Margolis, Mitchell & Associates 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 3145. 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 firm 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.

2504365356 4

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

9504365355 65

OGC 8585

LAW OFFICES
MANATT, PHELPS & PHILLIPS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036

TELEPHONE (202) 463-4300
FAX (202) 463-4394
(202) 463-4395

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV -8 PM 12:30

November 8, 1990

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

Re: MUR 3145

Dear Mr. Noble:

This letter requests an extension of time of one week, until November 20, 1990, for The Association of Trial Lawyers of America to respond to the complaint in the above-referenced matter. This additional time is necessary due to an unscheduled absence from the office.

Sincerely,

Lyn Utrecht

Lyn Utrecht
Manatt, Phelps & Phillips

9504365355666

006860

LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 589-4994

90 NOV -9 AM 10:51

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

November 8, 1990

INDIANA OFFICE:
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7838

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV -9 PM 12:29

9504365356 7

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

Attn: Lois G. Lerner
Associate General Counsel

Re: MUR 3145

Dear Ms. Lerner:

INTRODUCTION

As if the only race being run in Kentucky on November 6, 1990, were the Senate race between Dr. Harvey Sloane and Mitch McConnell, the Kentucky Republican Party has filed a Complaint with the Federal Election Commission ("FEC") claiming that "generic" advertisements run by the Kentucky Democratic Party and allegedly paid for by the National Democratic Party should be attributed to the Sloane Campaign, apparently based on some sort of conspiracy theory. Curiously, the Kentucky Republican Party has not even made a colorable effort to show that the advertisement "clearly identifies" Dr. Sloane or to otherwise meets the standards imposed by the FEC in Advisory Opinion

1978-50. See Exhibit A. Simply put, there is no basis for asserting that Dr. Sloane is "clearly identified" in the advertisement, particularly given the fact that in the November 6th election in Kentucky there were seven federal congressional races, one federal senatorial race, 100 state representatives, 19 state senators and many hundreds of local partisan political races on the ballot. Accordingly, there is no basis for attributing the cost of the advertisements to the Sloane Campaign.

ARGUMENT

The beginning and the end of this complaint appears in AO 1978-50, in which the Michigan Democratic Party sought to conduct a generic advertising campaign prior to a general election which included both federal and state offices. The Michigan Democratic Party asked the FEC for an advisory opinion about whether the generic advertising activities in question were required to be allocated to individual federal senatorial or congressional candidates. The answer to that question is contained on page 4 of that opinion.

> In response to question (3) the expenditures of the drive allocable to Federal election purposes <u>do not have to be further allocated to specific candidates for federal office</u>, . . . unless those expenditures are made on behalf of <u>clearly identified candidates to whom the expenditures can be directly attributed</u>. (Emphasis supplied.)

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In this case the Republicans do not even attempt to contend that any candidate, let alone Dr. Harvey I. Sloane, is "clearly identified" within the advertisements, and indeed they could not.

Rather, the Republicans essentially contend that the message contained in the advertisements is predominantly one which would affect the Sloane/McConnell race and accordingly since the advertisement is pro Democrat and therefore derivatively pro Sloane, and since Sloane conspired with the other respondents to have the advertisements run, Sloane is responsible for the entirety of their cost. Unfortunately, this "theory" simply is not a "theory" on which a violation of the Federal Election Campaign Act can be based. As can be seen, the advertisements on their face refer to taxes, Republicans and Washington. That, however, neither makes the message predominantly federal nor does it clearly identify Dr. Sloane any more than does the fact that pictures of prominent Democrats such as Presidents Roosevelt, Kennedy and Truman clearly identify Dr. Sloane. To assert that the taxation issue is a predominantly federal issue which clearly identifies Dr. Sloane is to ignore common sense. From the beginning of politics in this country, taxation has been a paramount concern for the electorate. While there are federal implications to the tax issue, in Kentucky this Fall, taxation is

on the minds of everyone. The most recent session of the Kentucky General Assembly raised taxes more than any other session in the history of the Commonwealth. When that tax increase is combined with the annual increases in local property taxes a message that Kentucky Republicans are for increases in taxes for the middle class can be made.

The Kentucky Republican Party's claim that referring to Democratic Presidents during the course of a senate campaign means that the cost of any such referral should be borne by federal senatorial candidates is bold if it is nothing else. The plain fact of the matter is that Presidents have always been the symbol of the political parties to which they belong. The Republican Party often refers to itself as the party of Lincoln. Yet, would the Republican Party assert that referring to Lincoln clearly identifies any one federal candidate or involves a message which is predominantly federal? We doubt it.

The message in all of the advertisements in issue is "Republicans favor the rich and tax the middle class both in Washington and here in Kentucky -- Democrats stand for people and for helping people just as Roosevelt, Truman and

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Kennedy stood for helping people. Local Democrats will do the same thing." And even if this is said to be a "predominantly federal message," there is no FEC requirement that any portion of the costs of the advertisement be allocated to Dr. Sloane unless he is "clearly identified" in the advertisements.

Finally, the Kentucky Republican Party does not bother to point to any place in the statutes administered by the Federal Election Commission which prohibits a candidate from "conspiring" with state or federal committees to raise money on their behalf. The only act that results in an attribution of the costs of an advertisement to a particular federal candidate is if that advertisement specifically identifies that candidate. Here, that simply did not occur.

CONCLUSION

The Republican Party's complaint has all the ear-marks of a political stunt, filed as it was at the eleventh hour, and containing not a shred of evidence or argument or any reference to the precedent with which anyone with a modicum of

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understanding of Federal Election laws must be familiar. It is too bad that there is no FEC counterpart to Fed. R. Civ. P. 11.

Respectfully submitted,

Donald L. Cox
LYNCH, COX, GILMAN & MAHAN, P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202
(502) 589-4215

Counsel for Respondents,
Dr. Harvey I. Sloane and the
Sloane for Senate Committee

c/sloane-4

9504365357 2

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON,D.C. 20463

September 19, 1978

AO 1978-50

Morley A. Winograd
Chairperson
Michigan Democratic Party
Hart-Kennedy House
606 Townsend
Lansing, Michigan 48933

Dear Mr. Winograd:

This responds to your letter of July 13, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to a proposed get-out-the-vote campaign of the Michigan Democratic Party to increase support for the Democratic Gubernatorial nominee of the party.

Your letter explains that in connection with the 1978 general election the Michigan Democratic Party:

> "intends to conduct an extensive educational and motivational campaign designed to increase support for our Democratic Gubernatorial nominee and turn-out those voters who are supporting that candidate. This campaign will involve telephone calls, mailings, literature distributions and personal visits by campaign workers to persons who are likely to be supporting the Democratic Gubernatorial nominee."

You further explain that the Party's project will "not involve contacting or communicating with voters based upon their support any of the Democratic nominees for Federal office." However, th 1978 general election in Michigan will include one seat in the United States Senate and 19 Congressional offices. Your letter

also states that party expenditures on behalf of candidates for Federal office and contributions received for Federal campaign purposes will be reported by the Party's Federal campaign committee-- Democratic Campaign Committee (Michigan). These expenditures, you say, "will not be related to our voter contact or voter turnout program which will be restricted solely to the Democratic Gubernatorial campaign."

You pose three questions for which you request an opinion:

(1) Are expenditures of the Michigan Democratic Party for the purpose of identifying and motivating supporters of the Party's Gubernatorial nominee covered by the Act?

(2) If these expenditures are subject to the Act, may the Party continue to maintain two separate accounts for the purpose of reporting contributions and expenditures of the Party under both Federal and State law? If this is permissible, how may it be accomplished?

(3) If some portion or all of the described expenditures are subject to the Act, on what basis, if any, should they be allocated to the Party's special expenditure limits on behalf of Senatorial and Congressional candidates under 2 U.S.C. §441a(d)(3)?

In response to your first question, the Commission concludes that expenditures of the Party for the purpose of identifying and motivating persons to support the Party's Gubernatorial nominee are, in part, for the additional purpose of influencing the election of persons to Federal office. In Advisory Opinion 1978-10, the Commission recently held that a political party's voter registration and get-out-the vote activity in a Federal election year, even though not expressly on behalf of candidates for Federal office, was nevertheless for the purpose of influencing the persons contacted to vote for all candidates of the political party.

7 6 0 4 0 2 5 0 4 3 6 5 3 5 7 4

The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective public offices. The expenditures for get-out-the-vote drives would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed. See Commission regulations at 11 CFR 106.1(c)(2) For example, if the purpose of the drive is to advocate the election of one or more clearly identified candidates for Federal office, then the cost must be attributed to that candidate or candidates, for limitation and reporting purposes, as either a contribution or an expenditure. 2 U.S.C. §441a(a) and §441a(d)(3). However, the Party may use printed materials in its get-out-the-vote drive which identify candidates for Federal office without allocating any cost to particular Federal candidates, if those materials are within the slate card or sample ballot exemption. 2 U.S.C. §431(e)(5)(E) and §431(f)(4)(G).*/ See Advisory Opinion 1978-9 (question 7).

In response to question (2), the Democratic Party of Michigan may continue to maintain its registered Federal campaign committee -- Democratic Campaign Committee (Michigan) -- for purposes of reporting contributions and expenditures coming within the purview of the Act and Commission regulations. See 11 CFR 102.6. The reporting political committee of the Party is required to defray the allocable Federal election portion of the expenses incurred by the Party for the described get-out-the-vote campaign. These expenditures are considered administrative expenses of the Party and may be allocated under the formula described in Commission regulation §106.1(e). Other allocation formulas have been approved by the Commission as reasonable and may be used to determine the amount of get-out-the-vote expenditures which must be paid by the Democratic Campaign Committee of Michigan

*/Expenses incurred under the cited sample ballot exemption are neither contributions nor expenditures for purposes of the Act. They are not subject to any monetary limit and may be funded by either a reporting political committee or nonreporting entity. If financed by a reporting political committee, the amounts spent for sample ballot materials need to be reported as a "Disbursement for exempt sample ballot expenses" in order to account for all cash outlays of the reporting political committee. See Commission regulations at §104.2(b).

See the Commission's response to Advisory Opinion Request 1976-72 and a Commission guideline issued in December 1977, copies enclosed.

Your letter suggests that for the Commission to require that some portion of the Party's get-out-the-vote expenses be financed and reported by its registered Federal political committee would put the Party in violation of Michigan law. You state that Michigan law requires that all Party expenditures be made from one account. To the extent that Michigan law requires the Party to make or report expenditures differently than required by this opinion (which concludes that some portion of the described Party expenses come under the Act and must be financed by a reporting political committee) the Michigan law is superceded and preempted by virtue of 2 U.S.C. §453. That section provides that the Act, and regulations prescribed under the Act, "supercede and preempt any provision of State law with respect to election to Federal office." In addition, Commission regulations at 11 CFR 108.7(b)(1) and (b)(2) provide that the Act and Commission regulations supercede State law concerning the organization and registration of political committees supporting Federal candidates and the disclosure of receipts and expenditures by political committees. However, copies of reports filed under the Act with the Commission must also be filed with the Secretary of State "of the appropriate State." 2 U.S.C. §439(a) and 11 CFR 108.3. Accordingly, the Democratic Campaign Committee (Michigan) is required to file copies of its reports submitted under the Act with the Michigan Secretary of State.

In response to question (3) the expenditures of the drive allocable to Federal election purposes do not have to be further allocated to specific candidates for Federal office, and therefore charged against the party's limits in 2 U.S.C. §441a(d)(3), unless those expenditures are made on behalf of clearly identified candidates to whom the expenditures can be directly attributed. As discussed above, candidates for Federal office may be identified in conjunction with the drive without any charge to §441a limits, if the identification is made on materials coming within the sample ballot or slate card exemption. See the discussion in response to question (1).

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This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Joan D. Aikens

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures

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OGC 8594

GUERRIERI, EDMOND & JAMES
1331 F STREET, N.W.
WASHINGTON, D.C. 20004

(202) 624-7400
FACSIMILE: (202) 624-7420

OF COUNSEL
SAMUEL ISBACHAROFF

JOSEPH GUERRIERI, JR.
JOHN A. EDMOND
EDGAR N. JAMES*
RICHARD RUDA
MARTHA WALFOORT
ROBERT S. CLAYMAN
JOHN J. SULLIVAN
MARIA MAKRIS-GOUVAS*
MICHAEL G. DZIALO†
NANCY E. SEGAL*
GREGORY A. SZALLAR**

*ALSO ADMITTED IN MARYLAND
**ADMITTED IN PENNSYLVANIA
†ALSO ADMITTED IN VIRGINIA

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV -9 AM 9:38

November 9, 1990

HAND-DELIVERED

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

Re: MUR 3145

Dear Mr. Noble:

Through this letter, Greer, Margolis , Mitchell & Associates, Inc. ("GMM"), a media consulting firm, responds to MUR 3145, a complaint filed by the Republican Party of Kentucky against the Democratic Party of Kentucky, the Sloane for Senate Committee and GMM. The single assertion made by the Republican Party regarding GMM is that it was the producer and media buyer for the Sloane for Senate campaign and for the Kentucky Democratic Party television commercials at issue in this matter.

GMM, a media consultant to political parties and candidates, has no duty to determine the source of payments that it receives from such entities or whether such disbursements comport with the requirements of the Federal Election Campaign Act (the "Act"). The Republican Party's naming GMM as a respondent in its complaint is without any legal or factual foundation and is an effort by the Republican Party to employ the procedures of the FEC for its own political purposes.

For the past several years, GMM has served as a media consultant to numerous political candidates and party committees. It has acted in this capacity to the Sloane for Senate Campaign. Specifically, GMM has been responsible for advising the Sloane campaign on media and public relations strategy including the creation, production and placement of campaign advertisements.

9504365357 8

In October, 1990 the Kentucky Democratic Party retained GMM for the limited purpose of creating, producing and placing two television commercials. Other than this work, GMM has not performed any other assignment for the Kentucky Democratic Party.

In none of the agreements between GMM and its clients, including the Sloane for Senate Committee and the Kentucky Democratic Party, has GMM agreed to undertake any responsibility for the client's compliance with the Act and the regulations. It has in good faith consistently assumed that the entities which it represents will conduct their business in a manner that is consistent with all laws including the Act.

As with any political media consultant, GMM's business is limited to ensuring that its services satisfy the highest professional standards; the political candidates whom it advises win their campaigns; and that it is paid for the services it has rendered. GMM is not required nor has it ascertained the source of payments made to it or determined if such disbursements comport with the Act and the regulations.

The Kentucky Republican Party would have vendors scrutinize the conduct of their clients and determine if their actions comply with the law. Clearly, the treasurers and the other employees of the political committees who actually control the disbursement of funds and who determine the accounts from which such disbursements are made bear the responsibility for compliance with the Act. No basis exists for maintaining GMM as respondent in this complaint and we request that it be dismissed immediately.[1]

Respectfully submitted,

Robert S. Clayman

Edgar N. James
Robert S. Clayman
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004
(202) 624-7400

cc: Mr. Franklin O. Greer

1/ Although each of the other named respondents will file a response to this complaint, GMM is best positioned to refute the charge that footage used in commercials for the Sloane for Senate campaign was also used in the Kentucky Democratic Party commercials. In fact, no footage was used in the Democratic Party commercials which appeared in commercials for Sloane.

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DECLARATION OF FRANKLIN O. GREER IN SUPPORT OF GREER, MARGOLIS, MITCHELL & ASSOCIATES, INC.'S RESPONSE TO MUR 3145

I, FRANKLIN O. GREER, being duly sworn, state the following:

1. I am the president of Greer, Margolis, Mitchell & Associates, Inc. ("GMM"), a consulting firm located in Washington, D.C. GMM performs public relations services and media-related work for corporations, non-profit associations, political candidates and political parties.

2. As the media consultant to the Sloane for Senate Campaign Committee, GMM advises the Committee on general media and communication strategies and is responsible for the creation, production and placement of advertisements and commercials regarding the campaign.

3. On or about October 10, 1990, the Democratic Party of Kentucky retained GMM for the limited purpose of creating, producing and placing two television commercials. Other than this assignment, GMM has performed no other work for the Democratic Party of Kentucky.

4. GMM has been retained by numerous political candidates and political parties to provide services similar to the services it has provided the Sloane for Senate Campaign Committee. None of the agreements between GMM and its clients, including the agreements with the Sloane Committee or the Kentucky Democratic Party, contain any requirement that GMM determine the source of monies disbursed by these clients in payment of GMM's fee or whether such disbursements comport with the requirements of the Federal Election Campaign Act (the "Act").

9504365380

5. As a media consulting firm, GMM is concerned with ensuring that its services are of the highest professional quality, that the candidates for whom it is providing services are successful in their campaigns, and that it is paid for those services. GMM does not undertake the responsibility of determining whether the payments comply with the Act.

6. GMM assumed, and had no reason to believe otherwise, that the payment it received from the Kentucky Democratic Party for the two commercials it produced satisfied the requirements of the Act.

7. The commercials which GMM produced for the Kentucky Democratic Party contain no footage which has appeared in Sloane for Senate commercials.

DECLARATION PURSUANT TO 28 U.S.C. § 1746

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

Franklin O. Greer

FRANKLIN O. GREER

9504365358 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3145

NAME OF COUNSEL: Edgar N. James/Robert S. Clayman

ADDRESS: Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

TELEPHONE: (202) 624-7400

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

11/1/90
Date

Signature Chief Operating Officer

RESPONDENT'S NAME: Greer, Margolis, Mitchell & Associates

ADDRESS: 2626 Pennsylvania, N.W.
Washington, D.C. 20037

HOME PHONE: 202 722 9099

BUSINESS PHONE: (202) 338-8700

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06C8023

LAW OFFICES
MICHAEL T. McKINNEY

Attorney at Law

MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
P.O. BOX 688
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0688

November 9, 1990

90 NOV 13 AM 10: 08

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

ATTN: Lois G. Lerner
Associate General Counsel

IN RE: MUR 3145

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 13 PM 12: 35

Dear Ms. Lerner:

This response is made on behalf of the Kentucky Democratic Party and Richard Rankin, its Treasurer, concerning allegations made by Robert Gable to the Federal Election Commission in a sworn complaint.

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THE CHARGES

In sifting through the ramblings which are Mr. Gable's complaint, there appear to be two (2) issues upon which it would appear he intended to focus:

I. Did the Kentucky Democratic Party use funds from a "non-federal" account to influence a federal election in violation of 2 U.S.C. 441 a (f) ?

II. Did the Kentucky Democratic Party accept "federal" contributions from the Association of Trial Lawyers of America into the Party's "non-federal" account as part of a conspiracy to organize illegal contributions?

ARGUMENT

I. The "acid test" for resolving the issue concerning expenditures made which Mr. Gable claims were used to influence a federal election can be found at 11 CFR 106.1 (c) (2). That particular regulation provides that

> Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the-vote drives of 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. (emphasis provided)

Moreover, the Federal Election Commission, in its Advisory Opinion 1978-50, reiterates this "clearly identified candidate" test.

Mr. Gable derived the greatest amount of his heartburn from a series of television advertisements which were run by the Kentucky Democratic Party as part of a very general "get-out-the-vote" effort.

The theme of the ads centers around the difference between Republicans and Democrats and the issue of taxation coupled with the Democratic Party identification with "working" people as opposed to

9504365358 4

the Republicans' identification with the wealthy. In 1990, taxation is one issue which is certain to draw the attention of Kentuckians inasmuch as the Kentucky General Assembly recently enacted the largest tax increase in the history of the state. With the thought in mind of getting people out to vote, there is no better way than to remind them of the singular issue which affects them all: taxes.

Mr. Gable seeks to taint the Kentucky Democratic Party's ads with his label of "influencing a federal election" by pointing out that the ads show pictures of former Presidents Roosevelt, Truman and Kennedy. One of the most frequently used motivations for the populace is to invoke the names of the Party's great leaders. However, this cannot possibly be construed as violating the standard of "clearly identified candidate".

The ads in question do not mention by name any candidate for federal election nor do the ads contain pictures of any candidate for federal election. Using the aforementioned standard of "clearly identified candidate", no possible construction of the television advertisements could lead to the conclusion that there was influence exercised upon a federal election.

The funds utilized to pay for the advertisements were entirely from contributions made and deposited into the Kentucky Democratic Party's "non-federal" account.

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II. The funds referred to in this corresponding section of Mr. Gable's complaint which were utilized in connection with the subject television advertising campaign were deposited into the Kentucky Democratic Party's "non-federal" account. Any such contributions were made in accordance with Kentucky law and were properly credited and expended.

In this, as well as the previous section, Mr. Gable references several passages from the Louisville Courier-Journal and Lexington Herald-Leader. Any such reference is hearsay at best and does not purport to substantiate the claims of Mr. Gable nor the position of the Kentucky Democratic Party.

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CONCLUSION

The complaint of Robert Gable on behalf of the Republican Party of Kentucky is completely without merit and is baseless. He does not establish any set of facts upon which it could be determined that the Kentucky Democratic Party spent "non-federal" monies on a "clearly identified" candidate for federal office with the intent or effect of influencing a federal election.

Mr. Gable routinely utilizes the media and any other available avenue for his political skulduggery. The Federal Election Commission should swiftly and summarily dismiss his complaint as groundless.

Yours truly,

Michael T. McKinney
Vice-Chairman and
General Counsel
Kentucky Democratic Party

MTM:trt

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3145

NAME OF COUNSEL: Michael T. McKinney

ADDRESS: P.O. Box 688
2922 Washington Square
Burlington, Kentucky 41005

TELEPHONE: (606) 586-9955

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

November 8, 1990
Date

Mary Ann Johnson
Signature
Chairman
Kentucky Democratic Party

RESPONDENT'S NAME: Kentucky Democratic Party and Richard Rankin, its Treasurer

ADDRESS: P.O. Box 694
Milleville Road
Frankfort, Kentucky 40602

HOME PHONE:

BUSINESS PHONE: (502) 695-4828

9504365358 8

LAW OFFICES
MANATT, PHELPS & PHILLIPS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 800
WASHINGTON, D.C. 20036

TELEPHONE (202) 463-4300
FAX (202) 463-4394
(202) 463-4395

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 19 PM 12:02

November 16, 1990

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

Re: MUR 3145

Dear Mr. Noble;

This letter is submitted on behalf of The Association of Trial Lawyers of America ("ATLA") and its federal political action committee ("ATLA-PAC") in response to the above-referenced matter. This complaint was filed by the Republican Party of Kentucky against the Democratic Party of Kentucky, the Sloane for Senate Committee, Greer Margolis Mitchell & Associates and ATLA, and alleges essentially that the Democratic Party Committee used funds in its non-federal account on behalf of the Senate campaign of Harvey Sloane. The only allegation pertaining to ATLA is that funds donated by ATLA-PAC were deposited in the Democratic Party's non-federal account and therefore may have been used by the Party to defray these allegedly improper expenditures on behalf of Sloane.

For the reasons set forth below, there is no reason to believe that ATLA or ATLA-PAC violated any provision of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"), and the Federal Election Commission ("FEC" or the "Commission") should dismiss the complaint as it pertains to them.

1. ATLA-PAC's Donations to the Party's Non-Federal Account Were Permissible Under Kentucky Law

As set forth in the attached affidavit of Alan Parker, ATLA-PAC made two donations to the non-federal account of the Democratic Party of Kentucky, one in September and one in October, 1990. These donations were made by ATLA-PAC for the express purpose of assisting the Party in defraying the non-federal share of its get-out-the-vote effort in connection with the November 6 general election.

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As the Commission has long recognized, donations made by a federal political committee to a state candidate or committee for non-federal purposes are governed by state law, not by federal law. See FEC Advisory Opinions Nos. 1986-5, 1981-18, 1979-82 and 1977-48. Thus, under the Kentucky campaign finance law, ATLA-PAC registered as a state political committee and filed disclosure reports fully detailing the contributions as required by Kentucky law. Copies of these reports are attached for the Commission's information.

2. **ATLA-PAC's Donations Were Not for the Purpose of Influencing a Federal Election**

Under 2 U.S.C. § 441a(a), ATLA-PAC may contribute up to $5,000 per calendar year to the federal account of the Democratic Party of Kentucky for use in connection with federal elections. This contribution limit applies only to contributions for the purpose of influencing federal elections and not to donations for use in connection with state electoral activity.

As set forth in Mr. Parker's affidavit, the donations made to the Kentucky Democratic Party were expressly made to defray the non-federal expenses related to the Party's get-out-the-vote effort on November 6, 1990, and thus were not "made for the purpose of influencing a federal election." 2 U.S.C. § 441(8)(A)(i). The complaint provides no evidence whatsoever to the contrary. Even if the complaint's allegation is correct that some portion of ATLA-PAC's donation to the non-federal account was improperly used by the Party, there is no evidence that ATLA-PAC violated any provision of the Act. The definition of contribution set forth above ("made for the purpose of influencing . . .") makes clear that under FECA, the donative intent of the contributor is dispositive as to whether or not there was a "contribution" within the meaning of the Act. Where, as in this case, ATLA-PAC specifically donated funds for a non-federal purpose, those donations were not contributions within the meaning of the Act and were not subject to the federal limits.

The complaint provided no evidence, and indeed none exists, that ATLA or ATLA-PAC had any knowledge that its funds were to be used for any purpose other than that for which they were donated, i.e., to defray non-federal get-out-the-vote expenses. Therefore,

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in light of the unrefuted attached sworn statement from Alan Parker stating ATLA-PAC's intent in making the donations in question, the Commission should find no reason to believe and dismiss the complaint insofar as it pertains to ATLA and ATLA-PAC.

Sincerely,

Lyn Utrecht

Lyn Utrecht
Manatt, Phelps & Phillips

LU:lay

Attachments

9504365359 1

Before the Federal Election Commission

In the Matter of The Association of Trial Lawyers of America	)	MUR 3145

AFFIDAVIT OF ALAN PARKER

I, Alan Parker, being duly sworn, state as follows:

1. I am Deputy Executive Director for Public Affairs of The Association of Trial Lawyers of America ("ATLA").

2. The federal political action committee established by ATLA ("ATLA-PAC") donated $50,000 on September 14, 1990, and $50,000 on October 9, 1990, to the non-federal account of the Kentucky Democratic Party. Copies of these checks are attached. These contributions were made in accordance with the requirements of Kentucky law.

3. The funds were specifically donated for use by the party to defray the costs of the non-federal share of the Party's get-out-the-vote efforts in Kentucky.

4. The checks were specifically made out to the Party's non-federal account and were duly reported to the Kentucky Registry of Election Finance, 1604 Louisville Road, Frankfort, Kentucky 40601. Copies of these reports are attached.

5. These funds were not donated for the purpose of influencing a federal election.

6. Neither ATLA nor ATLA-PAC knowingly participated in any effort to circumvent the contribution limits of 2 U.S.C. § 441a(a). If any of the funds donated by ATLA-PAC to the Party were used

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for the purpose of influencing a federal election, such use was contrary to the express intention of ATLA-PAC in making the donations for the non-federal get-out-the-vote effort.

I hereby swear or affirm under penalty of perjury that, to the best of my knowledge and belief, the foregoing statements are true and correct.

Alan Parker

Alan Parker

DISTRICT OF COLUMBIA:

I, [illegible], a Notary Public, hereby certify that on the 15th day of November, 1990, there personally appeared before me Alan Parker, who acknowledged signing the foregoing document and that the statements contained therein are true.

[illegible]

Notary Public

My Commission expires July 31, 1994.

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9 5 0 A 3 6 5 3 5 9 4

ATLA PAC
Association of Trial Lawyers of America
Political Action Committee
CONTRIBUTION ACCOUNT
1050 - 31ST STREET, NW.
WASHINGTON, D.C. 20007

RIGGS NATIONAL BANK
WASHINGTON, D.C.

15-3
540

01390

10/09/90 19

PAY FIFTY THOUSAND AND NO/100 DOLLARS Only---------- DOLLARS $ $50,000.00

408022391 10-24-90 004 09 0700

TO THE ORDER OF
Kentucky State Democratic Party-State Account
PO Box 694
Frankfort KY 40602

226400426197061824 102390

'90

Alan G. Parker

⑈001390⑈ ⑆054000030⑆ 06⑉08219453⑈ ⑈0005000000⑈

ATLA PAC
Association of Trial Lawyers of America
Political Action Committee
CONTRIBUTION ACCOUNT
1050 - 31ST STREET, NW.
WASHINGTON, D.C. 20007

RIGGS NATIONAL BANK
WASHINGTON, D.C.

15-3
540

01344

09/14/90 19

PAY FIFTY THOUSAND AND NO/100 DOLLARS Only---------- DOLLARS $ $50,000.00

508477524 09-19-90 004 09 0845

TO THE ORDER OF
Kentucky State Democratic Party-State Account
PO Box 694
Frankfort KY 40602

221200166192023160 091890

'90

Alan G. Parker

⑈001344⑈ ⑆054000030⑆ 06⑉08219453⑈ ⑈0005000000⑈

Received

KENTUCKY REGISTRY OF ELECTION FINANCE
1600 [redacted] Road, Frankfort, Kentucky 40601
Telephone 502/564-2226

Office Use Only

Date Approved

POLITICAL COMMITTEE REGISTRATION

Association of Trial Lawyers of America Political Action Committee
(Committee Name) (Do not include candidate's name in committee name unless an authorized committee. (KRS 121.210) Acronyms are permitted but full title from which derived must be shown. (KRS 121.170)

1050 31st. St. NW Washington DC 20007 202-965-3500
(Address) (Zip Code) (Telephone)

Federal Multi-Candidate Committee organized under FECA.
Sponsored by The Association of Trial Lawyers of America.
State the specific purpose, sponsorship, and source from which this committee originates. (KRS 121.170[1])

Date committee plans to be active: From Indefinite Thru _____
(Permanent Committee use "Indefinite.")

Check the statement which most nearly describes the purpose of this committee.

This committee is being organized as a: Federal Multi-candidate committee under FECA.

- ☐ CAMPAIGN COMMITTEE (a candidate during an election campaign.) KRS 121.015(1)(a)
- ☐ CAMPAIGN COMMITTEE (two or more candidates during an election campaign.) KRS 121.015(1)(a)
- ☐ POLITICAL ISSUE COMMITTEE (an issue which will appear on the ballot.) KRS 121.015(1)(b)
- ☐ PERMANENT COMMITTEE (various candidates on a selected basis.) KRS 121.015(1)(c)

THE CHAIRMAN AND THE TREASURER OF A COMMITTEE SHALL BE SEPARATE PERSONS. KRS 121.170(3)

CHAIRMAN

Gene Pavalon (Office Phone) 965-3500 (202)
(Name) (Home Phone) 419-7400 (312)

1050 31st. St. NW Washington DC 20007
(Address) (Zip Code)

TREASURER

Joan C. Pollitt (Office Phone) 965-3500 (202)
(Name) (Home Phone) 424-6654 (301)

1050 31st. St. NW Washington DC 20007
(Address) (Zip Code)

CUSTODIAN OF FINANCIAL RECORDS, IF OTHER THAN TREASURER

N/A (Office Phone) _____
(Name) (Home Phone)

(Address) (Zip Code)

Revised 7/88

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OFFICE USE ONLY

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ELECTION FINANCE STATEMENT

COVER PAGE

1. Candidate Name
   Office Sought/Dist. No.
   County of Residence
   Political Party

2. Committee Name Supporting: Association of Trial Lawyers of America Political Action Committee
   Office Sought/Dist. No.

3. Candidate/Committee Mailing Address
   1050 31st. St. NW
   Washington DC 20007
   Area Code/Phone

4. Treasurer's Name and Mailing Address
   Joan C. Pollitt
   (see box 3)
   Area Code/Phone 202-965-3500

5. This Statement Covers
   From 9-12-90 (Mo. Day Yr.)
   To 10-10-90 (Mo. Day Yr.)

TYPE OF STATEMENT

6a. ☐ Pre-election (Quarterly Preceding)
b. ☒ Pre-election (32nd day preceding)
c. ☐ Pre-election (12th day preceding)
d. ☐ Post Election (30th day following)
e. ☐ Post Election Supplemental (60th day following)
f. ☐ Quarterly (Permanent Committee)
g. ☐ Semi-annual Supplemental (Opposed candidate in last election)
h. ☐ Annual Supplemental (Unopposed candidate in last election)
i. ☐ Termination ____ (Mo. Day Yr.)
j. ☐ Amendment - check one of the items above to indicate which statement is being amended.

Pre-election, Post Election or Supplemental statement relates to:
☐ Primary ☒ General ☐ Special

Date of Election
November 6, 1990 (Mo. Day Yr.)

7. Verification: Certify that all reasonable diligence was used in the preparation of this Statement and attached schedule (if any) and to the best of my/our knowledge and belief the contents are true, accurate and complete.

Treasurer Joan C. Pollitt (Type or Print Name)
Joan C Pollitt (Signature)
Date 10-9-90 (Mo. Day Yr.)

9 5 0 4 3 6 5 3 5 9 7

SUMMARY PAGE

Association of Trial Lawyers of America
Candidate/Committee Political ACtion Committee

Period From 9-12-90 To 10-10-90

	COLUMN I THIS PERIOD	COLUMN II CUMULATIVE THIS ELECTION
RECEIPTS		
1. CONTRIBUTIONS: Receipts are itemized from 9-1-90 to 9-30-90		
a. Itemized by check or written instrument (Schedule 1, Item 7a)	+ $ 162,324.29	
b. Other receipts (Schedule 1, Item 7b)	+ $	
c. Receipts in currency (Number of people) Individual cash contribution limit is $100	+ $	$
d. Unitemized contributions (Number of people) Contributions by check of $300 or less.	+ $	
2. TOTAL RECEIPTS	= $	$
DISBURSEMENTS		
3. TOTAL DISBURSEMENTS (Schedule 2, Item 7)	$ 100,000	$
BALANCE STATEMENT		
4. Ending balance of last report (Enter (-0-) if no report has been filed)	+ $ N/A	
5. Amount received during reporting period (Line 2, Column 1)	+ $ see attached letter	
6. Sub-Total (Add Lines 4 and 5)	= $	
7. Amount disbursed during reporting period (Line 3, Column 1)	− $ 100,000	
8. ENDING BALANCE (Subtract Line 7 from Line 6)	= $	
9. Debts and Obligations owed BY: (Schedule 5, Item 11)	$ -0-	
10. Debts and Obligations owed TO: (Schedule 5, Item 11)	$ -0-	

	THIS PERIOD	CUMULATIVE THIS ELECTION
11. In-Kind Contributions Received (Schedule 3, Item 7)	$ -0-	$
12. Fund Raisers (Schedule 4, Item 10)	$ -0-	

9504365359 8

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS
SCHEDULE 1

1. Name of Candidate

2. Committee Name
Association of Trial Lawyers of America Political ACtion Committee

3. This Statement Covers ***
From 9-1-90 (Mo. Day Yr.)
To 9-30-90 (Mo. Day Yr.)

4a. Name and Address from whom received Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
See attached schedule. Receipts are itemized for 9-1-90 to 9-30-90		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
			Subtotal This Page				
			Total This Period (only on last page of this schedule)				

Enter the total on line 1a of Summary Page

Enter the total on line 1b of Summary Page

9 5 0 4 3 6 5 3 5 9 9

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name: Association of Trial Lawyers of America Political Action Committee

3. This Statement Covers: From 9-12-90 (Mo. Day Yr.) To 10-10-90 (Mo. Day Yr.)

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific, $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Kentucky State Democratic Party-State Account Box 694 Frankfort KY 40602	Contribution	9-13-90	$50,000.00
Kentucky State Democratic Party-State Account Box 694 Frankfort KY 40602	Contribution	10-9-90	$50,000.00

Subtotal This Page $100,000.00

Total This Period (only on last page of this schedule) $100,000.00

Enter this total on line 3 of Summary Page

Page _____ of _____

9 5 0 4 3 6 5 3 6 0 0

Kentucky Registry of Election Finance
1004 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

IN-KIND SCHEDULE 3

1. Name of Candidate

2. Committee Name
Association of Trial Lawyers of America Political Action Comm.

3. This Statement Covers
From 9-12-90 (Mo. Day Yr.)
To 10-10-90 (Mo. Day Yr.)

4a. Name and Address from whom received Enter age if not 18 by date of General Election	4b. AGE	5. Describe in-kind contribution or independent expenditure	6. Date of Receipt	AMOUNT 7. This Period	AMOUNT 8. From Prior Periods	8. Cumulative for election	9. Contributor Occupation (Be Specific)
No Activity This Period							

Subtotal This Page

Total This Period (only on last page of this schedule)

Enter this total on line 11 of Summary Page

Page _____ of _____

9504365360 1

Kentucky Registry of Election Finance
1804 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

FUND RAISERS
SCHEDULE 4

1. Name of Candidate

2. Committee Name
Association of Trial Lawyers of America Political Action Committee

3. This Statement Covers
From 9-12-90 (Mo. Day Yr.)
To 10-10-90 (Mo. Day Yr.)

4. Date Event was Held	5. Number of Individuals Participating	6. Type of Fund Raising Activity	7. Name and Address of the Location where Activity Held	8. Receipts	9. Cost
No Activity					
				10. Total	

NOTE: Individual Entries on this schedule recap information reported in other schedules being filed. This schedule is not to be filed separately but must be included with the Election Finance Statement covering the period in which the fund raising activity took place.

Enter the total on line 12 Summary Page

Page _____ of _____

9 5 0 4 3 6 5 3 6 0 2

Kentucky Registry of Election Finance
1804 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DEBTS AND OBLIGATIONS

SCHEDULE 5

1. Name of Candidate	2. Committee Name	3. This Statement Covers
	Association of Trial Lawyers of America Political Action Committee	From 9-12-90 (Mo. Day Yr.) To 10-10-90 (Mo. Day Yr.)

4. This Schedule itemizes:
(Check either (a) or (b) Do not mix (a) and (b) on same page. Use this page for only the one checked.)

(a). ☐ Debts and obligations owed by committee/candidate

or

(b). ☐ Debts and obligations owed to committee/candidate

5. Name and Mailing Address	6. Type of Obligations	7. Date Incurred	8. Original Amount	9. Prior Payment	10. Payment made this reporting period	11. Outstanding Balance at close of this period
N/A						

This schedule must be filed with every Campaign Statement up to and including the period in which all debts are repaid or otherwise satisfied.

Subtotal This Page

Total This Period (Complete only on last page of this schedule)

Page _____ of _____

Federal Multi-Candida[illegible] Committee; FEC reports filed a[illegible]ed with Secretary of State.

(Name) (Party Affiliation)

(Address) (Office Sought)

(Name) (Party Affiliation)

(Address) (Office Sought)

(Name) (Party Affiliation)

(Address) (Office Sought)

Does the candidate's name appear in the name of the committee? Yes ___ No ___ N/A

Has the candidate approved the use of his/her name? Yes ___ No ___ N/A

Constitutional amendment or public question to be advocated or opposed. KRS 121.210(4) KRS 121.015(3)(b)

N/A

This committee supports ___ or opposes ___ N/A

Designate depository bank or financial institution in which committee will maintain its funds.

Primary Depository

Riggs National Bank

(Name)

K St. NW, Washington DC 20007

(Address)

95043653603

VERIFICATION BY OATH OR AFFIRMATION

We, the undersigned, state that we are the Chairman and the Treasurer of the above described committee and this Statement of Organization for a Political Committee is true, complete and correct.

(Signature of Chairman) 9/12/90 (Date)

(Signature of Treasurer) 9-11-90 (Date)

CANDIDATE'S AUTHORIZATION
(If applicable)

I, _____ (Print), hereby authorize the use of my name by this committee.

(Signature of Candidate) (Date)

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3145

NAME OF COUNSEL: Lyn Utrecht

ADDRESS: Manatt, Phelps & Phillips
1200 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20036

TELEPHONE: (202) 463-4320

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.

Nov. 15, 1990
Date

Signature

RESPONDENT'S NAME: The Association of Trial Lawyers of America and its PAC

ADDRESS: 1050 31st Street, N.W.
Washington, D.C. 20007-4499

HOME PHONE:

BUSINESS PHONE: (202) 965-3500

9504365360 4

06-C8691

The Republican Party of Kentucky

Capitol Avenue at Third Street ★ P.O. Box 1068 ★ Frankfort, Kentucky 40602
Phone (502) 875-5130 FAX (502) 223-5625

RECEIVED
FEDERAL ELECTION COMMISSION
90 NOV 20 PM 2:00

November 12, 1990

Mrs. Lee Ann Elliott
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20436

RE: MUR 3145

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 20 PM 3:42

Dear Madam Chairman:

On October 19, 1990, we brought to your attention possible violations of the federal election law by the Democratic Party of Kentucky, the Sloane for Senate Committee, the firm of Greer Margolis Mitchell & Associates, Inc. and the Association of Trial Lawyers of America.

Subsequently it has come to our attention that in addition to the facts set forth in that complaint there is further evidence that the act was violated by the State Party and the Sloane for Senate Committee, and possibly by the Democratic National Committee, and an individual contributor in Kentucky.

In that context, we are enclosing a Louisville Courier Journal article which suggests that Mrs. Mary Bingham contributed $250,000 to the Democratic National Committee with the possible intent of having those funds utilized by the Democratic State Party to purchase TV ads to benefit the Sloane campaign.

By this letter, I am requesting that you immediately investigate this matter.

Sincerely,

Robert E. Gable /Haw

Bob Gable
State Chairman

9504365360 5

Paid for by The Republican Party of Kentucky, Larry J. Steinberg, CPA, Treasurer



Mary Bingham, displeased that she was being asked about her $250,000 gift so soon after the election, said, "I thought it would come out when there were lists of non-federal money put out later." The donation drew sharp criticism from prominent Kentucky Republicans and campaign-finance reform advocates.

Mary Bingham's $250,000 gift to Democrats buoyed Sloane

By ROBERT T. GARRETT, Staff Writer

Mary C. Bingham, matriarch of Louisville's wealthy Bingham family, gave $250,000 last month to the Democratic National Committee, which helped fund a Kentucky Democratic Party advertising blitz widely believed to have revived the flagging senatorial bid of Harvey Sloane, according to Sloane campaign sources.

Bingham's "soft money" donation, as such unregulated political gifts are called, was soon followed by donations by the national committee to the state party of about $250,000, three sources in the Sloane campaign said.

The committee's contributions reportedly constituted about half of the roughly $500,000 that the state party's coordinated campaign was able to spend to help Sloane and other Democrats running for office in Kentucky this fall.

While federal law prohibits individuals from giving more than $1,000 to a federal candidate in each primary or general election, it doesn't restrict how much they may give to national political parties' "non-federal ac-

See BINGHAM'S
Back page, col. 1, this section

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Bingham's gift aided Democrats

Continued from Page One

counts," and Bingham's gift apparently violated no law.

But money in those accounts is to be used for general party purposes, such as get-out-the-vote efforts, and is not supposed to be earmarked for a particular candidate.

On Oct. 19, the Kentucky Republican Party filed a complaint with the Federal Election Commission claiming that the state Democratic Party's ad campaign was aimed at the U.S. Senate race and had no relevance to state and local elections.

The Bingham gift drew sharp criticism yesterday from advocates of campaign-finance reform and prominent Kentucky Republicans. They denounced it as a blatant circumvention of the campaign-finance laws passed by Congress in 1974 after the Watergate scandal.

"This is a deliberate end run on the federal limits on how much individuals can give," said Ellen Miller, a former Kentuckian who runs the Center for Responsive Politics, a group that has fought for campaign-finance reform legislation. "... It's a rather systematic denial of the public's right to know where political money is coming from."

Sloane, who lost to Republican U.S. Sen. Mitch McConnell by nearly 45,000 of the roughly 914,000 votes cast in Tuesday's election, said yesterday that Bingham's gift was "for the Democratic campaign, and I think that's an important contribution she made."

Sloane, Bingham and Democratic National Committee political director Paul Tully would neither confirm nor deny that she had given $250,000 to the committee.

But Bingham expressed displeasure that she was being asked about her donation so soon after the election, saying, "I thought it would come out when there were lists of non-federal money put out later."

Tully said the committee, which is not legally required to disclose its soft-money donors, plans to release such information on April-December gifts "at the end of the year."

Since the mid-1960s, Sloane has been close to Bingham and other members of her family, which formerly owned The Courier-Journal, WHAS TV and radio and Standard Gravure Corp.

But Sloane insisted yesterday that "I am not a part of this transaction." Asked whether he spoke with Bingham about making such a contribution, Sloane said: "I talk to her about this race a lot, and she makes her own decision on what she's going to do."

Tully said there was "absolutely not" any agreement, explicit or implicit, to put any money given by Bingham into the Kentucky Democratic Party's coordinated campaign this fall.

The victory chances of Democratic candidates determine such allocations, not the origin of such donations, Tully said.

Tully said he did not know how much money the committee pumped into Kentucky this fall.

But he said that Kentucky could lose a U.S. House seat after redistricting next year and is one of at least two Southern states Democrats need to lure back from the GOP in the next presidential election. "We've got a lot of business down there," he said. "It's high up on our screen."

The Kentucky State Democratic Central Executive Committee received a $5,000 gift from Bingham, the maximum, to its federal account on Sept. 19, according to FEC records.

But the executive committee's state account, which funded the coordinated campaign, received no money from Bingham, said Skipper Martin, director of the coordinated campaign. How much money the national committee gave to the executive committee's state account will be disclosed in a report state law requires to be filed next month.

State law limits individuals to giving $6,000 per year to a political party's executive committee or its affiliates. But state law places no limits on how much a national party committee or a political-action committee may give to the state party, said Raymond Wallace, director of the Kentucky Registry of Election Finance.

Bingham had given her federal limit — $2,000 total — to Sloane's campaigns for the primary and general elections. Her late husband, Barry Bingham Sr., and her children, their spouses and their children had combined to give Sloane $17,400.

Bingham's $250,000 gift, reportedly made in early October, came after Sloane had fallen 20 points behind McConnell in the polls, had experienced severe difficulty raising money and had gone for months without large-scale television advertising.

The Democratic coordinated campaign [illegible] accused "wealthy Washington Republicans" of protecting the rich and their tax breaks, were broadcast amid growing public disgust over the federal budget impasse.

Sloane, who seized on the issue of higher taxes for the rich during the final month of the campaign, surged in some polls after the ads began running.

Miller, of the Center for Responsive Politics, said the Bingham gift "is particularly outrageous" because she said it evades the $6,000 limit of state law, the $1,000 federal limit on individual donors and the 1974 law's intent that political money be disclosed fully and in a timely fashion.

The center, a non-partisan group that studies campaign-finance trends and issues, knows of only two individual donations to national parties that were larger than Bingham's recent gift, Miller said. Joan Kroc, whose late husband founded the McDonald's restaurant empire, gave $1 million to the Democratic National Committee in 1987. New York businessman Nicolas M. Salgo gave $503,263 to the Republican National Committee in 1988.

Reached in Washington last night, McConnell, who has played a key role in killing Democratic-sponsored campaign-finance bills in recent years, said he was not sure whether the Bingham gift was legal.

"It certainly confirms," he said, "what we all have suspected for years — that the Bingham family, first through The Courier-Journal and then directly, created Harvey Sloane as a political figure, promoted him, and finally tried to finance his success.

"And I think the people of Kentucky are relieved that it did not succeed."

Robert Gable, chairman of the state Republican Party, said he was "really shocked and outraged" by the Bingham gift and by what he called Democrats' blatant use of state-regulated campaign money to promote Sloane's Senate candidacy.

"It's cheating," he said. "And what we were told was $300,000 of

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cheating (the Democratic coordinated campaign's earlier estimate of its spending) is now $500,000 worth of cheating," he said.

Both Bingham and Sloane, who mentioned the need for campaign-finance reform in his concession speech Tuesday night, said they dislike the soft-money loopholes in federal and state law.

But Sloane, who said he favors spending limits and public financing of congressional campaigns, said challengers such as himself face grave disadvantages. "I mean, look at the power of incumbency to intimidate" potential opponents and their likely donors, he said.

Bingham said that "when you're in a race with an incumbent of this kind ... the DNC has got to do something. ... As long as it's legal, you can't expect them to do anything else. Republicans have such an advantage. You've got to have a level playing field."

Bingham, who also made soft-money donations to the committee of $80,000 in 1988 and $50,000 last year, said she gives "whatever I can because I think the Republicans in the last 10 years have just about destroyed the country."

Bingham said she received no guarantees that her $250,000 would flow back to Kentucky. "Of course, I'm happy to think that Harvey would profit from it," she said. "... He would be a first-rate senator."

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Robert E. Gable, Chairman
The Republican Party of Kentucky
Capitol Avenue at Third Street
P.O. Box 1068
Frankfort, Kentucky 40602

RE: MUR 3145

Dear Mr. Gable:

This letter acknowledges receipt on November 20, 1990, of the amendment to the complaint you filed on October 23, 1990, against the Democratic Party of Kentucky, Sloane for Senate Committee, the firm of Greer, Margolis, Mitchell & Associates, Inc., and the Association of Trial Lawyers of America. The respondents, will be sent copies of the amendment. The Democratic National Committee and Mary C. Bingham will be sent copies of the original and amended complaint. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504365360 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Pat Goins, Executive Director
Kentucky Democratic Party, Non-Federal
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3145
Kentucky Democratic Party,
Non-Federal

Dear Ms. Goins:

On October 25, 1990, you were notified that the Federal Election Commission received a complaint from Robert Gable alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 20, 1990, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information. As this new information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact 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

Enclosure

9504365360

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Richard Rankin, Treasurer
Kentucky State Democratic Central
Executive Committee
Millville Road
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3145
Kentucky State Democratic
Central Committee and
Richard Rankin, as treasurer

Dear Mr. Rankin:

On October 25, 1990, you were notified that the Federal Election Commission received a complaint from Robert Gable alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 20, 1990, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information. As this new information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact 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

Enclosure

9504365361 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Robert A. Farmer, Treasurer
DNC Services Corporation
430 S. Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3145
DNC Services Corporation and
Robert A. Farmer, as
treasurer

Dear Mr. Farmer:

On November 20, 1990, the Federal Election Commission received an amendment to an earlier complaint, which amendment alleges that the DNC Services Corporation and you, as treasurer ("Committee"), may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the original complaint and amendment are enclosed. We have numbered this matter MUR 3145. 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.

9504365612

If you have any questions, please contact Jeffrey 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

95043655361 3

95043653614

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Mary C. Bingham
4309 Glenview
Glenview, Kentucky 40025

RE: MUR 3145
Mary C. Bingham

Dear Mrs. Bingham:

On November 20, 1990, the Federal Election Commission received an amendment to an earlier complaint which amendment alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the original complaint and amendment are enclosed. We have numbered this matter MUR 3145. 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.

If you have any questions, please contact Jeffrey 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

95043653615

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 28, 1990

Victoria Buster, Treasurer
Sloane for Senate Committee
835 W. Jefferson #105
Louisville, KY 40602

RE: MUR 3145
Sloane for Senate Committee
and Victoria Buster, as
treasurer

Dear Ms. Buster:

On October 25, 1990, you were notified that the Federal Election Commission received a complaint from Robert Gable alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On November 20, 1990, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information. As this new information is considered an amendment to the original complaint, you are hereby afforded an additional 15 days in which to respond to the allegations.

If you have any questions, please contact 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

Enclosure

9504365616

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
90 DEC -4 AM 8:10

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3145
DATE COMPLAINT RECEIVED
BY OGC: October 23, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: October 25, 1990
STAFF MEMBER: George F. Rishel

COMPLAINANTS: Robert Gable, Chairman
Republican Party of Kentucky

RESPONDENTS: Kentucky State Democratic Central Executive Committee and Richard Rankin, as treasurer

Kentucky Democratic Party (Nonfederal) and Pat Goins, Executive Director

Sloane for Senate Committee and Victoria Buster, as treasurer

Association of Trial Lawyers of America PAC and Joan C. Pollitt, as treasurer, and Association of Trial Lawyers of America

Greer, Margolis, Mitchell & Associates

Mary C. Bingham

DNC Services Corporation and Robert A. Farmer, as treasurer

RELEVANT STATUTES:
2 U.S.C. § 431(8) and (9)
2 U.S.C. § 434(b)
2 U.S.C. § 441a
2 U.S.C. § 441b
2 U.S.C. § 441d
11 C.F.R. § 102.5
11 C.F.R. § 110.6
11 C.F.R. § 110.7
11 C.F.R. § 110.11

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

9504365361 7

The complaint in this matter was filed on October 23, 1990, by Robert Gable, chairman of the Republican Party of Kentucky, against the Kentucky Democratic Party ("State Party"), the Sloane for Senate Committee ("Sloane Committee"), Greer, Margolis, Mitchell & Associates ("Greer"), and the Association of Trial Lawyers of America and its PAC ("ATLA") regarding television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign. The complaint alleges that these ads were broadcast on behalf of the Democratic Party's senatorial candidate, Dr. Harvey Sloane, prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic Party's nonfederal account, and financed in part by a $100,000 contribution from ATLA. Responses have been received from the Sloan Committee on November 9, from Greer and the State Party on November 13, and from ATLA on November 19.

On November 20, 1990, the complainant filed an amendment to the complaint. The amendment alleges that Mary C. Bingham made a $250,000 contribution to the nonfederal account of the Democratic National Committee ("DNC") that was immediately transferred to the nonfederal account of the Kentucky Democratic Party also to finance the ads alleged made on behalf of Dr. Sloane's candidacy. Notification letters were sent to Mrs. Bingham, the DNC, the State Party, and the Sloane Committee. Then, on November 27, 1990, a new complaint (MUR 3182) was filed by Common Cause against the DNC, the State Party, the Sloane Committee and Dr. Sloane, and Mary C. Bingham that overlaps with the allegations contained in the amendment to the complaint in this matter.

9504365618

This Office has contacted the Kentucky Registry of Election Finance in order to obtain a copy of the reports filed by the State Party's nonfederal account. We learned that the report covering the period from the primary through the general election would be filed on December 11. We placed an order for a copy of that report.

These complaints present substantial allegations regarding the use of a State Party's nonfederal account to fund general public political advertising allegedly in connection with the Senate election and the funding of such advertising by contributions from a PAC and an individual well in excess of what either could (and in this case did) contribute to the Senate candidate. In view of these circumstances, this Office will wait until the responses to the amendment to the complaint in MUR 3145 and to the new complaint in MUR 3182 are filed (or time has passed for their filing) as well as the receipt of the report of the State Party's nonfederal account before preparing a report with appropriate recommendations.

Lawrence M. Noble
General Counsel

Date 11/30/90

BY: _____
Lois G. Lerner
Associate General Counsel

9504365361 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS
SECRETARY OF THE COMMISSION

DATE: DECEMBER 5, 1990

SUBJECT: MUR 3145 - FIRST GENERAL COUNSEL'S REPORT
DATED NOVEMBER 30, 1990

The above-captioned matter was received in the Commission Secretariat at 8:10 a.m. on Tuesday, December 4, 1990 and circulated on a 24-hour no-objection basis at 11:00 a.m. on Tuesday, December 4, 1990.

There were no objections to the above-captioned matter.

9504365320

jar6139/bingham/fec.matter/corres.90/1208lgl.le
Wed Dec 5 17:11:13 1990

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 DEC -6 PM 12:38

REED SMITH SHAW & McCLAY

1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036
202-457-6100

PITTSBURGH, PA
PHILADELPHIA, PA
HARRISBURG, PA
McLEAN, VA

FAX 202-457-6113
TELEX NO. 64711

WRITER'S DIRECT DIAL NUMBER

(202) 457-6139

December 5, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC -6 PM 4:30

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

Re: MURs 3145, 3175

Dear Miss Lerner:

Per my conversation with you today, I write to request on behalf of respondent Mary C. Bingham an extension of time to and including January 4, 1991 for filing her response to the complaints filed in the above-captioned MURs and sent by you to her under cover of your letter dated November 28, 1990. Under the Commission's Rules of Practice, the initial responses to these complaints would be due on December 17, 1990. However, as I mentioned to you in our conversation, I am requesting an extension of time for filing those responses to and including January 4, 1991 in light of the facts that (i) the respondent resides in Kentucky and not in Washington, D.C.; (ii) the intervention of the Christmas and New Year's holidays during the extension period; and (iii) the expectation, based on published news reports, that a complaint raising similar issues has been or is about to be filed by Common Cause which it would be economical to respond to at approximately the same time.

I would appreciate your confirmation in writing that the requested extension has been granted. For your information, I enclose Designations of Counsel executed by Mrs. Bingham in connection with these matters.

Very truly yours,

Joseph A. Rieser, Jr.

JAR:vrc

Enclosures 2

9504365321

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3145

NAME OF COUNSEL: Joseph A. Rieser, Jr., Esq.

ADDRESS: Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202 - 457-6139

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.

Dec. 4, 1990
Date

Mary C. Bingham
Signature

RESPONDENT'S NAME: Mary C. Bingham

ADDRESS: 4309 Glenview Ave.
Glenview, KY 40025

HOME PHONE: 502 - 896-6123

BUSINESS PHONE: 502 - 587-0881

9504365362 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 12, 1990

Joseph A. Rieser, Jr., Esquire
Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036

RE: MURs 3145 and 3175

Dear Mr. Rieser:

This is in response to your letters dated December 6, 1990, which we received on December 7, 1990, requesting extensions until January 4, 1991 to respond to the complaints filed in the above-captioned MURs. After considering the circumstances presented in your letters, I have granted the requested extensions. Accordingly, your response is due by the close of business on January 4, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504365362 3

9504365624

OGC 8955 OFFICE USE ONLY

RECEIVED K.R.E.F.
Dec 6 4 22 PM '90

Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ELECTION FINANCE STATEMENT

COVER PAGE

1. Candidate Name
   Office Sought/Dist. No.
   County of Residence
   Political Party

2. Committee Name
   Supporting
   Office Sought/Dist. No.

90 DEC 13 A10:41

3. Candidate/Committee Mailing Address
   Kentucky Democratic Party
   P.O. Box 694
   Frankfort, Kentucky 40602
   Area Code/Phone 502-695-4828

4. Treasurer's Name and Mailing Address
   Area Code/Phone

5. This Statement Covers
   From 6 (Mo.) 1 (Day) 90 (Yr.)
   To 11 (Mo.) 30 (Day) 90 (Yr.)

TYPE OF STATEMENT

6a. ☐ Pre-election (Quarterly Preceding)
b. ☐ Pre-election (32nd day preceding)
c. ☐ Pre-election (12th day preceding)
d. ☐ Post Election (30th day following)
e. ☐ Post Election Supplemental (60th day following)
f. ☐ Quarterly (Permanent Committee)
g. ☐ Semi-annual Supplemental (Opposed candidate in last election)
h. ☐ Annual Supplemental (Unopposed candidate in last election)
i. ☐ Termination ____ (Mo.) ____ (Day) ____ (Yr.)
j. ☐ Amendment - check one of the items above to indicate which statement is being amended.

Pre-election, Post Election or Supplemental statement relates to:
☐ Primary ☒ General ☐ Special

Date of Election ____ (Mo.) ____ (Day) ____ (Yr.)

7. Verification: Certify that all reasonable diligence was used in the preparation of this Statement and attached schedule (if any) and to the best of my/our knowledge and belief the contents are true, accurate and complete.

Treasurer Richard Rankin (Type or Print Name)

by Pat Gross (Signature) Date Nov 30 90 (Mo. Day Yr.)

9 5 0 4 3 6 5 3 6 2 5

SUMMARY PAGE

Candidate/Committee: Kentucky Democratic Party

Period From: 6-1-90 To: 11-30-90

	COLUMN I THIS PERIOD	COLUMN II CUMULATIVE THIS ELECTION
RECEIPTS		
1. CONTRIBUTIONS:		
a. Itemized by check or written instrument (Schedule 1, Item 7a)	+$ 503,834.54	
b. Other receipts (Schedule 1, Item 7b)	+$ -0-	
c. Receipts in currency (Number of people ____) Individual cash contribution limit is $100	+$ -0-	$
d. Unitemized contributions (Number of people 99) Contributions by check of $300 or less.	+$ 8,141.50	
2. TOTAL RECEIPTS	=$ 511,976.04	$
DISBURSEMENTS		
3. TOTAL DISBURSEMENTS (Schedule 2, Item 7)	$ 493,201.10	$
BALANCE STATEMENT		
4. Ending balance of last report (Enter (-0-) if no report has been filed)	+$ 958.04	
5. Amount received during reporting period (Line 2, Column 1)	+$ 511,976.04	
6. Sub-Total (Add Lines 4 and 5)	=$ 512,934.08	
7. Amount disbursed during reporting period (Line 3, Column 1)	−$ 493,201.10	
8. ENDING BALANCE (Subtract Line 7 from Line 6)	=$ 19,732.98	
9. Debts and Obligations owed BY: (Schedule 5, Item 11)	$ 62,012.53	
10. Debts and Obligations owed TO: (Schedule 5, Item 11)	$ -0-	
	THIS PERIOD	**CUMULATIVE THIS ELECTION**
11. In-Kind Contributions Received (Schedule 3, Item 7)	$ 2,068.19	$
12. Fund Raisers (Schedule 4, Item 10)	$ 4,000.00	

Kentucky Registry of Election Finance
1904 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Frank C. Agin 7600 Morris Rd. Hillard, Ohio 43025		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-1-90	315.00		315.00	Engineer
American Federation of Government Employees 80 F Street, N.W. Washington, D.C. 20001		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-26-90	2,000.00		2,000.00	PAC
American Federation of State, County & Municipal Employees 1625 L. Street, NW Washington, D.C. 20036		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-2-90	5,000.00		5,000.00	PAC
ASDC-Dollars for Democrats 430 S. Capitol St. SE Washington, D.C. 20003		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☒ Misc. (Specify) Joint Fundraiser	9-17-90 10-12-90	2,900.00 1,100.00		4,000.00	Phone Solicitation
Assoc.of Trail Lawyers of America 1050 31st St. N.W. Washington, D.C. 20007		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-17-90 10-23-90	50,000.00 50,000.00		100,000.00	PAC
Terry Blake 2429 Whirlaway Dr. Owensboro, Ky. 42301		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-29-90	1,000.00		1,000.00	Architect
			Subtotal This Page	112,315.00			
			Total This Period (only on last page of this schedule)				

Enter this total on line 7a of Summary Page. Enter this total on line 7b of Summary Page.

Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

2 5 0 4 3 6 5 3 6 2 7

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

3. This Statement Covers
From 6 1 90 (Mo. Day Yr.)
To 11 30 90 (Mo. Day Yr.)

4a. Name and Address from whom received Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Donald Bradshaw 137 Locust Hill Frankfort, Kentucky 40601		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-30-90	1,000.00		1,000.00	Chairman First Ky. Securities
Dr. John Brock Campaign Fund P.O. Box 357 Morehead, Ky. 40351		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-12-90	2,500.00		2,500.00	Public Official
Paul D. Brown HC 77, Box 805 Hager Hill, Ky. 41222		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-5-90	1,000.00		1,000.00	Real estate
C.M. Carpenter P.O. Box 368 Annville, Ky. 40402		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-25-90	1,000.00		1,000.00	Contractor
Communication Workers of America Local 3310 3006 Dixie Highway Louisville, Ky. 40216		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-23-90	500.00		500.00	PAC
Catherine Conover 1718 Connecticut Ave, Suite 300 Washington, DC 20009		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-26-90	1,500.00		1,500.00	Artist
		Subtotal This Page		7,500.00			
		Total This Period (only on last page of this schedule)					

Enter this total on line 7a of Summary Page — Enter this total on line 7b of Summary Page

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Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Glenn Culver P.O. Box 517 Mortons Gap, Ky. 42440		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-12-90	1,000.00		1,000.00	Truck Stop Operator
Democrats for the 90's P.O. Box 3797 Washington, D.C. 20007		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-1-90	5,000.00		5,000.00	Contributing Organization
Victory 90 Individual Democratic National Committee 430 South Capital St. Washington, D.C. 20003		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-16-90 10-16-90 10-23-90 10-25-90 10-25-90	50,000.00 95,000.00 50,000.00 10,000.00 10,000.00		215,000.00	Democratic National Committee
Brian M. Dickerson 220 Steele St. Frankfort, Ky. 40601		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-10-90	500.00		500.00	Dickerson Aerial Surveys
David Dries 301 W. Liberty St.Suite 315 Louisville, Ky. 40202		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-6-90	1,000.00		1,000.00	Engineer
Drive Political Fund 25 Louisiana Ave, N.W Washington, D.C. 20001		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-2-90 11-5-90	10,000.00 10,000.00		20,000.00	PAC
		Subtotal This Page		242,500.00			
		Total This Period (only on last page of this schedule)		Enter this total on line 1b of Summary Page	Enter this total on line 1b of Summary Page		

Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS
SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40601

3. This Statement Covers
From 6 (Mo) 1 (Day) 90 (Yr)
To 11 (Mo) 30 (Day) 90 (Yr)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
James Ellis P.O. Box 1289 Pikeville, Ky. 41501		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-5-90	1,000.00		1,000.00	Architect
Thomas L. Ferreri 333 Gurhrie Suite 203 Louisville, Ky. 40202		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-10-90	1,000.00		1,000.00	Attorney
Aaron Fischer 9733 Litzsinger Rd. St. Louis, MO 63124		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-30-90	4,000.00		4,000.00	Insustrial Consultant
Gordon Getty 2880 Broadway San Francisco CA 94115		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-2-90	2,000.00		2,000.00	Attorney
James Gibson 11607 Owl Creek Lane Anchorage, Ky. 40223		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-9-90	1,000.00		1,000.00	Architect
Roy M. Guess Route #3, Box 329 Princeton, Ky. 42445-9336		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-12-90	500.00		500.00	Owner-Guess Trucking
			Subtotal This Page	9,500.00			
			Total This Period (only on last page of this schedule)				

Enter this total on line 9a of Summary Page. Enter this total on line 9b of Summary Page.

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Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
John A Harris IV 2035 Twinbrook Road Berwyn, PA 19312		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-31-90	1,000.00		1,000.00	Retired
Joseph H. Hodskins 131 Prosperous Place, Unite 18A Lexington, Ky. 40509		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-1-90	1,000.00		1,000.00	Engineer
Jerry S. Ikerd P.O. Box 1369 Somerset,Ky.		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-13-90	1,000.00		1,000.00	President South Ky.Mack Trucks
Jefferson County Democratic Party 660 S.Third St. Louisville, KY. 40202		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-9-90	3,000.00		3,000.00	Executive Committee
JeffCO PVA Camp.Committee 504 Fiscal Court Building Louisville, Ky. 40202		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-21-90	1,000.00		1,000.00	PAC
Robert L. Kaiser 401 Culpepper Rd. Lexington, Ky. 40502		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-12-90	500.00		500.00	Engineer
		Subtotal This Page		7,500.00			
		Total This Period (only on last page of this schedule)		Enter this total on line 1b of Summary Page	Enter this total on line 1b of Summary Page		

5 10

Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

1. Name of Candidate

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo) 1 (Day) 90 (Yr)
To 11 (Mo) 30 (Day) 90 (Yr)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Kentucky Association Nursing Home Education & PAC 9403 Mill Brool Rd. Louisville, Ky. 40223		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-10-90	1,000.00		1,000.00	PAC
Kentucky Democratic Party Federal Account P.O. Box 694 Frankfort, Ky. 40602		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-21-90 10-23-90 11-2-90	5,000.00 4,000.00 8,000.00		17,000.00	State Executive Comm.
Kentucky State AFL-CIO COPE Fund Route #3, Millville Rd. Frankfort, Ky. 40601		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-26-90	10,000.00		10,000.00	PAC
Kentuckians for a Better Future 167 W. Main St. Lexington, Ky. 40507		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-7-90	25,000.00		25,000.00	PAC
Kentucky UAW-SAC 5850 Fortune Circle West Ind.IN 46241		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-6-90 11-1-90	6,000.00 5,000.00		11,000.00	PAC
Machinists NON-PARTISAN Political League 1300 Connecticut Ave.,NW Washington, D.C. 20036		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-30-90	5,000.00		5,000.00	PAC
			Subtotal This Page	69,000.00			
			Total This Period (only on last page of this schedule)				

Enter this total on line 9a of Summary Page. Enter this total on line 9b of Summary Page.

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS
SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Jerry S. Marksbury 2620 Fisherville Rd. Fisherville, Ky. 40023		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-6-90	3,000.00		3,000.00	Owner-Marksburg Cornett Construction
William S. May P.O. Box 558 Frankfort, Ky. 40602		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-17-90	1,000.00		1,000.00	Brighton Engineering
Harold Mays 126 South Creek Frankfort, Ky. 40601		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-20-90	1,000.00		1,000.00	H.G. Mays Corp.
Alida R. Messinger Rockfeller Plaza at 49th New York, N.Y. 10020		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-30-90	5,000.00		5,000.00	Attorney
National Education PAC 1201 16th St. NW Washington, DC 20036		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-26-90	15,000.00		15,000.00	PAC
Northern Kentucky AFL-CIO 116 16th St. Newport, Ky. 41071		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	8-27-90	500.00		500.00	PAC
			Subtotal This Page	25,500.00			
			Total This Period (only on last page of this schedule)				

Enter this total on line 9a of Summary Page

Enter this total on line 9b of Summary Page

Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS
SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694

3. This Statement Covers
From 6 Mo. 1 Day 90 Yr.
To 11 Mo. 30 Day 90 Yr.

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Occupation (Be Specific)
PipeFitters Local 522 1317 Berry Blvd. Louisville, Kentucky 40215		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-1-90	5,000.00		5,000.00	PAC
Robert H. Pyles 890 Woodland Drive Maysville, Ky. 41056		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	9-5-90	1,000.00		1,000.00	Engineer
Laurance Rockefeller Room 5600 30 Rockefeller Plaza New York, NY 10112		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-25-90	3,000.00		3,000.00	Attorney
William D. Rollnick 92 Sutherland Dr. Atherton, CA 94027		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-1-90	1,000.00		1,000.00	Attorney
Byron F. Romanowitz 2057 Lakeside Dr. Lexington, Kentucky 40502		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-12-90	1,000.00		1,000.00	Architect
Rudd for Judge Campaign P.O. Box 527,2700 N.Main St. Madisonville, Ky. 42431		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-28-90	2,000.00		2,000.00	Contractor
		Subtotal This Page		13,000.00			
		Total This Period (only on last page of this schedule)					

Enter this total on line 7a of Summary Page | Enter this total on line 7b of Summary Page

Kentucky Registry of Election Finance
1624 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS
SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Michael D. Rudd P.O. Box 805 Prospect, Ky. 40059		Contributions: ☐ Candidate Direct ☒ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-20-90	6,000.00		6,000.00	President-Rudd Equip.
Mason C. Rudd 1400 Willow Ave. #406 Louisville, Ky. 40204		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-12-90	1,000.00		1,000.00	Rudd Equipment
Seafarers Policial Act. 5201 Auth Way Camp Springs, MD 20746		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	11-2-90	5,000.00		5,000.00	PAC
Verla Scott Route #4, Mt. Vernon, Ky. 40456		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	7-10-90 7-30-90 9-4-90	110.00 150.00 100.00		360.00	Retired Teacher
Amos H. Shelton Jr. P.O. Box 327 Calvert City, Ky. 42029		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-12-90	1,000.00		1,000.00	Owner L.W.D. Company
Francis C. Smith 8538 Davington Drive Dublin ,Ohio		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☒ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-6-90	315.00		315.00	P.E. Burgess & Niple
			Subtotal This Page	13,675.00			
			Total This Period (only on last page of this schedule)				

Enter this total on line 9a of Summary Page. Enter this total on line 9b of Summary Page.

Kentucky Registry of Election Finance
1804 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

ITEMIZED RECEIPTS SCHEDULE 1

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received. Enter age if not 18 by date of General Election.	4b. AGE	5. Type of Contribution or Other Receipt	6. Date of Receipt	AMOUNT 7a. Contributions Check or Written Instrument	AMOUNT 7b. Other Receipts	8. Cumulative for election	9. Occupation (Be Specific)
C. Patrick Strehl 700 Ford Ave. Owensboro, Ky. 42301		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☑ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	6-26-90	1,000.00		1,000.00	Engineer
United Paperworkers Int. Political Ed.Program 815-16th St. NW Suite 304 Washington, D.C. 20006		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☑ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-10-90	1,000.00		1,000.00	PAC
US Postmaster Frankfort Kentucky 40601		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☑ Misc. (Specify) Refund	6-9-90	844.54		844.54	US Post office
Dennis Williams 1019 Cresbenn Villa Hillsy,Ky. 41017		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☑ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)	10-31-90	500.00		500.00	Attorney
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
		Contributions: ☐ Candidate Direct ☐ Candidate Loan ☐ Direct from a person or authorized entity Other Receipts: ☐ Interest ☐ Loan from lending institution ☐ Misc. (Specify)					
			Subtotal This Page	3,344.54			
			Total This Period (only on last page of this schedule)	503,834.54			

Enter this total on line 6a of Summary Page. Enter this total on line 6b of Summary Page.

9504136536

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific, $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Allison's Cleaners East Main St. Frankfort, Ky. 40601	Table cloths	7-20-90 to 10-9-90	43.00
Aratex Services P.O. Box 11367 Lexington, Kentucky 40575-1367	Building Maintenance	6-22-90 10-9-90	79.98
Art's Electric P.O. Box 524 Frankfort, Ky. 40601	Building Maintenance	6-22-90	303.33
Renee Ashburn 1086 Old Louisville Rd. Salvisa, Kentucky 40372	Newspaper	10-9-90	7.55
AT&T P.O. Box 560100 Charlotte, N.C. 28256-6002	Phones	11-9-90	1,038.34
Steve Bachar 172 Summerwalk Circle Chapel Hill, N.C. 27514	Wages Expenses	9-21-90 9-28-90 9-21-90	1,500.0[illegible] 1,457.92
Neville Blakemore 424 Mayfair Lane Louisville, Ky. 40207	Wages Expenses	11-8-90 7-31-90 9-21-90 9-26-90	1,963.67 899.80
Blue Cross/Blue Shield P.O. Box 23444 Louisville, Ky. 40223	Insurance	6-22-90 10-26-90	2,191.76
		Subtotal This Page	9,485.35
		Total This Period (only on last page of this schedule)	

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Kentucky Registry of Election Finance
1624 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific. $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Browning-Ferris Industries P.O. Box 718, Lexington, Kentucky 40586-0718	Building Maint.	10-9-90	114.00
Andrea Buie 121 Pickett Frankfort, Kentucky 40601	Newspaper	7-6-90 10-9-90	27.00
Campaigns & Elections 1835 K Street, Northwest,Suite 403 Washington, DC 20006	Lecture/Teaching Seminars Russia	10-3-90 11-1-90	6,000.00
Capital Plaza Authority 405 Mero St. Frankfort, Kentucky 40601	Rental deposit	9-14-90	250.00
Cardinal Office Supply East Main St. Frankfort, Kentucky 40601	Office Supplies	10-9-90	310.07
James Lyle Cauley 1161South 1st St. #3 Louisville, Ky. 40203	Wages Expenses	7-31-90 11-2-90 7-31-90 11-2-90	1,771.42 1,147.13
Cedco P.O. Box 4005 Louisville, Ky. 40204-0907	Phones	9-21-90	616.70
Cellular One Lexington P.O. Box 1031 Memphis, TN 38101	Phone	6-8-90 10-9-90	331.45
		Subtotal This Page	10,567.77
		Total This Period (only on last page of this schedule)	

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Kentucky Registry of Election Finance
1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific, $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Churchill Downs 700 Central Ave., Louisville, Ky. 40208	Century Club function	6-8-90 6-12-90	5,271.26
Clato Ice Company 812 Clifton Drive Frankfort, Ky. 40601	Ice	10-11-90	79.59
Collins Lane Food Mart Collins Lane Frankfort, Ky. 40601	Car Expenses	7-6-90 10-9-90	335.29
Computerland Fontain Place Frankfort, Kentucky 40601	Supplies	6-27-90	54.56
Margaret Conlon 414 West Sixth St. Lexington, Ky. 40508	Wages Expenses	7-31-90 11-2-90 9-21-90 11-2-90	4,700.00 849.00
David Courtney 199 Meadowview Frankfort, Kentucky 40601	Framing	8-23-90	72.00
Curtis Trophy & Engraving 935 Devils Hollow Road Frankfort, Kentucky 40601	Name Badge	10-9-90	5.30
Jim Cunningham 754 Colonial Trace Frankfort, Ky. 40601	Reimburse Expenses	9-26-90	999.19
		Subtotal This Page	12,366.19
		Total This Period (only on last page of this schedule)	

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

9504365363

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific, $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Democratic Women's Club Somerset, Kentucky	3 Registration Fee	9-21-90	65.00
1990 Democratic Gala P.O. Box 70448 Washington, DC 20024	Ticket/Reservation	11-9-90	1,500.00
Directories, Inc. P.O. Box 187 Pewee Valley, Ky. 40056	Directories	10-9-90	27.56
Farmers Bank & Capital Trust East Main St. Frankfort, Ky. 40601	Loan, FICA,Fed,FUTA,Taxes, Petty Cash	6-8-90 8-2-90	20,201.76
Federal Express P.O. Box 1140 Dept.A Memphis, TN 38101-1140	Shipping	9-21-90 10-10-90	178.50
First National BAnk P.O. Box 85860 Louisville, Ky. 40285	Expenses	6-25-90 11-9-90	8,500.00
Frankfort Blue Print 624 Comanche Trail Frankfort, Kentucky 40601	Printing	8-15-90	9.00
Frankfort Electric Co. Second St. Frankfort, Kentucky 40601	Utilities	10-26-90 11-12-90	4,827.24
		Subtotal This Page	35,309.06
		Total This Period (only on last page of this schedule)	

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Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40601

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From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

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Frankfort Meter & Supply 119 West Main St. Frankfort, Ky 40601	Building Maint.	10-9-90	111.05
Frankfort, Paper Company P.O. Box C Frankfort, Kentucky 40602	Supplies	10-9-90	40.55
Franklin County Court Clerk Courthouse Frankfort, Kentucky 40601	Tax	11-9-90	246.63
General Rental US 60 Frankfort, Kentucky 40601	Glasses	10-4-90	30.44
Danna Goins 221 Chestnut Dr. Murray, Kentucky 42071	Contract Labor	7-27-90	100.00
Pat Goins 380 Harrodswood Dr. Frankfort, Kentucky 40601	Wages Expense reimbursement	6-8-90 11-27-90 8-16-90	9,425.11 1,461.3
Ted Goins 3532 Creekwood #15 Lexington, Ky. 40502	Contract Labor	6-22-90 10-5-90	300.00
Gold Communications 606 Rio Grande Austin, Texas 78701	Mailing Expenses	10-5-90 10-5-90	5,000.00 713.00
		Subtotal This Page	17,428.16
		Total This Period (only on last page of this schedule)	

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

9504365361

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 Mo. 1 Day 90 Yr.
To 11 Mo. 30 Day 90 Yr.

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific. $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Greer,Margolis Mitchell Associates 2626 Pennsylvania Ave, NW Suite 301,Washing,20037	Democratic Party TV ads.	10-18-90 11-2-90	310,000.00
GTE P.O. Box 3501 Lexington, Ky. 40550	Phones	6-22-90	4,000.00
Highbridge Spring Water 114 Lindenwood Lane Frankfort, Kentucky 40601	Water	6-26-90 10-9-90	80.37
Doris Hockensmith 1020 Maverick Trail Frankfort, Ky. 40601	Building Maint.	6-20-90 9-28-90	855.46
Jackie Hollar 128 West State St.#3 Frankfort, Ky. 40601	Wages	6-8-90 11-21-90	3,184.87
Humana P.O. Box 33350 Louisville, Ky. 40232-3350	Insurance	6-8-90 11-12-90	1,718.2[illegible]
Internal Revenue Service Cinn.Ohio	Taxes	6-29-90 9-5-90	383.67
Mary Ann Johnson Box 125 Burnside, Kentucky	Wages Expenses	6-8-90 11-27-90 6-22-90 11-26-90	15,224.52 1,473.55
		Subtotal This Page	336,920.67
	Total This Period (only on last page of this schedule)		

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

9504365362

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

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Phillip Jones 632 E. Capitol St.#5,Washington,DC 20003	Expenses	11-1-90 11-9-90	2,370.44
Juett Pools & Spas 859 East Main St. Frankfort, Ky. 40601	Building Maint.	6-26-90	11.50
KACO 400 Kings Daughter Drive Frankfort, Ky. 40601	Registration fee	11-1-90	75.00
Kentuckians for John Brock 779 A Ridgewood Dr. Frankfort, Ky. 40601	computer rental,lazer printer,voter list	10-11-90	4,000.00
Kentucky Dam Village P.O. Box 69 Gilbertsville, Ky. 42044	Fancy Farm function	8-13-90	1,109.83
Kentucky Labor Management Conf. US 127 South Frankfort, Kentucky 40601	Regristration fees	8-28-90	700.00
Kentucky Magistrates/Commissioners Assoc. 400 Kings Daughters Drive Frankfort, Kentucky 40601	Registration fee	8-15-90	180.00
Kentucky Roll Call 420 Capitol Ave.,,Suite 203 Frankfort, Kentucky 40601	Publication	8-15-90	179.00
		Subtotal This Page	8,625.77
		Total This Period (only on last page of this schedule)	

9504365364 3

Kentucky Registry of Election Finance
1624 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
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Kentucky State Fair P.O. Box 37130, Louisville, KY. 40233	Fair Booth	7-27-90 10-10-90	966.20
Kentucky State Treasurer Frankfort Kentucky 40601	Taxes, flags,records,etc.	6-15-90 11-27-90	2,719.82
Kroger Company Franklin Square Center Frankfort, Ky. 40601	Receptions	6-26-90 11-9-90	1,267.65
Liberty National Leasing P.O. Box 32500 Louisville, Ky. 40232	Phones	10-10-90 10-23-90	2,043.71
Long Distrance Management 611 Broadway Paducah, Kentucky 42001	Phone	7-6-90 11-12-90	7,388.44
Louise's Flowerland US 127 South Frankfort, Ky. 40601	Flowers	6-27-90 10-10-90	81.65
Andrew "Skipper" Martin 10007 Greenock Court Middletown, Ky. 40243	Wages Expenses	9-18-90 11-9-90 7-31-90 11-2-90	6,766.00 1,627.75
Donna Moloney 3937 Rock Ledge Lane Lexington, Ky. 40513	DNC meeting reimburse expenses	10-3-90	172.10
		Subtotal This Page	23,033.32
		Total This Period (only on last page of this schedule)	

9504365364

Kentucky Registry of Election Finance
1624 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

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National Gournet Rockwell Rd., Winchester, Ky. 40392	Snacks	11-12-90	41.00
Office Coffee Systems 706 Werne Drive Lexington, Kentucky 40504	Coffee	10-10-90	102.67
Pitney Bowes P.O. Box 38460 Louisville, Ky. 40233	Postage Machine	6-15-90 10-26-90	[redacted] 1,632.25
Pit Stop 5214 Greenwood Louisville, Ky. 40258	Refreshments	11-2-90	227.30
Powell County Bank Clay City Kentucky	Car payment	6-25-90 10-10-90	[redacted] 1,202.22
Powers Elevator 232 A Gold Rush Rd. Lexington, Ky. 40503	Elevator	10-10-90	57[redacted]
Premium Prints 1809 Old Paris Pike Lexington, Ky. 40505	Printing	8-10-90	167.48
Progressive Marketing P.O. Box 24366 Louisville, Ky. 40224	Printing	8-10-90 9-17-90	[redacted] 10,263.85
		Subtotal This Page	13,693.77
		Total This Period (only on last page of this schedule)	

9504365364 5

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
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Red Dot Shenkle Lane, Frankfort, KY. 40601	Refreshments	10-11-90	27.95
Reflections 3951 Walnut Hill Lexington, Ky. 40515	Photo's	6-26-90 10-26-90	445.57
Refreshments Services 1870 Production Court Louisville, Ky. 40299	Water Cooler	10-10-90	40.00
Ridder/Braden Union Station ,Suite 239 17 & Wynkoop, Denver, CO. 80202	voter list	11-9-90	894.80
Rodney Antique & Junk P.O. Box 191 Frankfort, Ky. 40601	Building Maint.	6-27-90	158.60
Danny Ross 1003 Berry Blvd. Louisville, Ky. 40215	Wages expenses	7-31-90 11-2-90 9-21-90	5,450.00 402.05
Rough River State Park Route #1 Falls of Rough, Ky. 40119	workshops	9-28-90	598.50
Safeguard Business Systems 1220 National Ave. Addison, IL 60101	Office supplies	10-10-90	92.13
		Subtotal This Page	8,109.60
		Total This Period (only on last page of this schedule)	

9504365364 6

Kentucky Registry of Election Finance
1624 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

1. Name of Candidate

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
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Doris Saunders 416 Powhatan, Frankfort, Ky. 40601	Wages	6-8-90 11-21-90	4,168.58
Scott Gross Co. 664 Magnolia Ave. Lexington, Ky. 40505	Helium	11-12-90	13.60
S & S Food Mart 402 Kentucky Ave Frankfort, Ky. 40601	Cooking fee	10-15-90	$100.00
South Central Bell P.O. Box 32440 Louisville, Ky. 40232-2440	Phones	7-6-90 10-17-90	3,365.26
SuperAmerica P.O. Box 85080 Louisville, Ky. 40285-5080	Car expenses	6-27-90 10-10-90	163.69
Sweet Things 323 St. Clair Mall Frankfort, Ky. 40601	Balloons	10-15-90	204.0
Taylor Liquor Store Versailles Rd. Frankfort, Ky. 40601	Refreshments	7-20-90 11-12-90	657.88
Thoughbred Shop 2005 Versailles Rd. Lexington, Ky. 40504	Refreshments	7-13-90 11-12-90	1,783.94
		Subtotal This Page	10,456.95
		Total This Period (only on last page of this schedule)	

9504365364 7

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS
SCHEDULE 2

1. Name of Candidate

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
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Tingles Riverview Florist East Main, Frankfort, Ky. 40601	Flowers	8-15-90 10-10-90	277.46
Triangle Printing 815 Louisville Rd. Frankfort, Ky. 40601	Printing	9-21-90 11-9-90	768.14
United Parcel Service P.O. Box 33007 Louisville, Ky. 40232	Shipping	6-26-90 10-10-90	92.46
US Postmaster Frankfort Kentucky 40601	Postage/rental box	6-26-90 10-30-90	5,192.00
Walkers Car Wash East Main St. Frankfort, Ky. 40601	Car Expenses	6-22-90 8-28-90	79.89
Rick Waddle 111 Seminole Frankfort, Ky. 40601	Refreshments	6-22-90	156.00
Watts Janitorial 7370 McCracken Pike Frankfort, Ky. 40601	Building Maint.	10-10-90 10-26-90	450.00
Wilson's Landscaping Nursery 3690 East-West Connector Frankfort, Kentucky 40601	Building Maint.	10-10-90	91.66
		Subtotal This Page	7,107.61
		Total This Period (only on last page of this schedule)	

9504365364 8

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DISBURSEMENTS SCHEDULE 2

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Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

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From 6 (Mo.) 1 (Day) 90 (Yr.)
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Women's Caucus 430 South Capitol St. SE, Washington, DC	Caucus Fee	8-23-90	25.00
J.C. Yagel Hardware P.O. Box 753 Frankfort, Ky. 40601	Building Maint.	6-27-90 10-10-90	71.88
		Subtotal This Page	96.88
		Total This Period (only on last page of this schedule)	493,201.10

Kentucky Registry of Election Finance
1024 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

IN-KIND SCHEDULE 3

2504345364 9

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Ky. 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4a. Name and Address from whom received Enter age if not 18 by date of General Election	4b. AGE	5. Describe in-kind contribution or independent expenditure	6. Date of Receipt	AMOUNT 7. This Period	AMOUNT 8. From Prior Periods	8. Cumulative for election	9. Contributor Occupation (Be Specific)
Ray Cottrell Route #3, Box 124 Brandenburg,Ky.40108		Use of car	8-01-90 10-30-90	2,068.19	-0-	2,068.19	Owner-Ray's Ford-Mercury

Subtotal This Page 2,068.19

Total This Period (only on last page of this schedule) 2,068.19

Enter this total on line 11 of Summary Page

Kentucky Registry of Election Finance
•1904 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

FUND RAISERS
SCHEDULE 4

2504345360

1. Name of Candidate

2. Committee Name
Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40602

3. This Statement Covers
From 6 (Mo.) 1 (Day) 90 (Yr.)
To 11 (Mo.) 30 (Day) 90 (Yr.)

4. Date Event was Held	5. Number of Individuals Participating	6. Type of Fund Raising Activity	7. Name and Address of the Location where Activity Held	8. Receipts	9. Cost
9-17-90 10-12-90		Phone Solicitation	Nationwide	2,900.00 1,100.00	
				10. Total 4,000.00	

Enter the total on line 12 Summary Page.

NOTE: Individual Entries on this schedule recap information reported in other schedules being filed. This schedule is not to be filed separately but must be included with the Election Finance Statement covering the period in which the fund raising activity took place.

Kentucky Registry of Election Finance
-1604 Louisville Road
Frankfort, Kentucky 40601
(502) 564-2226

DEBTS AND OBLIGATIONS

SCHEDULE 5

1. Name of Candidate	2. Committee Name	3. This Statement Covers
4 3 6 5 3 6	Kentucky Democratic Party P.O. Box 694 Frankfort, Ky. 40602	From 6 (Mo.) 1 (Day) 90 (Yr.) To 11 (Mo.) 30 (Day) 90 (Yr.)

4. This Schedule itemizes:
(Check either (a) or (b) Do not mix (a) and (b) on same page. Use this page for only the one checked.)

(a). ☒ Debts and obligations owed by committee/candidate

or

(b). ☐ Debts and obligations owed to committee/candidate

5. Name and Mailing Address	6. Type of Obligations	7. Date Incurred	8. Original Amount	9. Prior Payment	10. Payment made this reporting period	11. Outstanding Balance at close of this period
Farmers Bank & Capitol Trust Frankfort, Kentucky 40601	Computer Loan	2-7-90	44,463.76	Interest & Princ. 612.48	612.48	43,238.80
Liberty National Leasing P.O. Box 32500,Louisville,Ky40232	Telephone System	8-23-88	23,060.52	10,523.62	2,043.71	10,493.19
Powell County BAnk Statnton, Kentucky 40380	Car Loan	2-1-89	13,850.90	4,368.14	1,202.22	8,280.54

This schedule must be filed with every Campaign Statement up to and including the period in which all debts are repaid or otherwise satisfied.

Subtotal This Page: 62,012.53

Total This Period (Complete only on last page of this schedule): 62,012.53

Enter this total on Line 5 "Owed By" or Line 10 "Owed To" on the Summary Page.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 NOV 27 PM 3:30

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.

DEMOCRATIC NATIONAL COMMITTEE,

KENTUCKY DEMOCRATIC PARTY,

HARVEY SLOANE,

HARVEY SLOANE FOR U.S. SENATE,

MARY C. BINGHAM,

Respondents.

COMPLAINT

MUR 3182

9504365352

COMPLAINT OF COMMON CAUSE

1. This Complaint charges that Mary C. Bingham ("Bingham"), the Democratic National Committee ("DNC"), the Kentucky Democratic Party ("KDP"), Harvey Sloane ("Sloane"), and the Harvey Sloane for U.S. Senate committee (the "Sloane committee") joined in a scheme to launder a massive, illegal contribution Bingham made for the purpose of influencing the 1990 U.S. Senate race in Kentucky by supporting Sloane's campaign. As a result, the DNC, the KDP, Sloane, the Sloane committee, and

Bingham all committed several serious violations of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431, et seq., as amended.

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 DNC is the national committee of the Democratic Party, as defined in 2 U.S.C. § 431(14). The DNC is a political committee registered with the Federal Election Commission ("FEC") that provides financial support to Democratic candidates in federal elections.

5. Respondent KDP is a "State committee" as defined in 2 U.S.C. § 431(15) responsible for the day-to-day operation of the Democratic Party in Kentucky.

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6. Respondent Sloane is an individual residing in Kentucky, who was the Democratic candidate for U.S. Senate in Kentucky in 1990.

7. Respondent Sloane committee is the authorized committee, as defined in 2 U.S.C. § 431(6), of Sloane in his campaign for election to the U.S. Senate from Kentucky in 1990.

8. Respondent Bingham is an individual residing in Kentucky.

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APPLICABLE STATUTES AND REGULATIONS

9. Under the FECA, any gift, subscription, loan, advance, or deposit of money or anything of value, made by any person for the purpose of influencing any federal election constitutes a "contribution." 2 U.S.C. § 431(8)(A).

10. Under the FECA, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any federal election constitutes an "expenditure." 2 U.S.C. § 431(9)(A).

11. The FECA limits contributions by an individual to any candidate and the candidate's authorized campaign committee to $1,000 with respect to any federal election. 2 U.S.C.

§ 441a(a)(1)(A). The FECA limits contributions by an individual to any national party committee in any calendar year to $20,000. 2 U.S.C. § 441a(a)(1)(B). The FECA limits contributions by an individual to any political committee other than a national party committee in any calendar year to $5,000. 2 U.S.C. § 441a(a)(1)(C). The FECA limits total aggregate contributions by any individual in any calendar year to $25,000. 2 U.S.C. § 441a(a)(3).

12. The FECA provides that no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the FECA's limits on contributions and expenditures. 2 U.S.C. § 441a(f).

13. The FECA exempts from the definitions of "contribution" and "expenditure" subject to its limits a state party's payment for certain voter registration and get-out-the-vote activities. These exceptions are limited to the following circumstances: (1) the payment must be made from contributions subject to the FECA's limits and prohibitions; (2) the payment must support the party's nominees for President and Vice President; (3) the payment may not be made from contributions designated to be spent on behalf of a particular candidate; (4) the payment may not be for any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. 2 U.S.C. §§

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431(8)(xii), 431(9)(ix). As FEC regulations make clear, Congress did not intend this exception to be available to national party committees such as the DNC, or to state party committees using money transferred from a national party committee.[1/]

14. The FECA provides that the DNC and the Democratic Senatorial Campaign Committee 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).

15. The FECA also provides that the DNC or its designated agent 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. 2 U.S.C. § 441a(d). Pursuant to 2 U.S.C. § 441a(d), the DNC or its

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1/ See 11 C.F.R. §§ 100.7(b)(17)(vii), 100.8(b)(18)(vii); see also H.R. Rep. No. 422, 96th Cong., 1st Sess. at 10 (1979). The FECA also exempts from the definitions of "contributions" and "expenditures" subject to its limits a state or local party's cost of volunteer materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids and yard signs), subject to the same restrictions as the voter registration exemption discussed above, except that the expenditures need not be in support of the party's nominees for President and Vice President. 2 U.S.C. §§ 431(8)(x), 431(9)(viii). This exception is not available to national party committees such as the DNC, or to state parties using money transferred from a national party committee. 11 C.F.R. §§ 100.7(b)(15)(vii), 100.8(b)(16)(vii); see also S. Rep. 319, 96th Cong., 1st Sess. at 4 (1979) ("State committees . . . may not accept transfers from other State or national committees for these expenditures"); H.R. Rep. No. 422, 96th Cong., 1st Sess. at 9 (1979) (same).

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designated agent could spend a maximum of approximately $138,773 in 1990 in connection with the 1990 Kentucky U.S. Senate race. Section 441a(d) allows a state party such as the KDP to make coordinated expenditures on behalf of a U.S. Senate candidate running for election in that state equal to the coordinated expenditures the DNC or its designated agent may make.

16. The FECA requires political committees such as the DNC, the KDP, and the Sloane committee to file reports with the FEC accurately reporting their receipts and disbursements. 2 U.S.C. § 434.

17. 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). FEC regulations provide that an earmarked contribution must be reported as such on the conduit's reports to the FEC, and if the conduit exercises any direction or control over the contribution, the contribution counts against the contribution limits of both the original donor and the conduit. 11 C.F.R. § 110.6.

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18. The FECA and FEC regulations provide that an expenditure made by arrangement with, in coordination with, or at the direction of a candidate or the candidate's agent constitutes a contribution to that candidate and an expenditure by that candidate. See 2 U.S.C. § 431(17); 11 C.F.R. § 109.1(c). State and national party committees of a federal candidate's party are conclusively presumed to coordinate their expenditures in support of that candidate with the candidate, see 2 U.S.C. § 441a(d); 11 C.F.R. § 110.7, so to the extent their expenditures on behalf of a federal candidate exceed those permitted in 2 U.S.C. § 441a, those expenditures constitute illegal contributions to the candidate's committee.

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GROUNDS FOR COMPLAINT

19. In 1990, a U.S. Senate campaign took place in Kentucky between Republican incumbent Senator Mitch McConnell and Democratic challenger Sloane, which McConnell won by a narrow margin.

20. On information and belief: Bingham has been closely associated with Sloane for many years, and was an ardent supporter of his U.S. Senate campaign. In Sloane's words, "I talk[ed] to her [Bingham] about this race a lot, and she makes her own decision on what she is going to do."[2/] By October 1990,

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2/ See Exhibit A, "Mary Bingham's $250,000 Gift to Democrats Buoyed Sloane," Louisville Courier-Journal, Nov. 9, 1990, at A1, A12.

Bingham had already contributed to Sloane's campaign the maximum amount permitted by federal law -- $1,000 in connection with the primary election, and another $1,000 in connection with the general election. Bingham's relatives and in-laws had contributed at least an additional $15,000 to Sloane's campaign. In calendar year 1990, Bingham had also contributed the maximum amount permitted by federal law to the KDP for use in connection with federal elections -- $5,000.[3/]

21. On information and belief based on public FEC filings: By October 17, 1990, the DNC had contributed, or spent through its designated agent as coordinated expenditures, over $148,000 in support of the Sloane campaign. This amount was within $10,000 of the total the DNC or its designated agent could legally contribute or spend in connection with the Sloane campaign under 2 U.S.C. §§ 441a(d) and (h). In mid-October 1990, the Sloane campaign had little cash on hand and trailed the McConnell campaign in public opinion polls.

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[3/] Except where specifically noted otherwise below, Common Cause's information and belief in support of its allegations are based on review of FEC filings, on Exhibit A supra; on Exhibit B, "$250,000 Bingham Gift to Democrats Raises Questions About 'Soft Money,'" Louisville Courier-Journal, Nov. 10, 1990, at A1; and on Exhibit C, "Bingham's Donations Exceeded U.S. Limit," Louisville Courier-Journal, Nov. 15, 1990, at B1.

22. On information and belief: In October 1990, Bingham gave approximately $250,000 to the DNC for the purpose of influencing the U.S. Senate election in Kentucky in 1990. The DNC explicitly or implicitly agreed with Bingham that her money would be transferred to and spent by the KDP in Kentucky in a way intended to benefit the Sloane campaign, and it was Bingham's purpose in making the contribution that it influence the U.S. Senate election.[4/] Accordingly, under the FECA the Bingham $250,000 constituted a "contribution" to the DNC, the KDP, Sloane, and the Sloane committee.

23. On information and belief: As part of this scheme, the DNC transferred $250,000 to the KDP in 1990 -- directly after receiving that amount from Bingham -- for the purpose of influencing the 1990 U.S. Senate race. Accordingly, the DNC's transfer was subject to the limits on the amount it could contribute to or spend in support of the Sloane campaign under 2 U.S.C. §§ 441a(d) and (h). The DNC exercised direction and control over the $250,000 after receiving it from Bingham.

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4/ While the attached articles quote both Bingham and DNC representatives as denying that her contribution was so earmarked, those denials are implausible. The enormous amount of the contribution, the close association between Bingham and Sloane, the correspondence between the amount contributed to the DNC and the amount the DNC transferred immediately thereafter to the KDP, and the KDP's use of that money to influence the U.S. Senate election all point to the inescapable inference that the contribution was earmarked for that use. See 11 C.F.R. § 110.6(b) (earmarking includes any "designation, instruction, or encumbrance (including those which are direct or indirect, express or implied, oral or written)").

24. On information and belief: The KDP spent Bingham's $250,000 for the purpose of influencing the 1990 Kentucky U.S. Senate election by conducting a television advertising campaign. This advertising campaign was coordinated with the Sloane campaign. The advertising campaign was created by Sloane's media consultant, used Sloane's campaign slogan, and addressed federal subjects, including an attack on "rich Republicans in Washington." Accordingly, the KDP's expenditures were contributions to Sloane and the Sloane committee under the FECA.

25. On information and belief: Bingham's $250,000 was given, transferred, and spent for the purpose of influencing the 1990 Kentucky U.S. Senate election. When it was given, it exceeded the amount Bingham could legally give the DNC by $230,000; the amount Bingham could legally give the KDP by $250,000; and the amount Bingham could legally give Sloane and/or the Sloane committee by $250,000 (see ¶ 20 supra). When it was transferred, the $250,000 exceeded the amount the DNC could contribute or expend on behalf of the Sloane campaign by at least $240,000 (see ¶ 21 supra). When the KDP spent the $250,000 in support of Sloane, it was over $100,000 greater than the amount the KDP could legally contribute or expend on behalf of Sloane pursuant to 2 U.S.C. § 441a.[5/]

[5/] FEC reports indicate that by mid-October 1990, the KDP had already spent approximately $20,000 of the approximately $139,000 it could legally spend to support Sloane under 2 U.S.C. § 441a(d).

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26. On information and belief, the DNC, the KDP, and the Sloane committee have not reported and do not intend to report most or all of their receipt, transfer, and expenditure of the Bingham $250,000 on the purported ground that the contribution and resulting expenditures were not subject to the FECA.

VIOLATIONS

Bingham's $250,000 Contribution Was Given, Transferred, and Spent for the Purpose of Influencing a Federal Election, and Illegally Exceeded the Contribution Limits in the FECA.

27. Because Bingham's purpose in making her $250,000 contribution was to influence a federal election, and the purpose of the DNC and the KDP in accepting, transferring, and spending the money was to influence a federal election, the contribution, the transfer, and all of the resulting expenditures were "contributions" and "expenditures" subject to the contribution and coordinated expenditure limits of the FECA, as well as the reporting requirements of the FECA.

28. Bingham, by engaging in the conduct described above, violated 2 U.S.C. § 441a(a)(1)(A) by making a contribution to Sloane greater than $1,000 in connection with Sloane's general

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28. Bingham, by engaging in the conduct described above, violated 2 U.S.C. § 441a(a)(1)(A) by making a contribution to Sloane greater than $1,000 in connection with Sloane's general election campaign. Bingham violated 2 U.S.C. § 441a(a)(1)(B) by making a contribution to the DNC greater than $20,000 in a calendar year. Bingham violated 2 U.S.C. § 441a(a)(1)(C) by making a contribution to the KDP greater than $5,000 in a calendar year. Bingham also violated 2 U.S.C. § 441a(a)(3) by making aggregate contributions greater than $25,000 in a calendar year.

29. The DNC, the KDP, Sloane, and the Sloane committee violated 2 U.S.C. § 441a(f) by knowingly accepting a contribution from Bingham in violation of the FECA provisions set forth above.

30. Because the KDP's expenditures were made in coordination with the Sloane campaign, they constituted a contribution by the KDP to Sloane.[9] That contribution exceeded the maximum amounts the DNC and/or the KDP could legally contribute to Sloane and/or the Sloane committee, and exceeded the maximum amounts the DNC and/or the KDP could make as coordinated expenditures on behalf of Sloane. Therefore, the DNC's transfer of Bingham's $250,000 to the KDP and the KDP's

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[9] Since the expenditures were made for the purpose of influencing the U.S. Senate election, the FECA conclusively presumes that DNC and the KDP coordinated these expenditures with the Sloane committee (even had the KDP's advertising campaign not been created by Sloane's media adviser).

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subsequent use of those funds to support Sloane violated the DNC's and the KDP's contribution and expenditure limits under 2 U.S.C. §§ 441a(d) and (h). The receipt of those contributions by Sloane and the Sloane committee violated 2 U.S.C. § 441a(f).

31. The DNC, the KDP, and the Sloane committee, by engaging in the conduct described above, violated their obligation under 2 U.S.C. § 434 to submit accurate reports to the FEC.

The Bingham Contribution Was Not Exempt From the FECA.

32. Because the Bingham contribution and the resulting transfer and expenditures were all part of a scheme to influence the 1990 Kentucky U.S. Senate election, they constituted "contributions" and "expenditures" subject to the FECA. While the FEC, incorrectly in the view of Common Cause, has allowed the expenses of certain activities that may affect both federal and non-federal elections to be allocated to non-federal accounts and to be financed by contributions that are impermissible under the FECA, see Common Cause v. FEC, 692 F. Supp. 1391 (D.D.C. 1987), the facts of this case demonstrate that the contribution at issue was made for the purpose of influencing a federal election, and was spent for the same purpose. Therefore, the issue of allocation is irrelevant -- there was no mixed purpose. Individuals and committees may not disguise as soft money

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contributions given, transferred, and spent for the purpose of influencing a federal election.

33. The only possible relevant exemptions for the Bingham $250,000 donation and the resulting transfer and expenditures from the definitions of "contributions" and "expenditures" subject to the FECA -- 2 U.S.C. §§ 431(8)(x), (xii); 2 U.S.C. §§ 431(9)(viii), (ix) -- are inapplicable. Those exemptions specifically require that, to come within the exemptions, a contribution or expenditure must be made from "funds subject to the limitations and prohibitions of the Act," including the FECA's contribution limits.

34. These exceptions to the definitions of "contribution" and "expenditure" are unavailable on the facts of this case for several additional reasons. The "voter registration and get-out-the-vote" exemption is available only for payments that support a party's candidates for President and Vice President. There was no election for President or Vice President in 1990. Further, the "voter registration and get-out-the-vote" exemption is available only to state and local party committees, not to the DNC. Because the DNC transferred the Bingham money for the expenditures here to the KDP, those expenditures were not exempt.[7/]

[7/] Also, because the KDP used the Bingham money to pay for broadcasting, it did not qualify for the "voter registration and

(Footnote continued on following page)

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35. Since the Bingham contribution and the resulting transfer and expenditures were made for the purpose of influencing a federal election, and did not qualify for any exemption from the FECA, they were required to be made out of contributions legal under the FECA. Since they were not, the contribution, the transfer, and the expenditures violated the FECA.

SUMMARY

36. In sum, respondents' violations are:

a. Bingham violated the limit on the amount she could give to the DNC, violated the limit on the amount she could give to the KDP (through her earmarked contribution to the DNC), violated the limit on the amount she could give to Sloane and the Sloane committee, and violated the aggregate individual contribution limit;

b. The DNC accepted an illegal contribution from Bingham, exceeded its coordinated expenditure limit on behalf of Sloane, made an illegal contribution to Sloane and the Sloane

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7/ (Footnote continued from preceding page)
get-out-the-vote" exceptions. The FECA specifically excludes these types of general public communications and political advertising from the limited exemptions from its coverage. Nor could the Bingham contribution and the resulting expenditures fall within the "volunteer materials" exemption. This exemption is not available for money coming to a state party committee such as the KDP through a national party committee such as the DNC, and also may not be used for broadcast or other similar general public communications and political advertising.

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committee, and failed to report accurately its receipts and disbursements;

c. The KDP accepted an illegal contribution from Bingham (via the DNC), exceeded its coordinated expenditure limit on behalf of Sloane, made an illegal contribution to Sloane and the Sloane committee, and failed to report accurately its receipts and disbursements; and

d. Sloane and the Sloane committee accepted an illegal contribution from Bingham, the DNC, and the KDP, and the Sloane committee failed to report accurately its receipts and disbursements.

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RELIEF

37. 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 DNC, the KDP, Sloane, the Sloane committee, and Bingham have violated the FECA, and impose penalties equal to the greater of 100 percent of the amount of the violations or $5,000 per violation. In addition, because of the large scale of the violations set forth above, Common Cause urges the FEC to conduct a thorough audit of all contributions and expenditures in Kentucky in 1990 by the DNC, the KDP, Sloane, and the Sloane committee to determine if any additional violations of the FECA occurred, and to conduct a similar investigation of the DNC's activities in

other states in 1990 to determine if similar violations occurred. Finally, Common Cause urges the FEC to investigate whether the violations described above were knowing and willful so as to mandate the enhanced penalties set forth in 2 U.S.C. § 437g(a)(5)(B).

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

November 27, 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 27th day of November, 1990.

Cheryl A. Poole

Notary Public

My Commission Expires: May 14, 1995

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EXHIBIT A

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Mary Bingham, displeased that she was being asked about her $250,000 gift so soon after the election, said, "I thought it would come out when there were lists of non-federal money put out later." The donation drew sharp criticism from Kentucky Republicans and advocates of campaign-finance reform.

Mary Bingham's $250,000 gift to Democrats buoyed Sloane

CJ 11/9/90

By ROBERT T. GARRETT, Staff Writer

Mary C. Bingham, matriarch of Louisville's wealthy Bingham family, gave $250,000 last month to the Democratic National Committee, which helped fund a Kentucky Democratic Party advertising blitz widely believed to have revived the flagging senatorial bid of Harvey Sloane, according to Sloane campaign sources.

Bingham's "soft money" donation, as such unregulated political gifts are called, was soon followed by donations by the national committee to the state party of about $250,000, three sources in the Sloane campaign said. They asked not to be identified because they were not authorized to speak about campaign finances.

The committee's contributions reportedly constituted about half of the roughly $500,000 that the state party's coordinated campaign was able to spend to help Sloane and other Democrats running for office in Kentucky this fall.

While federal law prohibits individuals from giving more than $1,000 to a federal candidate in each primary or general election, it doesn't restrict how much they may give to national political parties' "non-federal accounts," and Bingham's gift apparently violated no law.

But money in those accounts is to be used for general party purposes, such as get-out-the-vote efforts, and is not supposed to be earmarked for a particular candidate.

On Oct. 19, the Kentucky Republican Party filed a complaint with the Federal Election Commission claiming that the state Democratic Party's ad campaign was aimed at the U.S. Senate race and had no relevance to state and local elections.

The Bingham gift drew sharp criticism yesterday from advocates of campaign-finance reform and prominent Kentucky Republicans. They denounced it as a blatant circumvention of the campaign-finance laws passed by Congress in 1974 after the Watergate scandal.

"This is a deliberate end run on the federal limits on

See BINGHAM
Back page, col. 1, this section

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Bingham aided Democrats

Continued from Page One

how much individuals can give," said Ellen Miller, a former Kentuckian who runs the Center for Responsive Politics, a group that has fought for campaign-finance reform legislation. "... It's a rather systematic evasion of the public's right to know where political money is coming from."

Sloane, who lost to Republican U.S. Sen. Mitch McConnell by nearly 45,000 of the roughly 914,000 votes cast in Tuesday's election, said yesterday that Bingham's gift was "for the Democratic campaign, and I think that's an important contribution she made."

Sloane, Bingham and Democratic National Committee political director Paul Tully would neither confirm nor deny that she had given $250,000 to the committee.

But Bingham supported disclosure and she was being asked about her donations as soon after the election, saying, "I thought it would come out when there were lots of non-federal money put out here."

Tully said the committee, which is not legally required to disclose its soft-money donors, plans to release such information on April-December gifts "at the end of the year."

Since the mid-1970s, Sloane has been close to Bingham and other members of her family, which formerly owned The Courier-Journal, WHAS TV and radio and Standard Gravure Corp.

But Sloane insisted yesterday that "I am not a part of this transaction." Asked whether he spoke with Bingham about making such a contribution, Sloane said: "I talk to her about this race a lot, and she makes her own decision on what she's going to do."

Tully said there was "absolutely not" any agreement, explicit or implicit, to put any money given by Bingham into the Kentucky Democratic Party's coordinated campaign this fall.



Harvey Sloane
"I am not a part of this transaction"

The victory chances of Democratic candidates determine such allocations, not the origin of such donations, Tully said.

He said he did not know how much money the committee pumped into Kentucky this fall.

But he said that Kentucky could lose a U.S. House seat after redistricting next year and is one of at least two Southern states Democrats need to have back from the GOP in the next presidential election. "We've got a lot of business down there," he said. "It's high up on our screen."

The Kentucky State Democratic Central Executive Committee received a gift from Bingham, of $5,000, the maximum amount, to its federal account on Sept. 19, according to Federal Election Commission records.

But the executive committee's state account, which funded the coordinated campaign, received no money from Bingham, said Shipper Martin, director of the coordinated campaign. How much money the national committee gave to the executive committee's state account will be disclosed in a report state law requires to be filed next month.

State law limits individuals to giving $30,000 per year to a political party's executive committee or its affiliates. But state law places no limit on how much a national party committee or a political-action committee may give to the state party, said Raymond Wolfson, director of the Kentucky Registry of Election Finance.

Bingham had given her federal limit — $2,000 total — to Sloane's campaigns for the primary and general elections. Her late husband, Barry Bingham Sr., and her children, their spouses and their children had combined to give Sloane $17,400.

Bingham's $250,000 gift, reportedly made in early October, came after Sloane had fallen 20 points behind McConnell in the polls, had experienced severe difficulty raising money and had gone for months without large-scale television advertising.

The Democratic coordinated campaign ads, which accused "wealthy Washington Republicans" of protecting the rich and their tax breaks, were broadcast amid growing public disgust over the federal budget impasse.

Sloane, who raised on the issue of higher taxes for the rich during the final month of the campaign, surged in some polls after the ads began running.

Miller, of the Center for Responsive Politics, said the Bingham gift "is particularly outrageous" because she said it evades the $5,000 limit of state law, the $1,000 federal limit on individual donors and the 1974 law's intent that political money be disclosed fully and in a timely fashion.

The center, a non-partisan group that studies campaign-finance trends and issues, knows of only two individual donations to national parties that were larger than Bingham's recent gift, Miller said. Joan Kroc, whose late husband founded the McDonald's restaurant empire, gave $1 million to the Democratic National Committee in 1987. New York businessman Nicolas M. Salgo gave $303,263 to the Republican National Committee in 1988.

Most big soft-money donations by wealthy people are $100,000 gifts designed to augment presidential campaigns, Miller said.

Reached in Washington last night, McConnell, who has played a key role in killing Democratic-sponsored campaign-finance bills in recent years, said he was not sure whether the Bingham gift was legal.

"It certainly confirms," he said, "what we all have suspected for

950436536 72

years — that the Bingham family, first through The Courier-Journal and then directly, created Harvey Sloane as a political figure, promoted him, and finally tried to finance his campaign.

"And I think the people of Kentucky are resilient but it did not succeed."

Robert Gable, chairman of the state Republican Party, said he was "fully shocked and outraged" by the Bingham gift and by what he called Democrats' threat use of state-regulated campaign money to promote Sloane's Senate candidacy.

"It's cheating," he said. "And what we were told was $300,000 of cheating (the Democratic coordinated campaign's earlier estimate of its spending) is now $600,000 worth of cheating," he said.

Both Bingham and Sloane, who mentioned the need for campaign finance reform in his announcement speech Tuesday night, said they dislike the soft-money loopholes in federal and state law.

But Sloane, who said he favors spending limits and public financing of congressional campaigns, said challengers such as himself face grave disadvantages. "I must look at the power of incumbency to intimidate" potential opponents and their likely donors, he said.

Bingham said that "when you're in a race with an incumbent of this kind ... the DNC has got to do something.... As long as it's legal, you can't expect them to do anything else. Republicans have such an advantage. You've got to have a level playing field."

Bingham, who also made soft-money donations to the committee of $50,000 in 1988 and $50,000 last year, said she gives "whatever I can because I think the Republicans in the last 10 years have just about destroyed the country."

Bingham said she received no guarantees that her $250,000 would flow back to Kentucky. "Of course, I'm happy to think that Harvey would profit from it," she said. "... He would be a first-rate senator."

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EXHIBIT B

9504365367 4

THE COURIER-JOURNAL, LOUISVILLE, KY., A GANNETT NEWSPAPER ★ SATURDAY, NOVEMBER 19, 1988 35 CENTS

$250,000 Bingham gift to Democrats raises questions about 'soft money'

By MIKE BROWN
Staff Writer

WASHINGTON — Mary Bingham's

[illegible]

[illegible]

[illegible]

Bingham gift raises questions

Continued from Page One

9504365367 6

EXHIBIT C

9504365367 7

9 5 0 4 3 6 5 3 6 7 8

THE COURIER-JOURNAL
LOUISVILLE, KY.
THURSDAY,
NOVEMBER 15, 1990.

Bingham's donations exceeded U.S. limit

By MIKE BROWN
Staff Writer

WASHINGTON — Records show Louisville Democrat Mary C. Bingham exceeded the limit on federal political contributions this year by $30,700, and the head of a Washington organization said yesterday that the group will formally complain to the Federal Election Commission.

Ellen Miller, executive director of the Center for Responsive Politics, said the commission's failure to detect Bingham's excessive contributions demonstrates the agency's weakness as the nation's election watchdog.

"It is clear a large number of individuals go over the limit . . . and the commission really has done nothing about it," Miller said in an interview. "It is a totally ineffective regulatory body."



Bingham

Ginny Terzano, a spokeswoman for the Democratic National Committee, blamed Bingham's excessive gifts on an oversight by the party. Terzano said the problem will be "easily rectified" by reallocating some of her funds to political uses that aren't subject to federal regulation.

Gordon Davidson, a Louisville attorney who represents Bingham, said that "any technical violation by Mrs. Bingham, if there was one, was strictly inadvertent. . . . Mrs. Bingham is not a law violator."

He said Bingham, whose family formerly owned The Courier-Journal and other Louisville media properties, "has relied all her life on the integrity of the solicitor or the soliciting group to assure her that she is not in violation of the law." He said she "will respond and cooperate with any proper reviewing authority" that looks into her contributions.

Miller, whose non-partisan group advocates stricter controls on campaign funds, cited commission records that show Bingham has given $55,700 to 1990 Senate candidates and various Democratic political committees.

Federal law prohibits an individ-

See BINGHAM
PAGE 4, col. 3, this section

Bingham exceeded gift limits

Continued from Page B 1

ual from giving more than a total of $25,000 annually to all federally regulated candidates and committees. Money given to a congressional candidate counts against the limit for the year of the election. In other words, a 1989 contribution to a senator up for re-election in 1990 counts against the giver's 1990 overall limit. Commission records show that Bingham has given $50,300 to Democratic committees this year, plus $5,400 this year and last year to three Democratic senators who were re-elected Nov. 6.

Those totals do not include $230,000 that Bingham gave last month to the Democratic National Committee for use on political activities not subject to federal law.

The Courier-Journal reported that shortly after receiving the $230,000 in so-called "soft money," the national committee gave approximately that same amount to the Kentucky Democratic party. Democrats said the money was for general party-building and get-out-the-vote efforts, but critics, including Miller, alleged the real purpose was to help Harvey Sloane in his unsuccessful U.S. Senate bid.

Miller said yesterday that her organization is still exploring the possibility of filing a complaint against Bingham over the $230,000. But in the meantime, Miller said, she learned that Bingham's "hard money" contributions — those aimed directly at influencing federal elections — exceeded the $25,000 maximum for 1990. In addition, she said research showed that Bingham exceeded the limit in 1988 by $5,700.

Miller said yesterday she is in the process of drafting a civil complaint to be filed in the next few days alleging that Bingham violated the $25,000 limit. The FEC, if it decides a complaint warrants investigation and action, can seek a fine of up to $5,000 or the amount of the violator's excess contribution, whichever is greater.

The FEC computerizes all large contributions, and Miller, referring to Bingham's excess total, said the fact the agency missed "something this simple shows there is no will" to enforce the law.

Sharon Snyder, a commission spokeswoman, said the agency is small and doesn't have the budget to do all that its critics expect.

Bingham's most recent contribution on record is $20,000 given Oct. 11 to the Democratic National Committee. Records show she also gave $20,000 in June to the Democratic Senatorial Campaign Committee. In addition to the $25,000 overall limit, the law prohibits an individual from giving more than $20,000 in a year to national party committees.

"We didn't know she had reached her federal limit. It was an oversight on our part," said Terzano, the Democrats' spokeswoman. She said that she learned of it from a reporter late last week and that the two party committees are now in the process of switching the excess amount from hard-money accounts and into soft-money accounts.

Enough money is being moved "to put Mrs. Bingham into compliance with FEC regulations," Terzano said.

Miller said the transfer of Bingham's contributions between accounts is "an outrage" that shows there is no real difference between hard and soft money. The purpose of both is to influence federal elections, she said.

Records show Bingham also made federally regulated contributions to the Democrats for the 90s PAC ($5,000), Kentucky State Democratic Central Executive Committee ($5,000), the Democratic Senatorial Campaign Committee (an additional $300), and the re-election campaigns of Sens. Bill Bradley of New Jersey ($2,000), Jay Rockefeller of West Virginia ($1,500) and Carl Levin of Michigan ($1,900).

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C-J Nov. 13, 90

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Roger M. Witten
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

RE: MUR 3182

Dear Mr. Witten:

This letter acknowledges receipt on November 27, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by DNC Services Corporation and Robert A. Farmer, as treasurer, Sloane for Senate Committee and Victoria Buster, as treasurer, the Kentucky State Democratic Party, Non-Federal, Harvey I. Sloane, M.D. and Mary C. Bingham. 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 3182. 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

9504365381

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Robert A. Farmer, Treasurer
DNC Services Corporation
430 S. Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 3182

Dear Mr. Farmer:

The Federal Election Commission received a complaint which alleges that the DNC Services Corporation 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 3182. 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.

9504365382

If you have any questions, please contact Jeffrey 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

95043653683

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Victoria Buster, Treasurer
Sloane for Senate Committee
835 W. Jefferson #105
Louisville, KY 40602

RE: MUR 3182

Dear Ms. Buster:

The Federal Election Commission received a complaint which alleges that the Sloane for Senate 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 3182. 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.

9504365384

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

Sincerely,

Lavrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

95043655368 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Pat Goins, Executive Director
Kentucky State Democratic Party, Non-Federal
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3182

Dear Ms. Goins:

The Federal Election Commission received a complaint which alleges that the Kentucky State Democratic Party, Non-Federal 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 3182. 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 Kentucky State Democratic Party, Non-Federal, 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.

9504365368 6

If you have any questions, please contact Jeffrey 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

9504365536887

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Harvey I. Sloane, M.D.
1401 South Fourth Street
Louisville, KY 40202

RE: MUR 3182

Dear Dr. Sloane:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3182. 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.

9504365368

If you have any questions, please contact Jeffrey 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

9504365336889

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 4, 1990

Mary C. Bingham
4309 Glenview
Glenview, KY 40025

RE: MUR 3182

Dear Ms. Bingham:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3182. 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.

9504365369O

If you have any questions, please contact Jeffrey 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

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jsr6139/bingham/fec.matter/corres.90/12131gl.le
Thu Dec 13 14:57:19 1990

06-C-8984

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 DEC 14 PM 12:14

REED SMITH SHAW & McCLAY

1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036
202-457-6100

PITTSBURGH, PA
PHILADELPHIA, PA
HARRISBURG, PA
McLEAN, VA

FAX 202-457-6113
TELEX NO. 64711

WRITER'S DIRECT DIAL NUMBER

(202) 457-6139

December 13, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 14 PM 3:26

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

Re: MUR 3182

Dear Miss Lerner:

Per my conversation by telephone with you today, I write to request on behalf of respondent Mary C. Bingham an extension of time to and including January 4, 1991 for filing her response to the complaint filed in the above-captioned MUR and sent by you to her under cover of your letter dated December 4, 1990. Under the Commission's Rules of Practice, the initial response to this complaint would be due on December 24, 1990. The reasons for this request are the same as those set forth in my letter to you of December 5, 1990 regarding MUR's 3145 and 3175.

I would appreciate your confirmation in writing that the requested extension has been granted. Although I mentioned in our conversation that I had not yet received a Designation of Counsel with respect to MUR 3182, I subsequently received such Designation of Counsel in today's mail and am enclosing it herewith.

Very truly yours,

Joseph A. Rieser, Jr.

JAR:vrc

Enclosure

cc: Jeffrey Long, Esq. (w/encl.)

9504365369 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3182

NAME OF COUNSEL: Joseph A. Rieser, Jr., Esq.

ADDRESS: Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036

TELEPHONE: 202 - 457-6139

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.

Dec. 10, 1990
Date

Mary C. Bingham
Signature

RESPONDENT'S NAME: Mary C. Bingham

ADDRESS: 4309 Glenview Ave.
Glenview, KY 40025

HOME PHONE: 502 - 896-6123

BUSINESS PHONE: 502 - 587-0881

9504365393

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 18, 1990

Joseph A. Rieser, Jr., Esquire
Reed Smith Shaw & McClay
1200 18th Street, N.W.
Washington, D.C. 20036

RE: MUR 3182

Dear Mr. Rieser:

This is in response to your letter dated December 13, 1990, which we received on December 14, 1990, requesting an extension until January 4, 1991 to respond to the complaint filed in the above-captioned MUR. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on January 4, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9504365369 4

MUR 3182

LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 589-4994

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 DEC 18 AM 11:55

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

December 16, 1990

INDIANA OFFICE
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7838

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 18 PM 12:10

FEDERAL EXPRESS

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

Re: MUR 3182

Dear Ms. Lerner:

I just received a copy of the Complaint filed by Common Cause against the Sloane for Senate Committee and Harvey I. Sloane. At present I am involved in two extremely time-consuming cases and with the upcoming holidays it will be impossible for me to adequately respond to the Common Cause Complaint. Accordingly, I request that I be given up until January 7, 1990 in which to respond to the Complaint.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.

Donald L. Cox

DLC/wc

j/sl-4

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06-C9017

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 DEC 17 AM

[redacted]NT OF DESIGNATION OF C[redacted]L

MUR 3182

NAME OF COUNSEL: Donald Cox

ADDRESS: Meidinger Tower 18th Floor
Louisville, Kentucky
40202

TELEPHONE: (502) 589-4215

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 17 PM 3:07

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

12-10-90
Date

Harvey Sloane
Signature

RESPONDENT'S NAME: Harvey Sloane

ADDRESS: 1401 South 4th Street
Lou. Ky 40208

HOME PHONE:

BUSINESS PHONE: (502) 636-5396

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202

RE: MUR 3182
Sloane for Senate Committee
and Harvey I. Sloane

Dear Mr.Cox:

This is in response to your letter dated December 16, 1990, which we received on December 18, 1990, requesting an extension until January 7, 1991, to respond to the complaint in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on January 7, 1991.

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

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 18 PM 12:48

Democratic National Committee

December 17, 1990

Mr. Jeffrey Long
Office of the General Counsel
Federal Election Commission
999 E. St. N.W.
Washington D.C. 20463

Dear Mr. Long:

By way of this letter respondent Democratic National Committee requests an extension of time to file its response in matters under review 3182, 3175 and 3145. The Democratic National Committee requests to be able to submit its response on January 11, 1991.

Respondent's response in MURs 3145 and 3175 were originally due on December 17, 1990, and for MUR 3182 on December 21, 1990. In a telephone conversation I had with you last week you agreed to extend our response time for MUR 3145 and 3175 until December 21. We are now requesting a twenty day extension of time for all three MURs which will result in our responses being due on January 11, 1991.

As I mentioned to you last week, the DNC is most anxious to have these matters resolved and be exonerated from the charges made against it. However, we are finding it impossible to prepare a proper response within the allotted time. I would appreciate it if you could telephone me with a response to this request as soon as possible so that we may plan accordingly.

Sincerely,

William Cross
Legal Counsel
(479-5112)

430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
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Printed on Recycled Paper

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1990

William Cross, Esquire
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MURs 3182, 3175, 3145
Democratic National
Committee

Dear Mr. Cross:

This is in response to your letter dated December 17, 1990, which we received on December 18, 1990, requesting an extension until January 11, 1991, to respond to the complaints in the above-referenced matters. After considering the circumstances presented in your letter, I have granted the requested extensions. Accordingly, your response is due by the close of business on January 11, 1991.

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

9504365399

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 20, 1990

Richard Rankin, Treasurer
Kentucky State Democratic Central
Executive Committee
Millville Road
P.O. Box 694
Frankfort, KY 40602

RE: MUR 3182

Dear Mr. Rankin:

The Federal Election Commission received a complaint which alleges that the Kentucky State Democratic Central Executive Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3182. 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.

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If you have any questions, please contact Jeffrey 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

9504365370 1

MUR 3182

LAW OFFICES
MICHAEL T. McKINNEY

Attorney at Law

MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
P.O. BOX 889
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0889

December 21, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 28 PM 3:29

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

ATTN: Lois Lerner
Associate General Counsel

RE: MUR 3182

Dear Ms. Lerner:

Request is hereby made for an extension of time in the amount of ten (10) days within which to respond to the above referenced Matter Under Review. This request is made prior to the expiration of time within which to respond and is not made for the purpose of delay. Thank you for your consideration in this regard.

Yours truly,

Michael T. McKinney
Counsel for Kentucky
Democratic Party

MTMc:trt

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 9, 1991

Michael T. McKinney, Esquire
P.O. Box 688
2922 Washington Square
Burlington, Kentucky 41005-0688

RE: MUR 3182
Kentucky State
Democratic Party and Richard
Rankin, as treasurer

Dear Mr. McKinney:

This is in response to your letter dated December 21, 1990, which we received on December 28, 1990, requesting an extension of 10 days to respond to the complaint filed 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 January 18, 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

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jsr6130/bingham/fec.matter/corres.91/0103.jl.le
Thu Jan 3 16:44:20 1991

OGC 9214

REED SMITH SHAW & McCLAY

1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036
202-457-6100

FAX 202-457-6113
TELEX NO. 64711

PITTSBURGH, PA
PHILADELPHIA, PA
HARRISBURG, PA
McLEAN, VA

WRITER'S DIRECT DIAL NUMBER

(202) 457-6139

January 3, 1991

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FEDERAL ELECTION COMMISSION
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BY HAND DELIVERY

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

Re: MUR's 3145, 3182

Dear Mr. Long:

I write on behalf of Mrs. Mary C. Bingham to respond to the complaints filed by the Republican Party of Kentucky and by Common Cause in MUR's 3145 and 3182, respectively. Designations of Counsel executed Mrs. Bingham and designating me as her counsel in these matters were previously furnished to the Commission under cover of my letters to Lois G. Lerner, Esq. dated December 5, 1990 and December 13, 1990. For reasons more fully set forth below, both of these complaints should be dismissed as against Mrs. Bingham and no further action taken by the Commission with respect thereto. It is clear from the facts alleged therein and the additional facts presented here that Mrs. Bingham did not commit any violation of the Federal Election Campaign Act 1971, as amended ("Act"), in connection with the matters raised in those complaints.

A. Introduction.

At issue in the complaints as applied to Mrs. Bingham is a certain contribution which she made to the Democratic National Committee ("DNC") in October, 1990 in the amount of $250,000, of which $20,000 was designated for the DNC's federal account and $230,000 was designated for its nonfederal account. According to the complaints, all or part of these funds were then allegedly transferred by the DNC to the Kentucky Democratic Party (the "State Party"), which proceeded to use them to pay for all or part of the cost of certain television advertisements

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which it aired in October, 1990. They further allege that those advertisements should be considered to be contributions to the general election campaign of Harvey Sloane, the Democratic nominee for the United States Senate in Kentucky that year. Finally, the complaints allege that Mrs. Bingham's contribution was earmarked for such purposes, with the result that she exceeded the limitation under § 441a(a)(1)(A) on contributions which she could make to Dr. Sloane's general election campaign by the full amount of her contribution.

Although the lead allegation of the complaints is that Mrs. Bingham, by her October, 1990 contribution, exceeded the limitations under the Act on how much she could contribute to Dr. Sloane's campaign, they also allege that, as a result of this lead violation, she exceeded various other limitations under the Act as well. These include the limitation imposed under § 441a(a)(1)(B) of the Act on contributions which she could make to the DNC's federal political committee, the limitation imposed by § 441a(a)(1)(C) of the Act on contributions which she could make to the State Party's federal account, and the limitation imposed by § 441a(a)(3) of the Act on the aggregate contributions which she could make in a calendar year.[1/] These additional allegations are, however, derivative of the principal focus and thrust of the complaints -- to wit, that Mrs. Bingham's contribution was earmarked for the benefit of Dr. Sloane -- and do not seem to have any basis independent thereof.

The allegations in the complaints are without foundation or support. The facts show quite clearly that Mrs. Bingham made legal contributions to the DNC's federal and nonfederal accounts which were given to the DNC for its unrestricted use (subject to applicable laws) and which were not accompanied by any instructions, encumbrances or other earmarking limiting or otherwise governing such use. In such circumstances, Mrs. Bingham's involvement in this matter was limited solely to her lawful contributions, and this proceeding

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1/ The allegations regarding a violation of the annual aggregate limit under § 441a(a)(3) under the Act are limited solely to the consequences of Mrs. Bingham's October, 1990 contribution to the DNC without reference to other contributions which she may or may not have made in that year. This response is similarly limited.

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should be dismissed as to her because she has no responsibility for any use to which the DNC may have put the funds it received from her and others or for any use to which the State Party may have put the funds given to it by the DNC.

Notwithstanding the foregoing, it is also clear that Mrs. Bingham's contribution to the DNC, even if it is viewed -- contrary to the facts -- as having been made indirectly to the State Party, cannot be treated as a contribution to the Sloane for Senate Committee ("Sloane"). First, to the extent that the DNC made contributions to the State Party's nonfederal account, it accompanied those contributions with very clear instructions that the funds could not be used in connection with federal elections and could only be used in connection with nonfederal elections or to defray that portion of general party-wide activity properly attributable to such elections. As a result, even if the DNC's nonfederal contributions to the State Party are somehow attributed to Mrs. Bingham for purposes of this proceeding, this "deemed" contribution by her to the State Party must be treated as having been subject to those very clear instructions which prohibited its use on behalf of Dr. Sloane or any other federal candidate. Second, the purposes to which the monies contributed by Mrs. Bingham were purportedly put by the State Party did not, under the Commission's own regulations, constitute expenditures attributable to Sloane for purposes of the Commission's earmarking regulations. Consequently, Mrs. Bingham cannot be viewed as having made any impermissible contribution to the DNC, to the State Party, or to Sloane. 2/

Accordingly, the only issue which the complaints raise is whether the State Party and/or the DNC properly apportioned the costs of a Party advertising campaign between their federal and nonfederal accounts, a matter which is peculiarly within the

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2/ While the complaints apparently allege that Mrs. Bingham exceeded the limitations under § 441a(a)(1)(B) and § 441a(a)(1)(C) on contributions to the DNC and the State Party, respectively, and the annual aggregate limitation under § 441a(a)(3), those allegations are all premised on the allegation that her contribution was earmarked for the benefit of Dr. Sloane and do not appear to have any basis independent of that "earmarking" allegation. Because, under both the facts and the law, the earmarking allegation must be rejected, these other allegations (which are derivative therefrom) must also be rejected.

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province of the party committees and about which Mrs. Bingham neither has any knowledge nor bears any responsibility.

B. Background.

Mrs. Bingham is a widow of 86 years of age who resides in Kentucky. For many years she and her late husband, Barry Bingham, Sr., were the owners (together with other members of their family) of The Courier Journal, a newspaper of general circulation published in Louisville, Kentucky, and of WHAS television and radio stations, which are also headquartered there. Mrs. Bingham and, until his death in 1988, Mr. Bingham have long been generous benefactors of the arts and humanities, education, human needs and other charitable causes in Louisville, in Kentucky, and in the nation, first through a charitable foundation established by their companies to which their companies annually contributed 5% of their gross profits and then, after the sale of those businesses, from their own personal funds. By way of example, from 1986 to date Mr. and Mrs. Bingham contributed more than $40,000,000 to charitable causes and organizations from their personal funds.[3/] These contributions have always been made by the Bingham's out of disinterested generosity, with no strings attached and no expectation of personal benefit. As is customary in charitable giving, they always relied upon the representations of the soliciting organizations that the contributions were lawful and that the donated funds would be properly spent.

Mrs. Bingham is also a Democrat, and believes strongly in Democratic issues. Prior to 1986, however, she and Mr. Bingham made few, if any, political contributions or otherwise took part in political campaigns because they believed that such activity was inconsistent with their ownership of news organizations and with the fact that their son was publisher of Louisville's principal newspaper. However, since 1986, after she and her husband had disposed of those businesses, Mrs. Bingham has contributed generously to Democratic candidates and causes, including contributions in 1988 and 1989 to the nonfederal account maintained by the DNC as well as the contribution at issue in the present MUR's.

The circumstances surrounding Mrs. Bingham's contribution in October, 1990 to the DNC are quite simple and

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3/ As noted above, Mr. Bingham died in 1988.

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are set forth in her sworn affidavit attached hereto. Over dinner at home with her grandson one evening -- who was then living with her -- she discussed with her grandson the fact that the Democratic Party and its candidates were relatively less well-financed than were the Republican Party and its candidates and that, at least in her observation, there had been very little discussion during the fall election campaign of the issues with which both parties ought to be dealing. Her grandson, who was a volunteer in the Sloane campaign but who had also been involved in the Democrats' 1988 general election campaign and was aware of the national parties' fundraising and campaign efforts then, remarked that, if she wanted to help the Party, she could consider making a contribution to the DNC.

Sometime thereafter, upon mulling over the matter privately, Mrs. Bingham on her own initiative called Harvey Sloane to say that she wanted to make a contribution to the DNC but wanted to make sure she understood how to make contributions properly to its federal and nonfederal accounts.[4/] She was advised that she could contribute $20,000 to the DNC's federal account and could contribute additional monies to its nonfederal account and that her checks should indicate to which account her contributions were being made. At that time, she was told quite clearly that she could not impose any conditions on the use of the money, that its use would be entirely at the discretion of the DNC, and that the DNC could make no commitment as to how, when or where the money would be used. Thereupon, Mrs. Bingham made her contribution, of which $20,000 was designated for the DNC's federal account and $230,000 specifically designated for its nonfederal account. At no time during her consideration of this contribution, nor at any time thereafter, did she impose any restrictions on the DNC with respect to how or where her contribution would be used, nor did she have any conversation, before or after the contribution, with Dr. Sloane or with any representative of the DNC or the Kentucky Democratic Party regarding its use. She simply hoped that it would be used to help Democrats and to promote discussion of the issues.

4/ Mrs. Bingham was aware that party committees could, and did, maintain federal and nonfederal accounts, both from solicitations she had received from the DNC in 1988 and from solicitations she had received from the State Party in 1990.

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C. Discussion.

1. Mrs. Bingham's contribution was an unrestricted gift to the DNC and did not violate the limitations under the Act.

Contrary to the apparent import of the complaints, Mrs. Bingham's conduct was entirely open and above-board. Consistent with her practice regarding contributions to charitable organizations, she made her contribution to the DNC out of disinterested generosity, with no expectation of personal gain. She clearly designated a portion of her contribution for the DNC's federal account and a portion for its nonfederal account, but did not otherwise encumber it with any instructions regarding its use or otherwise earmark it for any particular purpose. Indeed, she was expressly told that she could impose no such conditions thereon. And, as with contributions to charitable organizations, she relied upon the representations of those with whom she discussed the matter regarding the legality of the contribution.

Under the Commission's guidelines, this contribution was legal. While the complaints focus in particular upon the portion -- i.e., $230,000 -- which exceeded the $20,000 limit imposed by § 441a(a)(1)(B) with respect to contributions to the DNC, that portion was specifically designated for the DNC's nonfederal account for use in connection with nonfederal elections. As the Commission has long recognized, party committees, including national party committees, may maintain nonfederal accounts to pay for the nonfederal share of party activities. This is clear from the Commission's advisory opinions. See, e.g., A.O. 1978-10, 1 Fed. Elect. Camp. Fin. Guide ¶ 5340 (August 10, 1978); A.O. 1978-46, 1 Fed. Elect. Camp. Fin. Guide ¶ 5348 (September 5, 1978); A.O. 1978-50, 1 Fed. Elect. Camp. Fin. Guide ¶ 5353 (September 19, 1979); A.O. 1979-17, 1 Fed. Elect. Camp. Fin. Guide ¶ 5416 (July 16, 1979). It is clear from regulations which the Commission has just recently promulgated setting forth standards for party committees to apply in apportioning expenditures between their federal and nonfederal accounts. See new Reg. § 106.5, published at 55 Fed. Reg. 26058, et seq. (June 26, 1990). And it is clear from opinions of the courts, which have flatly rejected Common Cause's assertions that party committee may not raise and spend nonfederal contributions in federal election years to be used to defray the portion of party-wide or other generic activity allocable to nonfederal elections. See Common

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Cause v. F.E.C., 692 F. Supp. 1391 (D.D.C. 1987). As a result, under the Act Mrs. Bingham may freely give to the DNC's nonfederal account. This is all she did; and such conduct was perfectly permissible.[5/]

2. Mrs. Bingham's contribution was not earmarked for the benefit of the State Party or of Sloane.

The complaints make much of the fact that, shortly after Mrs. Bingham made her contribution to the DNC, the State Party undertook an advertising campaign on television, purportedly with funds derived in part from contributions made by the DNC. They further assert that this campaign was for the purpose of influencing and supporting the candidacy of Harvey Sloane and that the State Party's efforts in that regard should be imputed to Mrs. Bingham.[6/]

Whatever may be the case with respect to how the State Party financed that advertising campaign, the facts above demonstrate that Mrs. Bingham cannot and should not be held responsible therefor. As her affidavit shows, she had no

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5/ This is true even if her nonfederal contribution is considered to be an indirect contribution to the State Party, since the DNC quite clearly instructed the State Party that nonfederal funds transferred thereto could only be used in connection with nonfederal elections. See, for example, the letter attached hereto dated October 26, 1990 from the DNC to the State Party concerning the DNC's nonfederal contribution thereto. We are informed by the DNC that a similar letter generally accompanied all nonfederal contributions which it made to the State Party last fall.

6/ The complaints also allege that the Sloane campaign was penniless at the time. However, the news reports attached thereto reveal that Sloane had more than $500,000 cash on hand as of September 30, 1990. For a Democratic challenger, or any challenger, that is not a penniless campaign. Thus, this, together with allegations that Sloane had not aired many ads early in the fall, simply shows that he was "holding his powder" until later in the campaign. It certainly does not create the impecunious need which complainants allege creates a link between Mrs. Bingham's contribution and Sloane.

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knowledge as to how the DNC would spend the funds it received from her and others; and she made her contribution in the belief that she could not impose any restrictions or limitations on its use (aside from the obvious limitation imposed by the designation of a portion of it for the DNC's nonfederal account) and did not try to impose any such limitations. In short, she exercised no control over the ultimate disposition of her contribution, even assuming that the use of such monies could somehow be "traced." If her contribution was misused, that was the result of independent conduct by the party committees and is solely their responsibility.

Furthermore, even if it could be said that Mrs. Bingham's contribution was somehow earmarked for use in the advertising campaign which the complaints allege the State Party undertook, it is clear under the Commission's regulations that it does not constitute an "earmarked" contribution which should be treated under the Act as having been made to Sloane. As can be seen from the transcripts attached to the complaint filed by the Kentucky Republican Party, the State Party ads in question were generic ads in support of Democrats generally.

Reg. § 110.6(b) defines an "earmarked" contribution as one which, pursuant to designation, instruction, or encumbrance, results in all or any part of it being made to or expended on behalf of a "clearly identified" candidate or candidate's authorized committee. Similarly, under Reg. § 106.1 expenditures made by party committees must be attributed to particular candidates for purposes of § 441a(d) only if they are made on behalf of "clearly identified" candidates.[7/] "Clearly identified" is, in turn, defined in Reg. § 106.1(d) to mean that the candidate's name appears, a photograph or drawing of the candidate appears or the identity of the candidate is apparent by unambiguous reference. Under this standard, no candidate was "clearly identified" in the ads aired by the State Party: they did not contain Sloane's likeness; they did not mention his

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7/ Reg. § 106.1(a)(1), as recently amended, makes it particularly clear that party expenditures must be so attributed only if they are made on behalf of "clearly identified" candidates. By the Commission's own admission, however, this clarifying language did "no[t] change . . . Commission policy as to when a given expense constitutes an in-kind contribution or particular type of expenditure." See 55 Fed. Reg. at 26061, left column (June 26, 1990).

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name; and they did not mention the office for which he was running, or any other specific office.[8/] See also MUR 1844, where, consistent with the General Counsel's recommendation, the Commission voted six to zero that the cost of "Other Guy" advertisements aired by the National Republican Congressional Committee in 1984 was not allocable to any particular candidates because no such candidates were clearly identified.

Consequently, Mrs. Bingham's contribution cannot be considered to have been "earmarked" for Sloane even if the State Party's ads could otherwise be imputed to her. Indeed, it is particularly ironic that Common Cause, of all groups, should assert that the earmarking regulations could somehow apply here. In a different proceeding pending before the Commission, they established that contributions to party committees would be considered to be earmarked for candidates only when the instructions from the donors were particularly clear and binding and the intended ultimate recipient clearly identified by name. See Common Cause v. F.E.C., 729 F.Supp. 148 (D.D.C. 1990) (1986 mailings by the NRSC). Whatever may be the merits of that decision, the position which Common Cause took in that proceeding is totally inconsistent with the position they take here: in the former, they asserted that a reference to the office and state to which the contributed funds would be

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8/ Although the complaints allege that the ads should be attributed to Sloane because they referred to his issues and used a tag line which was similar to a tag line used in some of his advertisements, such similarities are not sufficient to raise any attribution to a particular candidate under the "clearly identified" standard. Indeed, the advertisements provide a good example why the standard which the Commission has adopted before requiring such attribution -- i.e., the "clearly identified" test -- is good and sound policy. As can be seen from the transcripts, the text of the ads was so general that it could apply to most, and probably all, Democrats. Surely, the Kentucky Democratic state legislators and Congressmen who were running in 1990 would be surprised if they were to learn that, as the complainants would have it, only Sloane cared about jobs, education or health care. Or that only Sloane cared about protecting the middle class or taxing the rich. Or that only Sloane was "fighting" for their constituents. Obviously, no Democratic candidate has a monopoly on such issues.

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transferred was not sufficient to create earmarking; here, they maintain that Mrs. Bingham's donation was "earmarked" despite the complete absence of any reference to office or candidate in the use to which it was allegedly put.

3. To the extent that the complaints present an issue for the Commission to consider, that issue is whether the party committees properly allocated the costs of the alleged advertising campaign between the appropriate federal and nonfederal accounts and does not involve Mrs. Bingham.

The party committees are obligated under the Act to pay for an appropriate portion of the costs of the ads in question with federally permissible funds. Mrs. Bingham has no knowledge of the extent to which the party committees did or did not properly apportion the cost of those ads between their nonfederal and federal accounts.[9/] However, this question is one which is peculiar to one or both of the party committees and is their responsibility alone. On the facts as presented in the complaints and set forth above, Mrs. Bingham cannot be charged with responsibility for that conduct since she had no prior knowledge of or control over the ultimate disposition of her contribution to the DNC or, for that matter, of any other funds held by either of the two party committees.

In view of the foregoing, the complaints filed in the above-captioned MUR's must be dismissed as to Mrs. Bingham. Contrary to the allegations in the complaints, her contribution of $250,000 to the DNC did not violate any of the limitations under the Act. First, her contribution was given without instructions, restrictions, prior knowledge or commitment as to its use and the portion in excess of the $20,000 limit under § 441a(a)(1)(B) of the Act was clearly designated for the DNC's nonfederal account. Second, to the extent that all or part of her nonfederal contribution was ultimately given by the DNC, on its own initiative and in its own discretion, to the State Party, that transfer was accompanied by clear instructions that it could only be used in connection with nonfederal elections

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9/ It is worthy of note in this regard, however, that all seats in Kentucky's state house of representatives and one-half of the seats in its state senate were up for election in 1990.

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and, if used to underwrite a portion of the cost of the general party-wide activities, only to the extent that those activities were fairly allocable to nonfederal elections. Third, even if the State Party's alleged advertising campaign could somehow be imputed in part to Mrs. Bingham, under the Commission's own regulations Mrs. Bingham's contribution cannot be found to have been earmarked to Sloane because there was no "clear identification" of him, or of any other specific federal candidate, in those ads for purposes of Reg. §110.6. Finally, while it would appear that a portion of the cost of that advertising campaign did have to be paid for with federally-permissible funds, Mrs. Bingham cannot be held responsible for determining what the appropriate allocations were or to assure that the State Party would properly apply such an allocation because she had no control over the disposition of her contribution to the DNC or any other funds held by either of the party committees.

In short, to the extent that there is a genuine issue under the Act raised in these complaints, it only concerns the extent to which the party committees did or did not properly allocate the costs of the subject advertisements between their federal and nonfederal accounts. That issue involves only the party committees and their internal practices, and, therefore, Mrs. Bingham should be dismissed from these proceedings at this time.

Very truly yours,

Joseph A. Rieser, Jr.

JAR:vrc

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CITY OF LOUISVILLE)
) SS:
STATE OF KENTUCKY)

AFFIDAVIT OF MARY C. BINGHAM

1. I am a resident of Glenview, Kentucky.

2. For many years, neither my late husband nor I took an active role in political campaigns nor made many political contributions. We imposed this restriction on ourselves because we believed to do otherwise would be inconsistent with the fact that our family owned various news media enterprises, including The Courier Journal, and that our son was the publisher of the latter. Upon the disposition of those businesses in 1986, we no longer believed ourselves to be subject to those constraints and, as a result, began to consider for the first time the extent to which we wanted to contribute to political organizations in whose causes we believed. In that year, we contributed a total of approximately $8,000 to federal and nonfederal candidates and committees, which was many thousands of dollars more than we had contributed in total over the previous six years.

3. On various occasions in 1988, 1989, and 1990, I made contributions to the Democratic National Committee ("DNC"). In September, 1988 I gave $100,000 to the DNC by two checks, one of which was specifically designated for the DNC's federal account in

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the amount of $20,000 and the other of which was specifically designated for its nonfederal account in the amount of $80,000. In August, 1989 I gave the DNC, by check, $25,000 specifically designated for its nonfederal account. In October, 1990 I gave the DNC $250,000 by two checks, one designated for its federal account in the amount of $20,000 and one designated for its nonfederal account in the amount of $230,000. Copies of these cancelled checks are attached to this affidavit.

4. I made the foregoing contributions in the belief that they were permitted under the Federal Election Campaign Act of 1971, as amended. Upon learning that I may have exceeded certain contribution limitations under that statute in 1990, through my attorney I asked the DNC to treat my $20,000 to it in October as for use in connection with nonfederal elections and to transfer that amount to its nonfederal account. I have since been informed that they did so.

5. I am aware that political parties often maintain federal and nonfederal accounts and that contributions to a political party's nonfederal account are used to support its candidates for state and local offices rather than for federal offices. Over the last few years, I have received solicitations from various nonfederal committees, including the nonfederal accounts maintained by the DNC and by the Kentucky Democratic Party, and from candidates for state and local offices, and have made contributions to them. In considering whether to make political contributions, I have (as is my practice with my gifts to charities) relied upon the statements of the representatives of

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those to whom I am making the gift as to whether and how much I may contribute. I do not recall ever being told by any of those asking for political contributions that federal law limited my federal contributions to $25,000 annually.

6. In the Fall of 1990, I had become concerned by the fact that, as far as I could tell, there had been very little discussion during the general election campaign of the issues with which I thought Republicans and Democrats ought to be trying to deal. One evening at home in the course of conversation over dinner, I happened to mention this to my grandson, who was then living with me and was knowledgeable about such matters since he had worked in a number of Democratic campaigns, including the Democrats' 1988 election effort and participation as a volunteer in the Senate campaign of Harvey Sloane. The thrust of our brief, dinner-table conversation on the matter was that this was often a problem for the Democratic Party because it and its candidates often were less well-financed than the Republicans were and that, if I wanted to do something about it, I could consider making a contribution to the DNC, to which I had made substantial contributions in recent years.

7. After thinking about this privately for some time but without further discussion with anyone else, I decided that I wanted to make a contribution to the DNC. I then called Harvey Sloane to make sure that I understood how much I could give to the DNC and was advised that I could give up to $20,000 to the DNC's federal account and could give additional amounts to its nonfederal account. In our conversation, Dr. Sloane emphasized

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that, if I were to make a contribution to the DNC, it would be entirely up to the DNC as to what it did with the funds, that how the DNC used the funds would be based on its "cold, hard" political analysis of where needs and chances of success were greatest, and that I could not impose any conditions or instructions with respect to its use. At no time did he give any indication of where or how the DNC would likely use the money. Thereafter, I made the contribution to the DNC, with no strings attached. I imposed no conditions on when, how, or where the donated funds would be used by the DNC nor did I have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely use. In addition, I had no conversations with any representative of the Kentucky Democratic Party regarding this contribution. I made the contribution because I wanted to help the Democratic Party present its side of the issues to the general public.

Mary C. Bingham
Mary C. Bingham

Sworn to and subscribed before me this 28th day of December, 1990.

Anne S. Edlin
Notary Public

My commission expires: September 24, 1991

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Liberty National Bank
And Trust Company of Louisville, Ky.

MARY C. BINGHAM
[redacted]

№ 005134

September 19 19 88

21-13/830

PAY The sum of $20,000 and 00 cts $ 20,000.00

TO THE ORDER OF

408502213082003691 100688 PAID

Democratic Victory Fund - 88
Federal Account

Leon Taltichet

A001 FV1 31-905

[redacted]

9 5 0 4 3 6 5 3 7 1 9

VICTORY FUND 88 FEDERAL ACCT.

DEMOCRATIC NATIONAL COMMITTEE
FOR DEPOSIT ONLY NBW
DNC SERVICES GENERAL FUND
1 088 459

0840 00028
01 88 06
408502213082003691
C83000137 10-06-88

Liberty National Bank
And Trust Company of Louisville, Ky.

MARY C. BINGHAM
[redacted]

№ 005135

September 19 19 88

21-13/830

PAY The sum of $80,000 and 00 cts $80,000.00
TO THE ORDER OF

408502211082003691 100688 PAID

Democratic Victory Fund - 88
Non-Federal Account

A001 NV3 369005

Lem Tallichet

[redacted]

9 5 0 4 3 6 5 3 7 2 0

Democratic Victory Fund 88
Non Federal Acct.

DEMOCRATIC NATIONAL COMMITTEE
FOR DEPOSIT ONLY NBW
DNC NON FEDERAL INDIVIDUAL ACCOUNT
115 129 0

0840 00028

OT 88 06

MARY C. BINGHAM 07-06

[redacted]

21-13/830

11238

August 4 1989

Pay to the order of Democratic National Committee / Non Federal Account $25,000

Twenty five Thousand Dollars

408901287072002460 081089 PAID

Liberty National Bank
And Trust Company of Louisville, Kentucky

TRDU N03 36905

Mary C. Bingham

[redacted]

CLARKE CHECKS

9 5 0 4 3 6 5 3 7 2 1

Democratic Nat'l Committee
/Non Federal Acct.

DEMOCRATIC NATIONAL COMMITTEE
FOR DEPOSIT ONLY NSW
DNC NON FEDERAL INDIVIDUAL ACCOUNT
115 129 0 5 1 1 1 2

006012* 08.09.89
*1151290 AN
0248 *25000.00 D

MARY C. BINGHAM
[redacted]

Liberty National Bank
And Trust Company of Louisville, Ky.

7312

October 9 19 90

PAY The sum of $20,000 and 00 cts DOLLARS $ 20,000.00

TO THE ORDER OF Democratic National Committee

109501230099003200 101590 PAID

F01
TRDU/[redacted]/36905
FEDERAL FUND

Lee Tallichet

[redacted]

95043653722

MARY C. BINGHAM
[redacted]

Liberty National Bank
And Trust Company of Louisville, Ky.

7314

October 9 19 90

PAY ----Two hundred thirty thousand 00/100---------- DOLLARS $ 230,000.00

401961536 10-13-90 052 20 0180

TO THE ORDER OF Democratic National Committe

109900708099003200 101590 PAID

0000/N03/36905

Non-Federal Fund

Lynn Tallichet

[redacted]

95043653723

Democratic National Committee

Ronald H. Brown
Chairman

October 26, 1990

Ms. Maryann Johnson
Chair
Kentucky Democratic Party
Post Office Box 694
Frankfort, KY 40602

Dear Maryann:

On behalf of the Democratic National Committee ("DNC"), I am pleased to enclose two checks in the total amount of $50,000.00 payable to the Kentucky State Democratic Party.

The check in the amount of $40,000.00 is drawn on the DNC's federal account and contains only contributions received in accordance with the limitations and prohibitions of the Federal Election Campaign Act of 1971, as amended. This contribution will be reported by the DNC to the Federal Election Commission ("FEC") on our next report. Your receipt of this contribution should be shown when filing your next scheduled report with the FEC.

The check written from the DNC Non-Federal Individual Account is drawn on an account which contains non-federal contributions received from individuals and is maintained for use in connection with elections to state and local offices in states where such contributions are permitted.

This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state

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laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion.

It is our understanding that Kentucky election law allows individuals to make political contributions in connection with state and local elections, but we make no representation or warranty to that effect and you should consult with your state party attorney to confirm that this is correct. If our understanding in this regard concerning Kentucky law is incorrect, kindly return this contribution. Please note this contribution should not be deposited into any federal account maintained by you.

If you would like additional guidance concerning allocation of federal and non-federal funds, we suggest that you contact the Federal Election Commission at (800) 424-9530.

All best wishes for the important days ahead.

Sincerely,

Ronald H. Brown

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LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 585-2094

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

INDIANA OFFICE
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7838

November 8, 1990

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

Attn: Lois G. Lerner
Associate General Counsel

Re: MUR 3145

Dear Ms. Lerner:

INTRODUCTION

As if the only race being run in Kentucky on November 6, 1990, were the Senate race between Dr. Harvey Sloane and Mitch McConnell, the Kentucky Republican Party has filed a Complaint with the Federal Election Commission ("FEC") claiming that "generic" advertisements run by the Kentucky Democratic Party and allegedly paid for by the National Democratic Party should be attributed to the Sloane Campaign, apparently based on some sort of conspiracy theory. Curiously, the Kentucky Republican Party has not even made a colorable effort to show that the advertisement "clearly identifies" Dr. Sloane or to otherwise meets the standards imposed by the FEC in Advisory Opinion

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1978-50. See Exhibit A. Simply put, there is no basis for asserting that Dr. Sloane is "clearly identified" in the advertisement, particularly given the fact that in the November 6th election in Kentucky there were seven federal congressional races, one federal senatorial race, 100 state representatives, 19 state senators and many hundreds of local partisan political races on the ballot. Accordingly, there is no basis for attributing the cost of the advertisements to the Sloane Campaign.

ARGUMENT

The beginning and the end of this complaint appears in AO 1978-50, in which the Michigan Democratic Party sought to conduct a generic advertising campaign prior to a general election which included both federal and state offices. The Michigan Democratic Party asked the FEC for an advisory opinion about whether the generic advertising activities in question were required to be allocated to individual federal senatorial or congressional candidates. The answer to that question is contained on page 4 of that opinion.

> In response to question (3) the expenditures of the drive allocable to Federal election purposes <u>do not have to be further allocated to specific candidates for federal office</u>, . . . unless those expenditures are made on behalf of <u>clearly identified candidates to whom the expenditures can be directly attributed</u>. (Emphasis supplied.)

In this case the Republicans do not even attempt to contend that any candidate, let alone Dr. Harvey I. Sloane, is "clearly identified" within the advertisements, and indeed they could not.

Rather, the Republicans essentially contend that the message contained in the advertisements is predominantly one which would affect the Sloane/McConnell race and accordingly since the advertisement is pro Democrat and therefore derivatively pro Sloane, and since Sloane conspired with the other respondents to have the advertisements run, Sloane is responsible for the entirety of their cost. Unfortunately, this "theory" simply is not a "theory" on which a violation of the Federal Election Campaign Act can be based. As can be seen, the advertisements on their face refer to taxes, Republicans and Washington. That, however, neither makes the message predominantly federal nor does it <u>clearly identify</u> Dr. Sloane any more than does the fact that pictures of prominent Democrats such as Presidents Roosevelt, Kennedy and Truman clearly identify Dr. Sloane. To assert that the taxation issue is a predominantly federal issue which clearly identifies Dr. Sloane is to ignore common sense. From the beginning of politics in this country, taxation has been a paramount concern for the electorate. While there are federal implications to the tax issue, in Kentucky this Fall, taxation is

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on the minds of everyone. The most recent session of the Kentucky General Assembly raised taxes more than any other session in the history of the Commonwealth. When that tax increase is combined with the annual increases in local property taxes a message that Kentucky Republicans are for increases in taxes for the middle class can be made.

The Kentucky Republican Party's claim that referring to Democratic Presidents during the course of a senate campaign means that the cost of any such referral should be borne by federal senatorial candidates is bold if it is nothing else. The plain fact of the matter is that Presidents have always been the symbol of the political parties to which they belong. The Republican Party often refers to itself as the party of Lincoln. Yet, would the Republican Party assert that referring to Lincoln clearly identifies any one federal candidate or involves a message which is predominantly federal? We doubt it.

The message in all of the advertisements in issue is "Republicans favor the rich and tax the middle class both in Washington and here in Kentucky -- Democrats stand for people and for helping people just as Roosevelt, Truman and

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Kennedy stood for helping people. Local Democrats will do the same thing." And even if this is said to be a "predominantly federal message," there is no FEC requirement that any portion of the costs of the advertisement be allocated to Dr. Sloane unless he is "clearly identified" in the advertisements.

Finally, the Kentucky Republican Party does not bother to point to any place in the statutes administered by the Federal Election Commission which prohibits a candidate from "conspiring" with state or federal committees to raise money on their behalf. The only act that results in an attribution of the costs of an advertisement to a particular federal candidate is if that advertisement specifically identifies that candidate. Here, that simply did not occur.

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CONCLUSION

The Republican Party's complaint has all the ear-marks of a political stunt, filed as it was at the eleventh hour, and containing not a shred of evidence or argument or any reference to the precedent with which anyone with a modicum of

understanding of Federal Election laws must be familiar. It is too bad that there is no FEC counterpart to Fed. R. Civ. P. 11.

Respectfully submitted,

Donald L. Cox
LYNCH, COX, GILMAN & MAHAN, P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202
(502) 589-4215

Counsel for Respondents,
Dr. Harvey I. Sloane and the
Sloane for Senate Committee

c/sloane-4

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

September 19, 1978

AO 1978-50

Morley A. Winograd
Chairperson
Michigan Democratic Party
Hart-Kennedy House
606 Townsend
Lansing, Michigan 48933

Dear Mr. Winograd:

This responds to your letter of July 13, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to a proposed get-out-the-vote campaign of the Michigan Democratic Party to increase support for the Democratic Gubernatorial nominee of the party.

Your letter explains that in connection with the 1978 general election the Michigan Democratic Party:

> "intends to conduct an extensive educational and motivational campaign designed to increase support for our Democratic Gubernatorial nominee and turn-out those voters who are supporting that candidate. This campaign will involve telephone calls, mailings, literature distributions and personal visits by campaign workers to persons who are likely to be supporting the Democratic Gubernatorial nominee."

You further explain that the Party's project will "not involve contacting or communicating with voters based upon their support any of the Democratic nominees for Federal office." However, th 1978 general election in Michigan will include one seat in the United States Senate and 19 Congressional offices. Your letter

also states that party expenditures on behalf of candidates for Federal office and contributions received for Federal campaign purposes will be reported by the Party's Federal campaign committee-- Democratic Campaign Committee (Michigan). These expenditures, you say, will not be related to our voter contact or voter turnout program which will be restricted solely to the Democratic Gubernatorial campaign."

You pose three questions for which you request an opinion:

(1) Are expenditures of the Michigan Democratic Party for the purpose of identifying and motivating supporters of the Party's Gubernatorial nominee covered by the Act?

(2) If these expenditures are subject to the Act, may the Party continue to maintain two separate accounts for the purpose of reporting contributions and expenditures of the Party under both Federal and State law? If this is permissible, how may it be accomplished?

(3) If some portion or all of the described expenditures are subject to the Act, on what basis, if any, should they be allocated to the Party's special expenditure limits on behalf of Senatorial and Congressional candidates under 2 U.S.C. §441a(d)(3)?

In response to your first question, the Commission concludes that expenditures of the Party for the purpose of identifying and motivating persons to support the Party's Gubernatorial nominee are, in part, for the additional purpose of influencing the election of persons to Federal office. In Advisory Opinion 1978-10, the Commission recently held that a political party's voter registration and get-out-the vote activity in a Federal election year, even though not expressly on behalf of candidates for Federal office, was nevertheless for the purpose of influencing the persons contacted to vote for all candidates of the political party.

The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective public offices. The expenditures for get-out-the-vote drives would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed. See Commission regulations at 11 CFR 106.1(c)(2) For example, if the purpose of the drive is to advocate the election of one or more clearly identified candidates for Federal office, then the cost must be attributed to that candidate or candidates, for limitation and reporting purposes, as either a contribution or an expenditure. 2 U.S.C. §441a(a) and §441a(d)(3). However, the Party may use printed materials in its get-out-the-vote drive which identify candidates for Federal office without allocating any cost to particular Federal candidates, if those materials are within the slate card or sample ballot exemption. 2 U.S.C. §431(e)(5)(E) and §431(f)(4)(G). */ See Advisory Opinion 1978-9 (question 7).

In response to question (2), the Democratic Party of Michigan may continue to maintain its registered Federal campaign committee -- Democratic Campaign Committee (Michigan) -- for purposes of reporting contributions and expenditures coming within the purview of the Act and Commission regulations. See 11 CFR 102.6. The reporting political committee of the Party is required to defray the allocable Federal election portion of the expenses incurred by the Party for the described get-out-the-vote campaign. These expenditures are considered administrative expenses of the Party and may be allocated under the formula described in Commission regulation §106.1(e). Other allocation formulas have been approved by the Commission as reasonable and may be used to determine the amount of get-out-the-vote expenditures which must be paid by the Democratic Campaign Committee of Michigan.

*/ Expenses incurred under the cited sample ballot exemption are neither contributions nor expenditures for purposes of the Act. They are not subject to any monetary limit and may be funded by either a reporting political committee or nonreporting entity. If financed by a reporting political committee, the amounts spent for sample ballot materials need to be reported as a "Disbursement for exempt sample ballot expenses" in order to account for all cash outlays of the reporting political committee. See Commission regulations at §104.2(b).

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See the Commission's response to Advisory Opinion Request 1976-72 and a Commission guideline issued in December 1977, copies enclosed.

Your letter suggests that for the Commission to require that some portion of the Party's get-out-the-vote expenses be financed and reported by its registered Federal political committee would put the Party in violation of Michigan law. You state that Michigan law requires that all Party expenditures be made from one account. To the extent that Michigan law requires the Party to make or report expenditures differently than required by this opinion (which concludes that some portion of the described Party expenses come under the Act and must be financed by a reporting political committee) the Michigan law is superseded and preempted by virtue of 2 U.S.C. §453. That section provides that the Act, and regulations prescribed under the Act, "supersede and preempt any provision of State law with respect to election to Federal office." In addition, Commission regulations at 11 CFR 108.7(b)(1) and (b)(2) provide that the Act and Commission regulations supersede State law concerning the organization and registration of political committees supporting Federal candidates and the disclosure of receipts and expenditures by political committees. However, copies of reports filed under the Act with the Commission must also be filed with the Secretary of State. 2 U.S.C. §439(a) and 11 CFR 108.3. Accordingly, the Democratic Campaign Committee (Michigan) is required to file copies of its reports submitted under the Act with the Michigan Secretary of State.

In response to question (3) the expenditures of the drive allocable to Federal election purposes do not have to be further allocated to specific candidates for Federal office, and therefore charged against the party's limits in 2 U.S.C. §441a(d)(3), unless those expenditures are made on behalf of clearly identified candidates to whom the party's limits can be directly attributed. As discussed above, candidates for Federal office may be identified in conjunction with the drive without any charge to §441a limits, if the identification is made on materials coming within the sample ballot or slate card exemption. See the discussion in response to question (1).

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This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Joan D. Aikens

Joan D. Aikens
Chairman for the
Federal Election Commission

Enclosures

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JAN -8 AM 9:37

LYNCH, COX, GILMAN & MAHAN P.S.C.
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January 7, 1991

FEDERAL EXPRESS

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN -8 PM 1:19

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

Re: MUR 3182

Dear Ms. Lerner:

The upshot of the complaint filed by Common Cause is very similar to that of the complaint previously filed by the Kentucky Republican Party. A copy of our response to that complaint is attached and incorporated by reference. Nowhere in the Common Cause complaint is there a claim that Dr. Harvey I. Sloane is "clearly identified" in the advertisements in issue. Indeed, it would be impossible to state that Dr. Sloane's name, photograph or drawing appears in the commercials or that the identity of Dr. Sloane is apparent by unambiguous reference. See Section 106.1(d) of your regulations. Accordingly, none of the expenditures in issue are attributable to Dr. Sloane or his campaign. Moreover, by definition, without a clearly identified candidate the issue of "earmarking" simply does not arise. See Reg. 110.6(b).

DISCUSSION

In essence, Common Cause alleges that Harvey Sloane and the Sloane for Senate Campaign violated federal election laws because of the actions taken by Mary Bingham in making a contribution to the National Democratic Party, which in turn made a contribution to the Kentucky State Democratic Party. As we explained in our prior response, saying something is a conspiracy doesn't make it unlawful and couching a complaint in inflammatory language does

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not contribute to a resolution of the issues raised. The facts are that it was not unlawful for Mary Bingham to make a contribution to the National Democratic Party and it was not unlawful for the National Democratic Party to make a contribution to the Kentucky State Democratic Party. Nor was it unlawful for the Kentucky State Democratic Party to use a contribution which it received from the National Democratic Party if rules regarding attribution of the expenditure were followed.

Prior decisions of the Commission have made abundantly clear that generic advertising of the type in issue here that does not clearly identify a federal candidate is not chargeable to such a candidate. See AO 1978-50, which is Exhibit A to the attached response. Accordingly, Harvey I. Sloane and the Sloane for Senate Committee do not believe that as a matter of law a violation has properly been alleged against them.

The facts also do not support the allegations of Common Cause. As shown by the attached affidavits of Dr. Harvey I. Sloane and his campaign manager, Mr. James Cunningham, the Bingham contribution to the Democratic National Committee was not in any sense of the word "earmarked." 1/ Both Cunningham and Sloane were aware that none of the funds contributed by Ms. Bingham could be earmarked for Kentucky races. Sloane was told this by Cunningham and we believe that Ms. Bingham will state that she was told this by Dr. Sloane.

1/ Earmarking also requires that the contribution be for a clearly identified candidate. As explained above, since Sloane was not clearly identified, <u>as a matter of law</u>, the contribution, regardless of any agreement which existed beforehand, cannot be said to constitute an "earmarked" contribution. Simply put, even if it were true, which it is not, that Sloane had raised the funds in issue, under federal law there is no prohibition against a candidate raising money to be used for generic television advertisements. It is only when the advertisements are earmarked and include a specific reference to a clearly identifiable candidate, that the prohibition even arguably takes effect.

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The Commission should only investigate further as if it makes a preliminary determination that Dr. Harvey Sloane is "clearly identified" in the generic advertisements which are in issue here. Common Cause seeks to avoid this insurmountable obstacle by alleging that some sort of conspiracy existed. But evidence to support this conspiracy charge does not exist. Common Cause's only "evidence" that the contribution made by Mary Bingham violated federal law arises from the fact that the contribution was made and that monies subsequently came back to Kentucky and were used for generic advertisements. What Common Cause attempts to do with this Complaint is to create an essentially irrebuttable presumption that if soft monies are raised in a state no amount of soft monies may not be returned to that state. 2/

This complaint thus appears to be an attempt by Common Cause to retry their soundly rejected theory that soft monies may not be used in federal election campaigns. Essentially, Common Cause now asserts that if monies are raised in one state during a federal election, no monies may be returned to that state for use in generic advertisements. Common Cause's basic premise, however, was rejected in Common Cause v. FEC, 692 F.Supp. 1391 (D.D.C. 1987).

2/ If Common Cause's latest theory were followed to its logical conclusion, the nation would be divided into a checkerboard of states in which soft money could be raised but not spent and states in which soft money could be spent but not raised. Following this approach, political parties would be required to raise money in states where there was no election and therefore no interest by contributors in making contributions and spend money only in states where no money had been raised. What an absurdity!

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CONCLUSION

Dr. Sloane is not clearly identified in the advertisements in issue. There was no agreement to earmark the contribution in question. Accordingly, it is submitted that taking any further steps in this case is completely unwarranted.

Very truly yours,
LYNCH, COX, GILMAN & MAHAN, P.S.C.

Donald L. Cox

DLC/wc

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AFFIDAVIT OF HARVEY I. SLOANE

Affiant Harvey I. Sloane states as follows:

1. My name is Harvey I. Sloane, M.D. I was the Democratic candidate for U.S. Senate in Kentucky in the Fall of 1990. I am submitting this affidavit in response to a complaint which has been filed with the Federal Election Commission regarding a contribution made by Mary Bingham to the Democratic National Committee.

2. It is my understanding that for many years Mary Bingham has been a very large contributor to Democratic Party causes throughout the country.

3. I first learned that Mrs. Bingham was going to make a "large" campaign contribution to the Democratic National Committee shortly before it was made in the Fall of 1990 when I was informed of this fact by her grandson Rob Bingham. At the time the contribution was made I had no idea what its total size would be. All I was told was that the contribution would be large.

4. I discussed the contribution with Jim Cunningham who was employed by my Senate election campaign. Mr. Cunningham emphatically informed me that under DNC policies no contribution could be earmarked for any particular candidates or state. At no time was there any agreement of any type that the Mary Bingham contribution was or would be earmarked or designated in advance for my campaign or for any Kentucky races.

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5. Accordingly, in summary, based upon my personal knowledge and on my understanding from Mr. Cunningham, there was no promise, either in advance or after the fact, that the Mary Bingham campaign contribution would be earmarked for Kentucky or for my campaign.

6. It has always been my policy to comply with both the spirit and the letter of federal election laws.

Harvey I. Sloane

Harvey I. Sloane, M.D.

STATE OF KENTUCKY)
)
COUNTY OF JEFFERSON)

Subscribed and sworn to before me on this 7th day of January, 1991.

Notary Public
Kentucky, State at Large

My commission expires: [illegible]

n/sloane-4

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AFFIDAVIT OF JAMES CUNNINGHAM

Affiant James Cunningham states as follows:

1. My name is James Cunningham. I was campaign manager for the Sloane for Senate Committee during the general election in the Fall of 1990.

2. At no time was there an agreement of any type between myself or the Sloane Committee and the Democratic National Committee, Mary Bingham, or anyone else that the contribution which Mary Bingham made to the Democratic National Committee would be earmarked or transferred to Kentucky or to the Sloane for Senate Committee.

3. In the Fall of 1990, I had a discussion with Dr. Sloane in which I informed him that that policy of the Democratic National Committee was that contributions to the Democratic National Committee could not be earmarked for particular states or particular candidates.

James Cunningham

Subcribed and sworn to before me on this 7th day of January, 1991.

Notary Public
Kentucky, State at Large

My commission expires: August 4, 1994

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Before the
FEDERAL ELECTION COMMISSION

COMMON CAUSE, Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al., Respondents.	MUR 3182
REPUBLICAN PARTY OF KENTUCKY, Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al., Respondents.	MUR 3145

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RESPONSE OF DEMOCRATIC NATIONAL COMMITTEE

Pursuant to 11 C.F.R. § 111.6, respondent Democratic National Committee ("DNC") hereby submits this consolidated response to the complaints filed against it by Common Cause and the Republican Party of Kentucky, docketed by the Commission as MUR 3182 and 3145, respectively. These two complaints present similar factual conjecture and legal issues and lack merit for the same reasons, making a single response by the DNC

appropriate. 1/ As set forth below, the DNC did not violate any provision of the Federal Election Campaign Act of 1971, as amended, and both complaints should be dismissed as against the DNC.

I. INTRODUCTION

As the Commission well knows, this is but the latest complaint by Common Cause to protest the use of legal non-federal contributions by the national parties in connection with state and local elections. For a multitude of sound reasons, the Commission and the courts have rejected these various efforts in favor of a statutory and recently-revised regulatory scheme that requires, where applicable, allocation and disclosure of non-federal contributions and expenditures.

The complaint in this latest round of Common Cause's attack centers around a contribution received by the DNC from a substantial and regular donor, Mrs. Mary Bingham of Kentucky, and the complainants' erroneous argument that that contribution

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1/ The "complaint" by the Republican Party as against the DNC is contained in an unsworn letter from Bob Gable, dated November 12, 1990. This letter fails to comply with the requirement of 11 C.F.R. § 111.4(b)(2) that "[t]he contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized." Although the DNC contends that it is not properly a respondent in MUR 3145, the same issues nevertheless are raised by MUR 3182.

was somehow intended and used to influence the 1990 election for United States Senate from Kentucky. The specific allegations against the DNC appear to be that it was illegal to accept a non-federal contribution from Mrs. Bingham, that the DNC's transfers of money to the Kentucky Democratic Party were somehow DNC contributions and expenditures on behalf of United States Senate candidate Harvey Sloane, and that the DNC failed to accurately report its receipts and disbursements. See Common Cause Complaint ¶ 36b.

An examination of facts (rather than speculation) and governing law leads to exactly the opposite conclusion. The questioned contribution from Mrs. Bingham was an entirely legal contribution to the DNC's non-federal account, given and received without any instructions as to its ultimate disposition. The DNC made transfers of funds from both its federal and non-federal accounts to the Kentucky Democratic Party as is authorized by applicable law and accompanied each transfer with express instructions as to the permissible legal uses of the funds. Even if the funds were somehow misused by the Kentucky Democratic Party as is claimed by the complainants, such use (for the reasons explained in Section IV below) does not constitute an expenditure on behalf of any identifiable candidate by any entity -- and certainly not by the DNC.

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Accordingly, the DNC submits that both complaints should be dismissed as against it without further action by the Commission.

II. CONTRIBUTIONS TO THE DNC'S NON-FEDERAL ACCOUNT DO NOT VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT.

Mrs. Bingham has been an active and generous supporter of the DNC over the last several years. She has contributed to the non-federal account of the DNC in the amounts of $100,000 in 1988 and $25,000 in 1989. Affidavit of Gary Barron ("Barron Aff."), ¶ 4. Mrs. Bingham's consistent and substantial support of the Democratic party has made her one of the most committed and respected national party activists.

Correspondence from the DNC to Mrs. Bingham demonstrates that her support for Democratic efforts was sought for causes far beyond her native Kentucky. For instance, in March of 1990, Mrs. Bingham was sent a letter expressing appreciation for her most recent contribution and informing her that her contribution bolstered the party efforts in New Jersey and Virginia. The same letter solicited her continued support for "the task of reapportionment and redistricting, as well as assisting in 36 Gubernatorial races, 34 U.S. Senate races, and elections for all members of the U.S. House of Representatives." Exhibit 1, Barron Aff. Shortly after that letter, Mrs. Bingham sent an additional contribution of

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$25,000, for which she was sent a letter of appreciation from Chairman Ronald H. Brown on April 12. Exhibit 2, Barron Aff.

Mrs. Bingham's support of the DNC continued throughout 1990. The particular contribution challenged by the complainants was received by the DNC on or about October 11, 1990. This contribution was in the total amount of $250,000, consisting of one check made payable to the "Democratic National Committee - Federal Account" in the amount of $20,000 and a second check made payable to the "Democratic National Committee - Non-Federal Account" in the amount of $230,000. See Exhibits 1 and 2, Affidavit of Ursula Culver ("Culver Aff."). The contribution was deposited in the appropriate and separate accounts of the DNC on October 11. Culver Aff., ¶ 2. 2/

It is one of the mandates of respondent's Charter that it shall "assist state and local Democratic Party organizations in the election of their candidates and the education of their voters." Charter of the Democratic Party of the United States, Article One. To fulfill this objective, the Federal Election Campaign Act authorizes the DNC to maintain a non-federal

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2/ Subsequent to the receipt and deposit of these contributions, the $20,000 federal account contribution was transferred to the DNC's non-federal account pursuant to a request from Mrs. Bingham's attorneys. Culver Aff., ¶ 6.

account for which it may solicit contributions that, by definition, are not subject to the limitations of the Act. See 11 C.F.R. § 102.5 (1988); A.O. 1978-10, 1 Fed. Elect. Camp. Fin. Guide (CCH) (Guide) ¶ 5340 (August 10, 1978); A.O. 1978-46, 1 Guide ¶ 5348 (Sept. 5, 1978); A.O. 1978-50, 1 Guide ¶ 5353 (Sept. 19, 1979); A.O. 1979-17, 1 Guide ¶ 5416 (July 16, 1979). Mrs. Bingham's non-federal contribution was therefore entirely legal.

Of course, Common Cause has long argued that, as a matter of public policy, this Commission should rule that national parties' non-federal accounts are some sort of subterfuge and should be abolished. As Common Cause itself recognizes, see Complaint ¶ 32, the Commission and the courts have rejected that interpretation. See Common Cause v. F.E.C., 692 F. Supp. 1391 (D.D.C. 1987). In its effort to change the law in this case, Common Cause changes the facts and argues that Mrs. Bingham's non-federal contribution was in its idiosyncratic view a federal contribution. This is not the case. It is conclusively rebutted both by the check itself which is made payable to the "Democratic National Committee Non-Federal Fund" and by the DNC non-federal bank account in which it was deposited. Culver Aff., ¶ 2.

Despite the course of dealing between the DNC and its contributor demonstrating her support of nationwide Democratic efforts and the absence of a scintilla of evidence to the

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contrary, the Common Cause complaint conclusorily fabricates that Mrs. Bingham's October 1990 contribution was earmarked "for the purpose of influencing the U.S. Senate election in Kentucky in 1990." Complaint ¶ 22. There is not a shred of truth to this reckless allegation, nor is it made on personal knowledge. Instead, this allegation is made "on information and belief" based on various newspaper articles which, as Common Cause concedes, contain express denials from both Mrs. Bingham and the DNC. Id. at 8 n.3 and 9 n.4. 3/ The Republican Party "complaint" is based on even less, relying solely on a newspaper article which "suggests" that the contribution was made with "the possible intent" of benefiting the Sloane campaign.

These newspaper articles contain no statements or admissions even remotely intimating a violation of the Commission's regulations because no such violation took place. These articles fall short of alleging, much less demonstrating, the "designation, instruction, or encumbrance" required to sustain the complaints. See 11 C.F.R. § 110.6(b). Indeed, Common Cause lacks here even the "anecdotal and boastful

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3/ In federal court, this complaint would be sanctionable under Rule 11 of the Federal Rules of Civil Procedure. We suggest that the Commission consider adopting analogous sanction procedures.

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comments of party committee officials and campaign staff that have been quoted in the press" as have been rejected by the Commission in the past. 51 Fed. Reg. 15915 (Apr. 29, 1986).

III. TRANSFERS BY THE DNC TO A STATE PARTY OF FUNDS FROM THE NON-FEDERAL ACCOUNT EXPRESSLY FOR NON-FEDERAL PURPOSES WERE PERMISSIBLE UNDER THE FEDERAL ELECTION CAMPAIGN ACT.

Transfers of funds by the DNC are expressly authorized by 11 C.F.R. § 102.6(a)(ii) and under the Kentucky campaign finance law. 4/

During the course of the fall 1990 general election campaign, the DNC made numerous transfers from its federal and non-federal accounts to state Democratic parties across the nation. The amount of money to be transferred to each state is determined by a variety of political and strategic considerations. Particularly important with respect to Kentucky were the state's significance as a potential southern swing state in future presidential campaigns, its upcoming redistricting and reapportionment, the closeness of key races in the state, the potential for future Democratic gains in the

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4/ Interestingly enough, the letter opinion approving unlimited transfers between the national and state parties was issued by the Kentucky Registry of Election Finance to the Kentucky Republican Party, the same organization which now complains of the DNC's use of that authorization. See Exhibit 1 attached hereto.

electorate, and the level of commitment by party leaders to a coordinated campaign plan directed to the election of the entire Democratic ticket.

Each transfer mailed to the Kentucky Democratic Party was accompanied by a transmittal letter setting forth the conditions on which the funds were transferred. Each of the transfers of non-federal funds was accompanied by a letter containing the following language:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion.

Culver Aff., ¶ 5 and Exhibit 4 (emphasis added).

Common Cause contends that the Bingham contribution was transferred to the Kentucky Democratic Party to be spent on a media campaign to benefit the Democratic nominee for U.S. Senate. Although the DNC does not know on what basis the Bingham contribution can or cannot be considered to be the "same money" as that eventually transferred to Kentucky, the

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DNC's intent in transferring non-federal funds to Kentucky is clear and categorical: the funds were transferred "for use only in connection with [the] party's efforts allocable to candidates for state and local office." Exhibit 4. 5/

Based on the allegations of the Kentucky Republican Party, it appears that the Kentucky Democratic Party's non-federal account received significant contributions from at least one other source. The DNC does not know just what use was made of the particular funds transferred by the DNC. Suffice it to say that if an illegal use was made of any funds transferred by the DNC, that use was contrary to the express instructions of the DNC and without its sanction and any such violation should not be held to be the responsibility of the DNC. 6/

IV. IN ANY EVENT, GENERIC TELEVISION ADVERTISEMENTS BY THE STATE PARTY WERE A PERMISSIBLE USE OF TRANSFERRED FUNDS.

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5/ The instructions contained in the DNC transmittal letters are strikingly similar to those noted with approval by the Commission in MUR 1766, in which the Commission dismissed another complaint concerning a transfer of non-federal funds by the DNC to the Washington Democratic Party during a Senate election year.

6/ The DNC and the Kentucky Democratic Party are separate entities, as the Act and regulations made plain. For instance, separate contribution limits apply to the DNC and a state party. See 2 U.S.C. § 441a(a)(5); 11 C.F.R. § 110.3(b)(1).

The complaints allege that some or all of the transferred funds were used by the Kentucky Democratic Party to produce and air television advertisements in support of the Democratic candidates in Kentucky. Even if this were the case, such a use of non-federal funds in conjunction with an appropriate amount of federal funds for generic, party-wide advertisements to benefit the entire party ticket would not be an improper expenditure. Common Cause concedes this point in its attempt to argue that these were not generic advertisements, but rather Sloane advertisements. However, to constitute an expenditure on behalf of the Sloane campaign, candidate Sloane must be "clearly identified" in the advertisement. See 11 C.F.R. § 106.1. To be "clearly identified," either the candidate's name, photograph or drawing must appear or the identity of the candidate must be apparent by unambiguous reference. 2 U.S.C. § 431(18); 11 C.F.R. § 106.1(d). The transcripts appended to the complaints demonstrate that no candidate is clearly identified. Rather, the challenged advertisements are entirely generic and on behalf of no clearly identified candidate.

In A.O. 1984-15, 1 Guide ¶ 5766 (May 31, 1984), the Commission emphasized the dispositive nature of the presence or absence of specific candidate identification in determining the attribution of an advertisement:

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> If . . . the reference [in the advertisement] is to all Democratic candidates generally without identifying (by visual image or audio content) any specific candidate or office, the disbursements would not then be attributable to any candidate or to any campaign for any particular Federal office. Instead, they would be characterized as advertisements promoting the Republican Party over the Democratic Party and to encourage voters to support the Republican Party generally.

As with the advertisements contemplated by the Republican Party in A.O. 1984-15, the advertisements complained of here refer to "all Democratic candidates generally without identifying (by visual image or audio content) any specific candidate or office." See also A.O. 1985-14, 2 Guide ¶ 5819 (May 30, 1985) (references to "Republicans in Congress" did not make generic Democratic advertisement subject to § 441a(d) limitations); MUR 1844 (generic advertisements aired by National Republican Congressional Committee not allocable to specific candidates where no such candidates were clearly identified). 7/

7/ Although ironic in light of the complaint by the Kentucky Republican Party, the national Republican Party long has used generic advertisements of the sort objected to here. For instance, in 1980, the Republican party, using non-federal funds, aired a much-touted series of advertisements featuring the tag line "Vote Republican. For a Change." Later, the Republican Party also utilized allegedly non-federal money to produce and air a five-minute broadcast by President Reagan that supported all Republican Congressional candidates, but made no direct reference to any of them. See Frulla, "Soft Money: The Outlook for Reform," 3 J. of L. & Pol. 769, 780-81 n.40 (1987).

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Despite the clarity of the regulations and opinion, the complainants urge the Commission to deem or surmise the Kentucky advertisements to be on behalf of the Sloane campaign because they addressed issues that also were being addressed by the Sloane campaign, made passing reference to "Washington" and because they used a closing "tag line" similar to one used in a Sloane advertisement. The Commission should emphatically reject this request to abandon its appropriate bright-line "clearly identified" test in favor of a subjective and artificial demarcation of "federal issues" and "state and local issues."

In addition to the United States Senate seat, four Congressional seats, all one hundred seats in the Kentucky House of Representatives and nineteen seats in the state senate were on the ballot in 1990. The Democratic Party is one party, fielding candidates on one ticket for all of these offices. While the role of each level of officeholder in meeting the challenges of our nation may differ, the Democratic Party believes in common themes in its campaigns from courthouse to White House that distinguish it from its political competitors. See Preamble to the Charter of the Democratic Party of the United States ("We, the Democrats of the United States of America, united in common purpose, . . .") (emphasis added). The Democratic Party believes, for instance, that it is the responsibility of officials in Frankfort -- as well as

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in Washington -- to seek to create jobs for all Americans and to foster the availability of affordable health care. It is not surprising that Democratic party advertisements would reflect this unity of purpose.

Likewise, the use of the verb "fighting" in two different advertisements cannot be used to render a generic advertisement one on behalf of another "fighting" candidate. "Fighting" is one of the most commonly used terms in Democratic campaign slogans, well beyond Kentucky. In the last presidential campaign alone, Mike Dukakis was "[f]ighting for the best America," while Dick Gephardt urged that "it's your fight, too." The work of every media consultant -- and also of the Commission -- would be greatly magnified if every advertisement must be devoid of words used elsewhere.

Rather, the generic party-building advertisements of which complainants protest are precisely of the type long used by both major parties, permissibly financed in part with non-federal funds, and approved by the Commission.

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IV. CONCLUSION

The DNC respectfully requests that the complaints filed in MURs 3145 and 3182 be dismissed as to the DNC. These are not good faith complaints; they make up facts "on information and belief" and ignore controlling law. The contributions received from Mrs. Bingham by the DNC were

properly received and deposited in the DNC non-federal account; they were not earmarked for a particular campaign or even a particular state. The transfers of funds from the DNC to the Kentucky Democratic Party were proper transfers for the express purpose of aiding efforts of "candidates for state and local office," as demonstrated by the terms of the transmittal letters. To the extent that some or all of such transfers were used by the state party to finance generic television advertisements, such advertisements were not expenditures attributable to any clearly identified candidate, much less the Sloane for Senate campaign and, in any event, were not the responsibility of the DNC.

Respectfully submitted,

John C. Keeney, Jr.
B. Anthony Sutin
HOGAN & HARTSON
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004-1109
(202) 637-5600

Christine A. Varney
General Counsel
Democratic National Committee
430 South Capitol Street
Washington, DC 20003
(202) 637-6460

Attorneys for Respondent
Democratic National Committee

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 JAN 11 PM 3:57

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3182

NAME OF COUNSEL: Christine A. Varney, Esq.

ADDRESS: Hogan & Hartson
Columbia Square Building
555 13th Street N.W.
Washington, D.C. 20004

TELEPHONE: (202) 637-6460

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.

1/10/91
Date

Signature

RESPONDENT'S NAME: Robert A. Farmer, Treasurer

ADDRESS: Democratic National Committee
430 So. Capitol Street S.E.
Washington, D.C. 20004

HOME PHONE: (202) 347-0773

BUSINESS PHONE: (202) 863-8000

RECEIVED
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EXHIBIT 1

Democratic National Committee

Robert A. Farmer
Treasurer

March 13, 1990

Ms. Mary C. Bingham
2320 Meidinger Tower
Louisville, Kentucky 40202

Dear Mary:

I want to thank you once again for your generous 1989 contribution of $25,000 and for your active participation as a Democratic National Committee Trustee. I sincerely appreciate your support.

By now you know that Democrats enjoyed extraordinary electorial successes in 1989. These victories are something in which we all share great pride. The Democratic National Committee was able to contribute to these success stories because we had the critical resources to invest in key races. In New Jersey and Virginia the DNC assumed a leadership role because we had both the skills and funds to bring the coordinated campaigns in those states to life.

These victories of November 7th were yours. Your contribution allowed us to level the playing field, be actively involved and to ultimately make the difference.

The elections of 1990 bring incredible challenges to the DNC. We face the task of reapportionment and redistricting, as well as assisting in 36 Gubernatorial races, 34 U.S. Senate races, and elections for all members of the U.S. House of Representatives. We anticipate taking an active role in these challenges and we plan, with your help, to elect more Democrats.

As you know, each Trustee has committed to contribute or raise $100,000 between now and November 1992 with this sum spread throughout the next three years. We need your continued financial support. To enable us to plan properly for 1990 and beyond, I am asking you, as an active Trustee, to make your 1990 contribution to the DNC before June 30, 1990.

430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
Paid for by the Democratic National Committee. Contributions to the Democratic National Committee are not tax deductible as charitable contributions for Federal income tax purposes.

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Together we will make the 1990 elections an historical turning point for our Party as we look toward regaining of the White House in 1992.

Again, many thanks for your support. I look forward to talking with you soon.

Warmest personal regards,

Robert A. Farmer
Treasurer

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KENTUCKY REGISTRY OF ELECTION FINANCE
1624 LOUISVILLE ROAD
FRANKFORT, KENTUCKY 40601
(502) 564-2226

2 May 1990

R. WAYNE STAMPER
CHAIRMAN

RAYMOND E. WILLACE
EXECUTIVE DIRECTOR

Mr. John Treitz, Jr.
Greenebaum, Boone, Treitz,
Maggiolo, Reisz & Brown
2700 First National Tower
Louisville, KY 40202

RE: Follow-up on request of Republican Party of Kentucky

Dear Mr. Treitz:

Enclosed for your information is a copy of a memorandum for the record relating to contribution limits on PAC's, Democratic National Committee and Republican National Committee to Executive Committees of Political Parties.

The Registry has taken the position that there are no constraints on the amount which can be contributed by a permanent committee or accepted by the Executive Committee.

If we can be of further assistance please contact us at anytime.

Most sincerely,

Raymond E. Willace
Executive Director

REW:csw

cc: Robert Gable, Chairman
The Republican Party of Kentucky
P.O. Box 1068
Frankfort, KY 40602

Enclosure

EXHIBIT 1

AN EQUAL OPPORTUNITY EMPLOYER M/F/H

9504365537662

KENTUCKY REGISTRY OF ELECTION FINANCE
1804 LOUISVILLE ROAD
FRANKFORT, KENTUCKY 40601
(502) 564-2226

R. WAYNE STRATTON
CHAIRMAN

RAYMOND E. WALLACE
EXECUTIVE DIRECTOR

MEMORANDUM FOR THE RECORD

FROM: Raymond E. Wallace, Executive Director
Kentucky Registry of Election Finance

TO: David Ashley, Deputy Attorney General
Office of the Attorney General

DATE: 14 March 1990

SUBJECT: Contribution Limits on PAC's, Democratic National Comittee and Republican National Committee to Executive Committees of Political Parties

On this date, David Ashley and I discussed contribution limits on domestic permanent committees (PAC's), Out-of-State PAC's, the Democratic National Committee and the Republican National Committee as these contribution limits apply to executive committees of political parties.

Based on the wording contained in KRS 121.150(10) wherein "no person shall contribute more than $6,000 to the state executive committee of a political party and their subdivisions and affiliates in any one (1) year." and since permanent committees are not specifically prohibited from contributing to political party executive committees, we believe there is no limit on the amounts which may be contributed by PAC's, the Democratic National Committee and the Republican National Committee to executive committees of political parties.

REW:CSW

CONCUR 3/20/90

NON-CONCUR _____

DISCUSSION

9504365376 3

EXHIBIT 2

Democratic National Committee

Ronald H. Brown
Chairman

April 12, 1990

Ms. Mary C. Bingham
4309 Glenview
Glenview, Kentucky 40025

Dear Mary:

I cannot thank you enough for your generous contribution to the Democratic National Committee. Your commitment to remain an active Trustee is vital to our continued growth and success, and I am truly grateful.

As we approach the important elections of 1990 and the Presidential race in 1992, your input and financial support are critical and I am fortunate to have you on my team.

Again, Mary, many, many thanks for your friendship and efforts. I hope to see you in New York in May for the Trustees meeting.

Sincerely,

Ronald H. Brown

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430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
Paid for by the Democratic National Committee. Contributions to the Democratic National Committee are not tax deductible as charitable contributions for Federal income tax purposes.

Before the
FEDERAL ELECTION COMMISSION

COMMON CAUSE, Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al., Respondents.	MUR 3182
REPUBLICAN PARTY OF KENTUCKY Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al. Respondents.	MUR 3145

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AFFIDAVIT OF URSULA CULVER

Personally appeared before me, the undersigned authority in and for said district, Ursula Culver, who being first duly sworn, deposes and says as follows:

1. My name is Ursula Culver. I am the Comptroller of the Democratic National Committee ("DNC") and I am competent to submit this affidavit on my personal knowledge. I submit this affidavit at the request of the DNC, respondents in these actions.

2. A true and correct copy of a $230,000.00 check payable to the Democratic National Committee Non-Federal Account ("DNC") from the account of Mary C. Bingham and dated October 9, 1990 is attached hereto as Exhibit 1. This check was deposited to the DNC's non-federal account on or about October 11, 1990.

3. A true and correct copy of a $20,000.00 check payable to the DNC - Federal Account from the account of Mary C. Bingham and dated October 9, 1990 is attached hereto as Exhibit 2. This check was deposited to the DNC's federal account. For FEC reporting purposes this contribution was identified as a federal contribution from Mary C. Bingham, and reported to the FEC as such on October 22, 1990.

4. A true and correct copy of the form letter accompanying all federal money mailed from the DNC to all state parties is attached hereto as Exhibit 3. Federal funds sent from the DNC to the Kentucky Democratic Party during the Fall of 1990 were accompanied by letters with identical language (except for the first sentence of each letter).

5. A true and correct copy of the form letter accompanying all non-federal money mailed from the DNC to all state parties is attached hereto as Exhibit 4. Non-federal funds sent from the DNC to the Kentucky Democratic Party during the fall of 1990 were accompanied by letters with identical language (except for the first sentence of each letter).

6. On or about November 26, 1990, pursuant to a request from Mary C. Bingham's attorney, I caused $20,000.00, representing the amount of Mary C. Bingham's contribution (Exhibit 2), to be transferred from the DNC's federal account to its non-federal account. This transfer was reported to the FEC on the DNC's December 6, 1990 Post General Election Report.

Ursula Culver, Comptroller
Democratic National Committee

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DISTRICT OF COLUMBIA

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Ursula Culver, whose name is signed to the foregoing Affidavit, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Affidavit, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 9th day of January, 1991.

Linda D. Fowler
Notary Public

LINDA D. FOWLER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 1995

My commission expires: 2/14/95

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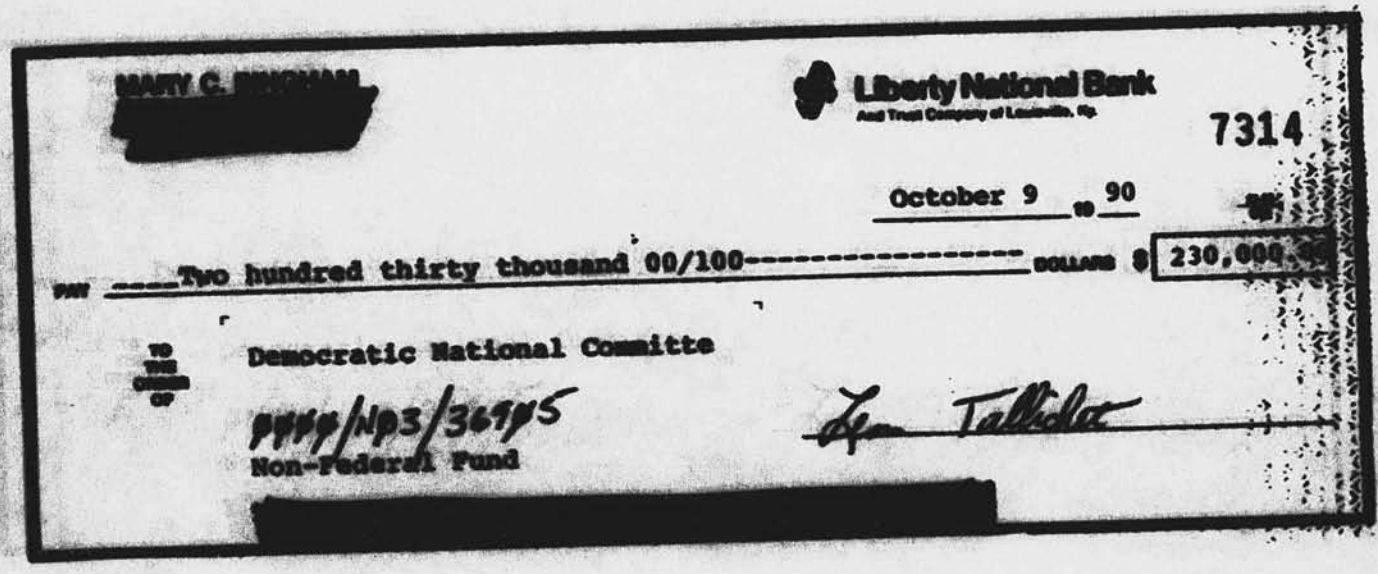
EXHIBIT 1



MARY C. [redacted]

Liberty National Bank
And Trust Company of Louisville, Ky.

7314

October 9 19 90

PAY ----Two hundred thirty thousand 00/100---------- DOLLARS $ 230,000.00

TO THE ORDER OF Democratic National Committe

0000/N03/36905
Non-Federal Fund

Lynn Tallidot

[redacted]

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EXHIBIT 2

9 5 0 4 3 6 5 3 7 6 9

MARY C. [redacted]

Liberty National Bank

7312

October 9 90

PAY The sum of $20.000 and 00 cts DOLLARS $ 20,000.00

TO THE ORDER OF Democratic National Committee

F01

TRDO/[redacted]/36905

FEDERAL FUND

[redacted]

EX 3

Democratic National Committee

Ronald H. Brown
Chairman

August 8, 1990

Maryann Johnson
Chair
Kentucky Democratic Party
Post Office Box 694
Frankfort, KY 40602

Dear Maryann:

On behalf of the Democratic National Committee ("DNC"), I am pleased to enclose a check in the amount of $10,000.00 made payable to the Kentucky Democratic Party. The account on which this check is drawn contains only contributions received in accordance with the limitations and prohibitions of the Federal Election Campaign Act of 1971, as amended.

This contribution to the Kentucky State Democratic Party will be reported by the DNC to the Federal Election Commission ("FEC") on our next report. Your receipt of this contribution should be shown when filing your next scheduled report with the FEC. If you would like additional guidance concerning the use and reporting of federal funds, we suggest that you contact the Federal Election Commission at (800) 424-9530.

On behalf of the Democratic National Committee I am pleased that we are able to provide this support.

Sincerely,

Ronald H. Brown

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430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
Paid for by the Democratic National Committee. Contributions to the Democratic National Committee are not tax deductible.
Printed on Recycled Paper

EXHIBIT 4

Democratic National Committee

Ronald H. Brown
Chairman

October 12, 1990

Ms. Maryann Johnson
Chair
Kentucky Democratic Party
Post Office Box 694
Frankfort, KY 40602

Dear Maryann:

On behalf of the Democratic National Committee ("DNC"), I am pleased to enclose a check in the amount of $50,000.00 payable to the Kentucky State Democratic Party.

This check is drawn on an account which contains non-federal contributions received from individuals and is maintained for use in connection with elections to state and local offices in states where such contributions are permitted.

This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion.

It is our understanding that Kentucky election law allows individuals to make political contributions in connection with state and local elections, but we make no representation or warranty to that effect and you should consult with your state party attorney to confirm that this is correct. If our understanding in this regard concerning Kentucky law is

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incorrect, kindly return this contribution. Please note this contribution should not be deposited into any federal account maintained by you.

If you would like additional guidance concerning allocation of federal and non-federal funds, we suggest that you contact the Federal Election Commission at (800) 424-9530.

All best wishes for the important months ahead.

Sincerely,

Ronald H. Brown

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Before the
FEDERAL ELECTION COMMISSION

COMMON CAUSE, Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al., Respondents.	MUR 3182
REPUBLICAN PARTY OF KENTUCKY Complainant, v. DEMOCRATIC NATIONAL COMMITTEE, et al. Respondents.	MUR 3145

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AFFIDAVIT OF GARY BARRON

Personally appeared before me, the undersigned authority in and for said district, Gary Barron, who being first duly sworn, deposes and says as follows:

1. My name is Gary Barron. I am the Deputy Treasurer of the Democratic National Committee ("DNC") and am competent to submit this affidavit on my personal knowledge. I submit this affidavit at the request of the DNC, respondents in these actions.

2. A true and correct copy of a letter from Robert A. Farmer, DNC Treasurer to Mary C. Bingham dated March 13, 1990 is attached hereto as Exhibit 1.

3. A true and correct copy of a letter from Ronald H. Brown, DNC Chairman to Mary C. Bingham dated April 12, 1990 is attached hereto as Exhibit 2.

4. Upon records available to me, I am aware that Mary C. Bingham has made contributions to the DNC in the amounts of $100,000 in 1988 and $25,000 in 1989.

Gary Barron, Deputy Treasurer
Democratic National Committee

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DISTRICT OF COLUMBIA

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Gary Barron whose name is signed to the foregoing Affidavit, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Affidavit, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 9th day of January, 1991.

Linda D. Fowler
Notary Public

LINDA D. FOWLER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 1995

My commission expires: 2/14/95

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LAW OFFICES
MICHAEL T. McKINNEY
Attorney at Law
MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
P.O. BOX 666
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0666

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RECEIVED
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OFFICE OF GENERAL COUNSEL
91 JAN 18 PM 2:40

January 17, 1991

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

ATTENTION: LOIS G. LERNER
Associate General Counsel

VIA: [FEDERAL EXPRESS]

IN RE: MUR 3182

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Dear Ms. Lerner:

This response is made on behalf of the Kentucky Democratic Party and Richard Rankin, its Treasurer, regarding the allegations made by Common Cause in its Complaint filed with the Federal Election Commission.

THE CHARGES

The gist of the Complaint of Common Cause, as regards the Kentucky Democratic Party, is that the Kentucky Democratic Party joined in a conspiracy or scheme with Mary C. Bingham, the Democratic National Committee, Harvey Sloane, and the Harvey Sloane for U.S. Senate Committee for the purpose of soliciting and thereafter seeking to hide a large contribution from Mary Bingham which would be used ultimately for the purpose of influencing the 1990 United States Senate race in Kentucky in which Harvey Sloane was the Democratic candidate.

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To over-simplify the matter, Common Cause alleges that a $250,000.00 contribution was solicited from and made by Mary Bingham to the Democratic National Committee. Common Cause further alleges that the Democratic National Committee then filtered the money to the Kentucky Democratic Party. Common Cause seeks to allege that the Kentucky Democratic Party accepted this contribution from Mary Bingham. Common Cause further alleges that this contribution was utilized for the purpose of supporting the Harvey Sloane Campaign and for the purpose of influencing a federal election.

ARGUMENT

The allegation of Common Cause that the Kentucky Democratic Party accepted a contribution from Mary Bingham is without any basis in fact and is clearly wrong. The Kentucky Democratic Party neither solicited nor accepted a contribution from Mary Bingham. Attached hereto as Exhibit "A" is an affidavit from Mary Ann Johnson, Chairman of the Kentucky Democratic Party, indicating that, inter alia, at no time did the Kentucky Democratic Party have knowledge or information causing the Chairman or the Kentucky Democratic Party to believe or have reason to believe that Mary Bingham gave or may have given the sum of $250,000.00 to the Democratic National Committee. Further the affidavit indicates that at no time has the Democratic National Committee transferred money to the Kentucky Democratic Party for the

purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell. Further, the affidavit indicates that at no time the Democratic Party accept money from the Democratic National Committee for the purpose of influencing the 1990 Kentucky United States Senate Race.

During the course of the 1990 Elections, the Democratic National Committee contributed the sum of $215,000.00 to the Kentucky Democratic Party non-federal account. This total sum is the aggregate of four contributions which were made by the Democratic National Committee during the course of 1990 elections. In addressing the allegations of Common Cause that the contributions of the Democratic National Committee to the Kentucky Democratic Party were used to support the Sloane Campaign and ultimately were used to influence a federal election, attention is directed to eleven CFR 106.1 (c) 2. That regulation provides that

> Expenditures for educational campaign seminars, for training of campaign workers, and for registration or get-out-the vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of clearly identified candidate, and the expenditure can be directly attributed to that candidate. (Emphasis provided).

Additionally, the Federal Election Commission, in its Advisory Opinion 1978-50 has reiterated this "clearly identified candidate" standard.

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The monies received by the Democratic National Committee were deposited along with additional contributions to the Kentucky Democratic Party's non-federal account. A portion of this non-federal account was utilized to produce and air a series of television advertisements as part of a very general "get-out-the-vote" campaign effort. The purpose of this "get-out-the-vote" effort was to encourage all Democrats in Kentucky to participate in the 1990 general election.

To allege that the monies received from the Democratic National Committee were used to influence a federal election or were used to support the Sloane Campaign are clearly wrong. They are clearly wrong because the televison advertisments of which Common Cause has complained do not clearly identify any candidate. They do not identify a federal election. Nor do the television advertisments purport to draw attention to 1990 United States Senate race between Harvey Sloane and Mitch McConnell. At best, the television advertisments sought to draw the difference between Republician and Democrats vis-a-vis the issue of taxation. The Democratic Party sought to further its image as a "working class", party as opposed to the Republicians' identification with the wealthy. This was an especially significant issue for Kentuckians inasmuch as in 1990, the Kentucky General Assembly enacted the largest tax increase in the history of the Commonwealth of Kentucky. The Kentucky Democratic Party felt that there was no better way to get voters to the polls

MICHAEL T. McKINNEY
Attorney at Law

than to remind them of the singular issue which affects all Democrats: taxes.

Utilizing the "clearly identified candidate" standard and the fact that the television ads in questions do not mention by name any candidate for federal election nor do the ads contain pictures of any candidate for federal election, there is no possible manner in which the television advertisments could create a belief that they were designed to influence a federal election.

Any monies received by the Democratic National Committee were properly made available to the Kentucky Democratic Party by the Democratic National Committee and were properly credited to the non-federal account of the Kentucky Democratic Party. Ultimately those monies, along with other contributions to this non-federal account were properly expended in a general television advertising campaign.

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CONCLUSION

The Complaint of Common Cause, as it concerns the Kentucky Democratic Party, should be dismissed and held for naught.

Yours truly,

Michael T. McKinney
General Counsel
Kentucky Democratic Party

MTM:trt

UNITED STATES OF AMERICA
before the
FEDERAL ELECTION COMMISSION

COMMON CAUSE
2030 M Street, N. W.
Washington, D.C. 20036
(202) 833-1200

COMPLAINANT

vs.

AFFIDAVIT

DEMOCRATIC NATIONAL COMMITTEE,

KENTUCKY DEMOCRATIC PARTY,

HARVEY SLOANE,

HARVEY SLOANE FOR U.S. SENATE,

MARY C. BINGHAM

RESPONDENT

* * * * * * * * * * *

Comes now Mary Ann Johnson, Chairman of the Kentucky Democratic Party, who, having first been duly cautioned and sworn, deposes and states as follows:

1. Affiant is the Chairman of the Kentucky Democratic Party, and, at all times pertinent hereto, served in such capacity.

2. That at no time as Mary Bingham made a contribution to the Kentucky Democratic Party, concerning the 1990 General Election, in excess of $5,000.00.

3. That the Kentucky Democratic Party has accurately filed all necessary reports with the Federal Election Commission reporting receipts and disbursements pertaining to the 1990 General Elections, including the Kentucky United States Senate Race.

4. That at no time did affiant or the Kentucky Democratic Party have knowledge or information causing affiant or the Kentucky

MICHAEL T. McKINNEY
Attorney at Law
2252 Burlington Pike • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

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Democratic Party to believe or have reason to believe that Mary Bingham gave or may have given the sum of $250,000.00 to the Democratic National Committee.

5. That at no time pertinent hereto has the Democratic National Committee transferred money to the Kentucky Democratic Party for the purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell.

6. That at no time did the Kentucky Democratic Party accept money from the Democratic National Committee for the purpose of influencing the aforesaid 1990 Kentucky U.S. Senate Race.

Kentucky Democratic Party

By: Mary Ann Johnson
Its: Chairman

STATE OF KENTUCKY.....)
:
COUNTY OF BOONE.....)

Subscribed, sworn to and acknowledged before me this 6th day of December, 1990, by Mary Ann Johnson, Chairman of the Kentucky Democratic Party, to be her free act and deed.

My Commission Expires: January 19, 1993

Notary Public
State at Large

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MICHAEL T. McKINNEY
Attorney at Law
2252 Burlington Pike • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3182

NAME OF COUNSEL: Michael T. McKinney

ADDRESS: P.O. Box 688
Burlington, Kentucky 41005

TELEPHONE: (606) 586-9955

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.

1-16-91
Date

Mary Ann Johnson
Signature

RESPONDENT'S NAME: Kentucky Democratic Party and
Richard Rankin, its treasurer

ADDRESS: P.O. Box 694
Millville Road
Frankfort, Kentucky 40602

HOME PHONE:

BUSINESS PHONE: (502) 695-4828

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OGC 0001

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 FEB -4 AM 10:48

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 23, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 FEB -4 PM 3:52

POSTMASTER
Louisville, KY 40243

RE: MUR 3145

Dear Sir or Madam:

Pursuant to 39 C.F.R. § 265(d)(1), we request that you provide us with the present address of Andrew "Skipper" Martin. According to our records, the address was a) P.O. Box 42453, Louisville, KY 40243, b) 11007 Greenock Ct., Louisville, KY 40243 or c) 10007 Greenock Ct., Middletown, KY 40243 as of 1990.

Under 39 C.F.R. § 265.8e(8)(iii), we request a waiver of fees. In this connection I hereby certify that the Federal Election Commission, an agency of the U.S. Government, requires the information requested above in the performance of its official duties, and that all other known sources for obtaining it have been exhausted.

A return envelope is enclosed. Should you have any questions or require any further information, please call George F. Rishel, the attorney assigned to this matter, at (202) 376-8200.

Thank you for your assistance.

Sincerely,

Lawrence M. Noble
General Counsel

George F. Rishel

BY: George F. Rishel
Assistant General Counsel

Enclosure
Envelope

good at
11007 Greenock Ct
Louisville KY 40243

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 MAY -7 AM 10:03

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR 3145[1]
DATE COMPLAINT RECEIVED
BY OGC: October 23, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: October 25, 1990

MUR 3175
DATE COMPLAINT RECEIVED
BY OGC: November 16, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: November 28, 1990

MUR 3182
DATE COMPLAINT RECEIVED
BY OGC: November 27, 1990
DATE OF NOTIFICATION TO
RESPONDENTS: December 4, 1990
STAFF MEMBERS: George F. Rishel
Jeffrey D. Long

MUR 3145
COMPLAINANT: Robert Gable, Chairman
Republican Party of Kentucky

RESPONDENTS: Kentucky Democratic Party and
Central Executive Committee (Federal
and Nonfederal Accounts) and
Richard Rankin, as treasurer

Sloane for Senate Committee and
Victoria Buster, as treasurer

Association of Trial Lawyers of
America PAC and Joan C. Pollitt, as
treasurer, and Association of Trial
Lawyers of America

Greer, Margolis, Mitchell &
Associates

Mary C. Bingham

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1. A First General Counsel's Report in MUR 3145 was previously circulated on December 4, 1990. It did not contain any discussion of the substantive issues or any recommendations.

Democratic National Committee and
Robert A. Farmer, as treasurer

MUR 3175
COMPLAINANT: Center for Responsive Politics

RESPONDENTS: Mary C. Bingham

DNC Services Corporation and
Robert A. Farmer, as treasurer

Democratic Senatorial Campaign
Committee and G. Wayne Smith, as
treasurer

MUR 3182
COMPLAINANT: Common Cause

RESPONDENTS: Kentucky Democratic Party and
Central Executive Committee (Federal
and Nonfederal Accounts) and Richard
Rankin, as treasurer

Harvey I. Sloane, M.D.; Sloane for
Senate Committee and Victoria
Buster, as treasurer

Mary C. Bingham

Democratic National Committee and
Robert A. Farmer, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(8) and (9)
2 U.S.C. § 434(b)
2 U.S.C. § 441a
11 C.F.R. § 102.5
11 C.F.R. § 102.6
11 C.F.R. § 106.1
11 C.F.R. § 110.5
11 C.F.R. § 110.6
11 C.F.R. § 110.7

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

A. MUR 3145

The complaint in MUR 3145 was filed on October 23, 1990, by Robert Gable, chairman of the Republican Party of Kentucky,

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against the Kentucky Democratic Party ("State Party"), the Sloane for Senate Committee ("Sloane Committee"), Greer, Margolis, Mitchell & Associates ("Greer firm"), and the Association of Trial Lawyers of America and its PAC ("ATLA PAC") regarding television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign. The complaint alleges that these ads were broadcast on behalf of the Democratic Party's senatorial candidate, Dr. Harvey Sloane, prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic Party's nonfederal account, and financed in part by a $100,000 contribution from ATLA PAC. Responses have been received from the Sloane Committee on November 9, from Greer and the State Party on November 13, and from ATLA on November 19.

On November 20, 1990, the complainant filed an amendment to the complaint.[2] The amendment alleges that Mary C. Bingham made a $250,000 contribution to the nonfederal account of the Democratic National Committee ("DNC") that was immediately transferred to the nonfederal account of the Kentucky Democratic Party also to finance the ads allegedly made on behalf of Dr. Sloane's candidacy. Responses were received from Mary C. Bingham

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2. This Office sent this amendment to Mary C. Bingham, the DNC, the Sloane Committee, and the State Party. Ms. Bingham and the DNC had not previously been named as respondents in this matter. On further review, this Office discovered that the amendment had not been notarized and sworn to. Nevertheless, the allegations covered by this amendment were incorporated in the complaint filed in MUR 3182, to which all four of the above respondents filed responses. Because of the recommendations to merge the matters contained in this report, this Office concludes that any procedural defect in the amendment to the complaint in MUR 3145 has been rendered moot.

on January 4, 1991, and from the DNC on January 14, 1991. The Sloane Committee and the State Party did not respond to this amendment, although they filed responses to identical allegations in MUR 3182.

B. MUR 3175

On November 16, 1990, a complaint was filed by Ellen S. Miller, executive director of the Center for Responsive Politics, against Mary C. Bingham, the DNC, and the Democratic Senatorial Campaign Committee ("DSCC"). The complaint alleges that Ms. Bingham violated the $25,000 annual contribution limitation for individuals at 2 U.S.C. § 441a(a)(3) in the 1988 and 1990 calendar years and made a $300 excessive contribution to the DSCC in 1990 and a $1,000 excessive contribution to the DNC in 1988. Responses were received from the DSCC on December 12, 1990, from Ms. Bingham on January 4, 1991, and from the DNC on January 10, 1991.

C. MUR 3182

On November 27, 1990, a new complaint was filed by Common Cause against the DNC, the State Party, the Sloane Committee and Dr. Sloane, and Mary C. Bingham that overlaps with the allegations contained in the unsworn amendment to the complaint in MUR 3145 and also alleges that Mary C. Bingham violated the $25,000 annual limitation and made excessive contributions to the DNC and the State Party. Responses were received from Ms. Bingham on January 4, 1991, from the Sloane Committee on January 8, from the DNC on January 14, and from the State Party on January 18, 1991. The responses from Ms. Bingham and the DNC

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also serve as their responses to the unsworn amendment filed in MUR 3145.

This Office contacted the Kentucky Registry of Election Finance in order to obtain a copy of the report filed by the State Party's nonfederal account for the period in question. A copy of this report was received on December 13, 1990.

The complaints in MURs 3145 and 3182 present substantial allegations regarding the use of a State Party's nonfederal account to fund general public political advertising allegedly in connection with the Senate election and the alleged funding of such advertising by contributions from ATLA and Mary C. Bingham well in excess of what either could contribute to the Senate candidate. As noted, the complaint in MUR 3175 alleges Ms. Bingham exceeded the $25,000 annual limitation in 1990 and 1988. The amount by which she exceeded the 1990 limitation would rise if all or part of her contribution at issue in MURs 3145 and 3182 are deemed to be federal contributions.

II. FACTUAL AND LEGAL ANALYSIS FOR MUR 3145 AND MUR 3182

In order to make the analysis more understandable, this section will begin with the recitation of the chronological facts relating to the issues in MURs 3145 and 3182 and then address the allegations and legal issues in these two matters. MUR 3175 will then be addressed separately.

A. Factual Background in MUR 3145 and MUR 3182

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane

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filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed.[3] Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent. The current treasurer for the Sloane Committee is Victoria Buster.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

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3. The Post General Election Report disclosed a $14,500 debt owed that consisted of the remaining portion of a bank loan guaranteed by the candidate. The Sloane Committee reported receiving loans totaling $927,500 and making loan repayments of $913,000. RAD has sent the Sloane Committee inquiries regarding its failure to itemize loan repayments on the appropriate Schedule B. Also, the Year End Report did not include the $14,500 loan balance or any repayment of it. Recent news reports indicate there may be other undisclosed debts. See Attachment 14. These questions, however, are not part of the matters covered in this report.

Date	Purpose	Amount
	fee	$9,000.00
3-17-88	fee	$11,795.94
5-24-88	fee	$13,001.85
8-4-88	fee	$12,541.67
1-14-89	consulting fee	$17,009.19
7-5-89	consulting fee	$2,537.00
8-9-89	consulting fee	$6,835.82
9-27-89	consulting fee	$8,024.82
1-4-90	consulting fee	$3,507.91
2-6-90	consulting fee	$2,604.61
3-7-90	consulting fee	$2,500.00
3-21-90	production expense	$12,500.00
4-20-90	production expense	$18,384.55
4-27-90	media buy	$85,668.00
5-5-90	media buy	$96,773.00
5-15-90	media buy	$85,000.00
5-21-90	production expense	$46,105.67
7-5-90	consulting fee	$8,571.23
7-29-90	production expense	$12,156.72
8-30-90	media buy	$50,000.00
9-21-90	production expense	$9,268.74
10-1-90	media buy	$200,000.00
10-18-90	production expense	$19,562.98
10-23-90	media buy	$4,500.00
10-25-90	media buy	$10,000.00
10-30-90	media buy	$12,500.00
10-31-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-1-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
11-2-90	TOTAL	$797,849.70

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According to the complaint, one of the advertisements broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.
>
> He's walked every corner of the Commonwealth, listening to Kentucky.
>
> Harvey Sloane -- health care, education, jobs, our environment.
>
> With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.

Harvey Sloane -- Kentucky's Democrat, fighting for us.

It appears that this ad was prepared by the Greer firm, but it is not clear when it was aired.

The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[4]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

4. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[5]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and $45,417.60 in payments from October 5 to October 26

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5. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F. In response to an RFAI, the State Party stated that the amendment was made because no specific federal candidate benefited by the expenditure.

to David Gold Communications in Texas for "mailing/printing."[6]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[7] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October

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6. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this firm $5,713 on October 5.

7. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund. The checks were drawn on her account and were contributions of her funds, though the checks were actually signed by Leon Tallichet, her bookkeeper. There was no evidence of any earmarking of these funds for any specific candidate or state. In a phone conversation with staff of this Office, counsel for Mrs. Bingham said the letter and number notations on the lower left portion of the checks were not placed there by Mrs. Bingham or her bookkeeper, but by some other party who handled the checks.

18 and November 2 to the Greer firm for "Democratic Party TV ads."[8]

According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a

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8. The report listed a single total of $310,000 with two dates. Therefore, it cannot be determined at this time how much was paid to the Greer firm on each date.

9. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

The Commission's database indicates that the DSCC made a $17,500 contribution to the Sloane campaign in June 1990 and made $270,737 in coordinated party expenditures on behalf of Sloane through the Post General Election Report period. For 1990, the coordinated party expenditure limitation in Kentucky for the DNC and the State Party respectively was $138,772.80 for the Senate (or an aggregate of $277,545.60) and $25,140 for the House (or an aggregate of $50,280). The database also shows $19,419 in coordinated party expenditures by the Kentucky State Party on behalf of Sloane, but as noted earlier in Footnote 5 the State Party amended its reports to delete the Schedule F on these expenditures. Independent expenditures of $18,604 were reported as made on behalf of Sloane by the National Committee to Preserve Social Security and Medicare and the National Rifle Association. Communications costs on Sloane's behalf totaling $20,897 were reported by AFL-CIO Cope and the National Committee to Preserve Social Security and Medicare.

B. Issues in MUR 3145 and 3182

In MUR 3145 the complainant alleges that the payments by the Kentucky Democratic Party for the ads in question constituted an expenditure under the Act because they were made for the purpose of influencing the election of Harvey Sloane to the Senate and

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were derived from funds in the State Party's nonfederal account, including a $100,000 contribution from ATLA PAC and a $250,000 transfer from the DNC that allegedly originated with Mary C. Bingham. In MUR 3182, the complainant alleges that Mary C. Bingham, the DNC, the State Party, Harvey Sloane, and the Sloane Committee "joined in a scheme to launder a massive illegal contribution" for the purpose of influencing the 1990 Senate race in Kentucky by supporting the Sloane campaign.

The State Party states that its television ads were part of a "very general" get-out-the-vote effort for the 1990 general election and paid for "entirely from contributions made and deposited into the Kentucky Democratic Party's 'nonfederal' account" because the ads did not clearly identify any candidate, much less, Sloane, and did not mention any federal election. The Sloane Committee argues that because nowhere in the television ads is Sloane clearly identified, there is no expenditure attributable to him and no issue of earmarking arises. Mary C. Bingham claims that her gifts of $20,000 to the DNC federal account and $230,000 to its nonfederal account were for the respective committees' unrestricted use and were not accompanied by any instructions, encumbrances, or other forms of earmarking. For these reasons, she further states that she has no responsibility for any use to which the DNC or the State Party may have put the funds.

The DNC argues that Mary C. Bingham's contributions were legal and were given without any instructions regarding their ultimate disposition. It further contends that its transfers to

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the federal and nonfederal accounts of the State Party were legal and were made with express instructions regarding the permissible uses of such funds by each account. It states that any misuse by the State Party does not result in any expenditure on behalf of any identifiable candidate by anyone including the DNC. ATLA PAC claims that its donations to the State Party's nonfederal account were made to assist the State Party in defraying the nonfederal share of its get-out-the-vote GOTV effort and were governed by state, not federal, law. ATLA PAC further posits that even if some of its donations were improperly used by the State Party, such misuse would not result in any violation by ATLA PAC. The Greer firm contends that as a media consultant to political parties and candidates, it "has no duty to determine the source of payments that it receives from such entities or whether such disbursements comport with the requirements of the" Act.

This report next sets out the relevant provisions of the Act and regulations and relevant advisory opinions and then discusses the issues in greater detail.

C. The Act, Regulations, and Advisory Opinions

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in

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any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2). No individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5. Commission regulations permit transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii).

The Act also permits the national committee and the state committee of a political party to make certain expenditures on behalf of their candidates for the Senate and House. 2 U.S.C. § 441a(d)(3). The Commission has recognized that these committees may authorize other committees to make expenditures against these limitations and may transfer funds to such committees for such purpose. FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1980). The Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the limits of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). The Act also sets out the reporting requirements for such contributions and expenditures. 2 U.S.C. § 434(b).

Commission regulations 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

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derived. 11 C.F.R. § 106.1(a).[10] An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the candidate on whose behalf it is made, except that party committees need report coordinated party expenditures only as an expenditure. 11 C.F.R. § 106.1(b). The regulations further provide that expenditures by registration or get-out-the-vote ("GOTV") drives of 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)(2). "Clearly identified" is defined to mean the candidate's name, photograph, or drawing appears or the "identity of the candidate is apparent by unambiguous reference." 11 C.F.R. § 106.1(d).

Commission regulations further provide that an organization, including a party committee, that finances political activity in connection with both federal and nonfederal elections has the option of establishing only one account for all such activity or separate accounts for federal and nonfederal activity 11 C.F.R. § 102.5(a)(1). If the organization establishes separate federal and nonfederal accounts, only the federal account need register

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10. The Act also creates exemptions to the definition of contribution and expenditure for certain activity by state parties on behalf of its candidates. These include exemptions for slate cards, campaign materials distributed by volunteers, and presidential voter registration and get-out-the-vote activities. Because television ads are excluded from these exemptions, they are not implicated in this matter.

with the Commission as the federal political committee and report its receipts and disbursements. 11 C.F.R. § 102.5(a)(1)(i). In such case, only funds subject to the limitations and prohibitions of the Act shall be deposited into the federal account. No transfers shall be made from the nonfederal account to the federal account.[11] And all disbursements in connection with any federal election shall be made from the federal account. Commission regulations further provide that committees that establish separate accounts shall allocate administrative expenses between the two accounts "in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. §§ 106.1(e) and 102.5(a)(1)(i). This allocation requirement also applies to voter registration and GOTV activities. Advisory Opinion 1978-50.

In Advisory Opinion 1978-50, the Commission addressed a GOTV drive by the Michigan Democratic Party involving telephone calls, mailings, literature distribution, and personal visits, designed to turn out voters who supported the party's gubernatorial nominee. The Commission was asked whether payments for this activity was covered by the Act and, if so, whether any portion of the costs would be allocable to the coordinated party expenditure limitation on behalf of its Senate and House

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11. New regulations adopted by the Commission will now permit limited transfers from the nonfederal to the federal account when the nonfederal account pays its proportionate share of administrative, fundraising, and other mixed activity. These regulations were not in effect at the time of the events at issue in these matters.

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candidates. The Commission stated that although the GOTV drive was intended to aid the gubernatorial nominee, it would also have the purpose of influencing elections to federal office, citing Advisory Opinion 1978-10.

This conclusion was based on the Commission's view that GOTV drives inevitably and inherently influence the election of all candidates of a political party that are on the ballot. The opinion stated:

> The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective pubic offices.

It further noted that GOTV expenditures "would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed," citing 11 C.F.R. § 106.1(c)(2). The Commission also stated that the federal account should pay the portion of the GOTV expenses allocable to federal elections pursuant to 11 C.F.R. § 106.1(e). See also, Advisory Opinions 1978-10 and 1978-28 and Campaign Guide for Political Party Committees at page 15 (September 1989).

D. DISCUSSION

As noted, the payments to the Greer firm for the GOTV ads ($310,000) were made from the State Party's nonfederal account. The nonfederal account received $100,000 from ATLA PAC and $215,000 from the DNC in the same general time frame as the

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payments to the Greer firm. The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from ATLA PAC and the DNC.

1. Mary C. Bingham

The complainants in both MUR 3145 and MUR 3182 allege that Mary C. Bingham's gift to the DNC was made with the intent of having it used by the State Party on behalf of Sloane. In fact, the complainant in MUR 3182 alleges that Mrs. Bingham, Sloane, the Sloane Committee, the State Party, and the DNC "joined in a scheme to launder a massive, illegal contribution." It states that Mrs. Bingham was a supporter of Sloane's and had made maximum allowable contributions to his campaign and to the State Party. It further alleges that by mid-October 1990, the DNC or its designated agent had spent within $10,000 of the allowable coordinated party expenditure limitation on behalf of Sloane, who at that time it alleges had little cash on hand and trailed Sen. McConnell in the polls. The complainant claims Mrs. Bingham gave $250,000 to the DNC to influence the Kentucky Senate race. It argues that the DNC agreed with Mrs. Bingham that her money would be transferred to the State Party and spent in a way to benefit Sloane, thus allegedly making her gift a contribution under the Act.

The complainant then alleges that the DNC transferred these funds to the State Party, directly after receiving them, for the purpose of influencing the Senate race, thus allegedly making the transfer subject to the Act's limitations on coordinated party

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expenditures and direct contributions. The complainant also alleges that the DNC exercised direction and control over Mrs. Bingham's funds. It then claims the State Party spent her funds on the ads, coordinated with the Sloane campaign, and for the purpose of influencing the Senate race, thus allegedly making the expenditures contributions to Sloane and his committee. Finally, the complainant alleges that the DNC, the State Party, and the Sloane Committee have not reported these transactions.

Mary C. Bingham, in her affidavit, states that for many years while the family owned the Louisville Courier Journal neither she nor her husband made political contributions. When the paper was sold in 1986, they contributed a total of $8,000 to federal and nonfederal candidates. She adds that in 1988, 1989, and 1990, she contributed to the DNC. In September 1988, she contributed $20,000 to the DNC's federal account and $80,000 to its nonfederal account. In August 1989, she gave $25,000 to the nonfederal account. In October 1990, she contributed $20,000 to the federal account and $230,000 to the nonfederal account. She attached copies of these checks to her affidavit. She states that she is aware that political parties often maintain federal and nonfederal accounts and that she has received solicitations for various nonfederal committees, including those maintained by the DNC and the State Party. She states that in making political contributions she has relied upon the representations of those soliciting the contributions regarding whether and how much she may contribute.

Mrs. Bingham states that in the fall of 1990 she became

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concerned about the course of the general election campaign and the lack of discussion of certain issues. She discussed her concerns at dinner with her grandson, who had participated in a number of Democratic campaigns and was a volunteer in the Sloane campaign. She said the thrust of the conversation was that if she wanted to help the Democratic Party she should consider making a contribution to the DNC. She said she contacted Harvey Sloane and was advised she could give up to $20,000 to the DNC's federal account and additional amounts to its nonfederal account. She avers that Sloane told her that if she gave to the DNC, it would decide how the funds were to be used and that she could not impose any conditions on its use. She avers that she made her contributions to the DNC "with no strings attached."[12] She states that she "imposed no conditions on when, how, or where the donated funds would be used by the DNC" and that she did not "have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely use." She adds that she also had no conversation with any representative of the Kentucky Democratic Party regarding her contributions. She says that she made the contributions because she "wanted to help the Democratic Party present its side of the issues to the general public."

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12. In a phone conversation with staff of this Office, counsel for Mrs. Bingham stated that he had not located any correspondence that may have accompanied the checks to the DNC. He indicated that he did not believe there was any correspondence sent with the checks because he had found no correspondence for any of Mrs. Bingham's contributions to the DNC in 1988, 1989, and 1990.

In an affidavit, the Senate candidate Harvey Sloane states that he first learned Mary C. Bingham was going to make a large contribution to the DNC when her grandson Rob Bingham informed him of this fact. Sloane says that he did not know its total size, but was told it would be large. He states that he discussed this contribution with Jim Cunningham of his campaign organization who informed him that under DNC policies no contribution could be earmarked for any particular candidate or state. Sloane avers that at no time was there any agreement "of any type" that Mrs. Bingham's contribution would be earmarked or designated in advance or after the fact for Sloane's campaign or for any Kentucky races. An affidavit from Cunningham corroborates the Sloane affidavit regarding what Cunningham told Sloane.

Counsel for the DNC respond that the DNC maintains a nonfederal account to assist state and local parties and that Mrs. Bingham's contribution to the DNC's nonfederal account was "entirely legal." They also state that it was "given and received without any instructions as to its ultimate disposition." They support the response with an affidavit from Ursula Culver, comptroller of the DNC.[13] Counsel also state that the DNC's transfers to the State Party were legal under both Commission regulations and Kentucky law. They add that the amount transferred to a particular state is determined by a variety of considerations, including (in the case of Kentucky)

13. A second affidavit from Gary Barron, deputy treasurer of the DNC, corroborates the receipt of the Bingham contributions.

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the state's significance as a potential southern swing state in future presidential campaigns, the upcoming redistricting and reapportionment, the closeness of key races in the state, the potential for future Democratic gains, and the level of commitment by party leaders to a coordinated campaign plan directed to the election of the entire Democratic ticket. They state that each transfer of nonfederal funds was accompanied by a letter with express language restricting the use of the funds to efforts allocable only to state and local candidates or elections.[14] This portion of the response is also supported by the Culver affidavit. The response adds that whether or not the funds transferred to the State Party were the Bingham funds, the transfers were categorically limited to be used for state and local purposes.

Mary Ann Johnson, chairman of the Kentucky Democratic Party, in her affidavit states that at no time did she or the State

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14. The relevant portion of these letters read:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion.
>
> ... Please note this contribution should not be deposited into any federal account maintained by you.

Party have any knowledge or information to give them reason to believe Mrs. Bingham gave $250,000 to the DNC. She further states that at no time relevant to these matters did the DNC transfer money to the State Party "for the purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell." She adds that at no time did the State Party accept money from the DNC to influence the Senate race.

These affidavits all seek to refute the allegation that there was a plan or agreement among the various parties that Mrs. Bingham's donations would be funneled to Kentucky to help the Sloane campaign. Notwithstanding them, however, the timing of the gifts, transfers, and payments create an inference that Mrs. Bingham's gift to the DNC's nonfederal account may have been made to influence a federal election. A time line indicates that sometime in the "Fall of 1990" she had a conversation with her grandson that led to her calling Harvey Sloane to inform him of her intent to make a large gift (the grandson having already apprised Sloane of this). She wrote her check for $230,000 to the DNC on October 9. On October 10, the State Party retained the Greer firm, Sloane's media consultant, to produce its television ads, the party's first. On October 11, the DNC received Mrs. Bingham's check. The DNC made two transfers on October 16 of $50,000 and $95,000 to the State Party, another $50,000 transfer on October 23, and two $10,000 transfers on October 25. The State Party made payments totaling $310,000 to the Greer firm on October 18 and November 2.

We also note that Mrs. Bingham's donations to the DNC in 1990

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were substantially greater than in recent years. According to press accounts, her donation to the DNC was also the largest single gift it received in 1990. See Attachment 14. Furthermore, it appears that under Kentucky law, she could not contribute more than $6,000 to the nonfederal account but the State Party could accept unlimited transfers from the DNC, thus perhaps explaining the circuitous route her money took. The evidence that Mrs. Bingham did not encumber or earmark her donations and that the DNC specifically limited the use of its transfers to nonfederal purposes should not be controlling over the substance and effect of what may have actually taken place. The evidence indicates there may have been some implicit or tacit understanding or awareness that Mrs. Bingham's donations would find their way back to Kentucky, where they would be used to help the Sloane campaign or that the Sloane campaign, upon learning of Mrs. Bingham's impending largess, sought to "capture" its benefit. If so, then it appears that Mrs. Bingham may have made her donation for the purpose of influencing a federal election.

2. ATLA PAC

The complainant in MUR 3145 also alleges that the $100,000 donated by ATLA or ATLA PAC to the nonfederal account of the State Party was for the purpose of electing Sloane and therefore should have been deposited into the federal account. In such case, the complainant alleges that the amount of this donation would be excessive under the Act. The complainant relies primarily on a newspaper article. That article stated that ATLA PAC had donated $50,000 with another $50,000 expected as a

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contribution to the State Party's "coordinated campaign to elect Sloane and other Democrats."[15]

ATLA PAC's donations were made and reported from its federal account as "other disbursements." In its response it furnished an affidavit from Alan Parker, deputy executive director for public affairs for ATLA. He states that ATLA PAC donated $50,000 on September 14, 1990, and another $50,000 on October 9, 1990, to the nonfederal account of the Kentucky Democratic Party. Copies of the checks were attached and show that the checks were made payable to the state account. The checks have no indication of earmarking. Parker states that the funds were donated "for use by the party to defray the costs of the non-federal share of the Party's get-out-the-vote efforts in Kentucky." He adds that they "were not donated for the purpose of influencing a federal election."

He states that neither ATLA nor ATLA PAC "knowingly participated in any effort to circumvent the contribution limits of 2 U.S.C. § 441a(a)." He further states that "[i]f any of the funds donated by ATLA-PAC to the Party were used for the purpose of influencing a federal election, such use was contrary to the express intention of ATLA-PAC in making the donations for the non-federal get-out-the-vote effort." ATLA PAC registered and filed reports with Kentucky under state law regarding the donations to the nonfederal account.

The $100,000 in donations from ATLA PAC to the Kentucky State

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15. The quoted portion is the reporter's not ATLA PAC's.

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Party's nonfederal account was only a portion of the funds ATLA PAC transferred to state nonfederal accounts in 1990. ATLA PAC reported transferring $980,000 to nonfederal accounts in 1990 out of approximately $2,573,136 in disbursements. A total of $759,000 of the $980,000 was transferred between September 1 and November 30, 1990. These transfers went to the nonfederal accounts of 12 state parties plus Citizen Action. Ten of the twelve state party nonfederal accounts receiving funds near the general election were in states with key Senate elections. These ten states with Senate elections received $729,000 or 74 percent of the $980,000 transferred to nonfederal accounts in 1990. See Attachment 15.

In 1988, ATLA PAC transferred at least $986,962 out of $2,903,193.96 in aggregate disbursements to the nonfederal accounts of state parties or to voter registration organizations in 19 states, 18 of which held Senate elections. Of these transfers, $846,962 was transferred to the nonfederal accounts or voter registration organizations in eighteen states with Senate elections in 1988, nearly all of it within the period prior to the general election. In 1986, ATLA PAC's other disbursements totaled only $237,267.80 out of aggregate disbursements of $2,240,766.24. All of these transfers went to state PACs affiliated with ATLA PAC.

The statements by Alan Parker in his affidavit must be viewed in conjunction with the above pattern of contributions to the nonfederal accounts of state parties by ATLA PAC, especially where there were contested Senate elections. When viewed in this

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context, the credibility of his statements is called into question. Instead, there is reason to believe that ATLA PAC's contributions to the nonfederal account of the Kentucky State Party may have been made with the purpose, knowledge, or awareness, explicit or implicit, that they would would be used to benefit the Sloane campaign. There is also reason to believe that ATLA PAC's contributions to the nonfederal accounts of the other Democratic state parties in states where there were Senate elections were also made in order to benefit the Democratic Senate candidates.

3. State Party

The complainants in MUR 3145 and MUR 3182 both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal

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account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[16]

Counsel for the Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. Counsel for the State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[17] He further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The Greer firm, in an affidavit by its principal Franklin O. Greer, states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and public relations strategy including the creation, production, and placement of campaign ads. Greer adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. He said the firm performed no other work for the State Party. He

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16. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee. The payments by the committee to the Greer firm outlined earlier in this report do not indicate any noticeable gap in campaign advertising activity by the Sloane campaign around the time of the State Party's GOTV ads.

17. This statement is rather curious in that in 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

further stated that no footage used in the State Party's ads appeared in Sloane ads.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. We further conclude that the subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

The absence of any clear identification of Sloane, however, does not necessarily dictate a conclusion that the television ads were not undertaken on behalf of Sloane and should not be treated as a contribution to him or as a coordinated party expenditure on his behalf. For instance, Advisory Opinion 1978-50 merely said that costs for such ads need not be attributed to a specific candidate if the ads are not on behalf of a clearly identified candidate. Nevertheless, the degree of coordination between a state party and a candidate or his committee may be sufficiently high regarding general public political advertising, such as where the state party's activity is merely an extension of the candidate's campaign, to lead to a conclusion that such activity should be treated as a contribution or coordinated party expenditure.

In this matter, the information clearly shows that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane

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campaign before managing the State Party's coordinated campaign, that the content of the GOTV ads meshed with the themes and tagline of the Sloane campaign ads, that the timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Furthermore, as detailed earlier, the candidate Harvey Sloane was clearly aware of Mrs. Bingham's donations and may have played a key role in seeing that the funds got to the State Party and in how they were then used. Moreover, although the consultant says no footage in the State Party's ads were used in Sloane ads, he does not say whether footage shot for the Sloane campaign (but not aired) was used in the State Party's ads -- a distinct likelihood based on the short time between his being retained and the airing of the ads.

These circumstances do raise an inference that there may have been some high degree of communication, discussion, and coordination between the Sloane campaign and the State Party and perhaps others regarding the GOTV ads. There is also little doubt that the GOTV ads would benefit the Sloane campaign. This conclusion is not just ours alone, but also fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax

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and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr. Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.

Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

Therefore, we conclude that there is reason to believe the payments for the television ads by the nonfederal account of the Kentucky Democratic Party were allocable to Harvey Sloane as contributions or as coordinated party expenditures.

4. Conclusion

This case may present a classic illustration of the "soft money" issue and its relationship to federal elections and deserves further investigation. As noted, ATLA PAC makes a $50,000 gift to the State Party on September 17. Sometime that fall, Mrs. Bingham decides to make the largest single political contribution she has ever made. She and her grandson separately inform Harvey Sloane. She then sends a $230,000 check to the DNC on October 9, making it the largest single contribution it receives in 1990. The State Party decides to launch a television advertising campaign -- its first ever. And on October 10, it hires Sloane's media consultant to do the ads. The ads themselves echo the themes of Sloane campaign ads, only without any explicit mention of Sloane. Over the period of time that the ads run and the payments are made to the consultant, the DNC transfers $215,000 to the State Party. ATLA PAC contributes

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another $50,000 on October 25. The aggregate amount of these gifts ($315,000) nearly matches the payments to the consultant ($310,000). The respondents ask us to accept that these series of events occurred by coincidence rather by consequence.

In our opinion, accepting this argument without further inquiry would be contrary to the possible import and effect of the respondents' own actions in this matter. These actions raise questions that are not answered by the caveats on transmittal letters or the lack of any specific earmarking or encumbrances on contributions. While the respondents have denied an agreement or conspiracy, there are several gaps in the evidence produced so far by the respondents. For instance, we do not know what transpired in the separate phone conversations between Mrs. Bingham or her grandson and Harvey Sloane or what Sloane did after these conversations or to whom he talked. We do not know the extent to which the consultant relied on scripts and film footage already available from his work for the Sloane campaign when he made the State Party's ads. We do not know whether or how the airing of the State Party's ads meshed with the airing of Sloane campaign ads. We do not know if Sloane reviewed or approved the ads before they were broadcast or if Mrs. Bingham was given a special copy of the ads. We do not know if Sloane's request to Governor Wilkinson for fundraising assistance is related to Mrs. Bingham's gift. We do not know what coordination of the ATLA PAC donation may have taken place or exactly what the "coordinated campaign" meant and entailed. We also do not know the extent to which Sloane, Skipper Martin, or others may have

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kept all parties apprised of what was happening or may have orchestrated or coordinated this remarkable series of events. Notwithstanding the form employed, if there was an understanding on how the funds were to be used and if they were given to influence the election of Harvey Sloane to the United States Senate, then more than $300,000 beyond the limits permissible under the Act was raised and used to influence a federal election.

Because we conclude that this matter requires further investigation, we recommend that the Commission find reason to believe Mrs. Bingham violated 2 U.S.C. § 441a by making contributions to the DNC for federal purposes in excess of the Act's limitations and that the DNC violated 2 U.S.C. § 441a(f) in accepting contributions from Mrs. Bingham in excess of the Act's limitations.

This Office recommends that the Commission find reason to believe the Kentucky Democratic Central Executive Committee (Federal and Nonfederal Accounts) and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. §§ 102.5(a)(1)(i) by making in-kind contributions on behalf of the candidacy of Harvey Sloane in excess of the Act's limitations, by not properly reporting these disbursements, and by making them from its nonfederal account and by receiving excessive contributions from ATLA PAC and Mrs. Bingham that it deposited into its nonfederal account and used on behalf of Sloane. We recommend that the Commission find reason to believe the Association of Trial Lawyers of America Political Action

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Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a by making contributions to the Kentucky Democratic Central Executive Committee for the purpose of influencing federal elections in excess of the Act's limitations.[18] We also recommend that the Commission find reason to believe that Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly receiving excessive in-kind contributions from the Kentucky State Party.[19] We further recommend that the Commission find no reason to believe Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint in MUR 3145.

III. FACTUAL AND LEGAL ANALYSIS IN MUR 3175

The complainant in MUR 3175 alleges that Mary C. Bingham made contributions to federal candidates and political committees that exceeded the Act's annual $25,000 limitation by $5,500 in 1988 and $32,700 in 1990 and made an excessive contribution of $1,000 to the DNC in 1988 and of $300 to DSCC in 1990. Counsel for Mrs. Bingham, an 86-year-old widow, does not contest the allegation that she exceeded these limitations. Instead, he points out the

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18. We also recommend that the Commission find no reason to believe the Association of Trial Lawyers of America itself violated any provision of the Act on the basis of the complaint in MUR 3145 in that it appears that the actions at issue in this matter were those of ATLA PAC.

19. We are treating the State Party's payments for the ads as in-kind contributions rather than as coordinated party expenditures in this matter because of the high degree of apparent coordination between the Sloane campaign and the State Party regarding these ads (particularly the use of a common vendor) and because the State Party authorized the DSCC to spend against its coordinated party expenditure limit.

background in which she made these contributions and her reliance on representations by the soliciting organizations regarding the legality of her contributions. He states that at "no time did anyone soliciting her for political contributions apprise her of the $25,000 annual aggregate limitation under the Act."

He further points out that prior to the filing of the complaint Mrs. Bingham, through her personal attorney, asked the DNC to treat her $20,000 in 1990 as made for nonfederal purposes and to transfer it to the DNC's nonfederal account. She also requested a refund of a substantial portion of her contribution to the DSCC. He notes that in doing so she believed she would bring her 1990 contributions within the $25,000 limitation. In this regard, he further disputes the complainant's inclusion of Mrs. Bingham's $2,000 contribution to Harvey Sloane's exploratory committee in 1988. He argues that in the absence of clear regulatory guidance how contributions to an exploratory committee are to be treated for purposes of the $25,000 annual limitation, this $2,000 contribution should not be included in the violation.[20] He further argues that Mrs. Bingham's age and her reliance on the advice of others are mitigating circumstances that he posits have been sufficient for the Commission to take no

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20. We note, however, that the Commission's regulations at 11 C.F.R. §§ 100.7(b)(1) and 101.3 make it sufficiently clear that contributions for testing the waters purposes become contributions under the Act once the individual becomes a candidate. Therefore, once Harvey Sloane became a candidate under the Act, these contributions became contributions under the Act and subject to the $25,000 annual contribution limitation.

further action in other matters. Nevertheless, he adds that Mrs. Bingham requests preprobable cause conciliation to resolve this matter.

Counsel for the DSCC notes that it refunded the $300 excessive portion of Mrs. Bingham's 1990 contribution. Mrs. Bingham's counsel points out that the DSCC has not responded to her request that it refund a substantial portion ($12,000) of her $20,000 contribution. He included a copy of a letter dated November 16, 1990, to Senator Charles S. Robb, chairman of the DSCC, making this request. Counsel for the DSCC makes no reference to this request. The treasurer of the DNC responded and noted that it is impossible for any party committee or candidate to be charged with the knowledge of an individual contributor's aggregate federal contributions. He asserts there is no specific allegation of wrongdoing by the DNC in the complaint. This Office notes that although the complainant did not expressly list the DNC in the caption of the complaint, the complainant did allege that Mrs. Bingham made $21,000 in contributions to the DNC in 1988 that exceeded her limitation with respect to the DNC by $1,000. Inherent in that allegation is the allegation that the DNC has knowingly accepted an excessive contribution.

Based on the complaint and responses, there is reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3), that the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441a(f), and that the DNC Services Corporation and Robert A. Farmer, as

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treasurer, also violated 2 U.S.C. § 441a(f). Because the amount involved with respect to the DSCC is only $300, which has been refunded, we further recommend that the Commission take no further action with respect to the DSCC. We further recommend that the Commission decline at this time to enter into preprobable cause conciliation with Mary C. Bingham on these violations because of the investigation into her $230,000 contribution to the DNC in 1990. If it is ultimately determined that this contribution should also be treated as a federal contribution, then the amount of her aggregate annual contributions for 1990 would increase considerably.

IV. RECOMMENDATIONS

1. Merge MUR 3145 and 3175 with MUR 3182.

2. Find reason to believe that the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. § 102.5(a)(1)(i).

3. Find reason to believe that the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a.

4. Find reason to believe Mary C. Bingham violated 2 U.S.C. § 441a.

5. Find reason to believe that Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f).

6. Find reason to believe the Democratic National Committee and Robert A. Farmer, as treasurer, violated 2 U.S.C. § 441a(f).

7. Find no reason to believe Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint in MUR 3145 and close the file as it pertains to this respondent.

8. Find reason to believe the Democratic Senatorial Campaign Committee and G. Wayne Smith, as

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treasurer, violated 2 U.S.C. § 441a(f) but take no further action and close the file as it pertains to these respondents.

9. Find no reason to believe the Association of Trial Lawyers of America violated any provision of the Act on the basis of the complaint in MUR 3145 and close the file as it pertains to this respondent.

10. Approve the attached factual and legal analyses.

11. Decline at this time to enter into conciliation with Mary C. Bingham prior to a finding of probable cause to believe.

12. Approve the attached subpoena to Andrew "Skipper" Martin as a nonrespondent witness.

13. Approve the appropriate letters.

5/6/91
Date

Lawrence M. Noble
General Counsel

Attachments
1. Sloane Committee response in MUR 3145
2. Greer response in MUR 3145
3. State Party response in MUR 3145
4. ATLA response in MUR 3145
5. Bingham response in MURs 3145 and 3182
6. DNC response in MURs 3145 and 3182
7. Sloane Committee response in MUR 3182
8. State Party response in MUR 3182
9. DSCC response in MUR 3175
10. Bingham response in MUR 3175
11. DNC response in MUR 3175
12. State Party nonfederal report
13. Proposed Factual and Legal Analyses (5)
14. News articles
15. ATLA PAC Charts
16. DSCC Factual and Legal

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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 3145, 3175 & 3182 - FIRST GENRAL COUNSEL'S RPT.
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	XXX
Commissioner Elliott	XXX
Commissioner Josefiak	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	XX

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.

9504365382 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Kentucky Democratic Party and Central Executive Committee (Federal and Nonfederal Accounts) and Richard Rankin, as treasurer; Sloane for Senate Committee and Victoria Buster, as treasurer; Association of Trial Lawyers of America PAC and Joan C. Pollitt, as treasurer, and Association of Trial Lawyers of America; Greer, Margolis, Mitchell & Associates; Mary C. Bingham.	)	MURS 3145, 3175 AND 3182

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 16, 1991, do hereby certify that the Commission took the following actions with respect to the above-captioned matters:

1. Decided by a vote of 6-0 to merge MURS 3145 and 3175 with MUR 3182.

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

(continued)

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2. Failed in a vote of 3-3 to pass a motion to find reason to believe that the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. § 102.5(a)(1)(i).

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

3. Decided by a vote of 4-2 to

a) Find reason to believe that the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f), 434(b), and 441b, and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.

b) Amend the Factual and Legal Analysis for the Kentucky Democratic Central Executive Committee as recommended in the General Counsel's report dated May 6, 1991 to include the $19,000 in reported coordinated party expenditures, and to modify as required pursuant to the meeting discussion.

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

(continued)

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4. Failed in a vote of 3-2 to pass a motion to take no action at this time on recommendation 3 in the General Counsel's report dated May 6, 1991.

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

5. Failed in a vote of 2-3 to find reason to believe that the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a.

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

Attest:

5/20/91
Date

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

9504365538827

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Kentucky Democratic Party and Central Executive Committee (Federal and Nonfederal Accounts) and Richard Rankin, as treasurer; Sloane for Senate Committee and Victoria Buster, as treasurer; Association of Trial Lawyers of America PAC and Joan C. Pollitt, as treasurer, and Association of Trial Lawyers of America; Greer, Margolis, Mitchell & Associates; Mary C. Bingham.	)	MURS 3145, 3175 AND 3182

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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 in the above-captioned matters:

1. Decided by a vote of 5-0 to take no action at this time with respect to recommendation 3 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.

(continued)

2. Failed in a vote of 2-3 to pass a motion to find reason to believe Mary C. Bingham violated 2 U.S.C. § 441a.

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

3. Decided by a vote of 5-0 to

a) Find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3);

b) Take no action at this time with regard to Mary C. Bingham's contribution to the Democratic National Committee; and

c) Modify the Factual and Legal Analysis for Mary C. Bingham (attached to the General Counsel's report dated May 6, 1991) pursuant to the meeting discussion of May 21, 1991.

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

4. Failed in a vote of 2-3 to pass a motion to find reason to believe that Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f).

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

(continued)

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6. Failed in a vote of 2-3 to pass a motion to find reason to believe the Democratic National Committee and Robert Farmer, as treasurer, violated 2 U.S.C. § 441a(f).

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

7. Decided by a vote of 5-0 to

a) Find reason to believe the Democratic National Committee and Robert A. Farmer, as treasurer, violated 2 U.S.C. § 441a(f) as relates to the original allegations in MUR 3175, and take no action at this time with regard to other allegations pending investigation.

b) Modify the Factual and Legal Analysis for the Democratic National Committee and Robert A. Farmer, as treasurer, (attached to the General Counsel's report dated May 6, 1991) pursuant to the discussion held during the meeting on 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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8. Decided by a vote of 5-0 to

a) Find no reason to believe Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint in MUR 3145 and close the file as it pertains to this respondent.

b) Find reason to believe the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, violated 2 U.S.C. § 441a(f) but take no further action and close the file as it pertains to these respondents.

c) Find no reason to believe the Association of Trial Lawyers of America violated any provision of the Act on the basis of the complaint in MUR 3145 and close the file as it pertains to this respondent.

d) Approve the factual and legal analyses attached to the General Counsel's report dated May 6, 1991, subject to amendments as noted above.

e) Approve appropriate letters.

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

June 11, 1991

Edgar N. James, Esquire
Robert S. Clayman, Esquire
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

RE: MUR 3182
(formerly MUR 3145)
Greer, Margolis, Mitchell
& Associates

Dear Messrs. James and Clayman:

On October 25, 1990, the Federal Election Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On May 16, 1991, the Commission merged MUR 3145 with MUR 3182. Please refer to MUR 3182 in all future correspondence.

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 Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint filed in MUR 3145. Accordingly, the Commission closed its file in this matter as it pertains to your client, Greer, Margolis, Mitchell & Associates, as a respondent.

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The Commission has issued the attached Interrogatories and Request for Production of Documents which requests you to provide certain information in connection with an investigation it is conducting. The Commission no longer considers you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

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You may assist your clients in the preparation of their responses to these Interrogatories and Request for Production of Documents. However, you are required to submit the information within 15 days of your receipt of this letter. All answers to questions must be submitted under oath.

If you have any questions, please contact Elizabeth Campbell or Jeffrey Long, the staff members assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Interrogatories and Request for Documents

95043653833

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Greer, Margolis, Mitchell & Associates
c/o Edgar N. James, Esquire
Robert S. Clayman, Esquire
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

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, 1990, to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

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

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and 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 PRODUCTION OF DOCUMENTS

1. Identify the persons at Greer, Margolis, Mitchell & Associates who were assigned to the Kentucky Democratic Party account and identify those who were assigned to the Sloane campaign account.

2. State the date(s) on which the television ads produced by Greer, Margolis, Mitchell & Associates for the Kentucky Democratic Party were completed and the date(s) on which they were first broadcast.

3. Provide a copy of the schedule of the dates, times, and broadcast stations on which each of the television ads of the Kentucky Democratic Party were aired between October 1, 1990, and November 6, 1990. Provide a copy of the videotape of the ads produced for the Kentucky Democratic Party.

4. Provide copies of all invoices issued with respect to the television ads of the Kentucky Democratic Party and state the date and amount of each payment received to pay for these invoices.

5. In a previous response it was stated that the television ads of the Kentucky Democratic Party did not contain any footage which had appeared in Sloane for Senate commercials. State whether any footage shot as part of the work performed by Greer, Margolis, Mitchell & Associates for the Sloane for Senate Committee was used in the television ads of the Kentucky Democratic Party. State whether any other materials, including graphics and scripts produced for the Sloane for Senate Committee was used in making the television ads of the Kentucky Democratic Party.

6. Identify all contacts between Greer, Margolis, Mitchell & Associates and each of the following between September 1, 1990, and November 6, 1990, regarding the television ads of the Kentucky Democratic Party:

(a) Sloane campaign;
(b) Democratic National Committee; and
(c) Democratic Senatorial Campaign Committee.

7. State whether a schedule of the broadcast of the Kentucky Democratic Party's ads was given to Harvey Sloane or the Sloane campaign. If so, state when the schedule was given and identify to whom it was given. State whether such a schedule was given to any other person not employed by the Kentucky Democratic Party. If so, identify all persons who received such a schedule

and when they received it.

8. State whether Harvey Sloane or the Sloane campaign was asked to preview the ads, their scripts or storyboards prior to their broadcast. If so, state what was given and when and identify to whom it was given. State whether Harvey Sloane or the Sloane campaign was asked to approve the ads, their scripts, or storyboards. Identify all other persons who were given a preview of the ads, the scripts, or storyboards prior to broadcast (other than employees of Greer, Margolis, Mitchell & Associates and the Kentucky Democratic Party). Identify all persons who approved the final version of the ads for broadcast.

9. Provide copies of the videotapes for all television ads and copies of the tapes of all radio ads prepared by Greer, Margolis, Mitchell & Associates for the Sloane campaign, whether or not such ads were broadcast. Provide a copy of the schedule of the dates, times, and broadcast stations of all television ads broadcast by the Sloane campaign from September 1, 1990, through November 6, 1990.

10. The Democratic Senatorial Campaign Committee reported making these payments to the Greer firm in 1990 with respect to the Sloane campaign:

September 10	$80,000
October 4	$25,000
October 22	$90,000
October 30	$7,000
October 31	$10,000
October 31	$8,000

Describe what these payments were for. If these payments were for television or radio ads, provide a copy of the videotape of each television ad and a copy of the tape of each radio ad and a copy of the schedule of the dates, times, and broadcast stations where they were broadcast. If these payments were for printed ads or materials, provide copies of each example of such materials or ads. Provide copies of the invoices related to these payments. Explain whether these payments related in any way to the Kentucky Democratic Party's television ads.

11. Provide copies of all documents relating to the responses to the above interrogatories that are not otherwise specifically requested above.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1991

Lyn Utrecht, Esquire
Manatt, Phelps & Phillips
1200 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20036

RE: MUR 3182
(formerly MUR 3145)
Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer;
Association of Trial Lawyers of America

Dear Ms. Utrecht:

On October 25, 1990, the Federal Election Commission notified your clients 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. On May 16, 1991, the Commission merged MUR 3145 with MUR 3182. Please refer to MUR 3182 in all future correspondence.

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 Association of Trial Lawyers of America violated any provision of the Act on the basis of the complaint in MUR 3145. Accordingly, the Commission closed its file in this matter as it pertains to the American Association of Trial Lawyers.

Also on May 21, 1991, the Commission voted to take no action at this time with respect to the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, regarding the allegations in MUR 3145.

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 you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

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

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1991

Michael R. McKinney, Esquire
P.O. Box 688
2922 Washington Square
Burlington, KY 41005-0688

RE: MUR 3182
(formerly MUR 3145)
Kentucky Democratic Central
Executive Committee and
Richard Rankin, as treasurer

Dear Mr. McKinney:

On October 25, 1990, November 28, 1990, and December 4, 1990, the Federal Election Commission notified your clients, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaints were forwarded to your clients at that time. On May 16, 1991, the Commission merged MUR 3145 with MUR 3182. Please refer to MUR 3182 in all future correspondence.

On May 16, 1991, the Commission considered the complaint, and information supplied by your clients, and found that there is reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106, provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Kentucky Democratic Central Executive Committee and Richard Rankin, 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 Interrogatories and Request for Production of Documents within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Kentucky Democratic Central Executive Committee and Richard Rankin, 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 Elizabeth Campbell or Jeffrey Long, the staff members assigned to this matter, at (202) 376-8200.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Interrogatories and Request for Production of Documents
Factual & Legal Analysis

9504365842

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Richard Rankin, Treasurer
Kentucky Democratic Central
Executive Committee
c/o Michael R. McKinney
P.O. Box 688
2922 Washington Square
Burlington, KY 41005

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, 1990, to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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 PRODUCTION OF DOCUMENTS

1. Define what is meant by "coordinated campaign" as that term is used by the Kentucky Democratic Party, especially with respect to the 1990 general election.

2. Describe the function, role, and participation of the Democratic National Committee in the coordinated campaign of the Kentucky Democratic Party in 1990, including all goods, services, training, and materials furnished to the Kentucky Democratic Party by the Democratic National Committee. Describe the role of the Democratic National Committee in securing funding for the Kentucky Democratic Party's coordinated campaign. Identify the funding that the Kentucky Democratic Party received as a result of the efforts of the Democratic National Committee from sources other than the Democratic National Committee.

3. Identify all activities undertaken in 1990 as part of the Kentucky Democratic Party's coordinated campaign. Provide copies of all printed advertising and brochures, radio and television scripts, phone bank scripts, and other items used as part of the 1990 coordinated campaign.

4. Identify all payments reported on the Kentucky Democratic Party's federal and nonfederal reports relating to activities undertaken as part of the 1990 coordinated campaign. Provide copies of all invoices relating to such payments.

5. Identify all payments made by any other person or organization as part of the Kentucky Democratic Party's 1990 coordinated campaign. Identify all in-kind assistance provided to the Kentucky Democratic Party for its coordinated campaign in 1990, such as goods, services, and personnel including volunteers.

6. Identify all persons who directed, controlled, or operated the Kentucky Democratic Party's 1990 coordinated campaign and describe their duties.

7. Provide a copy of a sample ballot for the 1990 general election in Kentucky. Identify all statewide and local offices voted on at the 1990 general election.

7. State whether the Kentucky Democratic Party maintains separate accounts for federal and nonfederal campaign activity. If so, identify the institution and account number for each such account.

9. a. State whether the Kentucky Democratic Party allocated the expenses of its 1990 coordinated campaign between its federal and nonfederal accounts. If so, describe in detail the method or methods used by the Kentucky Democratic Party to allocate expenses of its 1990 coordinated campaign between its federal and nonfederal accounts. Provide copies of supporting or back up documentation to support such allocations.

b. State why (including the factual basis) the Kentucky Democratic Party originally reported in its 1990 October Quarterly Report a portion of its operating expenses as coordinated party expenditures on Schedule F on behalf of Harvey Sloane. State why the Kentucky Democratic Party amended its 1990 October Quarterly Report to delete the Schedule F. Describe what duties Steve Bachar, Neville Blakemore, Margaret Conlon, James Lyle Cauley, Pat Goins, Jackie Hollar, Andrew "Skipper" Martin, Danny Ross, and Doris Saunders performed on behalf of the coordinated campaign and the Sloane campaign in 1990.

10. Identify the Kentucky Democratic Party's principal contact person at each of the following with respect to the 1990 general election:

(a) Greer, Margolis, Mitchell & Associates;
(b) Democratic National Committee;
(c) Sloane campaign; and
(d) Democratic Senatorial Campaign Committee.

11. State when the Kentucky Democratic Party first decided to do television ads with respect to the 1990 general election. State who made this decision. State when the decision to retain the Greer firm was first made and who made this decision. Explain why the Greer firm was retained to do the television ads.

12. State when the Kentucky Democratic Party raised funds to pay for its television ads. State who made the solicitations for these funds, whether the solicitations were written or oral, and identify the funds raised in response to such solicitations. Provide copies of all written solicitations by the Kentucky Democratic Party for funds for these ads that are in your possession. Explain what the Kentucky Democratic Party knew regarding funding for the television ads as of October 10, 1990, and why it could on October 10, 1990, retain the Greer firm to produce the ads and identify the source of the State Party's knowledge.

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13. State when the Kentucky Democratic Party's television ads ran, including the beginning date and the ending date. State whether the Kentucky Democratic Party had previously sponsored television ads as part of any general election campaign. If so, identify the year(s) and the amount(s) spent.

14. Identify who previewed and approved the ads, their scripts, or storyboards, prior to the broadcast of the ads and state when and where such preview occurred. State whether Harvey Sloane or the Sloane campaign previewed or approved the ads, their scripts, storyboards prior to broadcast of the ads. If so, state when and where such preview or approval occurred and identify who participated in it.

15. State whether the Kentucky Democratic Party authorized the Democratic Senatorial Campaign Committee to utilize the Kentucky Democratic Party's coordinated party expenditure limit on behalf of Harvey I. Sloane. Provide a copy of such authorization.

16. State with respect to each contribution the Kentucky Democratic Party's nonfederal account reported receiving in 1990 from labor organizations whether such contributions came from federally registered political action committees, from the labor organization's nonfederal account(s), or from the labor organization's general treasury. Identify Kentuckians for a Better Future and state whether it held corporate or labor organization contributions in its account at the time it made its $25,000 contribution to the nonfederal account of the Kentucky Democratic Party.

17. Provide copies of all documents in your possession relating to your responses to the above interrogatories.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer

MUR: 3182

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, (MUR 3145) and by a complaint by Common Cause (MUR 3182). These matters have been merged and are now known as MUR 3182.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for

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the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

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According to the complaint, one of the advertisements broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.
>
> He's walked every corner of the Commonwealth, listening to Kentucky.

Harvey Sloane -- health care, education, jobs, our environment.

With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.

Harvey Sloane -- Kentucky's Democrat, fighting for us.

It appears that this ad was prepared by the Greer firm, but it is not clear when it was aired.

The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[1]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal

1. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[2]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold

2. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

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Communications in Texas for "mailing/printing."[3]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000. The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

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According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got <u>huge</u> tax breaks while the

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3. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

middle class actually paid more taxes.[4]

That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.

Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.

That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

The Commission's database indicates that the DSCC made a $17,500 contribution to the Sloane campaign in June 1990 and made $270,737 in coordinated party expenditures on behalf of Sloane through the Post General Election Report period. The

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4. The other script substituted this sentence with the following:

Democrats have always fought to make sure the rich pay their fair share of taxes.

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database also shows $19,419 in coordinated party expenditures by the Kentucky State Party on behalf of Sloane, but as noted earlier in Footnote 2 the State Party amended its reports to delete the Schedule F on these expenditures. Independent expenditures of $18,604 were reported as made on behalf of Sloane by the National Committee to Preserve Social Security and Medicare and the National Rifle Association. Communications costs on Sloane's behalf totaling $20,897 were reported by AFL-CIO Cope and the National Committee to Preserve Social Security and Medicare.

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B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2). Commission regulations permit transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii).

The Act also prohibits any corporation or labor organization from making any expenditure or contribution, directly or

indirectly, in connection with a federal election and prohibits any political committee from knowingly accepting such prohibited expenditures or contributions. 2 U.S.C. § 441b.

The Act also permits the national committee and the state committee of a political party to make certain expenditures on behalf of their candidates for the Senate and House. 2 U.S.C. § 441a(d)(3). The Commission has recognized that these committees may authorize other committees to make expenditures against these limitations and may transfer funds to such committees for such purpose. FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1980). The Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the limits of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). The Act also sets out the reporting requirements for such contributions and expenditures. 2 U.S.C. § 434(b) and 11 C.F.R. § 106.1(b).

Commission regulations 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. 11 C.F.R. § 106.1(a).[5] An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the

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5. The Act also creates exemptions to the definition of contribution and expenditure for certain activity by state parties on behalf of its candidates. These include exemptions for slate cards, campaign materials distributed by volunteers, and presidential voter registration and get-out-the-vote activities. Because television ads are excluded from these exemptions, they are not implicated in this matter.

candidate on whose behalf it is made, except that party committees need report coordinated party expenditures only as an expenditure. 11 C.F.R. § 106.1(b). The regulations further provide that expenditures for registration or get-out-the-vote ("GOTV") drives of 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)(2). "Clearly identified" is defined to mean the candidate's name, photograph, or drawing appears or the "identity of the candidate is apparent by unambiguous reference." 11 C.F.R. § 106.1(d).

Commission regulations further provide that an organization, including a party committee, that finances political activity in connection with both federal and nonfederal elections has the option of establishing only one account for all such activity or separate accounts for federal and nonfederal activity 11 C.F.R. § 102.5(a)(1). If the organization establishes separate federal and nonfederal accounts, only the federal account need register with the Commission as the federal political committee and report its receipts and disbursements. 11 C.F.R. § 102.5(a)(1)(i). In such case, only funds subject to the limitations and prohibitions of the Act shall be deposited into the federal account. No transfers shall be made from the nonfederal account to the

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federal account.[6] And all disbursements in connection with any federal election shall be made from the federal account. Commission regulations further provide that committees that establish separate accounts shall allocate administrative expenses between the two accounts "in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. §§ 106.1(e) and 102.5(a)(1)(i). This allocation requirement also applies to voter registration and GOTV activities. Advisory Opinion 1978-50.

In Advisory Opinion 1978-50, the Commission addressed a GOTV drive by the Michigan Democratic Party involving telephone calls, mailings, literature distribution, and personal visits, designed to turn out voters who supported the party's gubernatorial nominee. The Commission was asked whether payments for this activity was covered by the Act and, if so, whether any portion of the costs would be allocable to the coordinated party expenditure limitation on behalf of its Senate and House candidates. The Commission stated that although the GOTV drive was intended to aid the gubernatorial nominee, it would also have the purpose of influencing elections to federal office, citing Advisory Opinion 1978-10.

This conclusion was based on the Commission's view that GOTV

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6. New regulations adopted by the Commission will now permit limited transfers from the nonfederal to the federal account when the nonfederal account pays its proportionate share of administrative, fundraising, and other mixed activity. These regulations were not in effect at the time of the events at issue in these matters.

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drives inevitably and inherently influence the election of all candidates of a political party that are on the ballot. The opinion stated:

> The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective pubic offices.

It further noted that GOTV expenditures "would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed," citing 11 C.F.R. § 106.1(c)(2). The Commission also stated that the federal account should pay the portion of the GOTV expenses allocable to federal elections pursuant to 11 C.F.R. § 106.1(e). See also, Advisory Opinions 1978-10 and 1978-28 and Campaign Guide for Political Party Committees at page 15 (September 1989).

C. DISCUSSION

The complainants in MUR 3145 and MUR 3182 both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those

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used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[7]

Counsel for the Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. Counsel for the State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[8] He further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The Greer firm, in an affidavit by its principal Franklin O. Greer, states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and

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7. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee.

8. In 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

public relations strategy including the creation, production, and placement of campaign ads. Greer adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. He said the firm performed no other work for the State Party. He further stated that no footage used in the State Party's ads appeared in Sloane ads.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

The absence of any clear identification of Sloane, however, does not necessarily dictate a conclusion that the television ads were not undertaken on behalf of Sloane and should not be treated as a contribution to him or as a coordinated party expenditure on his behalf. For instance, Advisory Opinion 1978-50 merely said that costs for such ads need not be attributed to a specific candidate if the ads are not on behalf of a clearly identified candidate. Nevertheless, the degree of coordination between a state party and a candidate or his committee may be sufficiently high regarding general public political advertising, such as where the state party's ads or activity is merely an extension of the candidate's campaign or the ads are identical to the candidate's ads except for the absence of the candidate's name,

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to lead to a conclusion that such ads or activity should be treated as a contribution or coordinated party expenditure.

In this matter, the information clearly shows that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane campaign before managing the State Party's coordinated campaign, that the content of the ads meshed with the themes and tagline of the Sloane campaign ads, that the timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Moreover, although the consultant says no footage in the State Party's ads were used in Sloane ads, he does not say whether footage shot for the Sloane campaign (but not aired) was used in the State Party's ads.

These circumstances do raise an inference that there may have been some high degree of communication, discussion, and coordination between the Sloane campaign and the State Party and perhaps others regarding the ads. There is also little doubt that the ads would benefit the Sloane campaign. This conclusion fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr.

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> Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.
>
> Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

Therefore, there is reason to believe the payments for the television ads by the nonfederal account of the Kentucky Democratic Party were allocable to Harvey Sloane as contributions or as coordinated party expenditures.

Even if it should be determined that the payments for the ads are not allocable to Harvey Sloane as contributions or coordinated party expenditures, the costs of the ads would be allocable between the class of federal candidates and the class of nonfederal candidates because there were elections for each class in the 1990 general election. See Advisory Opinion 1978-50. Thus, the State Party should still have allocated the cost of the ads between its federal and nonfederal accounts in accordance with 11 C.F.R. § 106.1(e) and paid the federal portion from its federal account as required by 11 C.F.R. § 102.5(a)(1)(i). Based on the ballot composition for the 1990 general election in Kentucky, it is estimated that between 40 to 50 percent of the cost of the ads, or between $124,000 to $155,000 of the $310,000 payment to the Greer firm should have been allocated to federal elections and paid out of the federal account. In response to a Commission inquiry, the State Party claimed that there was a large number of state races and that the

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portion of federal races was miniscule. It then claimed that the "most appropriate report method would be, [sic] to not made [sic] an allocation of funds." This method does not meet the requirements of 11 C.F.R. § 106.1(e). As noted previously, the Senate race was the only statewide race on the ballot. Thus, the federal races for the Senate and House were the most prominent races and can hardly be described as "miniscule."

Furthermore, the State Party's federal and nonfederal reports indicate that its coordinated campaign, run by Skipper Martin, may have involved other activities and payments that were not allocated between the federal and nonfederal accounts.

Accordingly, there is reason to believe the Kentucky Democratic Central Executive Committee (Federal and Nonfederal Accounts) and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f), 441b, and 434(b) and 11 C.F.R. §§ 102.5(a)(1)(i) by making in-kind contributions on behalf of the candidacy of Harvey Sloane in excess of the Act's limitations, by not properly reporting these disbursements, and by making them from its nonfederal account, which apparently contained union contributions. There is also reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106.1(e) regarding the failure to properly allocate the cost of the GOTV ads between the federal and nonfederal accounts with the federal account paying the federal portion and to report such payments and allocations.

The Kentucky Democratic Central Executive Committee filed its

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1990 October Quarterly Report on October 15, 1990, that included a Schedule F itemizing $19,425.29 in coordinated party expenditures on behalf of Harvey I. Sloane. Schedule B of that report disclosed total disbursements of $38,850.51.[9] The expenditures itemized on Schedule F were:

Payee	Purpose	Amount
Steve Bachar	Payroll, etc.	$2,164.92
Neville Blakemore	Payroll, etc.	760.91
Margaret Conlon	Payroll, etc.	2,358.44
James Lyle Cauley	Payroll, etc.	814.50
Pat Goins	Payroll, etc.	357.06
Jackie Hollar	Travel, etc.	224.90
State Party Fund	Reimbursement	2,500.00
Andrew Martin	Payroll, etc.	5,502.12
Printermaster	Printing	437.19
Jim Reed	Computer repair	73.55
Danny Ross	Payroll, etc.	2,558.36
Ridder/Braden	Voter List	592.50
Doris Saunders	Travel	23.54
South Central Bell	Phones	1,057.30
	Total	$19,425.29

On October 25, 1990, the State Party submitted a letter with a new Detailed Summary Page for the 1990 October Quarterly Report and deleted Schedule F from that report. The new Detailed Summary Page moved the $33,850.51 from line 23 for coordinated party expenditures to line 19 for operating expenditures. The letter accompanying this amendment stated that the "amendment is due to misinterpretation of 441a."

This sequence led to an inquiry from the Reports Analysis Division on January 2, 1991. In response to this inquiry, the

9. The Detailed Summary Page for the 1990 October Quarterly Report showed $33,850.51 on line 23 for coordinated party expenditures and $5,000 on line 20 for transfers to affiliated party committees. It is not clear why the State Party reported $33,850.51 on line 23 as coordinated party expenditures but only $19,425.29 on Schedule F.

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State Party stated:

> ...Based upon the early interpretation of 441a the expenditure appeared as originally reported. A further review of 441a led to the decision to amend the report to ultimately disclose the 33,850.51 amount as an operating expense on Schedule B and line 19 of the detailed summary page. This amount was not an expenditure of federal candidates and there was no specific identified candidate who benefited by this expenditure.

The above sequence of events raises questions whether the disbursements by the State Party were in fact coordinated party expenditures on behalf of Harvey Sloane and whether they were properly reported. As noted, the Democratic Senatorial Campaign Committee appears to have spent close to the maximum allowable coordinated party expenditures on behalf of Harvey Sloane. Thus, the additional expenditures by the State Party, if they are determined to be coordinated party expenditures on behalf of Sloane, would be in excess of the allowable limitation.

Accordingly, there is reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, also violated 2 U.S.C. §§ 441a(f) and 434(b) regarding these expenditures.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1991

Donald L. Cox, Esquire
Lynch, Cox, Gilman & Maham, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

RE: MUR 3182
(formerly MUR 3145)
Dr. Harvey I. Sloane and
Sloane for Senate Committee
and Victoria Buster, as treasurer

Dear Mr. Cox:

On October 25, 1990, November 28, 1990 and December 4, 1990, the Federal Election Commission notified your clients of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). Copies of the complaints were forwarded to your clients at that time. On May 16, 1991, the Commission merged MUR 3145 with MUR 3182. Please refer to MUR 3182 in all future correspondence.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on May 21, 1991, found that there is reason to believe Dr. Harvey I. Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. 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 Interrogatories and Request for Production of Documents within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against Dr. Harvey I. Sloane and the Sloane for Senate Committee and Victoria Buster, 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 Elizabeth Campbell or Jeffrey Long, the staff members assigned to this matter, at (202) 376-5690.

Sincerely,

John Warren McGarry
Chairman

Enclosures
Interrogatories and Request for Production of Documents
Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3182
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Dr. Harvey I. Sloane
and Sloane for Senate Committee
c/o Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

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, 1990, to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

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

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof. It shall specifically include the candidate, the committee, and all of the committee's employees, consultants, and other vendors.

"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 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 PRODUCTION OF DOCUMENTS

1. State whether you[1] had contacts with the following regarding the Kentucky Democratic Party's television ads in 1990:

(a) Greer, Margolis, Mitchell & Associates;
(b) Andrew "Skipper" Martin;
(c) Democratic National Committee;
(d) Kentucky Democratic Party; and
(e) Democratic Senatorial Campaign Committee.

If so, provide copies of all documents including correspondence, phone logs, messages, and other records relating to such contacts.

2. State whether you recommended, suggested, or otherwise made known to the Kentucky Democratic Party that it should produce its television ads and/or retain the Greer, Margolis, Mitchell & Associates firm ("Greer firm") to produce its television ads in 1990. State when you first learned that the Kentucky Democratic Party planned to produce its television ads and identify from whom you learned this or when you first made known to the Kentucky Democratic Party your desire that it produce its television ads.

3. State whether you reviewed any scripts or storyboards for the Kentucky Democratic Party television ads in 1990, or previewed the ads, prior to their broadcast. If so, state when and where you reviewed such ads, scripts or storyboards, identify the person who provided them to you and describe what you did as part of your review and identify to whom you communicated with regarding your review. State whether you were asked to approve the ads. If so, identify who made this request and to whom you gave your response.

4. State whether you received any tape or copy of the Kentucky Democratic Party's television ads in 1990. If so, state when and where you received such tape or copy, identify from whom you received, and describe what you did with, or how you used, the tape or copy.

5. State whether you received a schedule of when and where the Kentucky Democratic Party's television ads in 1990 were to be aired. If so, state when and where you received such a schedule, identify from whom you received it, and describe what you did

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1. Note definition of "you" on Page 3.

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with, or how you used, the schedule.

6. State whether you had any role in raising funds to finance the Kentucky Democratic Party's television ads. If so, describe in detail what that role was and what you did.

7. Describe how you participated in the Kentucky Democratic Party's coordinated campaign in 1990 and identify the payments you made with respect to the coordinated campaign.

8. Provide copies of all documents relating to your responses to the above interrogatories.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Dr. Harvey I. Sloane and Sloane for Senate Committee and Victoria Buster, as treasurer

MUR: 3182

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, (MUR 3145) and by a complaint by Common Cause (MUR 3182). On May 16, 1991, the Commission merged MUR 3145 with MUR 3182. This matter is now known as MUR 3182.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that

Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

According to the complaint, one of the advertisements broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.

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He's walked every corner of the Commonwealth, listening to Kentucky.

Harvey Sloane -- health care, education, jobs, our environment.

With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.

Harvey Sloane -- Kentucky's Democrat, fighting for us.

It appears that this ad was prepared by the Greer firm, but it is not clear when it was aired.

The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[1]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated

1. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[2]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000

2. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

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transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold Communications in Texas for "mailing/printing."[3]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[4] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

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3. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

4. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund.

According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.[5]
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years,

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5. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

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such as 1991.

The Commission's database indicates that the DSCC made a $17,500 contribution to the Sloane campaign in June 1990 and made $270,737 in coordinated party expenditures on behalf of Sloane through the Post General Election Report period. The database also shows $19,419 in coordinated party expenditures by the Kentucky State Party on behalf of Sloane, but as noted earlier in Footnote 2 the State Party amended its reports to delete the Schedule F on these expenditures. Independent expenditures of $18,604 were reported as made on behalf of Sloane by the National Committee to Preserve Social Security and Medicare and the National Rifle Association. Communications costs on Sloane's behalf totaling $20,897 were reported by AFL-CIO Cope and the National Committee to Preserve Social Security and Medicare.

B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2). Commission regulations permit

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transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii).

The Act also permits the national committee and the state committee of a political party to make certain expenditures on behalf of their candidates for the Senate and House. 2 U.S.C. § 441a(d)(3). The Commission has recognized that these committees may authorize other committees to make expenditures against these limitations and may transfer funds to such committees for such purpose. FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1980). The Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the limits of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). The Act also sets out the reporting requirements for such contributions and expenditures. 2 U.S.C. § 434(b).

Commission regulations 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. 11 C.F.R. § 106.1(a).[6] An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the

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6. The Act also creates exemptions to the definition of contribution and expenditure for certain activity by state parties on behalf of its candidates. These include exemptions for slate cards, campaign materials distributed by volunteers, and presidential voter registration and get-out-the-vote activities. Because television ads are excluded from these exemptions, they are not implicated in this matter.

candidate on whose behalf it is made, except that party committees need report coordinated party expenditures only as an expenditure. 11 C.F.R. § 106.1(b). The regulations further provide that expenditures by registration or get-out-the-vote ("GOTV") drives of 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)(2). "Clearly identified" is defined to mean the candidate's name, photograph, or drawing appears or the "identity of the candidate is apparent by unambiguous reference." 11 C.F.R. § 106.1(d).

Commission regulations further provide that an organization, including a party committee, that finances political activity in connection with both federal and nonfederal elections has the option of establishing only one account for all such activity or separate accounts for federal and nonfederal activity 11 C.F.R. § 102.5(a)(1). If the organization establishes separate federal and nonfederal accounts, only the federal account need register with the Commission as the federal political committee and report its receipts and disbursements. 11 C.F.R. § 102.5(a)(1)(i). In such case, only funds subject to the limitations and prohibitions of the Act shall be deposited into the federal account. No transfers shall be made from the nonfederal account to the

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federal account.[7] And all disbursements in connection with any federal election shall be made from the federal account. Commission regulations further provide that committees that establish separate accounts shall allocate administrative expenses between the two accounts "in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. §§ 106.1(e) and 102.5(a)(1)(i). This allocation requirement also applies to voter registration and GOTV activities. Advisory Opinion 1978-50.

In Advisory Opinion 1978-50, the Commission addressed a GOTV drive by the Michigan Democratic Party involving telephone calls, mailings, literature distribution, and personal visits, designed to turn out voters who supported the party's gubernatorial nominee. The Commission was asked whether payments for this activity was covered by the Act and, if so, whether any portion of the costs would be allocable to the coordinated party expenditure limitation on behalf of its Senate and House candidates. The Commission stated that although the GOTV drive was intended to aid the gubernatorial nominee, it would also have the purpose of influencing elections to federal office, citing Advisory Opinion 1978-10.

This conclusion was based on the Commission's view that GOTV

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7. New regulations adopted by the Commission will now permit limited transfers from the nonfederal to the federal account when the nonfederal account pays its proportionate share of administrative, fundraising, and other mixed activity. These regulations were not in effect at the time of the events at issue in these matters.

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drives inevitably and inherently influence the election of all candidates of a political party that are on the ballot. The opinion stated:

> The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective pubic offices.

It further noted that GOTV expenditures "would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed," citing 11 C.F.R. § 106.1(c)(2). The Commission also stated that the federal account should pay the portion of the GOTV expenses allocable to federal elections pursuant to 11 C.F.R. § 106.1(e). See also, Advisory Opinions 1978-10 and 1978-28 and Campaign Guide for Political Party Committees at page 15 (September 1989).

C. DISCUSSION

The complainants in MUR 3145 and MUR 3182 both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those

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used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[8]

Counsel for the Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. Counsel for the State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[9] He further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The Greer firm, in an affidavit by its principal Franklin O. Greer, states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and

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8. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee.

9. In 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

public relations strategy including the creation, production, and placement of campaign ads. Greer adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. He said the firm performed no other work for the State Party. He further stated that no footage used in the State Party's ads appeared in Sloane ads.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

The absence of any clear identification of Sloane, however, does not necessarily dictate a conclusion that the television ads were not undertaken on behalf of Sloane and should not be treated as a contribution to him or as a coordinated party expenditure on his behalf. For instance, Advisory Opinion 1978-50 merely said that costs for such ads need not be attributed to a specific candidate if the ads are not on behalf of a clearly identified candidate. Nevertheless, the degree of coordination between a state party and a candidate or his committee may be sufficiently high regarding general public political advertising, such as where the state party's ads or activity is merely an extension of the candidate's campaign or the ads are identical to the candidate's ads except for the absence of the candidate's name,

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Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.

Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

Therefore, there is reason to believe the payments for the television ads by the nonfederal account of the Kentucky Democratic Party were allocable to Harvey Sloane as contributions. Accordingly, there is reason to believe that Dr. Harvey I. Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f) by accepting an in-kind contribution on behalf of the candidacy of Harvey Sloane in excess of the Act's limitations.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 11, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andrew "Skipper" Martin
11007 Greenock Ct.
Louisville, KY 40243

RE: MUR 3182

Dear Mr. Martin:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The Commission has issued the attached Interrogatories and Request for Production of Documents which requests you to provide certain information in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to these Interrogatories and Request for Production of Documents. However, you are required to submit the information within 15 days of your receipt of this letter. All answers to questions must be submitted under oath.

If you have any questions, please contact Elizabeth

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Campbell or Jeffrey Long, the staff members assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Interrogatories and Request for
Production of Documents

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BEFORE THE FEDERAL ELECTION COMMISSION

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"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.

9504365389 3

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. Define what is meant by "coordinated campaign" as that term is used by the Democratic National Committee and the Kentucky Democratic Party, especially with respect to the 1990 general election.

2. Describe the function, role, and participation of the Democratic National Committee in the coordinated campaign of the Kentucky Democratic Party in 1990, including all goods, services, training, and materials furnished to the Kentucky Democratic Party by the Democratic National Committee.

3. Identify all activities undertaken in 1990 as part of the Kentucky Democratic Party's coordinated campaign. Provide copies of all printed advertising and brochures, radio and television scripts, phone bank scripts, and other items used as part of the 1990 coordinated campaign that are in your possession.

4. Identify all payments reported on the Kentucky Democratic Party's federal and nonfederal reports relating to activities undertaken as part of the 1990 coordinated campaign.

5. Identify all payments made by any other person or organization as part of the Kentucky Democratic Party's 1990 coordinated campaign. Identify all in-kind assistance provided to the Kentucky Democratic Party for its coordinated campaign in 1990, such as goods, services, and personnel including volunteers.

6. Identify all persons who directed, controlled, or operated the Kentucky Democratic Party's 1990 coordinated campaign and describe their duties.

7. Describe in detail your duties with respect to the Kentucky Democratic Party's 1990 coordinated campaign.

8. Identify your principal contact person at each of the following with respect to the 1990 general election:

(a) Greer, Margolis, Mitchell & Associates;
(b) Democratic National Committee;
(c) Sloane campaign; and
(d) Democratic Senatorial Campaign Committee.

9. State when you first learned of the transfers from the Democratic National Committee to the Kentucky Democratic Party in the fall of 1990 and state from whom you learned of these transfers.

10. State when the Kentucky Democratic Party first decided to do television ads with respect to the 1990 general election. State who made this decision. State when the decision to retain the Greer firm was first made and who made this decision. State whether the decision to do television ads was made at the request, suggestion, or recommendation of Harvey I. Sloane or the Sloane campaign. If so, state who made this request, when it was made, where it was made, and what precisely was said.

11. State when the Kentucky Democratic Party raised funds to pay for its television ads. State who made the solicitations for these funds, whether the solicitations were written or oral, and identify the funds raised in response to such solicitations. Provide copies of all written solicitations by the Kentucky Democratic Party for funds for these ads that are in your possession. Explain what you knew regarding funding for the television ads as of October 10, 1990, and why you could on October 10, 1990, retain the Greer firm to produce the ads and identify the source of your knowledge.

12. State when the television ads ran, including the beginning date and the ending date.

13. State your home and business addresses and telephone numbers.

14. Provide copies of all documents in your possession relating to your responses to the above interrogatories.

9504365394

MUR 1629

GUERRIERI, EDMOND & JAMES
1331 F STREET, N.W.
WASHINGTON, D.C. 20004

(202) 624-7400
FACSIMILE: (202) 624-7420

JOSEPH GUERRIERI, JR.
JOHN A. EDMOND
EDGAR N. JAMES*
ROBERT S. CLAYMAN
JOHN J. SULLIVAN
MARIA MARIEB-GOUVAS*
NANCY E. SEGAL*
GREGORY A. SZALLAR**

*ALSO ADMITTED IN MARYLAND
**ADMITTED IN PENNSYLVANIA

OF COUNSEL
SAMUEL ISRAELOFF
MARTHA WALFOORT

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 20 PM 5:02

9504365389 5

June 20, 1991

BY COURIER

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20643

Re: MUR 3182

Dear Mr. Noble:

As the attorneys for Greer, Margolis, Mitchell, Greenwald & Associates, Inc., we respectfully request that the time to respond to the Federal Election Commission's Interrogatories and Request for Production of Documents in the above-referenced matter be extended from June 27, 1991 until July 19, 1991. This extension is necessitated by our present workload, scheduled vacations and the volume of information requested by the Commission. We have several matters presently pending which require the filing of various pleadings in the next several weeks. In addition, I will be out of the office from June 28 until July 8, 1991. Finally, it is anticipated that it will take an extended period of time to respond in full to the Interrogatories and Request for Production of Documents. For each of these reasons, we seek extension of time until July 19, 1991.

Thank yo for your consideration of this request.

Sincerely,

Robert S. Clayman

Robert S. Clayman

RSC/ktl

cc: Elizabeth Campbell
Jeffrey Long

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 1991

Robert S. Clayman, Esquire
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

RE: MUR 3182
Greer, Margolis, Mitchell & Associates

Dear Mr. Clayman:

This is in response to your letter dated June 20, 1991, which we received on that day, requesting an extension until July 19, 1991, to respond to the Commission's interrogatories and request for documents. 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 19, 1991.

If you have any questions, please contact Elizabeth Campbell or Jeff Long, the staff members assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: George F. Rishel
Assistant General Counsel

9504365389 6

00C1634

HOGAN & HARTSON

COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

BALTIMORE, MARYLAND
BETHESDA, MARYLAND
McLEAN, VIRGINIA

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 21 PM 12:36

202/637-6460

June 21, 1991

HAND DELIVER

Mr. George Rishel
Assistant General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Rishel:

By letter dated June 11, 1991 you informed me that the Federal Election Commission (FEC) has found there is reason to believe that the Democratic National Committee violated 2 U.S.C. §441a(f) with respect to the allegations in MUR 3175.

We are interested in pursuing pre-probable cause conciliation and hereby request so. I look forward to hearing from you on this matter.

Sincerely,

Christine A. Varney
General Counsel
Democratic National Committee

cc: Elizabeth Campbell, Esq.
Jeffrey Long, Esq.
Federal Election Commission

John C. Keeney, Jr., Esq.
L. Anthony Sutin, Esq.
Hogan & Hartson

William Cross, Esq.
Democratic National Committee

CAV:clc

9504365389 7

jar6139/bingham/fec.matter/corres.91/cmpb.6.21
Fri Jun 21 11:41:15 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUN 26 AM 10 05

REED SMITH SHAW & McCLAY

1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036
202-457-6100

PITTSBURGH, PA
PHILADELPHIA, PA
HARRISBURG, PA
McLEAN, VA

FAX 202-457-6113
TELEX NO. 64711

WRITER'S DIRECT DIAL NUMBER

(202) 457-6139

June 21, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 26 PM 2:02

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

Re: MUR 3182

Dear Ms. Campbell:

I write on behalf of Mrs. Mary C. Bingham to respond to the letter of the Commission addressed to me as her representative in connection with MUR 3182 and dated June 11, 1991.

The Commission's letter, although issued in MUR 3182, deals with matters raised in MUR 3175, which the Commission merged into MUR 3182. In her January 3, 1991 response to MUR 3175, Mrs. Bingham acknowledged that she may have, inadvertently and unintentionally, exceeded the limitations of the Act with respect to various of the contributions described in the complaint underlying that MUR. Although, as explained in that response, Mrs. Bingham acted in good faith with no intent to exceed the limitations of the Act, she also expressed a desire to enter into negotiations at that time towards reaching an appropriate conciliation agreement. Accordingly, and in response to the question posed by the Commission in its letter of June 11, 1991, she hereby affirms her desire to enter pre-probable-cause conciliation negotiations with respect to the matters raised in former MUR 3175.

Very truly yours,

Joseph A. Rieser, Jr.

JAR/tli

9504365398

OGC 1728

MULLOY, WALZ, WETTERER, FORE & SCHWARTZ
ATTORNEYS AND COUNSELORS AT LAW
FIRST TRUST CENTRE
SUITE 700 NORTH
200 SOUTH FIFTH STREET
LOUISVILLE, KENTUCKY 40202

WILLIAM P. MULLOY, SR.
KARL M. WALZ
WILLIAM S. WETTERER, JR.
F. LARKIN FORE
DAN T. SCHWARTZ
W. PATRICK MULLOY, II*
B. MARK MULLOY
MARY ANNE WETTERER WATKINS**
BRYAN J. DILLON***
WILLIAM S. WETTERER, III
DONALD J. LADUKE
J. GREGORY CLARE
RONDA M. HARTLAGE

TELEPHONE 502/589-5250
FACSIMILE 502/589-1637

OF COUNSEL
STEPHEN H. MILLER

* ALSO ADMITTED NEW YORK
** ALSO ADMITTED ILLINOIS
*** ALSO ADMITTED INDIANA

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUN 28 PM 12:34

June 25, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUN 28 PM 3:33

Ms. Elizabeth Campbell
or
Mr. Jeffrey Long
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3182

Dear Ms. Campbell or Mr. Long:

Please be advised that I represent Andrew "Skipper" Martin who received a set of interrogatories from you that have to be answered on or before fifteen days from June 11, 1991. My client is out of the city with his family on vacation for a few days and I begin a trial in early July that will tie me up for at least two weeks. I would like to have through the close of business Monday, July 22, to answer these interrogatories. Would you please call me or confirm in writing that I may have this extension of time. Thank you.

Sincerely yours,

MULLOY, WALZ, WETTERER,
FORE & SCHWARTZ

W. Patrick Mulloy, II

WPMII/jln

9504365389 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 2, 1991

W. Patrick Mulloy, II, Esq.
First Trust Centre
Suite 700 North
200 South Fifth Street
Louisville, KY 40202

RE: MUR 3182
Andrew "Skipper" Martin

Dear Mr. Mulloy:

This is in response to your letter dated June 25, 1991, which we received on June 28, 1991, requesting an extension until July 22, 1991 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 July 22, 1991.

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: George F. Rishel
Assistant General Counsel

9504365390 0

GCC#1740

LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 589-4994

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUL -1 AM 9:24

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

June 27, 1991

INDIANA OFFICE:
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7636

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL -1 AM 10:42

Ms. Elizabeth Campbell
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3182

Dear Ms. Campbell:

Thank you for agreeing that due to the problem with the opinion which I received my response will now be due on July 5, 1991.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.

Donald L. Cox

DLC/wc

cc: Joe Sandler

9504365390 1

06C1811

LAW OFFICES
MICHAEL T. McKINNEY
Attorney at Law
MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
P.O. BOX 688
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0688

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL -8 PM 3:40

July 1, 1991

Mr. John Warren McGarry, Chairman
Federal Election Commission
Washington, D.C. 20463

IN RE: MUR 3182
Kentucky Democratic Central Executive Committee
and Richard Rankin, as Treasurer

Dear Chairman McGarry:

I have received your correspondence under date of June 11, 1991 regarding the above referenced Matter Under Review. Request is hereby made for a period of time of twenty (20) days additional within which to file a response and answer the propounded interrogatories and request for production of documents. As grounds, I would advise that the Kentucky Democratic State Central Executive Committee is in the midst of a complete staff change at Democratic Headquarters as a result of the recent primary elections in Kentucky. As such, it will take longer to assemble the necessary information which you have requested.

The Kentucky Democratic State Central Executive Committee would entertain the possibility of a pre-probable cause conciliation. You may consider this letter as a written request to pursue pre-probable cause conciliation. It is my understanding that you will necessarily want to review the discovery materials before making a determination on this conciliation.

Thank you for the courtesies extended during the course of this matter.

Yours truly,

Michael T. McKinney

MTM:trt

95043653902

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 10, 1991

Michael T. McKinney, Esq.
Attorney at Law
P.O. Box 688
2922 Washington Square
Burlington, Kentucky 41005-0688

RE: MUR 3182
Kentucky Democratic
Central Executive
Committee and Richard
Rankin, as treasurer

Dear Mr. McKinney:

This is in response to your letter dated July 1, 1991, which we received on July 8, 1991, requesting an extension of twenty days to respond to the Commission's request for interrogatories and request for production of documents. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on July 22, 1991.

If you have any questions, please contact Elizabeth Campbell, 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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OGC 1799

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
91 JUL -8 AM 8:54

LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 589-4994

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

INDIANA OFFICE:
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7838

July 5, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL -8 AM 11:30

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

Re: MUR 3182

Dear Ms. Lerner:

Enclosed please find Objections to Interrogatories and Requests for Production of Documents and Memorandum in Support of Request for No Action Determination for Respondents Dr. Harvey I. Sloane and Sloane for Senate Committee and Victoria Buster, as treasurer.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.

Donald L. Cox

DLC/wc

Enclosures

5/sloane-4

9504365390 4

FEDERAL ELECTION COMMISSION

OBJECTIONS TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

RESPONDENTS: Dr. Harvey I. Sloane and
Sloane for Senate Committee
and Victoria Buster, as treasurer

MUR: 3182

BACKGROUND

Dr. Harvey I. Sloane and the Sloane for Senate Committee object to providing the information requested in the Interrogatories and Requests for Production of Documents.

First, as demonstrated in the memorandum filed herewith, neither the Commission's present nor former regulations, nor the Act, nor prior policies of the Commission support the General Counsel's assertion that the information requested is even colorably relevant to any proper Commission investigation. Second, because core First Amendment speech and associational rights are significantly implicated by the requests in issue, the Commission must meet a far higher standard in justifying the requests.

Among the information sought in the interrogatories and requests for documents is information about meetings with the Democratic National Committee, the Kentucky Democratic Party, the Democratic Senatorial Campaign Committee, and others. In Interrogatory No. 7, Sloane is requested to describe how he "participated in the Kentucky Democratic Party's coordinated campaign in 1990." Then, as a sort of catch-all, Sloane is

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required to provide documents "relating to your responses" to the above interrogatories.

ARGUMENT

There is no doubt but that when the First Amendment is implicated the normal deference to administrative action in issuing a subpoena is inappropriate. In order to protect the constitutional liberties of the target of the subpoena a far more "exacting scrutiny of the justification offered for the subpoena is called for." Federal Election Commission v. LaRouche Campaign, 817 F.2d 233, 244 (2d Cir. 1987). This is particularly so when associational rights protected by the First Amendment are implicated. As the Court held in LaRouche,

> where the disclosures sought will compromise the privacy of individual political associations, and hence risk a chilling of unencumbered associational choices, the agency must make some showing of need for the material sought beyond its mere relevance to a proper investigation.

See Federal Election Commission v. Machinists Non-Partisan Political Leagues, 655 F.2d 380, 389 (D.C. Cir. 1981).

In this case, the information sought by the Commission's General Counsel goes to the heart of the political process -- information about planning political campaigns. The right to meet, plan and organize political campaigns is the reason for the existence of political parties. If the federal election commission or any administrative organization were allowed carte blanche authority to inquire into the thought and planning processes of political parties, political parties would cease to exist.

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As demonstrated in the Memorandum in Support of Showing of No Probable Cause, the Federal Election Commission does not have jurisdiction to undertake the investigation in any event. The position advanced by the General Counsel is at variance with prior Commission rulings and the Commission's own regulations. Simply put, the information requested is not even colorably relevant to any proper investigation by the Commission.

Since the information which is sought is so deeply rooted in First Amendment associational and speech rights, it is submitted that no need has been demonstrated for its production.

Respectfully submitted,

Donald L. Cox
LYNCH, COX, GILMAN & MAHAN, P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202
(502) 589-4215

Joseph Sandler
ARENT FOX KINTNER PLOTKIN & KAHN
1050 Connecticut, N.W.
Washington, D.C. 20036-5339
(202) 857-6221

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing and the attached Memorandum was on this 5 day of July, 1991, sent by telefax and Federal Express to Lois G. Lerner, Associate General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463.

4/sloane-4

9504365390 7

FEDERAL ELECTION COMMISSION

MEMORANDUM IN SUPPORT OF REQUEST FOR NO ACTION DETERMINATION

RESPONDENTS: Dr. Harvey I. Sloane and
Sloane for Senate Committee
and Victoria Buster, as treasurer

MUR: 3182

BACKGROUND

In this MUR, Respondents Dr. Harvey Sloane and the Sloane for Senate Committee are accused of accepting in-kind contributions in excess of the Act's limits in the form of television advertisements, paid for by the Kentucky Democratic Party, urging voters to support "Kentucky's Democrats." The General Counsel concedes that "Sloane was not clearly identified in the ads," Factual and Legal Analysis at 13, but contends that the ads should nonetheless be attributed entirely to Sloane on the ground that various circumstances "do raise an inference that there may have been some high degree of communication, discussion and coordination between the Sloane campaign and the State Party . . . regarding the ads." In advancing this position, the General Counsel would have the Commission flatly ignore its own precedents, blatantly violate its own regulations and in so doing establish a completely new standard for allocation of party expenses that is as unworkable as it is unlawful.

Dr. Sloane was the Democratic nominee for U.S. Senate seat up for election in 1990. Also on the ballot in 1990 in Kentucky were Democratic candidates for seven congressional seats, 19 state senate seats, 100 state representative seats, and two

2504365390 8

commonwealth attorney positions. The television advertisements in question attacked Republicans for favoring the rich in tax policy; lauded Democrats for fighting for "good paying jobs, Social Security, health care and education;" and told voters "we need Kentucky's Democrats fighting for us." (Factual and Legal Analysis at 6).

ARGUMENT

I. SINCE THE ADVERTISEMENT IN ISSUE DID NOT SUPPORT A CLEARLY IDENTIFIED FEDERAL CANDIDATE, IT IS NOT SUBJECT TO THE ACT UNDER CURRENT REGULATIONS AND PRIOR COMMISSION INTERPRETATION.

Whether and to what extent a party expenditure is to be treated as an in-kind contribution to a particular candidate is governed by 11 C.F.R. Section 106.1. Section 106.1(c)(2) provides that:

> Expenditures for . . . registration or get out the vote drives of 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. (Emphasis added.)

Section 106.1(d) defines "clearly identified" to mean "(1) the candidate's name appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference."

In this case, the General Counsel concedes outright that:

> The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus Sloane was not clearly identified in the ads. (Analysis at 13, emphasis added.)

9504365909

There is no doubt that political party advertising urging support of the party's candidates generally, but in which no individual candidate is "clearly identified," falls within Section 106.1(c)(2) and therefore does not constitute an in-kind contribution to any particular candidate. In Advisory Opinion 1985-14, the Commission considered radio and television ads run by the Democratic Congressional Campaign Committee and attacking the President's "Republican allies in Congress" and "Republicans in Congress," and urging voters to "Let the Republicans in Congress know" what they thought. The Commission ruled that expenditures for these ads would not count towards the limits of Section 441a(d) unless the communication "both (1) depicted a clearly identified candidate and (2) conveyed an electioneering message."

The Commission found that, since the ads did not depict a clearly identified candidate, they would not constitute coordinated expenditures on behalf of any particular congressional candidate for purposes of 2 U.S.C. Section 441a(d). Since Section 441a(d) assumes complete coordination between the party and the candidate, the Commission's ruling clearly implies that a party committee's expenditure for generic media -- where no clearly identified candidate is depicted -- does not constitute an in-kind contribution to or expenditure on behalf of a specific candidate regardless of the degree of coordination between the candidate and the party.

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II. SINCE THE ADVERTISEMENT IN ISSUE DID NOT SUPPORT A CLEARLY IDENTIFIED FEDERAL CANDIDATE, IT IS NOT SUBJECT TO THE ACT UNDER THE NEW COMMISSION REGULATIONS.

Sloane's responsibility for the advertisements in issue has been further clarified by the Commission's new regulations governing methods of allocation by party committees, 55 Fed. Reg. 26058 (June 26, 1990). In expanding and clarifying section 106.1(a), the Commission made it clear that --

> These rules present no change in Commission policy as to when a given expense constitutes an in-kind contribution or particular type of expenditure. [Explanation and Justification, 55 Fed. Reg. at 26061, emphasis added.]

Thus, the Commission's revised rules serve as useful clarification of the regulations that have been in effect, and were in effect during 1990 when the expenditure at issue in the MUR took place.

The revised rules make it clear that the scheme of Section 106 is all-inclusive with respect to party expenditures. Section 106.1 "contains . . . the rules for allocation between specific candidates," and new sections 106.5 and 106.6 "govern allocation of all activities not attributed to specific candidates, including fundraising events, exempt activities and generic voter drive activity." (Id. at 26061, emphasis added.) See also new Section 106.(e), making it clear that everything not covered by 106.1 is covered by 106.5 and 106.6. Section 106.1 applies, by its own terms, only to "expenditures, including in-kind contributions, . . . made on behalf of more than one clearly identified federal candidate. . . ." New Section 106.1(a)(1)

9504365391 1

(emphasis added). The new rules make it crystal clear that generic advertising of the type at issue here is not covered by 106.1, as an in-kind contribution or expenditure on behalf of a particular candidate, but is rather a "generic voter drive" activity to be allocated under Section 106.5.

Further, new Section 106.5(a)(2) provides that 106.5 applies to "generic voter drives," defined to include "voter identification, voter registration, and get-out-the-vote-drives, or any other activities that urge the general public to register, vote or support candidates of a particular party . . . . , without mentioning a specific candidate." (Emphasis added.) Manifestly the advertisements at issue here fall within this definition; are allocable under Section 106.5; and, by the terms of these regulations, are therefore not in-kind contributions within the scope of Section 106.1. Thus, the General Counsel's position is in flat violation of the Commission's own regulations.

III. THE ACT WOULD BE RENDERED INTERNALLY INCONSISTENT AND UNWORKABLE IF THE ADVERTISEMENT WERE FOUND TO BE AN IN-KIND CONTRIBUTION TO THE SLOANE CAMPAIGN.

Under 2 U.S.C. Section 434(e)(1), "every person . . . who makes contributions . . . expressly advocating the election or defeat of a clearly identified candidate . . . shall file with the Commission . . ." a report setting forth the contribution. Likewise, under 2 U.S.C. Section 441d(a), ". . . any person [who] makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station . . ."

9504365391 2

shall state either that the communication has or has not been authorized by the candidate.

If the General Counsel's position were to become law, an entirely new category of "phantom" contributions would be created. These "phantom" contributions would not be reportable by the donor, would not be subject to the disclaimer requirements of Section 441d, but would be chargeable to political candidates if there had been some unspecified degree of coordination. This interpretation of the Commission's organic statutes should be rejected out of hand on logical grounds alone. Any interpretation of the Act which would see different sections of the Act interpreted in a contrary and conflicting manner simply should not be adopted. All sections of the Act were meant to function together and in harmony.

IV. THE POSITION ADVOCATED BY THE GENERAL COUNSEL IS UNWORKABLE AND IMPRACTICAL.

Were the position advocated by the General Counsel ever adopted, it would be entirely unworkable and impractical, leaving party committees and candidates without any reasonable guidance about the law in an area lying at the core of First Amendment protected activity. The General Counsel says "there is little doubt the ads would benefit the Sloane campaign." Analysis at 14. But how much benefit? It is ridiculous to attribute 100 percent of the benefit to one candidate where none have been specifically identified. But if expenditures for communication where no specific candidate is depicted are nonetheless to be

9504365391 3

treated as in-kind contributions, how will anyone know how much to attribute to any particular candidate? That, of course, is precisely why the Commission has limited Section 106.1 to expenditures for clearly identified candidates and provided, in that section, a method for allocating expenditures among such candidates.

It is equally unworkable, without violating the federal Constitution, to make treatment of a party expenditure as a contribution turn on the "degree of communication, discussion and coordination" between the party and its candidates, Analysis at 14. It is well-established that political parties, just like everyone else, enjoy freedoms of association and political expression protected by the First Amendment. San Francisco Democratic Central Committee v. Eu, 489 U.S. 214 (1989). With respect to freedom of association, a fundamental purpose of political parties is to support their candidates for public office and, in particular, to persuade their adherents to support those candidates. The First Amendment protects the "ability of a party to spread its message," Eu, supra, 489 U.S. at 223, and restrictions are "particularly egregious where the State censors the political speech a political party shares with its members." Id. at 224.

To pursue their basic constitutionally protected purposes, political parties cannot reasonably be expected to act independently of their candidates. That is precisely why the Commission does not permit party committees to make "independent"

9504365391 4

expenditures on behalf of their own candidates. 11 C.F.R. Sections 110.7(a)(5); 110.7(b)(4).

If a party expenditure not otherwise attributable to a specific candidate can nevertheless be transformed into an in-kind contribution to that candidate merely by a "high degree of coordination," how will parties and candidates know how much "coordination" is too much? Clearly the Commission cannot bar all coordination without violating the First Amendment expressive and associational rights of the party and candidates. But then, how will parties and candidates know how much to coordinate before all generic party expenditure will start to count as contributions? Can the party consult with half its candidates? Less than half? Can they discuss common themes and issues? Can they jointly plan voter registration or get-out-the-vote activity where no specific candidate is mentioned? Obviously, under the General Counsel's approach, there are no good answers to these questions and there never could be. Parties and candidates would live in a never-never land of uncertainty about when any expenditure, not specifically identifying a candidate, might nevertheless become a contribution because of some "coordination." Such an approach is as impractical as it is unconstitutional.

The logical consequence of the General Counsel's argument is that a federal candidate of a major party may not do anything to support his party for fear that it will be attributed to his campaign. For example, it would not be unusual for a major senatorial candidate who rarely faces opposition to raise money

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for state candidates of his party so that they will be able to run a strong race in his state. Yet under the theory espoused by the General Counsel, the federal senatorial candidate runs the risk that his efforts will cause advertisements run by another campaign to be attributed to his campaign even though he is not clearly identified in any of the campaign materials. In sum, this position could well result in the death of political parties in federal elections. For these reasons, the Commission should find no probable cause to believe that the Act has been violated by Dr. Sloane and should close the file without further ado.

Respectfully submitted,

Donald L. Cox
LYNCH, COX, GILMAN & MAHAN, P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202
(502) 589-4215

Joseph Sandler
ARENT FOX KINTNER PLOTKIN & KAHN
1050 Connecticut, N.W.
Washington, D.C. 20036-5339
(202) 857-6221

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JUL 22 PM 12:28

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3182
)

GREER, MARGOLIS, MITCHELL, GRUNWALD & ASSOCIATES, INC.'S
RESPONSE TO INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Greer, Margolis, Mitchell, Grunwald & Associates ("GMM"), as a witness identified by the FEC in MUR 3182, responds to the Interrogatories and Requests for Production of Documents of the Federal Election Commission:

QUESTION:

1. Identify the persons at Greer, Margolis, Mitchell & Associates who were assigned to the Kentucky Democratic Party account and identify those who were assigned to the Sloane campaign account.[1]

RESPONSE:

It is GMM's general practice to assign employees to accounts in those states in which they have previously performed campaign work. Accordingly, Franklin O. Greer, President of GMM, Kevin Geddings, Senior Account Executive and Bradley Perseke, Media Buyer were assigned to the Sloane for Senate account and subsequently assigned to the Kentucky Democratic Party account.

QUESTION:

2. State the date(s) on which the television ads produced by Greer, Margolis, Mitchell & Associates for the Kentucky Democratic

---

1/ Greer, Margolis, Mitchell & Associates, Inc., changed its name in June 1991 to Greer, Margolis, Mitchell, Grunwald & Associates, Inc.

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Party were completed and the date(s) on which they were first broadcast.

RESPONSE:

The television ads were completed on or about October 15, 1990, and were first broadcast on October 18, 1990.

QUESTION:

3. Provide a copy of the schedule of the date, times, and broadcast stations on which each of the television ads of the Kentucky Democratic Party were aired between October 1, 1990, and November 6, 1990. Provide a copy of the videotape of the ads produced for the Kentucky Democratic Party.

RESPONSE:

The schedule is provided in the invoices from those stations which broadcast the Kentucky Democratic Party ads. The invoices are attached hereto as Exhibit A. Copies of the videotapes of the ads produced for the Kentucky Democratic Party are contained in Exhibit B.

QUESTION:

4. Provide copies of all invoices issued with respect to the television ads of the Kentucky Democratic Party and state the date and amount of each payment received for these invoices.

RESPONSE:

Exhibits C and D are invoices for the production costs for the television ads for the Kentucky Democratic Party. Exhibits E and F and G are invoices for the costs of purchasing broadcast time for these ads.

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On October 18, 1990, GMM received $145,000 from the Kentucky Democratic Party. On October 23, 1990, GMM received $100,000 from the Kentucky Democratic Party. On October 26, 1990, GMM received $50,000 from the Kentucky Democratic Party. On November 2, 1990, GMM received $15,000 from the Kentucky Democratic Party.

QUESTION:

5. In a previous response it was stated that the television ads of the Kentucky Democratic Party did not contain any footage which had appeared in Sloane for Senate commercials. State whether any footage shot as part of the work performed by Greer, Margolis, Mitchell & Associates for the Sloane for Senate Committee was used in the television ads of the Kentucky Democratic Party. State whether any other materials, including graphics and scripts produced for the Sloane for Senate Committee was used in making the television ads of the Kentucky Democratic Party.

RESPONSE:

GMM owns and maintains an extensive video library of film previously shot on behalf of its clients and which it uses in producing television ads for other clients. In producing the Kentucky Democratic Party ads, GMM relied exclusively on pre-existing footage from its library. Of this footage, less than one second was initially shot during GMM's work for the Sloane for Senate campaign and subsequently used in the television ads of the Kentucky Democratic Party. As previously stated, neither this footage or any other footage used in the Kentucky Democratic Party ads appeared in the ads for the Sloane campaign. No other

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materials, including graphics and scripts, produced for the Sloane for Senate Committee were used in making the television ads of the Kentucky Democratic Party.

QUESTION:

6. Identify all contacts between Greer, Margolis, Mitchell & Associates and each of the following between September 1, 1990, and November 6, 1990, regarding the television ads of the Kentucky Democratic Party:

(a) Sloane Campaign;

(b) Democratic National Committee; and

(c) Democratic Senatorial Campaign Committee.

RESPONSE:

GMM objects to this interrogatory on the grounds that it is overly broad and burdensome. Furthermore, GMM objects to the interrogatory based upon the use of the word "contact", the meaning of which is vague and unclear.

Without waiver of and subject to the foregoing objections, GMM responds as follows:

(a) On or about October 12, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane for Senate Campaign that the Kentucky Democratic Party had retained GMM to produce and place two television ads.

At the request of Jim Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky Democratic Party. Exhibit H and I are copies of these memoranda.

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(b) GMM had no contact with the Democratic National Committee regarding the television ads of the Kentucky Democratic Party.

(c) GMM had no contact with the Democratic Senatorial Campaign Committee regarding the television ads for the Kentucky Democratic Party.

QUESTION:

7. State whether a schedule of the broadcast of the Kentucky Democratic Party's ads was given to Harvey Sloane or the Sloane campaign. If so, state when the schedule was given and identify to whom it was given. State whether such a schedule was given to any other person not employed by the Kentucky Democratic Party. If so, identify all persons who received such a schedule and when they received it.

RESPONSE:

A schedule of the broadcast of the Kentucky Democratic Party's ads was not given to Harvey Sloane or to the Sloane campaign. A schedule of the broadcast of the Kentucky Democratic Party's ads was not given to any person other than those employed by the Kentucky Democratic Party or GMM.

QUESTION:

8. State whether Harvey Sloane or the Sloane campaign was asked to preview the ads, their scripts or storyboards prior to their broadcast. If so, state what was given and when and identify to whom it was given. State whether Harvey Sloane or the Sloane campaign was asked to approve the ads, their scripts, or storyboards. Identify all other persons who were given a preview

950436539 21

of the ads, the scripts, or storyboards prior to broadcast (other than employees of Greer, Margolis, Mitchell & Associates and the Kentucky Democratic Party). Identify all persons who approved the final version of the ads for broadcast.

RESPONSE:

Neither Harvey Sloane nor the Sloane campaign was asked to preview the ads, scripts or storyboards prior to their broadcast. Neither Harvey Sloane nor the Sloane campaign was asked to approve the ads, their scripts, or storyboards. Counsel for GMM reviewed a draft of the scripts for the television ads. No other person was given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of GMM and the Kentucky Democratic Party.

The following individuals approved the final version of the television ads for broadcast: Frank Greer, Kevin Geddings, Michael McKinney - General Counsel of the Kentucky Democratic Party, and Mary Ann Johnson - Kentucky Democratic Party Chairperson.

QUESTION:

9. Provide copies of the videotapes for all television ads and copies of the tapes of all radio ads prepared by Greer, Margolis, Mitchell & Associates for the Sloane campaign, whether or not such ads were broadcast. Provide a copy of the schedule of the dates, times, and broadcast stations of all television ads broadcast by the Sloane campaign from September 1, 1990, through November 6, 1990.

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RESPONSE:

Copies of the videotapes of the television and radio ads prepared by GMM for the Sloane campaign are contained in Exhibit J.

The schedule of television ads is provided in the invoices from those stations which broadcast the Sloane for Senate campaign ads. The invoices are attached hereto as Exhibit K.

The schedule of times and dates for radio ads is provided in the invoice attached as Exhibit L. The other invoices from the radio stations state the dates but not the times these ads were broadcast. These invoices are attached hereto as Exhibits, M 1-4. GMM has no record of the times when these ads were broadcast.

QUESTION:

10. The Democratic Senatorial Campaign Committee reported making these payments to the Greer firm in 1990 with respect to the Sloane campaign:

September 10	$80,000
October 4	$25,000
October 22	$90,000
October 30	$ 7,000
October 31	$10,000
October 31	$ 8,000

Describe what these payments were for. If these payments were for television or radio ads, provide a copy of the videotape of each television ad and a copy of the tape of each radio ad and a copy of the schedule of the dates, times, and broadcast stations where they were broadcast. If these payments were for printed ads or materials, provide copies of each example of such materials or ads. Provide copies of the invoices related to these payments.

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Explain whether these payments related in any way to the Kentucky Democratic Party's television ads.

RESPONSE:

The payments from the Democratic Senatorial Campaign Committee were used to purchase broadcast time for the television ads produced by GMM for the Sloane for Senate campaign. The payments from the Democratic Senatorial Campaign Committee were used in conjunction with funds from the Sloane Campaign to purchase the television broadcast time listed in Exhibit K (the schedule for the Sloane Campaign).

Exhibits N and O are invoices to the DSCC dated November 1, 1990, and November 5, 1990. GMM did not issue invoices for the other charges to the Democratic Senatorial Campaign Committee since the DSCC in those instances directed GMM to purchase a specified monetary amount of broadcast time and either wire transferred this sum of money to GMM or issued a check payable in this sum to GMM.

The payments from the Democratic Senatorial Campaign Committee did not relate in any way to the Kentucky Democratic Party's television ads.

QUESTION:

11. Provide copies of all documents relating to the response to the above interrogatories that are not otherwise specifically requested above.

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RESPONSE:

Exhibits P, Q, R, and S are copies of the checks from the Kentucky Democratic Party to GMM for payment of production and placement of the television ads.

Exhibits A through O as identified above, comprise all other documents relating to the responses to the interrogatories.

Respectfully submitted,

Date: 7/22/91

Edgar James
Robert S. Clayman
Guerrieri, Edmond & James
1331 F Street, N.W.
Suite 400
Washington, D.C. 20004
(202) 624-7400

DECLARATION PURSUANT TO 28 U.S.C. S 1746

I hereby declare, under penalty of perjury, that the foregoing response to Interrogatories and Request for Production of Documents is true and correct.

Date: 7/22/91

Franklin O. Greer

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EXHIBIT A

Invoices for State Party's Television Ads

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EXHIBIT B

Videotape of State Party's Television Ads

[redacted]

TO: Kentucky Democratic Party

FROM: Greer, Margolis, Mitchell & Associates

DATE: 10/26/90

RE: Invoice 90-406

For General Production for two television spots	$ 7,000.00
Total Invoice	$ 7,000.00

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GMM EXHIBIT C

ATTACHMENT 1
Page 12 of 31

2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES, INC.

TO: Kentucky Democratic Party

FROM: Greer, Margolis, Mitchell and Associates

DATE: November 1, 1990

RE: Invoice 90-427M

Broadcast Media Production Cost	$ 144.00
Total Invoice	$ 144.00

PAID IN FULL

9504365399229

GMM EXHIBIT D

ATTACHMENT 1
Page 13 of 31

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700 • FAX (202) 338-2334 •
• 1145 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9990 • FAX (213) 443-9986 •

TO: Kentucky State Democratic Party

FROM: Greer, Margolis, Mitchell and Associates

DATE: October 28, 1990

RE: Invoice 90-419M

Television Media Buy Flight Dates 10/28-11/5/90	$ 142,338.00
Total Invoice	$ 142,338.00

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ATTACHMENT 1
Page 19 of 31

GMM EXHIBIT E

• 2020 Pennsylvania Avenue, NW • Suite 101 • Washington, DC 20037 • (202) 138-8700 • FAX (202) 118-2314 •
• 1149 Gayley Avenue • Suite 101 • Los Angeles, CA 90024 • (213) 943-0990 • FAX (213) 469-4980 •

[redacted]

TO: Kentucky State Democratic Party

FROM: Greer, Margolis, Mitchell and Associates

DATE: October 16, 1990

RE: Invoice # 90-338M

Television Media Buy Flight Dates 10/18-27/90	$	145,518.00
Total Invoice	$	145,518.00

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Exhibit 1
Page 15 of 31

GMM EXHIBIT F

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-6700 • FAX (202) 338-2334 •
• 1145 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9990 • FAX (213) 443-9986 •

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES INC.

TO: Kentucky Democratic Party

FROM: Greer, Margolis, Mitchell and Associates

DATE: November 5, 1990

RE: Invoice 90-446M

Broadcast Media	$	15,000.00
Total Invoice	$	15,000.00

PAID IN FULL

9504365392

GMM EXHIBIT G

ATTACHMENT 1
Page 16 of 31

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700 • FAX (202) 338-2334 •
• 1149 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9990 • FAX (213) 443-9986 •

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES, INC.

TO: JIM CUNNINGHAM

FR: SETH DALY
BRADLEY PERSEKE

RE: PROPOSAL FOR DEMOCRATIC PARTY

DT: 10/15/90

ESTIMATED COST FOR 10/18 - 10/27 MEDIA FLIGHT.

HERE ARE THE BUY DETAILS:

MEDIA MARKET	GRPS	COST
LOUISVILLE	800	$50,775.00
LEXINGTON-FAYETTE	750	$50,[illegible].00
EVANSVILLE	700	$18,[illegible].00
PADUCAH	600	$20,[illegible].00
BOWLING GREEN	500	$5,[illegible].00
HUNTINGTON	350	$20,[illegible].00
BROADCAST TV TOTAL:		$145,[illegible].00

NOTE: REVISIONS MAY OCCUR DUE TO PLACING THE MEDIA AT "LOWEST UNIT RATE".

FORMAL INVOICE TO FOLLOW.

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ATTACHMENT 1
Page 17 of 31

GMM EXHIBIT H

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-6700 • FAX (202) 338-2334 •
• 1145 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9900 • FAX (213) 443-9906 •

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES, INC.

TO: JIM CUNNINGHAM

FR: SETH GALV
BRADLEY PERSENE

RE: PROPOSAL FOR DEMOCRATIC PARTY

DT: 10/20/90

ESTIMATED COST FOR 10/28 – 11/6 MEDIA FLIGHT.

HERE ARE THE BUY DETAILS:

MEDIA MARKET	GRPS	COST
LOUISVILLE	800	$48,135.00
LEXINGTON-FAYETTE	700	$27,410.00
EVANSVILLE	600	$15,000.00
PADUCAH	600	$20,700.00
BOWLING GREEN	525	$5,400.00
HUNTINGTON	250	$12,110.00
BROADCAST TV TOTAL:		$128,801.00
*FRINGE CABLE TOTAL:		$12,537.00 (12X/DAY SCHEDULE FOR LAST 2 WEEKS — CNN & USA)
GRAND TOTAL:		$142,338.00

NOTE: REVISIONS MAY OCCUR DUE TO PLACING THE MEDIA AT "LOWEST UNIT RATE".

FORMAL INVOICE TO FOLLOW.

*FRINGE CABLE IN CINCINNATI & CHARLESTON/HUNTINGTON/ASHLAND.

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ATTACHMENT 1
Page 18 of 31

GMM EXHIBIT I

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700 • FAX (202) 338-2334 •
• 1149 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9900 • FAX (213) 443-9986 •

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EXHIBIT J

Videotape of Sloane Committee Ads

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EXHIBIT K

Invoices for Sloane Committee's Ads

KENTUCKY NETWORK

A Subsidiary of The American Network Group, Inc.

Kentucky Network, Inc.
11001 Bluegrass Parkway
Suite 390
Louisville, KY 40299

Start: 5/26/90

Stop: 5/28/90

# Spots	Rate	Sec.	Cost
15	$ 320.00	:60	$ 4,800.00

News (Check One)

Full State X

Station List Attached ____

Agrinet (Check One)

Full State ____

Station List Attached ____

Sports (Check One)

UK ____

SportsCall ____

Total Number of Weeks: 2

Flight Dates: 5/26, 5/28

Gross Amount of Contract	$ 4,800.00
Agency Commission	720.00
Rep. Commission	
Net Amount of Contract	$ 4,080.00

Schedule	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Specific Program
6a - 10a Morning Drive								
10a - 3p Mid-Day								
3p - 7p Afternoon Drive								
6a - 7p ROS	6x					5x	4x	

Optional Stations: WXID/WNGC

Additional Information

Paid in advance.

Billing Information N/KM/AG/MS KNC (N)

Agency X Client Rep.

Salesperson KM/AG/MS

Approved / Network:

Approved / Advertiser:

Advertiser: SLOAN FOR SENATE

Agency: Greer Margolis Mitchell

Address: 2626 Pennsylvania Ave., NW, Ste.

City Washington State DC Zip 20037

Client / Agency Contact: Beth Daly

JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	C.
				2880.00	1920.00	- G					
				2448.00	1632.00	- N					

GMM EXHIBIT

ATTACHMENT 1

Page 21 of 31

95043653937

HOMETOWN RADIO NETWORK
RECONCILIATION OF AGENCY PAYMENT & DISBURSEMENT

...OUNT Political	AGENCY Greer Margolis Mitchell
...ight Sloane For Senate	Schedule Dates 11/2-6 (11/90)
...VOICE DATE Pd Adv	GROSS $ 16,998.93 NET $ 14,449.09
...GENCY CHECK # 4638	DEPOSIT DATE 10/31/90
	CHECK TOTAL 14,450.00

...GENCY PAYMENT EQUALS INVOICE NET? YES ✓ NO

"NO" ABOVE. IS AGENCY PAYING
...ULTIPLE INVOICES WITH THIS CHECK? YES NO

...OTAL ON CHECK FOR THIS INVOICE ONLY NET $ 14,450.00

...ist "other" reasons below if agency check does not equal invoice:

PAYMENT RECAP

...GENCY PAYMENT $ 14,450.00

...ATION CHECKS TOTAL (+) 12,616.09
...HECK #(S) 2801 - 2836 2900 - 2903
...OMMISSIONS PAID TO RRC (+) 1,833.00
...HECK #(S) 2905
...OM CHARGES (IF APPLICABLE) (+) —
...HECK #(S)

...OMETOWN CHECK TOTALS (-) $ 14,449.09

...L ACCOUNT BALANCE ON THIS DISBURSEMENT $ +.91

...ATE OF CHECKS 10/31/90 Completed: 11/27/90 Sam

...OMMENTS: (for quick reference, list "RRC CHE...

GMM EXHIBIT M

ATTACHMENT 1
Page 22 of 31

#	STATION	CITY/STATE/ZIP	GROSS	15% AGY	NET	REC COMM	CHECK AMT	CHECK
-01	WIKI-FM	Carrollton, KY 41008	$227.04	$34.06	$192.94	$34.06	$158.93	2501
-02	WTCR-AM/FM	Catlettsburg, KY 41	$1,185.96	$177.89	$1,007.96	$151.19	$856.77	2502
-03	WCYN-AM/FM	Cynthiana, KY 41031	$226.08	$33.91	$192.17	$33.89	$158.28	2503
-04	WKXP-FM	Louisville, KY 4020	$423.36	$63.50	$359.86	$63.50	$296.35	2504
-05	WIOK-FM	Falmouth, KY 41040	$169.44	$25.42	$144.02	$25.42	$118.61	2505
-06	WFLE-AM	Flemingsburg, KY 41	$132.00	$19.80	$112.20	$19.80	$92.40	2506
-07	WGOH-AM	Grayson, KY 41143	$180.48	$27.07	$153.41	$27.07	$126.34	2507
-08	WLGO-FM	Grayson, KY 41143	$180.48	$27.07	$153.41	$27.07	$126.34	2509
-09	WLGC-FM	Greenup, KY 44114	$216.00	$32.40	$183.60	$32.40	$151.20	2509
-10	WTCV-AM	Greenup, KY 44114	$144.00	$21.60	$122.40	$21.60	$100.80	2510
-11	WVKY-AM	Louisa, KY 41230	$160.80	$24.12	$136.68	$24.12	$112.56	2511
-12	WFTM-AM	Maysville, KY 41056	$223.20	$33.48	$189.72	$33.48	$156.24	2512
-13	WFTM-FM	Maysville, KY 41056	$223.20	$33.48	$189.72	$33.48	$156.24	2513
-14	WMOR-FM	Morehead, KY 40351	$197.76	$29.66	$168.10	$29.66	$138.43	2514
-15	WMOR-AM	Morehead, KY 40351	$197.76	$29.66	$168.10	$29.66	$138.43	2515
-16	WSIP-AM/FM	Paintsville, KY 412	$451.68	$67.75	$383.93	$67.75	$316.18	2516
-17	WPKE-AM	Pikeville, KY 41501	$372.48	$55.87	$316.61	$55.87	$260.74	2517
-18	WDHR-FM	Pikeville, KY 41501	$420.48	$63.07	$357.41	$63.07	$294.34	2518
-19	WGNY-FM	Prestonsburg, KY 41	$293.76	$44.06	$249.70	$44.06	$205.63	2519
-20	WBOC-AM	Prestonsburg, KY 41	$112.00	$16.92	$95.08	$16.92	$78.96	2520
-21	WPRT-AM	Prestonsburg, KY 41	$282.24	$42.34	$239.90	$56.45	$183.46	2521
-22	WKKZ-FM	Prestonsburg, KY 41	$282.24	$42.34	$239.90	$56.45	$183.46	2522
-23	WBLV-AM	Salyersville, KY 41	$157.92	$23.69	$134.23	$23.68	$110.54	2523
-24	WKKS-AM/FM	Vanceburg, KY 41179	$169.44	$25.42	$144.02	$25.42	$118.61	2524
-25	WLKS-AM	West Liberty, KY 41	$178.88	$26.71	$151.37	$35.62	$115.75	2525
-26	WNLK/WDFX	Cincinnati, OH 4520	$4,000.00	$612.00	$3,388.00	$528.20	$2,907.80	2526
-27	WUBE-FM	Cincinnati, OH 4520	$1,106.00	$165.75	$939.25	$0.00	$939.25	2527
-28	WSAI-AM	Cincinnati, OH 4520	$1,500.00	$240.00	$1,260.00	$0.00	$1,260.00	2528
-29	WCKY-AM	Cincinnati, OH 4520	$840.00	$126.00	$714.00	$0.00	$714.00	2533
-30	WUBE-FM	Cincinnati, OH 4520	$420.00	$63.00	$357.00	$0.00	$357.00	2534
-31	WIKI-FM	Carrollton, KY 41008	$23.65	$3.55	$20.10	$3.55	$16.56	2535
-32	WTCR-AM/FM	Catlettsburg, KY 41	$790.56	$118.59	$671.98	$100.80	$571.18	2536
-33	WSIP-AM/FM	Paintsville, KY 412	$112.92	$16.94	$95.98	$16.94	$79.04	2000
-34	WPKE-AM	Pikeville, KY 41501	$93.12	$13.97	$79.15	$13.97	$65.18	2001
-35	WDHR-FM	Pikeville, KY 41501	$105.12	$15.77	$89.35	$15.77	$73.58	2002
-36	WNLK/WDFX	Cincinnati, OH 4520	$1,020.00	$153.00	$867.00	$130.05	$736.95	2003
-37	HRN COMMISSREGIONAL REPS CORP.						$1,833.00	2005
			$16,980.93	$2,549.84	$14,448.09	$1,833.00	$14,448.09	

HRN FYI ONLY → HRN SQ. only 13,083.93 1955.09 11,079.84

AGY PMT: $14,458.00
BALANCE: $0.91

2504365393 9

File
Sloane Political
11/90

ATTACHMENT 1
Page 23 of 31

HOMETOWN RADIO NETWORK
RECONCILIATION OF AGENCY PAYMENT & DISBURSEMENT

COUNT Pd	AGENCY Carrier Margolis
ight 11/90 Sloane for Senate	Schedule Dates 11/3-6
VOICE DATE Dpd	GROSS $ 3480.70 NET $ 2958.60
GENCY CHECK # Wire	DEPOSIT DATE 11-5-90
	CHECK TOTAL 3415.20

GENCY PAYMENT EQUALS INVOICE NET? YES ✓ NO

"NO" ABOVE, IS AGENCY PAYING ULTIPLE INVOICES WITH THIS CHECK? YES NO

OTAL ON CHECK FOR THIS INVOICE ONLY [redacted]

ist "other" reasons below if agency check does not equal invoice:

PAYMENT RECAP

GENCY PAYMENT $ 3415.20

ATION CHECKS TOTAL (+) [redacted]

HECK #(S) 2906 2929 3890 3288

OMMISSIONS PAID TO RRC (+) [redacted] (refund of 5.03 to reissue check to WVKY)

HECK #(S)

OM CHARGES (IF APPLICABLE) (+) [redacted]

HECK #(S)

ATTACHMENT 1
Page 24 of 31

OMETOWN CHECK TOTALS (-) $ [redacted]

AL ACCOUNT BALANCE ON THIS DISBURSEMENT $ +382.72

ATE OF CHECKS 11/9/90 Completed: 11/27/90

OMMENTS: (for quick reference, list "RRC CHECK ASSIGNMENT" checks below) refund to

2/17/98 CHECK REGISTER / SLOANE FOR STATION

#	STATION	CITY/STATE/ZIP	GROSS	15% AGT	NET	BRC COMM	CHECK AMT	CHECK
-01	WEKI-FM	Carrollton, KY 41008	$141.00	$21.29	$120.02	$21.29	$99.33	2906
-02	WCTW-AM\FM	Cynthiana, KY 41031	$141.30	$21.20	$120.11	$21.23	$98.31	2907
-03	WKRP-FM	Louisville, KY 4020	$264.60	$39.69	$224.91	$39.69	$185.22	2908
04	WIOE-FM	Falmouth, KY 41040	$105.90	$15.89	$90.02	$15.89	$74.13	2909
-05	WFLE-AM	Flemingsburg, KY 41	$82.50	$12.38	$70.13	$12.38	$57.75	2910
-06	WGOH-AM	Grayson, KY 41143	$112.80	$16.92	$95.88	$16.92	$78.96	2911
-07	WUGO-FM	Grayson, KY 41143	$112.80	$16.92	$95.88	$16.92	$78.96	2912
-08	WLGC-FM	Greenup, KY 41144	$135.00	$20.25	$114.75	$20.25	$94.50	2913
-09	WTCV-AM	Greenup, KY 41144	$90.00	$13.50	$76.50	$13.50	$63.00	2914
-10	WVLT-AM	Louisa, KY 41230	$87.00	$10.05	$56.95	$10.05	$46.90	3890
-11	WPTW-AM	Maysville, KY 41056	$139.50	$20.93	$118.58	$20.93	$97.65	2916
-12	WPTW-FM	Maysville, KY 41056	$139.50	$20.93	$118.58	$20.93	$97.65	2917
-13	WMOR-FM	Morehead, KY 40351	$123.60	$18.54	$105.06	$18.54	$86.52	2918
-14	WMOR-AM	Morehead, KY 40351	$123.60	$18.54	$105.06	$18.54	$86.52	2919
-15	WSIP-AM/FM	Paintsville, KY 412	$282.30	$42.35	$239.96	$42.35	$197.61	2920
-16	WPRK-AM	Pikeville, KY 41501	$232.80	$34.92	$197.88	$34.92	$162.96	2921
-17	WDHR-FM	Pikeville, KY 41501	$262.80	$39.42	$223.38	$39.42	$183.96	2922
-18	WQRT-FM	Prestonsburg, KY 41	$183.60	$27.54	$156.06	$27.54	$128.52	2923
-19	WBOC-AM	Prestonsburg, KY 41	$70.50	$10.58	$59.93	$10.58	$49.35	2924
-20	WPRT-AM	Prestonsburg, KY 41	$176.40	$26.46	$149.94	$33.28	$116.66	2925
-21	WKKE-FM	Prestonsburg, KY 41	$176.40	$26.46	$149.94	$33.28	$116.66	2926
-22	WRLV-AM	Salyersville, KY 41	$98.70	$14.81	$83.90	$14.81	$69.09	2927
-23	WIRS-AM/FM	Vanceburg, KY 41179	$105.90	$15.89	$90.02	$15.89	$74.13	2928
-24	WLRS-AM	West Liberty, KY 41	$111.30	$16.70	$94.61	$22.26	$72.35	2929
	NEW COMMISSIONAL-REPS CORP.						$550.34	2930
	WKRQ-FM	Cincinnati, OH 45219		BALANCE DUE FROM AGT UNDERPMT:			$68.85	3288
	GREER MARCOVASHINGTON DC 20037						$382.72	3891
			$3,480.70	$522.11	$2,958.60	$646.21	$3,415.20	
					AGT-PMT:		$3,415.20	
					BALANCE:		$0.00	

25043653941

REISSUED CHECKS

ATTACHMENT 1
Page 25 of 31

TO: DSCC

FROM: Greer, Margolis, Mitchell and Associates

DATE: November 1, 1990

RE: Invoice 90-421M

Television Media	$ 98,000.00
Radio Media	7,000.00
Total Invoice	$ 105,000.00

PAID IN FULL

ATTACHMENT 1
Page 26 of 31

GMM EXHIBIT N

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-6700 • FAX (202) 338-2334 •
• 1149 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9998 • FAX (213) 443-9986 •

2504365394 2

GMM&A
GREER MARGOLIS MITCHELL & ASSOCIATES INC.

TO: DSCC

FROM: Greer, Margolis, Mitchell and Associates

DATE: November 5, 1990

RE: Invoice 90-447M

Broadcast Media	$	10,000.00
Total Invoice	$	10,000.00

PAID IN FULL

95043365539943

GMM EXHIBIT O

ATTACHMENT 1
Page 27 of 31

• 2626 Pennsylvania Avenue, NW • Suite 301 • Washington, DC 20037 • (202) 338-8700 • FAX (202) 338-2334 •
• 1145 Gayley Avenue • Suite 301 • Los Angeles, CA 90024 • (213) 443-9900 • FAX (213) 443-9906 •

KENTUCKY DEMOCRATIC PARTY
VICTORY 90, NON-FEDERAL ACCT.
P O BOX 694
FRANKFORT, KY 40602

16

PAY TO THE ORDER OF Greer, Margolis Mitchell & Associates 10-18 1990

One Hundred Forty Five Thousand Dollars & 00/100 $ 145,000.00 DOLLARS

Farmers Bank & Capital Trust Company
Frankfort, Kentucky 40601

FOR T. V.

Mary Jane Johnson
Dot Goins

⑈00000161⑈ ⑆083900619⑆ 10 8289 2⑈

9504365 7244

GMM EXHIBIT P

ATTACHMENT 1
Page 28 of 31

162

KENTUCKY DEMOCRATIC PARTY
VICTORY 90, NON-FEDERAL ACCT.
P O BOX 684
FRANKFORT, KY 40602

10-23 1990

AY
THE
RDER OF Greer, Margolis Mitchell & Associates $ 100,000 00

One Hundred Thousand Dollars & no/100 DOLLARS

Farmers Bank
& Capital Trust
Company
Frankfort, Kentucky 40601

OR T.V.

Mary Jean Johnson
Pat Goins

⑈00000162⑈ ⑆083900619⑆ 10 8289 2⑈

95043653 9 5

GMM EXHIBIT Q

ATTACHMENT 1
Page 29 of 31

KENTUC DEMOCRATIC PARTY
VICTORY 90, NON-FEDERAL ACCT.
P O BOX 624
FRANKFORT, KY 40602

165

10-26 1990

PAY TO THE ORDER OF Greer, Margolis Mitchell $ 50,000.00

Fifty Dollars & no/100 DOLLARS

Farmers Bank
& Capital Trust
Company
Frankfort, Kentucky 40601

FOR T.V.

Mary Jane Lobsod
Pat Goins

⑈00000165⑈ ⑆083900619⑆ 10 8289 2⑈

9 5 0 4 6 5 3 9 4 6

GMM EXHIBIT R

ATTACHMENT 1
Page 30 of 31

KENTUCKY DEMOCRATIC PARTY
VICTORY 90, NON-FEDERAL ACCT.
P. O. BOX 634
FRANKFORT, KY 40602

183

11-2-1990

PAY TO THE ORDER OF Greer Margolis Mitchell Associates $ 15,000 00

Fifteen Thousand Dollars & no/100 DOLLARS

Farmers Bank & Capital Trust Company

FOR I.V. Ads

⑈00000183⑈ ⑆083900619⑆ 10 8289 Pat Rowe

25043653947

GMM EXHIBIT S

ATTACHMENT 1
Page 31 of 31

MULLOY, WALZ, WETTERER, FORE & SCHWARTZ
ATTORNEYS AND COUNSELORS AT LAW
FIRST TRUST CENTRE
SUITE 700 NORTH
200 SOUTH FIFTH STREET
LOUISVILLE, KENTUCKY 40202

WILLIAM P. MULLOY, SR.
KARL M. WALZ
WILLIAM S. WETTERER, JR.
F. LARKIN FORE
DAN T. SCHWARTZ
W. PATRICK MULLOY, II *
S. MARK MULLOY
MARY ANNE WETTERER WATKINS **
BRYAN J. DILLON ***
WILLIAM S. WETTERER, III
DONALD J. LADURE
J. GREGORY CLARE
RONDA M. HARTLAGE

TELEPHONE 502/589-5250
FACSIMILE 502/589-1637

OF COUNSEL
STEPHEN H. MILLER

* ALSO ADMITTED NEW YORK
** ALSO ADMITTED ILLINOIS
*** ALSO ADMITTED INDIANA

RECEIVED
FEDERAL ELECTION COMMISSION
MAIN COPY ROOM
91 AUG 19 AM 9:37

August 15, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 AUG 19 PM 3:26

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

MUR 3182

RE: Andrew Skipper Martin

Dear Gentlemen:

Enclosed please find Answers to the Interrogatories on behalf of my client, Andrew Skipper Martin.

Sincerely yours,

MULLOY, WALZ, WETTERER,
FORE & SCHWARTZ

W. Patrick Mulloy II

W. PATRICK MULLOY, II

WPMII/lsh

Enclosure

2504365948

ANSWERS TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Respondent, Andrew Skipper Martin, for his answers to Interrogatories and Request for Production of Documents, states as follows:

1. Define what is meant by "coordinated campaign" as that term is used by the Democratic National Committee and the Kentucky Democratic Party, especially with respect to the 1990 general election.

ANSWER. The undersigned understood the term "coordinated campaign" to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990. The head of the coordinated Democratic campaign was the Chairman of the Democratic Party, Mary Ann Johnson. The undersigned's responsibilities involved the coordination of the various state legislative candidate races. Pat Goins worked as the bookkeeper. Neville Blakemore, III worked as field coordinator. Danny Ross worked as labor coordinator. Jim Colley worked as field coordinator. Meg Conley worked as a researcher. Steve Bachar worked as field director. Kevin Geddings worked as the contact person for Greer, Margolis, Mitchell & Associates.

2. Describe the function, role, and participation of the Democratic National Committee in the coordinated campaign of the Kentucky Democratic Party in 1990, including all goods, services, training, and materials furnished to the Kentucky Democratic

2504365394 9

Party by the Democratic National Committee.

ANSWER. The undersigned does not know in detail the function, role, and participation of the Democratic National Committee. These matters were not handled by the undersigned.

3. Identify all activities undertaken in 1990 as part of the Kentucky Democratic party's coordinated campaign. Provide copies of all printed advertising and brochures, radio and televisions scripts, phone bank scripts, and other items used as part of the 1990 coordinated campaign that are in your possession.

ANSWER. With respect to activities undertaken in 1990, a plan was written that involved communication between the candidates. A voter data file was created. That file was disbursed to candidates. There were meetings and discussions with various legislative candidates. The undersigned has no printed advertising brochures, radio, and television scripts, phone banks scripts, or any other documents of any kind or character in his possession. The undersigned no longer works for the State Democratic Party and has none of these documents.

4. Identify all payments reported on the Kentucky Democratic Party's federal and nonfederal reports relating to activities undertaken as part of the 1990 coordinated campaign.

ANSWER. The undersigned has no knowledge of any payments reported on the Kentucky Democratic Party's federal and nonfederal reports relating to activities undertaken as part of the 1990 coordinated campaign. This was not a task within the

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undersigned's area of responsibility.

5. Identify all payments made by any other person or organization as part of the Kentucky Democratic Party's 1990 coordinated campaign. Identify all in-kind assistance provided to the Kentucky Democratic Party for its coordinated campaign in 1990, such as goods, services, and personnel including volunteers.

ANSWER. The undersigned has no knowledge of any payments reported on the Kentucky Democratic Party's federal and nonfederal reports relating to activities undertaken as part of the 1990 coordinated campaign. This was not a task within the undersigned's area of responsibility.

6. Identify all persons who directed, controlled, or operated the Kentucky Democratic Party's 1990 coordinated campaign and describe their duties.

ANSWER. See answer to Interrogatory Number One (1) above.

7. Describe in detail your duties with respect to the Kentucky Democratic Party's 1990 coordinated campaign.

ANSWER. See answer to Interrogatory Number One (1) above.

8. Identify your principal contact person at each of the following with respect to the 1990 general election:

(a) Greer, Margolis, Mitchell & Associates;

(b) Democratic National Committee;

(c) Sloane campaign; and

(d) Democratic Senatorial Campaign Committee.

ANSWER. The contact person at Greer, Margolis, Mitchell &

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Associates was Kevin Geddings. The contact persons at the Democratic National Committee were various staff members and the undersigned does not currently recall their names. The Sloane campaign contact person was Jim Cunningham. The Democratic Senatorial Campaign Committee contact persons were various staff persons and the undersigned does not recall their names.

9. State when you first learned of the transfers from the Democratic National Committee to the Kentucky Democratic Party in the fall of 1990 and state from whom you learned of these transfers.

ANSWER. The undersigned does not recall when exactly when he first learned of transfers from the Democratic National Committee, but remembers that it was heard from Mary Ann Johnson.

10. State when the Kentucky Democratic Party first decided to do television ads with respect to the 1990 general election. State who made this decision. State when the decision to retain the Greer firm was first made and who made this decision. State whether the decision to do television ads was made at the request, suggestion, or recommendation of Harvey I. Sloane or the Sloane campaign. If so, state who made this request, when it was made, where it was made, and what precisely was said.

ANSWER. The undersigned does not recall exactly when the Kentucky Democratic Party decided to do television ads. It was shortly before the ads ran, but the undersigned cannot recall a date. The undersigned does not know who made the decision or when the decision to retain the Greer firm was made or who made

2504365395 2

that decision. The undersigned does not know whether the decision to do television ads was made at the request, suggestion, or recommendation of Harvey I. Sloane or the Sloane campaign.

11. State when the Kentucky Democratic Party raised funds to pay for its television ads. State who made the solicitations for these funds, whether the solicitations were written or oral, and identify the funds raised in response to such solicitations. Provide copies of all written solicitations by the Kentucky Democratic Party for funds for these ads that w=are in your possession. Explain what you knew regarding funds for the television ads as of October 10, 1990, and why you could on October 10, 1990, retain the Greer firm to produce the ads and identify the source of your knowledge.

ANSWER. The funds were raised by the Kentucky Democratic Party to pay for television ads between May and November of 1990. There were some oral solicitations and some written solicitations. The undersigned made some of the oral solicitations. The undersigned has no copies of any written solicitations. The undersigned has no memory of any knowledge regarding funding for television ads as of October 10, 1990.

12. State when the television ads ran, including the beginning date and the ending date.

ANSWER. The undersigned has no information in his possession as to when the television ads ran. They ran generally during the fall campaign, but that information is within the

2504365395 3

knowledge of someone else involved in the campaign and not the undersigned.

13. State your home and business addresses and telephone numbers.

ANSWER. Andrew Skipper Martin, 11007 Greenock Court, Louisville, Kentucky 40243 and my home phone number is [redacted] Andrew Skipper Martin, c/o 12611 Shelbyville Road, Louisville, Kentucky 40243 and my business phone number is 244-5490.

14. Provide copies of all documents in your possession relating to your responses to the above interrogatories.

ANSWER.

Andrew Skipper Martin
ANDREW SKIPPER MARTIN

Subscribed and sworn to before me by ANDREW SKIPPER MARTIN, this 13 day of August, 1991.

My Commission expires: 6-19-95

NOTARY PUBLIC
KENTUCKY-AT-LARGE

250436539554

STATEMENT OF DESIGNATION OF COUNSEL

MUR _____

NAME OF COUNSEL: W. Patrick Mulloy, II

ADDRESS: 200 South Fifth Street
First Trust Centre, 700N
Louisville, KY 40202

TELEPHONE: (502) 589-5250

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.

8-12-94
Date

Andrew Skipper Martin
Signature

RESPONDENT'S NAME: Andrew Skipper Martin

ADDRESS: 11007 Greenock Court
Louisville, KY 40243

HOME PHONE: (502) 245-8274

BUSINESS PHONE: (502) 244-5490

2504365395 5

06C2799

LAW OFFICES
MICHAEL T. McKINNEY
Attorney at Law
MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
P.O. BOX 888
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0888

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 SEP 17 AM 10:30
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 SEP 17 PM 3:27

September 16, 1991

Ms. Elizabeth Campbell
Federal Election Commission
Washington, D.C. 20463

IN RE: MUR 3182
Kentucky Democratic Central Executive Committee
& Richard Rankin, as Treasurer

Dear Ms. Campbell:

Enclosed herewith please find a response of the Kentucky Democratic Committee to the allegations of MUR 3182.

I would again thank you for the courtesies extended me during course of this matter inasmuch as it has been difficult to locate and interview the knowledgeable parties subsequent to the change of staff at Kentucky Democratic Headquarters after the Nay Primary.

I shall look forward to your reply and any future correspondence in this regard.

Yours truly,

Michael T. McKinney

MTM:trt

2504365395 6

FEDERAL ELECTION COMMISSION
MUR 3182

REQUEST FOR NO ACTION

OBJECTION TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

KENTUCKY DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE AND RICHARD RANKIN, AS TREASURER — RESPONDENT

* * * * * * * * * * *

This request for no action and the accompanying objections to interrogatories and requests for production of documents is filed on behalf of the Kentucky Democratic Central Executive Committee and Richard Rankin, as Treasurer.

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SUMMARY

The Kentucky Democratic Central Executive Committee and Richard Rankin, as Treasurer, respectfully request that the Federal Election Commission take no action in the within styled Matter Under Review and, concurrently, object to the propounded Interrogatories and Requests for Production of Documents.

BACKGROUND

At the November, 1990, General Election in Kentucky, there were on the ballots in Kentucky's one-hundred twenty (120) counties, Democratic candidates for one (1) U.S. Senate Seat, seven (7) Congressional Seats, nineteen (19) State Senate Seats, one hundred

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

(100) State Representative Seats, two (2) Commonwealth Attorneys and various judicial seats for District, Circuit and the State Supreme Courts, as well as numerous other local offices. Additionally, the November, 1990, General Election was in close proximity to the May, 1991, Kentucky Democratic Primary at which time Kentuckians would elect their Democratic gubernatorial and other nominees and experience a rare Republican Primary. This Republican Primary was the result of a then current resurgance of the Republican Party in Kentucky.

As part of the Kentucky Democratic Party's ongoing efforts to promote the Democratic message throughout Kentucky, the Kentucky Democratic State Central Executive Committee embarked upon a new style of campaigning for Democratic candidates all across the State of Kentucky by producing and airing two (2) television commercials embracing the grassroots Democratic theme. Never before in the history of the Kentucky Democratic Party had such television commercials been utilized as a tool for generally reaching registered Democrats and encouraging them to go to the polls and vote.

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THE COMPLAINT

The complaints, as contained in MUR 3145 and MUR 3182, consolidated as MUR 3182, both allege that the subject television ads were made and aired on behalf of, or coordinated with, the United States Senatorial Campaign of Harvey Sloane and, therefor, should be allocable to said Campaign. (Factual Analysis, Page 11). In support of their complaints, both Complainants complained that the Kentucky

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Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

Democratic State Party used the same media consultant as the Harvey Sloane Campaign for the production of the television commercials and that the ads featured a slogan that "echoed" the slogan being used by the Sloane Campaign, and that the ads focused on topics or issues that were federal rather than state issues. (Factual Analysis, Page 11) Additionally, the Complainant in MUR 3145 makes various allegations that the Kentucky Democratic State Party used topics that "track" topics used in contemporaneous Harvey Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents.

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ARGUMENT

The subject television advertisments are not governed by the Act inasmuch as the advertisments did not support a "clearly identified federal candidate".

In order to give credence to the complaints alleged in MUR 3145 and 3182, that the television ads were on behalf of or coordinated with Harvey Sloane's Senate Candidacy and, therefor, allocable to it, it is first necessary to determine whether or not the ads were made on behalfof, or coordinated with, Harvey Sloane's Senate Candidacy.

The Commission has found, in its factual analysis at page 13, that "the script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the

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Attorney at Law
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state parties and Sloane Campaigns Ad also do not serve to identify Harvey Sloane by 'unambiguous reference'. Thus, Sloane was not clearly identified in the ads." (emphasis provided)

The acid test for determining the treatment of Party expenditures is to be found in 11 C.F.R. Section 106. Section 106.1 (c) (2) embraces the "clearly identified candidate" test. The Commission, in conceding that "Sloane was not clearly identified in the ads" removes the subject television advertisments from the scope of in-kind contributions to particular candidates.

The Commission strains somewhat in reaching to conclude that, notwithstanding the absence of any clear identification of Harvey Sloane in television ads, because the Kentucky State Democratic Party utilized the same media consultant as the Sloane Campaign and that a previous consultant to the Sloane Campaign subsequently managed the Kentucky Democratic Party's cooridinated campaign, these circumstances raise an "inference" that there may have been some high degree of communication, discussion and coordination between the Sloane Campaign and perhaps others regarding the ads. (Factual Analysis, Page 14)

Additionally, the Commission alleges generally that the ads "meshed" with the themes and tagline of the Sloane Campaign Ads and that the timing of the television ads also meshed with the needs of the Sloane Campaign. It should be pointed out that the timing for all candidates would have been the same at the November General Election inasmuch as they were all seeking to be elected on the same day.

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Curiously, the Commission places some special consideration on the fact that the Kentucky State Democratic Party had not previously undertaken television ads. In this day of electronic electioneering, television has played an increasingly important role reaching the voting public. The Kentucky Democratic Central Executive Committee merely utilized the media to stir up support for all of the Democratic candidates across the state.

The Commission goes further to declare that there was little doubt that the ads would benefit the Sloane Campaign. (Factual Analysis, Page 14) How can this possibly be determined? Again, this assertion only lends credence to the thought that the Commission strains to make a point where no such point exists.

The Commission goes on to state that this conclusion fits with the general public perception of the purpose of these ads and quotes a November 1, 1990 editorial opinion from the Louisville Courier Journal. The Commission does not attempt to clarify exactly what the Commission deems to be public perception in Kentucky, nor does the Commission erroneously annoint the Louisville Courier Journal as the arbiter of general public perception. The Commission then pulls together these generalities to conclude at page 15 of the Factual Analysis that there is reason to believe that the television ads paid for by the nonfederal account of the Kentucky Democratic Party were allocable to Harvey Sloane as contributions or coordinated expenditures. This simply is not the case.

As a backup argument, the Commission raises the fresh rationale that even if it should be determined that the payments for

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Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

2504365396 1

the ads are not allocable to Harvey Sloane, the costs of the ads would be allocable between the class of federal candidates and the class of nonfederal candidates because there were elections for each class in the 1990 General Election. Consequently, the Commission argues that "based on the ballot composition for the 1990 General Election it is estimated that between 40 to 50 percent of the cost of ads should have been allocated to federal elections and paid out of the federal account. However, the Commission provides no information as to how it arrived at such percentages. There were at least 129 Democratic candidates on the ballot in Kentucky in November, 1990. Of those 129 candidates only eight were contending for federal office. Given such numbers, it is impossible to determine how the Commission has arrived at a 40 to 50 percent cost allocation of the subject ads. In its earlier argument the Commission has referenced "statewide" offices.

The Kentucky Democratic State Central Executive Committee has a great interest in races for all Democratic candidates in Kentucky and its support is not limited to races of only statewide scope. The subject television ads were designed to generate support for all Democratic candidates in Kentucky and to encourage voters in each election wherein Democratic candidates were seeking office whether the office be of a strictly local nature or of a statewide service area.

Lastly, the Commission has raised an issue regarding the amendment of the campaign report for the period of 8-15-90 through 9-7-90 wherein the Schedule F, previously reported as a listing of coordinated party expenditures, was subsequently deleted. The

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Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

2504365396 2

deletion of this Schedule was done at the direction of an analyst at the Federal Election Commission during the course of a review and subsequent telephone communication with the Assistant Treasurer of the Kentucky Democratic Party. It was indicated at that time that the reporting of those expenditures on the Schedule F was incorrect, that those expenditures were not properly reported as coordinated expenditures and that the Schedule F should be deleted. The Kentucky Democratic Party then forthwith complied with this directive.

CONCLUSION

There appears to be no probable cause to determine any violations by the Kentucky Democratic Party Central Executive Committee and Richard Rankin, its Treasurer. The within request for no action should be granted and this matter under review should be deemed closed.

Respectfully submitted,

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square
P.O. Box 688
Burlington, Kentucky 41005
Telephone: (606) 586-9955
FAX: (606) 586-6937

2504365396 3

RECEIVED
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SECRETARIAT
92 MAY -1 PM 4:41

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

Mary C. Bingham

Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer

Harvey Sloane; Sloane for Senate Committee and Victoria Buster, as treasurer

Democratic National Committee and Robert T. Matsui, as treasurer[1]

Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer

MUR 3182

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GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 16, 1991, the Commission merged MURs 3145, 3175, and 3182. MUR 3145 had been filed by the Republican Party of Kentucky and alleged that television ads paid for by the Kentucky Democratic Party ("State Party") and broadcast prior to the 1990 election were on behalf of the Harvey Sloane's Senate candidacy, paid for out of the nonfederal account of the State Party, and financed by a $100,000 donation from the Association of Trial Lawyers of American Political Action Committee ("ATLA PAC"). The Republican Party of Kentucky later filed an amendment that alleged that a $250,000 gift from Mary C. Bingham to the

1. Robert T. Matsui has replaced Robert A. Farmer as treasurer of the DNC. Therefore, his name has been substituted in accordance with Commission policy.

Democratic National Committee ("DNC") was transferred to the Kentucky Democratic Party allegedly to be used to pay for the ads on behalf of Sloane's candidacy. This amendment was not notarized or sworn to. MUR 3175 had been filed by the Center for Responsive Politics and alleged that Mary C. Bingham had exceeded the $25,000 annual limitation in the 1988 and 1990 calendar years and made excessive contributions to the DNC and the Democratic Senatorial Campaign Committee ("DSCC"). The allegations did not include the $250,000 gift to the DNC in 1990 covered in the amendment to the complaint in MUR 3145. MUR 3182 had been filed by Common Cause and alleged that Mary C. Bingham had exceeded the $25,000 annual limitation by virtue of her $250,000 gift to the DNC in 1990 and that the DNC and the State Party had accepted this allegedly excessive contribution.[2]

On May 16, 1991, the Commission found reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f), 434(b), and 441b and 11 C.F.R. §§ 102.5(a)(1)(i) and 106. On May 21, 1991, the Commission found reason to believe Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3) but took no action at that time regarding her $250,000 gift to the DNC in 1990. The Commission also found reason to believe Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, ("Sloane Committee") violated 2 U.S.C. § 441a(f), but limited the

2. On May 10, 1991, the Republican Party of Kentucky, the complainant in MUR 3145, filed suit against the Commission pursuant to 2 U.S.C. § 437g(a)(8)(A) in United States District Court for the District of Columbia. That suit is still pending.

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finding to whether the ads by the State Party were a contribution to the Sloane Committee. The Commission further found reason to believe the Democratic National Committee and its treasurer ("DNC") violated 2 U.S.C. § 441a(f) regarding the receipt of an excessive contribution from Mary Bingham on the basis of the complaint in MUR 3175 (but not including her $250,000 gift to the DNC). The Commission voted to take no action at that time regarding the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer ("ATLA PAC").[3] Notification of these findings were sent on June 11, 1991. In addition, Interrogatories and Request for Documents were sent to Andrew "Skipper" Martin as a nonrespondent witness.[4]

In making the above findings, the Commission did not agree with our analysis that there was reason to believe the $250,000 gift by Mary Bingham to the DNC in 1990 and the $100,000 gift

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3. The Commission also voted to find no reason to believe Greer, Margolis, Mitchell & Associates ("Greer firm") and the Association of Trial Lawyers of America ("ATLA") violated any provision of the Act on the basis of the complaint in MUR 3145 and closed the file with respect to them. Interrogatories and Request for Documents, however, were sent to the Greer firm as a nonrespondent witness. The Commission voted to find reason to believe the Democratic Senatorial Campaign Committee and G. Wayne Smith, as treasurer, ("DSCC") violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Mary Bingham, but also voted to take no further action and closed the file with respect to the DSCC.

4. At this same time, the Commission received a letter from the Department of Justice requesting material from our files regarding the complaint Common Cause filed against Mary C. Bingham. On June 25, 1991, the Commission approved a letter to the Department of Justice declining to provide the complete investigative file but offering to reconsider the request if we received an appropriate subpoena. There has been no further inquiry or response from the Department of Justice regarding this request.

from ATLA PAC to the Kentucky State Party that year were made with the intent or purpose to finance the State Party's ads on behalf of the Sloane campaign or with knowledge that they would be so used. The Commission took no action at that time on these issues, depending on what additional information may come to light as a result of the investigation regarding whether the ads are attributable to the Sloane Committee as in-kind contributions or coordinated party expenditures.

Moreover, in accordance with the Commission's findings, the factual and legal analysis with respect to the State Party was revised to provide that there was reason to believe the payments for the ads were in-kind contributions or coordinated party expenditures on behalf of Sloane or, if not, required allocation between the State Party's federal and nonfederal accounts. In addition, the revised factual and legal analysis stated there was reason to believe the State Party had made coordinated party expenditures on behalf of Sloane in excess of the limitations with respect to approximately $19,000 in disbursements the State Party originally reported as coordinated party expenditures but later amended its reports to treat them as operating expenditures. The factual and legal analysis to the Sloane Committee was based on the finding there was reason to believe the television ads were in-kind contributions or coordinated party expenditures.

The factual and legal analysis to Mary Bingham related to her contributions in excess of the $25,000 limitation (excluding her $250,000 gift to the DNC) and her excessive contributions to the

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DNC and DSCC. The factual and legal analysis to the DNC related to its receipt of the excessive contribution from Mary Bingham (excluding her $250,000 gift).

Responses were received from the respondents and witnesses through the summer and early fall. The Greer firm also provided us with videotapes of the ads it produced for the Sloane Committee and for the State Party as well as a substantial amount of records relating to its work for the Sloane Committee and the State Party.[5] Mary C. Bingham has renewed her request to enter into preprobable cause conciliation. In addition, the DNC also has asked to enter into preprobable cause conciliation. The State Party and the Sloane Committee filed objections to the Interrogatories and Requests for Production of Documents and asked that no action be taken against them. The State Party had earlier said it would "entertain the possibility of a preprobable cause conciliation."

This report will first review the responses from the respondents and witnesses. It will then address the main issue in this matter. Finally, the report will discuss proposed preprobable cause conciliation agreements for Mary C. Bingham and the DNC.

II. FACTUAL AND LEGAL ANALYSIS

A. Responses

This section merely reviews the responses received from the

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5. Arrangements can be made for the viewing of these videotapes by contacting staff assigned to this matter in the Office of the General Counsel.

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respondents and witnesses. The next section discusses the issues in this matter based on the information now presently available. The review of the responses begins with the Greer firm because it had the most complete information regarding the specific television ads in question.[6] The review then covers the State Party, Andrew "Skipper" Martin, the Sloane Committee, Mary Bingham, and the DNC.

1. Greer Firm

The Greer firm responded to the interrogatories and provided a quantity of back up documentation. The response states that it is the firm's practice to assign employees to accounts in those states in which they have previously performed campaign work. Thus, Frank Greer (president), Kevin Geddings (senior account executive), and Bradley Perseke (media buyer) were assigned to the Sloane campaign and subsequently to the Kentucky Democratic Party account.

The firm adds that on or about October 12, 1990, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane Committee, that the Kentucky Democratic Party had retained the firm to produce and place two television ads. The firm continues that at the request of Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky

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6. As previously noted, the Commission found no reason to believe the Greer firm had violated the Act and closed the file with respect to it as a respondent in this matter. The response reviewed here is the Greer firm's response to interrogatories and request for documents posed to it as a nonrespondent witness.

Democratic Party. The firm states that it had no contact with the DNC or DSCC regarding the State Party's ads. The firm provided copies of the two memoranda sent to Cunningham.

One memorandum is dated October 15, 1990, from Beth Daly and Bradley Perseke of the Greer firm to Jim Cunningham, campaign manager for the Sloane Committee. It provides the estimated cost of the October 18 to October 27 "flight" of television ads for the State Party along with the media markets, the gross ratings points, and the estimated cost per market. The total estimated cost was $145,828.00 with gross ratings points ranging from 350 in Huntington, West Virginia to 800 in Louisville. The second memorandum is similar and dated October 20, 1990. It provides the estimated cost for the October 28 to November 5 flight of ads for the State Party along with the media markets, gross ratings points, and the estimated cost per market. It also notes a "fringe" cable media buy on CNN and USA networks in the Cincinnati and the Charleston/Huntington/Ashland markets. The total estimated cost was $142,388.00 with gross ratings points ranging from 250 in Huntington to 800 in Louisville.

The firm contends that a schedule of the broadcast of the State Party's ads was not given to Sloane or the Sloane Committee or to any other person other than those employed by the firm or the State Party. The firm notes that the broadcast schedule is provided in the copies of the invoices it produced. The firm also provided invoices for the broadcast of the Sloane

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Committee's television and radio ads.[7]

The firm adds that neither Sloane nor the Sloane Committee was asked to preview or approve the ads, scripts or storyboards prior to their broadcast. Counsel for the firm reviewed a draft of the scripts. No other person was given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of the firm or the State Party. The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chairperson). The ads were completed on or about October 15, 1990, and first broadcast on October 18, 1990. The State Party made these payments to the Greer firm for the ads: $145,000 on October 18, $100,000 on October 23, $50,000 on October 26, and $15,000 on November 2. The Greer firm provided copies of the checks. The dates noted above are the dates on the checks. They were all drawn on the State Party's nonfederal account and total $310,000.00.

The firm also produced copies of its invoices to the State Party for the television ads. The date, purpose, and amount of the invoices are as follows:

Date	Purpose	Amount
10-16	media buy	$145,518.00
10-26	production	7,000.00
10-28	media buy	142,338.00
11-1	production	144.00
11-5	media	15,000.00
	Total	$310,060.00

7. These invoices are voluminous and, therefore, have not been copied as attachments. They are available for inspection in OGC. No analysis has yet been made of these invoices.

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The media buy on October 16 covered the flight of ads from October 18 through October 27. The media buy on October 28 covered the flight from October 28 through November 5. The above total amount invoiced is within $60 of the total amount of payments by the State Party.

The firm had previously stated that the State Party's ads did not contain any footage which had appeared in Sloane for Senate commercials. In its response to the interrogatories, the firm added that it owns and maintains an extensive video library of film previously shot on behalf of its clients which it uses to produce ads for other clients. The firm states that in producing the State Party's ads, it relied exclusively on pre-existing footage from its library. It notes that of this footage less than 1 percent had been shot during its work for the Sloane Committee and subsequently used in the State Party's ads. The firm repeats its earlier statement that none of the footage used in the State Party's ads were used in Sloane ads and that no other materials produced for the Sloane Committee were used in the State Party's ads. The firm provided video tapes of the television ads it produced for the State Party and the television and radio ads it produced for the Sloane Committee.

This Office has prepared a transcript of the audio portion of the State Party's and the Sloane Committee's ads produced by the Greer firm along with a description of the visual portion of these ads. See Attachment 7. The two ads the Greer firm prepared for the State Party focused on alleged Republican tax

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breaks for the rich. Both ads said that Democrats always fight for good paying jobs, social security, health care, and quality education while the Republicans protect the wealthy. The visuals included pictures of three Democratic Presidents (Roosevelt, Truman, and Kennedy), businesspersons getting into limousines, and pictures of workers, families, and the elderly. Each ad ended with the statement: "That's why we need Kentucky's Democrats fighting for us."

The Greer firm prepared three radio ads and ten television ads for the Sloane Committee. The three radio ads ended with one of these statements: (1) "Harvey Sloane: Kentucky's Democrat fighting for us"; or (2) "Let's ditch Mitch and vote for Kentucky's Democrat Harvey Sloane." One of the three radio ads focused on Senator McConnell's alleged voting for tax increases on the middle class and tax breaks for the rich and forgiving $7 billion in loans to Egypt. Four of the ten television ads made reference at the end to "Harvey Sloane, Kentucky's Democrat." Only two of the television ads focus on tax issues. One ad accuses Senator McConnell of voting for tax breaks for the rich and tax increases for the middle class and voting against such items as social security and Medicare, day-care, minimum wage, plant closing notifications, school lunches, and education. The visuals are sets of puppets and written statements. The other television ad consists of Harvey Sloane addressing the audience. He asks viewers if they are tired of the mess in Washington with tax breaks for the rich and pay raises. The announcer in several

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of the Sloane Committee ads appears to be the same person as the announcer in the State Party's ads.

The interrogatories also inquired into payments by the DSCC to the firm for work that the DSCC reported as coordinated party expenditures on behalf of Sloane.[8] The DSCC reported making these payments to the Greer firm:

September 10	$80,000.00
October 4	$25,000.00
October 22	$90,000.00
October 30	$7,000.00
October 31	$10,000.00
October 31	$8,000.00
Total	$220,000.00

The firm states that these payments were used to purchase broadcast time for the television ads it produced for the Sloane Committee and were used in conjunction with funds from the Sloane Committee to purchase the broadcast time. The firm provided invoices issued to the DSCC on November 1 and November 5 relating to some of the charges. It explains that the other charges were not invoiced because the DSCC had directed the firm to purchase a specified monetary amount of time and then either wire transferred the funds to the firm or issued a check payable to the firm. The Greer firm states that the payments from the DSCC did not relate in any way to the State Party's ads.

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8. The DSCC reported making a $17,500 contribution to the Sloane Committee in June 1990 and $270,737.00 in coordinated party expenditures relating to the 1990 general election. The coordinated party expenditure limitation for 1990 in Kentucky was $138,772.80 for the state party and the same amount for the national party. The reported expenditures by the DSCC indicate that both the state party and the national party authorized the DSCC to spend against their respective limitations.

The following chart provides a comparison by date and amount of the payments made to the Greer firm in September, October, and November 1990 by the Sloane Committee, the DSCC, and the State Party for media buys and production costs related to the 1990 general election.

	Sloane	DSCC	State Party
September			
1			
2			
3			
4			
5			
6			
7			
8			
9			
10		$80,000.00	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21	$50,000.00		
22			
23			
24			
25			
26			
27			
28			
29			
30			
October			
1	$9,268.74		
2			
3			
4		$25,000.00	
5			
6			

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	Sloane	DSCC	State Party
October (cont'd)			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			$145,000.00
18	$200,000.00		
19			
20			
21		$90,000.00	
22			$100,000.00
23	$19,562.98		
24			
25	$4,500.00		$50,000.00
26			
27			
28			
29			
30	$10,000.00	$7,000.00	
31	$12,500.00	$18,000.00	
November			
1	$15,000.00		$15,000.00
2	$22,500.00		
Totals	$343,331.72	$220,000.00	$310,000.00

Thus, in the 20 days prior to the general election, the payments to the Greer firm were $310,000.00 by the State Party, $115,000 by the DSCC, and $284,062.98 by the Sloane Committee. The State Party's payments were financed by the $100,000 gift from ATLA PAC and the $215,000 in transfers from the DNC, made after Mary Bingham's $250,000 gift to the DNC.

2. Kentucky State Party

The State Party filed a response to the reason to believe findings and objections to the interrogatories and requests for

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production of documents. The response repeats the State Party's earlier arguments contesting the allegations in the complaints that the television ads were on behalf of the Sloane Committee or coordinated with it, raises questions about the allocation of the expenditures between the federal and nonfederal accounts, and makes a comment regarding the reporting of certain expenditures for staff salaries and expenses. The State Party asks that no further action be taken against it and the matter closed. It had earlier requested preprobable cause conciliation. The State Party's response is discussed in more detail in the section below examining the main issue in this matter.

3. Andrew Martin

Andrew "Skipper" Martin was a consultant to the Sloane Committee and received $25,200 in payments for his services from January through June 1990. At that point, he left the Sloane Committee to manage the coordinated campaign of the Kentucky Democratic Party for the fall general election. He was paid $25,522.65 in salary and reimbursements by the State Party from August through October 1990. Questions were posed to Martin as a nonrespondent witness.

Martin states in his affidavit that he understood the term "coordinated campaign" as used by the DNC "to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990." He identifies Mary Ann Johnson, the chairman of the State Party at that time, as the head of the coordinated campaign. Martin adds that his responsibilities "involved the coordination of the various state

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legislative candidate races." He says that Pat Goins was the bookkeeper, Neville Blakemore III a field coordinator, Danny Ross the labor coordinator, Jim Colley a field coordinator, Meg Conley a researcher, Steve Bachar the field director, and Kevin Geddings as the contact person with the Greer firm.[9] He notes that he did not handle matters relating to the participation of the DNC in the Kentucky State Party's coordinated campaign. He identifies Jim Cunningham as the contact person with the Sloane Committee.

He describes the activities of the coordinated campaign in only general terms. He states that a "plan was written that involved communication between the candidates." He adds that a voter data file was created and that "that file was disbursed to candidates." He says that he has no copies of any printed materials, radio or television scripts, or phone bank scripts in his possession. He also disclaimed any knowledge of the payments the State Party made with respect to its 1990 activities.

Martin states that he first learned of the transfers from the DNC from Mary Ann Johnson but does not recall when he heard about them. He also does not recall exactly when the State Party decided to do television ads, but says it "was shortly before the ads ran." He does not know who made the decision to do the ads or to hire the Greer firm and does not know if the ads were done at the request of the Sloane Committee or Harvey Sloane. He does state, however, that funds to pay for the ads were raised between

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9. Geddings was employed by the Greer firm, not the State Party. The others mentioned by Martin were employed by the State Party. The State Party's reports show payments to James Lyle Cauley and Margaret Conlow.

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May and November 1990 through oral and written solicitations and acknowledges that he made some of the oral solicitations. He is not able to provide information regarding when the ads ran other than they "ran generally during the fall campaign."

4. Sloane Committee

The Sloane Committee did not answer the interrogatories and request for documents sent to it. Instead, it filed objections to them. The Sloane Committee first asserts that "neither the Commission's present nor former regulations, nor the Act, nor prior policies of the Commission support the General Counsel's assertion that the information requested is even colorably relevant to any proper Commission investigation." It questions whether we have jurisdiction to investigate. The Committee also objects to questions which asked about meetings committee personnel had with the DNC, the State Party, and the DSCC and for a description of how the Sloane Committee participated in the State Party's 1990 coordinated campaign. The Committee claims that to allow these questions about the planning of political campaigns would cause political parties to cease to exist. Thus, the Committee asserts that because core First Amendment rights are implicated, the Commission must meet a higher standard in justifying the requests, citing FEC v. LaRouche Campaign, 817 F.2d 233, 244 (2d Cir. 1987).[10] The Sloane Committee's response

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10. In this case the Second Circuit Court modified a subpoena to remove the requirement that the respondent disclose the identity of the campaign's solicitors because we had not demonstrated sufficient need for such information to outweigh the solicitor's first amendment associational interests. The Court allowed, however, that its ruling did not preclude us from making a

is discussed in more detail in the section below examining the main issue in this matter.

5. Mary Bingham

Counsel for Mary Bingham responded by noting that in her response to the complaint in MUR 3175 she had acknowledged that she may have "inadvertently and unintentionally" exceeded the limitations of the Act with respect to the contributions described in the complaint. Counsel noted that Mrs. Bingham expressed a desire at that time to enter into conciliation. Counsel reaffirmed her desire to enter into conciliation with respect to the issues raised in MUR 3175.

6. DNC

Counsel for the DNC responded merely by requesting preprobable cause conciliation.

B. Are the Kentucky State Party's Television Ads Attributable to the Sloane Campaign as In-Kind Contributions or Coordinated Party Expenditures?

The Commission found reason to believe the State Party and the Sloane Committee violated 2 U.S.C. § 441a(f) on the basis that the facts raised an inference that the State Party's television ads may have constituted in-kind contributions to the Sloane Committee or coordinated party expenditures on behalf of it in excess of the Act's limitations at 2 U.S.C. § 441a. The Commission found reason to believe the State Party also violated 2 U.S.C. § 434(b) and 441b and 11 C.F.R. § 102.5(a)(1)(i) by not properly reporting these expenditures and by making them from its

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(Footnote 10 continued from previous page)
sufficient showing for such information in the future.

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nonfederal account, which apparently contained union contributions.

The Factual and Legal Analysis that accompanied this finding set out the provisions of the Act and regulations relating to contributions and coordinated party expenditures and the rules regarding when expenditures by party committees were allocable to candidates. It noted that party expenditures for GOTV drives 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)(c). The Factual and Legal Analysis noted that Harvey Sloane was not clearly identified in the ads.

The Factual and Legal Analysis further stated, however, that the absence of a clearly identified Harvey Sloane would not necessarily dictate a determination that the ads were not allocable to his campaign. The Factual and Legal Analysis noted that "the degree of coordination between a state party and a candidate or his committee may be sufficiently high regarding general public political advertising, such as where the state party's ads or activity is merely an extension of the candidate's campaign or the ads are identical to the candidate's ads except for the absence of the candidate's name, to lead to a conclusion that such ads or activity should be allocated as a contribution or coordinated party expenditure."

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Counsel for both the State Party and the Sloane Committee have attacked this legal and factual basis for the Commission's finding.

The memorandum submitted by counsel for the Sloane Committee points to Commission regulations at 11 C.F.R. § 106.1 that require a candidate to be clearly identified for certain expenditures by a state party to be attributable to the candidate and Advisory Opinion 1985-14 that said radio and television ads by the DCCC required a clearly identified candidate and an electioneering message to be subject to the limitations of Section 441a(d). The memorandum argues:

> Since Section 441a(d) assumes complete coordination between the party and the candidate, the Commission's ruling clearly implies that a party committee's expenditure for generic media -- where no clearly identified candidate is depicted -- does not constitute an in-kind contribution to or expenditure on behalf of a specific candidate regardless of the degree of coordination between the candidate and the party.

The memorandum also argues that the revised allocation regulations further support this position. It points to the definition of generic voter drives at 11 C.F.R. § 106.5(a)(2)(iv) to include voter identification, voter registration, and get-out-the-vote drives or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.[11]

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11. The memorandum also cites to provisions of the Act requiring reporting of independent expenditures and requiring a disclaimer on such communications. It then contends that the analysis set forth in the Factual and Legal Analysis would create some sort of "phantom" contribution that would not be reportable by the donor

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Counsel for the State Party argues that there is no factual basis for the Commission's alleged inference that notwithstanding the fact Harvey Sloane was not clearly identified there may have been some high degree of coordination between the State Party and the Sloane Committee. The response also criticizes references in the Factual and Legal Analysis to the "meshing" of the television ads themes with those of the Sloane campaign, the timing of the ads, the fact that the State Party had not previously used television ads, the benefit that ads would convey to the Sloane campaign, and the apparent public perception regarding the ads based on an editorial in the Louisville Courier Journal.

The response from the Greer firm provides additional information that bears on the factual aspects of this issue.

First, it appears the same announcer (probably a professional actor) and the same type of slogan (Kentucky's Democrat, etc.) were used in the State Party's ads and several of the Sloane Committee ads. The visuals are, however, different between the

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(Footnote 11 continued from previous page)
and would not require a disclaimer but would be attributable to a candidate. The memorandum claims such a result would render the Act illogical.

The memorandum further claims that the position set forth in the Factual and Legal Analysis would be "unworkable and impractical" because it would leave party committees and candidates without reasonable guidance. The memorandum questions how much of an ad would be attributable to a specific candidate when no candidate is clearly identified. It also questions the constitutionality of making the treatment of party expenditures depend on the degree of coordination based on the freedom of association and political expression under the First Amendment. The memorandum then asks how much coordination will be too much to determine if party expenditures that do not mention specific candidates are to be attributable. We note that a communication need not contain express advocacy for it to be a coordinated party expenditure.

State Party's ads and the Sloane Committee's ads. The text of the ads also have substantial differences. The Greer firm states that no footage in the State Party's ads had appeared in the Sloane Committee's ads and that no materials produced for the Sloane Committee were used in the State Party's ads. This Office's review of the videotapes corroborates this assertion. The Greer firm did allow that perhaps 1 percent of the film footage shot for the Sloane Committee, but not used by it, may have been used in the State Party's ads. It notes that this possibility may have occurred because unused film footage shot for the Sloane Committee would have been part of the extensive general library of film the firm maintains for use on behalf of its clients.

The Greer firm acknowledges that it informed the Sloane Committee of the State Party's plan to do television ads. At the request of the Sloane Committee, the Greer firm sent it two memoranda outlining the dates, media markets, gross ratings points, and estimated cost of the State Party's ads. Nevertheless, the Greer firm adds that it did not provide the Sloane Committee with a broadcast schedule for the State Party's ads but that this information was given only to those employed by the State Party and the Greer firm. It further adds that the final version of the ads was approved by the firm, the State Party chairman, and counsel for the State Party. It states that the Sloane Committee did not preview or approve the ads, scripts,

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or storyboards.[12] Finally the Greer firm notes that it had no contact with the DNC and DSCC regarding the State Party's ads.

The refusals of the State Committee and the Sloane Committee to respond to questions, however, leave unresolved the question of coordination between the Sloane Committee and the State Party regarding the television ads, which was the central basis for the Commission's reason to believe findings. Furthermore, we believe that respondents arguments regarding coordinated expenditures and in-kind contributions go too far. First, Advisory Opinion 1985-14 is not necessarily controlling because the facts in that opinion did not include a situation where the party committee and the candidate committee share a common vendor for media or where the allegation is that the party's ads were merely an extension of the candidate's campaign.

In addition, the Sloane Committee's arguments against analyzing the degree of coordination runs counter to much of the theory behind the concept of in-kind contributions. Thus, this Office concludes that an adequate legal and factual analysis cannot be made without answers to basic questions by the Sloane Committee and the State Party. As noted, they have each refused to answer the informal discovery questions and submitted an opposition to them. Therefore, we recommend that the Commission approve subpoenas to the Sloane Committee and the State Party. These subpoenas have been revised from the informal discovery

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12. The Greer firm does not state (because it may not know) whether the State Party gave the Sloane campaign an opportunity to preview or approve the ads.

questions to take into account the information presently available and to focus specifically on the question of coordination between the Sloane Committee and the State Party regarding the State Party's television ads.

C. Has New Information Been Received Affecting the Characterization of Mary C. Bingham's $250,000 Gift to the Nonfederal Account of the DNC and ATLA PAC's $100,000 Gift to the Nonfederal Account of the Kentucky State Party?

At the time reason to believe findings were made with respect to other allegations or respondents in this matter, the Commission voted to take no action at that time regarding the allegations that the $250,000 gift by Mary Bingham to the nonfederal account of the DNC, the DNC's subsequent transfer of $215,000 to the nonfederal account of the State Party, and ATLA PAC's $100,000 gift to the nonfederal account of the State Party were made for the purpose of financing the State Party's television ads on behalf of Harvey Sloane. Instead, the Commission decided to postpone further consideration of these allegations until further investigation was made and a decision was reached regarding whether the television ads would be attributable to Sloane as in-kind contributions or coordinated party expenditures.

As noted above, this issue cannot be resolved until further investigation through the proposed subpoenas to the Sloane Committee and the State Party. Therefore, we make no further recommendations regarding Mary C. Bingham and ATLA PAC on this issue at this time.

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D. Did the Kentucky State Party Make Other Payments for Goods or Services That Constituted In-Kind Contributions or Coordinated Party Expenditures to the Sloane Committee?

The Commission also found reason to believe the State Party had violated 2 U.S.C. §§ 441a(f) and 434(b) regarding expenditures it originally reported as coordinated party expenditures on behalf of the Sloane Committee, but later amended to delete such reporting.

When the State Party filed its 1990 October Quarterly Report, it included a Schedule F itemizing $19,425.29 in expenditures as coordinated party expenditures on behalf of Sloane. These expenses included payments for payroll, expense reimbursements, travel, telephone, computer repair, and a voter list. Ten days later the State Party filed an amendment in letter form with a new Detailed Summary Page and deleted the Schedule F. The letter explained that the deletion was made because of a "misunderstanding of 441a." RAD sent an RFAI and elicited this response from the State Party:

> . . . Based upon the early interpretation of 441a the expenditure appeared as originally reported. A further review of 441a led to the decision to amend the report to ultimately disclose the 33,850.51 amount as an operating expense on Schedule B and line 19 of the detailed summary page. This amount was not an expenditure of federal candidates and there was no specific identified candidate who benefited by this expenditure.

The Factual and Legal Analysis stated that this sequence of events raised questions whether these disbursements were coordinated party expenditures and were properly reported.

Counsel for the State Party contends that the amendment of

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the State Party's reports to delete certain expenditures as coordinated party expenditures on behalf of Harvey Sloane and to report them as operating expenditures was done at the suggestion of the RAD analyst. [We are unable to verify this.] Counsel responded to the interrogatories only to this extent to explain why the reporting and amendment were made. He did not describe the duties performed by the individuals who were included on the Schedule F as receiving payroll disbursements although our questions asked about their duties. Andrew Martin's response did identify several of the persons to whom payroll disbursements were included on the Schedule F as employees of the State Party who worked on the coordinated campaign.

Martin also states that the coordinated campaign prepared a voter list that was "disbursed" to the candidates. Among the expenditures originally included on the Schedule F was a disbursement to Ridder/Braden of Denver for $592.50, or one-half of the total disbursement ($1,184.99) to this vendor for a voter list in that reporting period. The State Party also reported a disbursement to Ridder/Braden for a voter list of $1,800.72 in the Pre-General Election period. The State Party's nonfederal account also reported an $894.80 disbursement to Ridder/Braden for a voter list.

These responses also leave this issue unresolved. Therefore, the proposed subpoenas to the State Party and the Sloane Committee includes further inquiry on this issue, especially whether the individuals paid by the State Party performed work on

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behalf of the Sloane Campaign and whether a voter list was provided to federal candidates.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Reject the requests of the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, and Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, to take no further action with respect to them.

2. Approve the attached subpoenas to the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, and Harvey Sloane; Sloane for Senate Committee and Victoria Buster, as treasurer.

3. Enter into conciliation prior to a finding of probable cause to believe with Mary C. Bingham, the Democratic National Committee and Robert T. Matsui, as treasurer, with respect to the complaint filed in MUR 3175.

4. Approve the attached conciliation agreements and appropriate letters.

5/1/92
Date

Lawrence M. Noble
General Counsel

Attachments
1. Greer Firm response
2. State Party response
3. Andrew Martin response
4. Sloane Committee response
5. Mary Bingham response

6. DNC response
7. Transcript of Ads
8. Proposed conciliation agreements
9. Proposed subpoenas

Staff persons: George F. Rishel
Jeffrey D. Long

25043653992

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 7, 1992

SUBJECT: MUR 3182 - GENERAL COUNSEL'S REPORT DATED MAY 1, 1992.

The above-captioned document was circulated to the Commission on MONDAY, MAY 4, 1992 4:00 P.M.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for TUESDAY, MAY 12, 1992.

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 3182
Mary C. Bingham;	)	
Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer;	)	
Harvey Sloane; Sloane for Senate Committee and Victoria Buster, as treasurer;	)	
Democratic National Committee and Robert T. Matsui, as treasurer;	)	
Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer.	)	

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 16, 1992, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3182:

1. Reject the requests of the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, and Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, to take no further action with respect to them.

2. Refer recommendations 2, 3, and 4 of the May 1, 1992 report back to the Office of General Counsel for revision as agreed during the meeting discussion.

(continued)

3. Direct the Office of General Counsel to send appropriate letters advising Mary C. Bingham, the Democratic National Committee and Robert T. Matsui, as treasurer, and the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, that the Commission has rejected, at this time, their request to enter into conciliation prior to a finding of probable cause to believe.

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

Attest:

6-19-92
Date

Marjorie W. Emmons
Secretary of the Commission

2504365399 95

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 1992

Michael T. McKinney, Esquire
P.O. Box 688
2922 Washington Square
Burlington, Kentucky 41005-0688

RE: MUR 3182
Kentucky Democratic Central
Executive Committee and Richard
Rankin, as treasurer

Dear Mr. McKinney:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(b) and 11 C.F.R. §§ 102.5(a)(1)(i) and 106. On July 4, 1991, you submitted a request to enter into conciliation prior to a finding of probable cause to believe. On September 16, 1991, you submitted, with your objection to interrogatories and requests for production of documents, a request for the Commission to take no further action.

The Commission has considered your requests and determined, because of the need to complete the investigation, to decline at this time to enter in pre-probable cause conciliation and to decline to take no further action. At such time when the investigation in this matter has been completed, the Commission will reconsider your request for pre-probable cause conciliation.

If you have any questions, please contact Tonda Mott, the attroney assigned to this matter, at (202) 219-3400.

Sincerely,

Jeffrey D. Long

Jeffrey D. Long
Paralegal

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 24, 1992

Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, Kentucky 40202

RE: MUR 3182
Dr. Harvey I. Sloane
and Sloane for Senate Committee and
Victoria Buster, as treasurer

Dear Mr. Cox:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, Dr. Harvey I. Sloane and Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f). On July 5, 1991, you submitted a request for the Commission to take no further action against your clients.

The Commission has considered your request and determined, because of the need to complete the investigation, to decline at this time to take no further action.

If you have any questions, please contact Tonda Mott, the attroney assigned to this matter, at (202) 219-3400.

Sincerely,

Jeffrey D. Long
Paralegal

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Mary C. Bingham	)	**SENSITIVE**
	)	
Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer	)	
	)	
Harvey Sloane; Sloane for Senate Committee and Victoria Buster, as treasurer	)	MUR 3182
	)	
Democratic National Committee and Robert T. Matsui, as treasurer	)	
	)	
Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer	)	

2504365998

GENERAL COUNSEL'S REPORT

On June 16, 1992, the Commission voted to reject the request of the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer ("State Party"), and the Sloane for Senate Committee and Victoria Buster, as treasurer ("Sloane Committee") and Harvey Sloane to take no further action with respect to them. The Commission also rejected entering into preprobable cause conciliation with Mary C. Bingham and the Democratic National Committee and Robert T. Matsui, as treasurer ("DNC"). Instead, in response to the Commission's consideration and discussion of this matter, this Office stated that it would circulate a new report recommending subpoenas for depositions for a broader and more complete investigation into the "soft money" allegations, including the contributions by Mary C. Bingham to the DNC's nonfederal account and the contributions by the

Association of Trial Lawyers of America Political Action Committee ("ATLA PAC") to the State Party's nonfederal account and to make the appropriate reason to believe findings to support this investigation.

Therefore, we recommend that the Commission find reason to believe that the State Party and the DNC violated 2 U.S.C. § 441a(f), that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3), and that ATLA PAC violated 2 U.S.C. § 441a(a)(2)(B) and to approve the attached factual and legal analyses in support of these findings.[1] We further recommend that the Commission approve subpoenas for deposition to Mary C. Bingham, Mary Ann Johnson, Andrew "Skipper" Martin, James Cunningham, Rob Bingham, Harvey Sloane, Alan Parker, Kevin Geddings, and the DNC.

RECOMMENDATIONS

1. Find reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. § 441a(f).

2. Find reason to believe the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f).

3. Find reason to believe Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3).

4. Find reason to believe the Association of Trial Lawyers of America and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a(a)(2)(B).

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1. The Commission previously found reason to believe the State Party violated 2 U.S.C. § 441a(f), but it was based on a different factual and legal analysis.

5. Approve the attached subpoenas to:

   a. Mary C. Bingham;

   b. Rob Bingham;

   c. Harvey Sloane;

   d. James Cunningham;

   e. Mary Ann Johnson;

   f. Kevin Geddings;

   g. Andrew "Skipper" Martin;

   h. the Democratic National Committee; and

   i. Alan Parker.

6. Approve the attached factual and legal analyses.

7. Approve the appropriate letters.

Date 8/13/92

Lawrence M. Noble
General Counsel

Attachments
1. Factual and Legal Analyses (4)
2. Subpoenas (8)

Staff persons: George F. Rishel
Tonda Mott
Jeffrey D. Long

25043654000

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: AUGUST 20, 1992

SUBJECT: MUR 3182 - GENERAL COUNSEL'S REPORT DATED AUGUST 13, 1992.

The above-captioned document was circulated to the Commission on Friday, August 14, 1992 at 12:00 p.m.

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	_____
Commissioner Potter	_____
Commissioner Thomas	_____

This matter will be placed on the meeting agenda for Tuesday, August 25, 1992.

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

25043654001

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Mary C. Bingham; Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer; Harvey Sloane; Sloane for Senate Committee and Victoria Buster, as treasurer; Democratic National Committee and Robert T. Matsui, as treasurer; Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer.	)	MUR 3182

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 15, 1992, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3182:

1. Find reason to believe the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. § 441a(f).

(continued)

2. Find reason to believe the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f),

3. Find reason to believe Mary C. Bingham violated 2 U.S.C. § 441a(a)(1)(B) and § 441a(a)(3).

4. Find reason to believe the Association of Trial Lawyers of America and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a(a)(2)(B).

5. Approve subpoenas to the following as recommended in the General Counsel's report dated August 13, 1992

   a. Mary C. Bingham;

   b. Rob Bingham;

   c. Harvey Sloane;

   d. James Cunningham;

   e. Mary Ann Johnson;

   f. Kevin Geddings;

   g. Andrew "Skipper" Martin;

   h. the Democratic National Committee; and

   i. Alan Parker.

(continued)

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6. Approve the factual and legal analyses attached to the General Counsel's report dated August 13, 1992.

7. Approve the appropriate letters as recommended in the General Counsel's report dated August 13, 1992.

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

Attest:

9-16-92
Date

Marjorie W. Emmons
Secretary of the Commission

2504365400 4

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael T. McKinney, Esquire
P.O. Box 688
Burlington, KY 41005

RE: MUR 3182
Kentucky Democratic Party
and Richard Rankin, as
treasurer

Dear Mr. McKinney:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your client, the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. §§ 441a(f), 434(b) and 441b, and 11 C.F.R. §§ 102.5(a)(1)(i) and 106. A copy of the Factual and Legal Analysis, which formed a basis for the Commission's finding, was enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information obtained during the ongoing investigation, on September 15, 1992, the Commission made an additional finding that there is reason to believe that the Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer, violated 2 U.S.C. § 441a(f), in other aspects. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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.

2504365405

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring Mary Ann Johnson to appear and give sworn testimony regarding the production and broadcast of television ads by the Kentucky Democratic Party in 1990, contributions by Mary C. Bingham to the Democratic National Committee, the DNC's transfers to the Kentucky Democratic Party in 1990, and contributions received from the Association of Trial Lawyers of America Political Action Committee in 1990.

Within two days of your receipt of this notification, please confirm the scheduled deposition appearance with Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400. If you have any questions, please contact Ms. Mott.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

25043654006

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Mary Ann Johnson
Kentucky Democratic Party
c/o Michael T. McKinney, Esquire
P.O. Box 688
Burlington, KY 41005

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to the production and broadcast of television ads by the Kentucky Democratic Party in 1990 and contributions by Mary C. Bingham to the Democratic National Committee and the DNC's transfers to the Kentucky Democratic Party in 1990 and contributions from the Association of Trial Lawyers of America Political Action Committee in 1990. Notice is hereby given that the deposition is to be taken on October 20, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 2:00 p.m. and continuing each day thereafter as necessary.

2504365400 7

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Kentucky Democratic Central Executive Committee and Richard Rankin, as treasurer

MUR: 3182

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, (MUR 3145) and by a complaint by Common Cause (MUR 3182). These matters have been merged for administrative purposes. This matter relates to television advertising purchased by the Kentucky Democratic Central Executive Committee in 1990, the funding for these ads, and their relationship to the Senate campaign of Dr. Harvey Sloane.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to

Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

According to the complaint, one of the advertisements

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broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.
>
> He's walked every corner of the Commonwealth, listening to Kentucky.
>
> Harvey Sloane -- health care, education, jobs, our environment.
>
> With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.
>
> Harvey Sloane -- Kentucky's Democrat, fighting for us.

This ad was prepared by the Greer firm.

The Greer firm states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and public relations strategy including the creation, production, and placement of campaign ads. It adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. The firm said that it performed no other work for the State Party. It further stated that no footage used in the State Party's ads appeared in Sloane ads. The Greer firm states that it is the firm's practice to assign employees to accounts in those states in which they have previously performed campaign work. Thus, Frank Greer (president), Kevin Geddings (senior account executive), and Bradley Perseke (media buyer) were assigned to the Sloane campaign and subsequently to the Kentucky Democratic Party account.

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On or about October 12, 1990, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane Committee, that the Kentucky Democratic Party had retained the firm to produce and place two television ads. At the request of Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky Democratic Party. The firm asserts that it had no contact with the DNC or DSCC regarding the State Party's ads.

One memorandum is dated October 15, 1990, from Beth Daly and Bradley Perseke of the Greer firm to Jim Cunningham, campaign manager for the Sloane Committee. It provides the estimated cost of the October 18 to October 27 "flight" of television ads for the State Party along with the media markets, the gross ratings points, and the estimated cost per market. The total estimated cost was $145,828.00 with gross ratings points ranging from 350 in Huntington, West Virginia to 800 in Louisville. The second memorandum is similar and dated October 20, 1990. It provides the estimated cost for the October 28 to November 5 flight of ads for the State Party along with the media markets, gross ratings points, and the estimated cost per market. It also notes a "fringe" cable media buy on CNN and USA networks in the Cincinnati and the Charleston/Huntington/Ashland markets. The total estimated cost was $142,388.00 with gross ratings points ranging from 250 in Huntington to 800 in Louisville.

The firm contends that a schedule of the broadcast of the State Party's ads was not given to Sloane or the Sloane Committee

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or to any other person other than those employed by the firm or the State Party. The firm adds that neither Sloane nor the Sloane Committee was asked to preview or approve the ads, scripts or storyboards prior to their broadcast. Counsel for the firm, however, reviewed a draft of the scripts. No other person was apparently given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of the firm or the State Party. The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chairperson). The ads were completed on or about October 15, 1990, and first broadcast on October 18, 1990. The State Party made these payments to the Greer firm for the ads: $145,000 on October 18, $100,000 on October 23, $50,000 on October 26, and $15,000 on November 2. The Greer firm provided copies of the checks. The dates noted above are the dates on the checks. They were all drawn on the State Party's nonfederal account and total $310,000.

2504365401 3

The date, purpose, and amount of the invoices from the firm to the State Party for the television ads are as follows:

Date	Purpose	Amount
10-16	media buy	$145,518.00
10-26	production	7,000.00
10-28	media buy	142,338.00
11-1	production	144.00
11-5	media	15,000.00
	Total	$310,060.00

The media buy on October 16 covered the flight of ads from October 18 through October 27. The media buy on October 28

covered the flight from October 28 through November 5. The above total amount invoiced is within $60 of the total amount of payments by the State Party.

According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.[1]
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

As noted, the firm stated that the State Party's ads did not contain any footage which had appeared in Sloane for Senate commercials. The firm added that it owns and maintains an extensive video library of film previously shot on behalf of its clients which it uses to produce ads for other clients. The firm states that in producing the State Party's ads, it relied

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1. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

2504365401 4

exclusively on pre-existing footage from its library. It notes that of this footage less than 1 percent had been shot during its work for the Sloane Committee and subsequently used in the State Party's ads. The firm asserts that none of the footage used in the State Party's ads were used in Sloane ads and that no other materials produced for the Sloane Committee were used in the State Party's ads. The firm provided video tapes of the television ads it produced for the State Party and the television and radio ads it produced for the Sloane Committee.

A transcript of the audio portion of the State Party's and the Sloane Committee's ads produced by the Greer firm along with a description of the visual portion of these ads has been prepared. See Attachment. The two ads the Greer firm prepared for the State Party focused on alleged Republican tax breaks for the rich. Both ads said that Democrats always fight for good paying jobs, social security, health care, and quality education while the Republicans protect the wealthy. The visuals included pictures of three Democratic Presidents (Roosevelt, Truman, and Kennedy), businesspersons getting into limousines, and pictures of workers, families, and the elderly. Each ad ended with the statement: "That's why we need Kentucky's Democrats fighting for us."

The Greer firm prepared three radio ads and ten television ads for the Sloane Committee. The three radio ads ended with one of these statements: (1) "Harvey Sloane: Kentucky's Democrat fighting for us"; or (2) "Let's ditch Mitch and vote for Kentucky's Democrat Harvey Sloane." One of the three radio ads

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focused on Senator McConnell's alleged voting for tax increases on the middle class and tax breaks for the rich and forgiving $7 billion in loans to Egypt. Four of the ten television ads made reference at the end to "Harvey Sloane, Kentucky's Democrat." Two of the television ads focus on tax issues. One ad accuses Senator McConnell of voting for tax breaks for the rich and tax increases for the middle class and voting against such items as social security and Medicare, day-care, minimum wage, plant closing notifications, school lunches, and education. The visuals are sets of puppets and written statements. The other television ad consists of Harvey Sloane addressing the audience. He asks viewers if they are tired of the mess in Washington with tax breaks for the rich and pay raises. The announcer in several of the Sloane Committee ads appears to be the same person as the announcer in the State Party's ads.

The DSCC reported making these payments to the Greer firm for coordinated party expenditures on behalf of Sloane:[2]

September 10	$80,000.00
October 4	$25,000.00
October 22	$90,000.00
October 30	$7,000.00
October 31	$10,000.00
October 31	$8,000.00
Total	$220,000.00

2. The DSCC reported making a $17,500 contribution to the Sloane Committee in June 1990 and $270,737.00 in coordinated party expenditures relating to the 1990 general election. The coordinated party expenditure limitation for 1990 in Kentucky was $138,772.80 for the state party and the same amount for the national party. The reported expenditures by the DSCC indicate that both the state party and the national party authorized the DSCC to spend against their respective limitations.

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The firm states that these payments were used to purchase broadcast time for the television ads it produced for the Sloane Committee and were used in conjunction with funds from the Sloane Committee to purchase the broadcast time. The Greer firm states that the payments from the DSCC did not relate in any way to the State Party's ads.

The following chart provides a comparison by date and amount of the payments made to the Greer firm in September, October, and November 1990 by the Sloane Committee, the DSCC, and the State Party for media buys and production costs related to the 1990 general election.

	Sloane	DSCC	State Party
September			
1			
2			
3			
4			
5			
6			
7			
8			
9		$80,000.00	
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21	$50,000.00		
22			
23			
24			
25			
26			
27			
28			

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	Sloane	DSCC	State Party
September (cont'd)			
29			
30			
October			
1	$9,268.74		
2			
3		$25,000.00	
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			$145,000.00
18	$200,000.00		
19			
20			
21		$90,000.00	
22			$100,000.00
23	$19,562.98		
24			
25	$4,500.00		$50,000.00
26			
27			
28			
29		$7,000.00	
30	$10,000.00	$18,000.00	
31	$12,500.00		
November			
1	$15,000.00		$15,000.00
2	$22,500.00		
Totals	$343,331.72	$220,000.00	$310,000.00

Thus, in the 20 days prior to the general election, the payments to the Greer firm were $310,000.00 by the State Party, $115,000 by the DSCC, and $284,062.98 by the Sloane Committee. The State Party's payments were financed by the $100,000 gift from ATLA PAC

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and the $215,000 in transfers from the DNC, made after Mary Bingham's $250,000 gift to the DNC.

The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[3]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

3. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[4]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

Martin states that he understood the term "coordinated campaign" as used by the DNC "to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990." He identifies Mary Ann Johnson, the chairman of the State Party at that time, as the head of the coordinated campaign. Martin's responsibilities apparently involved the coordination of the various state legislative candidate races. Pat Goins was the bookkeeper, Neville Blakemore, III a field coordinator, Danny Ross the labor coordinator, Jim Cauley a field coordinator, Meg Conlon a researcher, Steve Bachar the field director, and Kevin Geddings

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4. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

the contact person with the Greer firm.[5] Jim Cunningham was the Sloane Committee's contact person with the State Party.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold Communications in Texas for "mailing/printing."[6]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee

5. Geddings was employed by the Greer firm, not the State Party. The others were employed by the State Party.

6. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

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known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[7] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an

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7. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund.

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aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2). No individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5. Commission regulations permit transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii).

The Act also permits the national committee and the state committee of a political party to make certain expenditures on behalf of their candidates for the Senate and House. 2 U.S.C. § 441a(d)(3). The Commission has recognized that these committees may authorize other committees to make expenditures against these limitations and may transfer funds to such committees for such purpose. FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1980). The Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the limits of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). The Act also sets out the reporting requirements for such contributions and expenditures. 2 U.S.C. § 434(b).

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Commission regulations 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. 11 C.F.R. § 106.1(a).[8] An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the candidate on whose behalf it is made, except that party committees need report coordinated party expenditures only as an expenditure. 11 C.F.R. § 106.1(b). The regulations further provide that expenditures by registration or get-out-the-vote ("GOTV") drives of 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)(2). "Clearly identified" is defined to mean the candidate's name, photograph, or drawing appears or the "identity of the candidate is apparent by unambiguous reference." 11 C.F.R. § 106.1(d).

Commission regulations further provide that an organization, including a party committee, that finances political activity in connection with both federal and nonfederal elections has the option of establishing only one account for all such activity or

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8. The Act also creates exemptions to the definition of contribution and expenditure for certain activity by state parties on behalf of its candidates. These include exemptions for slate cards, campaign materials distributed by volunteers, and presidential voter registration and get-out-the-vote activities. Because television ads are excluded from these exemptions, they are not implicated in this matter.

separate accounts for federal and nonfederal activity 11 C.F.R. § 102.5(a)(1). If the organization establishes separate federal and nonfederal accounts, only the federal account need register with the Commission as the federal political committee and report its receipts and disbursements. 11 C.F.R. § 102.5(a)(1)(i). In such case, only funds subject to the limitations and prohibitions of the Act shall be deposited into the federal account. No transfers shall be made from the nonfederal account to the federal account.[9] And all disbursements in connection with any federal election shall be made from the federal account. Commission regulations further provide that committees that establish separate accounts shall allocate administrative expenses between the two accounts "in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. §§ 106.1(e) and 102.5(a)(1)(i). This allocation requirement also applies to voter registration and GOTV activities. Advisory Opinion 1978-50.

In Advisory Opinion 1978-50, the Commission addressed a GOTV drive by the Michigan Democratic Party involving telephone calls, mailings, literature distribution, and personal visits, designed to turn out voters who supported the party's gubernatorial nominee. The Commission was asked whether payments for this

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9. New regulations adopted by the Commission will now permit limited transfers from the nonfederal to the federal account when the nonfederal account pays its proportionate share of administrative, fundraising, and other mixed activity. These regulations were not in effect at the time of the events at issue in these matters.

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activity was covered by the Act and, if so, whether any portion of the costs would be allocable to the coordinated party expenditure limitation on behalf of its Senate and House candidates. The Commission stated that although the GOTV drive was intended to aid the gubernatorial nominee, it would also have the purpose of influencing elections to federal office, citing Advisory Opinion 1978-10.

This conclusion was based on the Commission's view that GOTV drives inevitably and inherently influence the election of all candidates of a political party that are on the ballot. The opinion stated:

> The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective pubic offices.

It further noted that GOTV expenditures "would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed," citing 11 C.F.R. § 106.1(c)(2). The Commission also stated that the federal account should pay the portion of the GOTV expenses allocable to federal elections pursuant to 11 C.F.R. § 106.1(e). See also, Advisory Opinions 1978-10 and 1978-28 and Campaign Guide for Political Party Committees at page 15 (September 1989).

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C. DISCUSSION

As noted, the payments to the Greer firm for the GOTV ads ($310,000) were made from the State Party's nonfederal account. The nonfederal account received $215,000 from the DNC and $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC") in the same general time frame as the payments to the Greer firm. The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from the DNC and ATLA PAC.

The complainants allege that Mary C. Bingham's gift to the DNC was made with the intent of having it used by the State Party on behalf of Sloane. In fact, the complainant in MUR 3182 alleges that Mrs. Bingham, Sloane, the Sloane Committee, the State Party, and the DNC "joined in a scheme to launder a massive, illegal contribution." It states that Mrs. Bingham was a supporter of Sloane's and had made maximum allowable contributions to his campaign and to the State Party. It further alleges that by mid-October 1990, the DNC or its designated agent had spent within $10,000 of the allowable coordinated party expenditure limitation on behalf of Sloane, who at that time it alleges had little cash on hand and trailed Sen. McConnell in the polls. The complainant claims Mrs. Bingham gave $250,000 to the DNC to influence the Kentucky Senate race. It argues that the DNC agreed with Mrs. Bingham that her money would be transferred to the State Party and spent in a way to benefit Sloane, thus allegedly making her gift a contribution under the Act.

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The complainant then alleges that the DNC transferred these funds to the State Party, directly after receiving them, for the purpose of influencing the Senate race, thus allegedly making the transfer subject to the Act's limitations on coordinated party expenditures and direct contributions. The complainant also alleges that the DNC exercised direction and control over Mrs. Bingham's funds. It then claims the State Party spent her funds on the ads, coordinated with the Sloane campaign, and for the purpose of influencing the Senate race, thus allegedly making the expenditures contributions to Sloane and his committee. Finally, the complainant alleges that the DNC, the State Party, and the Sloane Committee have not reported these transactions.

Mary C. Bingham states that for many years while the family owned the Louisville Courier Journal neither she nor her husband made political contributions. When the paper was sold in 1986, they contributed a total of $8,000 to federal and nonfederal candidates. She adds that in 1988, 1989, and 1990, she contributed to the DNC. In September 1988, she contributed $20,000 to the DNC's federal account and $80,000 to its nonfederal account. In August 1989, she gave $25,000 to the nonfederal account. In October 1990, she contributed $20,000 to the federal account and $230,000 to the nonfederal account. She provided copies of these checks. She states that she is aware that political parties often maintain federal and nonfederal accounts and that she has received solicitations for various nonfederal committees, including those maintained by the DNC and the State Party. She states that in making political

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contributions she has relied upon the representations of those soliciting the contributions regarding whether and how much she may contribute.

Mrs. Bingham states that in the fall of 1990 she became concerned about the course of the general election campaign and the lack of discussion of certain issues. She discussed her concerns at dinner with her grandson, who had participated in a number of Democratic campaigns and was a volunteer in the Sloane campaign. She said the thrust of the conversation was that if she wanted to help the Democratic Party she should consider making a contribution to the DNC. She said she contacted Harvey Sloane and was advised she could give up to $20,000 to the DNC's federal account and additional amounts to its nonfederal account. She avers that Sloane told her that if she gave to the DNC, it would decide how the funds were to be used and that she could not impose any conditions on its use. She avers that she made her contributions to the DNC "with no strings attached." She states that she "imposed no conditions on when, how, or where the donated funds would be used by the DNC" and that she did not "have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely use." She adds that she also had no conversation with any representative of the Kentucky Democratic Party regarding her contributions. She says that she made the contributions because she "wanted to help the Democratic Party present its side of the issues to the general public."

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The Senate candidate Harvey Sloane states that he first learned Mary C. Bingham was going to make a large contribution to the DNC when her grandson Rob Bingham informed him of this fact. Sloane says that he did not know its total size, but was told it would be large. He states that he discussed this contribution with Jim Cunningham of his campaign organization who informed him that under DNC policies no contribution could be earmarked for any particular candidate or state. Sloane avers that at no time was there any agreement "of any type" that Mrs. Bingham's contribution would be earmarked or designated in advance or after the fact for Sloane's campaign or for any Kentucky races.

The DNC responds that it maintains a nonfederal account to assist state and local parties and that Mrs. Bingham's contribution to the DNC's nonfederal account was "entirely legal." It also states that the gift was "given and received without any instructions as to its ultimate disposition." It argues that the DNC's transfers to the State Party were legal under both Commission regulations and Kentucky law. It adds that the amount transferred to a particular state is determined by a variety of considerations, including (in the case of Kentucky) the state's significance as a potential southern swing state in future presidential campaigns, the upcoming redistricting and reapportionment, the closeness of key races in the state, the potential for future Democratic gains, and the level of commitment by party leaders to a coordinated campaign plan directed to the election of the entire Democratic ticket. It states that each transfer of nonfederal funds was accompanied by

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a letter with express language restricting the use of the funds to efforts allocable only to state and local candidates or elections.[10] The response adds that whether or not the funds transferred to the State Party were the Bingham funds, the transfers were categorically limited to be used for state and local purposes.

Mary Ann Johnson, chairman of the Kentucky Democratic Party, states that at no time did she or the State Party have any knowledge or information to give them reason to believe Mrs. Bingham gave $250,000 to the DNC. She further states that at no time relevant to these matters did the DNC transfer money to the State Party "for the purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell." She adds that at no time did the State Party accept money from the DNC to influence the Senate race.

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10. The relevant portion of these letters read:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion.
>
> ... Please note this contribution should not be deposited into any federal account maintained by you.

The complainants both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[11]

The Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be

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11. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee. The payments by the committee to the Greer firm outlined earlier in this report do not indicate any noticeable gap in campaign advertising activity by the Sloane campaign around the time of the State Party's GOTV ads.

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predominately federal. The State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[12] It further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

In this matter, the information clearly shows, however, that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane campaign before managing the State Party's coordinated campaign, that the Greer firm informed the Sloane campaign of the State Party's media buys, that the content of the GOTV ads meshed with the themes and tagline of the Sloane campaign ads, that the timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Furthermore, as detailed earlier, the candidate Harvey Sloane was clearly aware of Mrs. Bingham's

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12. This statement is rather curious in that in 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

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donations and may have played a key role in seeing that the funds got to the State Party and in how they were then used.

There is also little doubt that the GOTV ads would benefit the Sloane campaign. This conclusion fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr. Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.
>
> Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

The statements from the respondents all seek to refute the allegation that there was a plan or agreement among the various parties that Mrs. Bingham's donations would be funneled to Kentucky to help the Sloane campaign. Notwithstanding them, however, the timing of the gifts, transfers, and payments create an inference that Mrs. Bingham's gift to the DNC's nonfederal account may have been made to influence a federal election. A time line indicates that sometime in the "Fall of 1990" she had a conversation with her grandson that led to her calling

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Harvey Sloane to inform him of her intent to make a large gift (the grandson having already apprised Sloane of this). She wrote her check for $230,000 to the DNC on October 9. On October 10, the State Party retained the Greer firm, Sloane's media consultant, to produce its television ads, the party's first and at a point in time when it lacked sufficient funds in its accounts to pay for the ads. On October 11, the DNC received Mrs. Bingham's check. The DNC made two transfers on October 16 of $50,000 and $95,000 to the State Party, another $50,000 transfer on October 23, and two $10,000 transfers on October 25. The State Party made payments totaling $310,000 to the Greer firm on October 18 and November 2.

Mrs. Bingham's donations to the DNC in 1990 were substantially greater than in recent years. According to press accounts, her donation to the DNC was also the largest single gift it received in 1990. Furthermore, it appears that under Kentucky law, she could not contribute more than $6,000 to the nonfederal account but the State Party could accept unlimited transfers from the DNC, thus perhaps explaining the circuitous route her money took. The evidence indicates there may have been some implicit or tacit understanding or awareness that Mrs. Bingham's donations would find their way back to Kentucky, where they would be used to help the Sloane campaign. If so, then it appears that Mrs. Bingham may have made her donation for the purpose of influencing a federal election and the DNC and the State Party may have accepted it for such purpose.

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The complainant in MUR 3145 also alleges that the $100,000 donated by ATLA or ATLA PAC to the nonfederal account of the State Party was for the purpose of electing Sloane and therefore should have been deposited into the federal account. In such case, the complainant alleges that the amount of this donation would be excessive under the Act. The complainant relies primarily on a newspaper article. That article stated that ATLA PAC had donated $50,000 with another $50,000 expected as a contribution to the State Party's "coordinated campaign to elect Sloane and other Democrats."[13]

ATLA PAC's donations were made and reported from its federal account as "other disbursements." In its response it furnished an affidavit from Alan Parker, deputy executive director for public affairs for ATLA. He states that ATLA PAC donated $50,000 on September 14, 1990, and another $50,000 on October 9, 1990, to the nonfederal account of the Kentucky Democratic Party. Copies of the checks were attached and show that the checks were made payable to the state account. The checks have no indication of earmarking. Parker states that the funds were donated "for use by the party to defray the costs of the non-federal share of the Party's get-out-the-vote efforts in Kentucky." He adds that they "were not donated for the purpose of influencing a federal election."

He states that neither ATLA nor ATLA PAC "knowingly participated in any effort to circumvent the contribution limits

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13. The quoted portion is the reporter's not ATLA PAC's.

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of 2 U.S.C. § 441a(a)." He further states that "[i]f any of the funds donated by ATLA-PAC to the Party were used for the purpose of influencing a federal election, such use was contrary to the express intention of ATLA-PAC in making the donations for the non-federal get-out-the-vote effort." ATLA PAC registered and filed reports with Kentucky under state law regarding the donations to the nonfederal account.

The $100,000 in donations from ATLA PAC to the Kentucky State Party's nonfederal account was only a portion of the funds ATLA PAC transferred to state nonfederal accounts in 1990. ATLA PAC reported transferring $980,000 to nonfederal accounts in 1990 out of approximately $2,573,136 in disbursements. A total of $759,000 of the $980,000 was transferred between September 1 and November 30, 1990. These transfers went to the nonfederal accounts of 12 state parties plus Citizen Action. Ten of the twelve state party nonfederal accounts receiving funds near the general election were in states with key Senate elections. These ten states with Senate elections received $729,000 or 74 percent of the $980,000 transferred to nonfederal accounts in 1990.

In 1988, ATLA PAC transferred at least $986,962 out of $2,903,193.96 in aggregate disbursements to the nonfederal accounts of state parties or to voter registration organizations in 19 states, 18 of which held Senate elections. Of these transfers, $846,962 was transferred to the nonfederal accounts or voter registration organizations in eighteen states with Senate elections in 1988, nearly all of it within the period prior to the general election. In 1986, ATLA PAC's other disbursements

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totaled only $237,267.80 out of aggregate disbursements of $2,240,766.24. All of these transfers went to state PACs affiliated with ATLA PAC.

The statements by Alan Parker in his affidavit must be viewed in conjunction with the above pattern of contributions to the nonfederal accounts of state parties by ATLA PAC, especially where there were contested Senate elections. When viewed in this context, there is reason to believe that ATLA PAC's contributions to the nonfederal account of the Kentucky State Party may have been made with the purpose, knowledge, or awareness, explicit or implicit, that they would be used to benefit the Sloane campaign and may have been accepted by the State Party for such purpose.

This case may present a classic illustration of the "soft money" issue and its relationship to federal elections. As noted, ATLA PAC makes a $50,000 gift to the State Party on September 17. Sometime that fall, Mrs. Bingham decides to make the largest single political contribution she has ever made. She and her grandson separately inform Harvey Sloane. She then sends a $230,000 check to the DNC on October 9, making it the largest single contribution it receives in 1990. The State Party decides to launch a television advertising campaign -- its first ever and at a point in time when it lacked sufficient funds in its accounts to pay for the ads. And on October 10, it hires Sloane's media consultant to do the ads. The ads themselves echo the themes of Sloane campaign ads, only without any explicit mention of Sloane. Over the period of time that the ads run and the payments are made to the consultant, the DNC transfers

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$215,000 to the State Party. ATLA PAC contributes another $50,000 on October 25. The aggregate amount of these gifts ($315,000) nearly matches the payments to the consultant ($310,000). The respondent asks the Commission to accept that these series of events occurred by coincidence rather than by consequence. Accepting this argument at this point would be contrary to the possible import and effect of the respondents' own actions in this matter.

Therefore, there is reason to believe the Kentucky Democratic Central Executive Committee (Federal and Nonfederal Accounts) and Richard Rankin, as treasurer, violated 2 U.S.C. § 441a(f) by receiving excessive contributions from ATLA PAC and Mrs. Bingham that it deposited into its nonfederal account and used on behalf of Sloane.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John C. Keeney, Jr., Esquire
Hogan & Hartson
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

RE: MUR 3182
Democratic National Committee

Dear Mr. Keeney:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, the Democratic National Committee and its treasurer, violated 2 U.S.C. § 441a(f). A copy of the Factual and Legal Analysis, which formed a basis for the Commission's finding, was enclosed with that notification. On June 21, 1991, you submitted a request to enter into conciliation negotiations prior to a finding of probable cause to believe.

The Commission has considered your request and determined, because of the need to complete the investigation, to decline at this time to enter into conciliation prior to a finding of probable cause to believe. At such time when the investigation in this matter has been completed, the Commission will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

Upon further review of the allegations contained in the complaint, and information obtained during the ongoing investigation, on September 15, 1992, the Commission made an additional finding that there is reason to believe your client, the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f), in other aspects. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring your client to send the person most knowledgeable about the facts of this matter to appear and give sworn testimony regarding communications between the Democratic National Committee and Harvey Sloane, James Cunningham, Mary C. Bingham, and others with regard to the receipt of contributions totally $250,000 from Mary C. Bingham in 1990 and the transfers of funds to the Kentucky Democratic Central Executive Committee in 1990.

Within two days of your receipt of this notification, please confirm the scheduled deposition appearance with Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400. If you have any questions, please contact Ms. Mott.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

cc: Carol Darr, Esq.
DNC, General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Democratic National Committee
c/o John C. Keeney, Jr.
Hogan & Hartson
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to designate to appear for deposition the person most knowledgeable about the communications between the Democratic National Committee and Harvey Sloane, James Cunningham, Mary C. Bingham, and others with regard to the receipt of contributions totaling $250,000 from Mary C. Bingham in 1990 and the transfers of funds to the Kentucky Democratic Central Executive Committee in 1990. Notice is hereby given that the deposition is to be taken on November 5, 1992 in Room 657 at the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Democratic National Committee and Robert T. Matsui, as treasurer **MUR:** 3182

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, (MUR 3145) and by a complaint by Common Cause (MUR 3182). These matters have been merged for administrative purposes. This matter relates to television advertising purchased by the Kentucky Democratic Central Executive Committee in 1990, the funding for these ads, and their relationship to the Senate campaign of Dr. Harvey Sloane.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to

Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

According to the complaint, one of the advertisements

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broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.
>
> He's walked every corner of the Commonwealth, listening to Kentucky.
>
> Harvey Sloane -- health care, education, jobs, our environment.
>
> With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.
>
> Harvey Sloane -- Kentucky's Democrat, fighting for us.

This ad was prepared by the Greer firm.

The Greer firm states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and public relations strategy including the creation, production, and placement of campaign ads. It adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. The firm said that it performed no other work for the State Party. It further stated that no footage used in the State Party's ads appeared in Sloane ads. The Greer firm states that it is the firm's practice to assign employees to accounts in those states in which they have previously performed campaign work. Thus, Frank Greer (president), Kevin Geddings (senior account executive), and Bradley Perseke (media buyer) were assigned to the Sloane campaign and subsequently to the Kentucky Democratic Party account.

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On or about October 12, 1990, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane Committee, that the Kentucky Democratic Party had retained the firm to produce and place two television ads. At the request of Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky Democratic Party. The firm asserts that it had no contact with the DNC or DSCC regarding the State Party's ads.

One memorandum is dated October 15, 1990, from Beth Daly and Bradley Perseke of the Greer firm to Jim Cunningham, campaign manager for the Sloane Committee. It provides the estimated cost of the October 18 to October 27 "flight" of television ads for the State Party along with the media markets, the gross ratings points, and the estimated cost per market. The total estimated cost was $145,828.00 with gross ratings points ranging from 350 in Huntington, West Virginia to 800 in Louisville. The second memorandum is similar and dated October 20, 1990. It provides the estimated cost for the October 28 to November 5 flight of ads for the State Party along with the media markets, gross ratings points, and the estimated cost per market. It also notes a "fringe" cable media buy on CNN and USA networks in the Cincinnati and the Charleston/Huntington/Ashland markets. The total estimated cost was $142,388.00 with gross ratings points ranging from 250 in Huntington to 800 in Louisville.

The firm contends that a schedule of the broadcast of the State Party's ads was not given to Sloane or the Sloane Committee

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or to any other person other than those employed by the firm or the State Party. The firm adds that neither Sloane nor the Sloane Committee was asked to preview or approve the ads, scripts or storyboards prior to their broadcast. Counsel for the firm, however, reviewed a draft of the scripts. No other person was apparently given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of the firm or the State Party. The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chairperson). The ads were completed on or about October 15, 1990, and first broadcast on October 18, 1990. The State Party made these payments to the Greer firm for the ads: $145,000 on October 18, $100,000 on October 23, $50,000 on October 26, and $15,000 on November 2. The Greer firm provided copies of the checks. The dates noted above are the dates on the checks. They were all drawn on the State Party's nonfederal account and total $310,000.00.

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The date, purpose, and amount of the invoices from the firm to the State Party for the television ads are as follows:

Date	Purpose	Amount
10-16	media buy	$145,518.00
10-26	production	7,000.00
10-28	media buy	142,338.00
11-1	production	144.00
11-5	media	15,000.00
	Total	**$310,060.00**

The media buy on October 16 covered the flight of ads from October 18 through October 27. The media buy on October 28

covered the flight from October 28 through November 5. The above total amount invoiced is within $60 of the total amount of payments by the State Party.

According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.[1]
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

As noted, the firm stated that the State Party's ads did not contain any footage which had appeared in Sloane for Senate commercials. The firm added that it owns and maintains an extensive video library of film previously shot on behalf of its clients which it uses to produce ads for other clients. The firm states that in producing the State Party's ads, it relied

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1. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

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exclusively on pre-existing footage from its library. It notes that of this footage less than 1 percent had been shot during its work for the Sloane Committee and subsequently used in the State Party's ads. The firm asserts that none of the footage used in the State Party's ads were used in Sloane ads and that no other materials produced for the Sloane Committee were used in the State Party's ads. The firm provided video tapes of the television ads it produced for the State Party and the television and radio ads it produced for the Sloane Committee.

A transcript of the audio portion of the State Party's and the Sloane Committee's ads produced by the Greer firm along with a description of the visual portion of these ads has been prepared. See Attachment. The two ads the Greer firm prepared for the State Party focused on alleged Republican tax breaks for the rich. Both ads said that Democrats always fight for good paying jobs, social security, health care, and quality education while the Republicans protect the wealthy. The visuals included pictures of three Democratic Presidents (Roosevelt, Truman, and Kennedy), businesspersons getting into limousines, and pictures of workers, families, and the elderly. Each ad ended with the statement: "That's why we need Kentucky's Democrats fighting for us."

The Greer firm prepared three radio ads and ten television ads for the Sloane Committee. The three radio ads ended with one of these statements: (1) "Harvey Sloane: Kentucky's Democrat fighting for us"; or (2) "Let's ditch Mitch and vote for Kentucky's Democrat Harvey Sloane." One of the three radio ads

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focused on Senator McConnell's alleged voting for tax increases on the middle class and tax breaks for the rich and forgiving $7 billion in loans to Egypt. Four of the ten television ads made reference at the end to "Harvey Sloane, Kentucky's Democrat." Two of the television ads focus on tax issues. One ad accuses Senator McConnell of voting for tax breaks for the rich and tax increases for the middle class and voting against such items as social security and Medicare, day-care, minimum wage, plant closing notifications, school lunches, and education. The visuals are sets of puppets and written statements. The other television ad consists of Harvey Sloane addressing the audience. He asks viewers if they are tired of the mess in Washington with tax breaks for the rich and pay raises. The announcer in several of the Sloane Committee ads appears to be the same person as the announcer in the State Party's ads.

The DSCC reported making these payments to the Greer firm for coordinated party expenditures on behalf of Sloane:[2]

September 10	$80,000.00
October 4	$25,000.00
October 22	$90,000.00
October 30	$7,000.00
October 31	$10,000.00
October 31	$8,000.00
Total	$220,000.00

2. The DSCC reported making a $17,500 contribution to the Sloane Committee in June 1990 and $270,737.00 in coordinated party expenditures relating to the 1990 general election. The coordinated party expenditure limitation for 1990 in Kentucky was $138,772.80 for the state party and the same amount for the national party. The reported expenditures by the DSCC indicate that both the state party and the national party authorized the DSCC to spend against their respective limitations.

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The firm states that these payments were used to purchase broadcast time for the television ads it produced for the Sloane Committee and were used in conjunction with funds from the Sloane Committee to purchase the broadcast time. The Greer firm states that the payments from the DSCC did not relate in any way to the State Party's ads.

The following chart provides a comparison by date and amount of the payments made to the Greer firm in September, October, and November 1990 by the Sloane Committee, the DSCC, and the State Party for media buys and production costs related to the 1990 general election.

	Sloane	DSCC	State Party
September			
1			
2			
3			
4			
5			
6			
7			
8			
9		$80,000.00	
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21	$50,000.00		
22			
23			
24			
25			
26			
27			
28			
29			
30			

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	Sloane	DSCC	State Party
October 1	$9,268.74		
2			
3		$25,000.00	
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			$145,000.00
18	$200,000.00		
19			
20			
21		$90,000.00	
22			$100,000.00
23	$19,562.98		
24			
25	$4,500.00		$50,000.00
26			
27			
28			
29		$7,000.00	
30	$10,000.00	$18,000.00	
31	$12,500.00		
November 1	$15,000.00		$15,000.00
2	$22,500.00		
Totals	$343,331.72	$220,000.00	$310,000.00

Thus, in the 20 days prior to the general election, the payments to the Greer firm were $310,000.00 by the State Party, $115,000 by the DSCC, and $284,062.98 by the Sloane Committee. The State Party's payments were financed by the $100,000 gift from ATLA PAC and the $215,000 in transfers from the DNC, made after Mary Bingham's $250,000 gift to the DNC.

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The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[3]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

3. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[4]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

Martin states that he understood the term "coordinated campaign" as used by the DNC "to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990." He identifies Mary Ann Johnson, the chairman of the State Party at that time, as the head of the coordinated campaign. Martin's responsibilities apparently involved the coordination of the various state legislative candidate races. Pat Goins was the bookkeeper, Neville Blakemore, III a field coordinator, Danny Ross the labor coordinator, Jim Cauley a field coordinator, Meg Conlon a researcher, Steve Bachar the field director, and Kevin Geddings

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4. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

the contact person with the Greer firm.[5] Jim Cunningham was the Sloane Committee's contact person with the State Party.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold Communications in Texas for "mailing/printing."[6]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee

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5. Geddings was employed by the Greer firm, not the State Party. The others were employed by the State Party.

6. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

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known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[7] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an

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7. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund.

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aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2). No individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5. Commission regulations permit transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii).

The Act also permits the national committee and the state committee of a political party to make certain expenditures on behalf of their candidates for the Senate and House. 2 U.S.C. § 441a(d)(3). The Commission has recognized that these committees may authorize other committees to make expenditures against these limitations and may transfer funds to such committees for such purpose. FEC v. Democratic Senatorial Campaign Committee, 454 U.S. 27 (1980). The Act prohibits any candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the limits of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). The Act also sets out the reporting requirements for such contributions and expenditures. 2 U.S.C. § 434(b).

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Commission regulations 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. 11 C.F.R. § 106.1(a).[8] An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind to the candidate on whose behalf it is made, except that party committees need report coordinated party expenditures only as an expenditure. 11 C.F.R. § 106.1(b). The regulations further provide that expenditures by registration or get-out-the-vote ("GOTV") drives of 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)(2). "Clearly identified" is defined to mean the candidate's name, photograph, or drawing appears or the "identity of the candidate is apparent by unambiguous reference." 11 C.F.R. § 106.1(d).

Commission regulations further provide that an organization, including a party committee, that finances political activity in connection with both federal and nonfederal elections has the option of establishing only one account for all such activity or

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8. The Act also creates exemptions to the definition of contribution and expenditure for certain activity by state parties on behalf of its candidates. These include exemptions for slate cards, campaign materials distributed by volunteers, and presidential voter registration and get-out-the-vote activities. Because television ads are excluded from these exemptions, they are not implicated in this matter.

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separate accounts for federal and nonfederal activity 11 C.F.R. § 102.5(a)(1). If the organization establishes separate federal and nonfederal accounts, only the federal account need register with the Commission as the federal political committee and report its receipts and disbursements. 11 C.F.R. § 102.5(a)(1)(i). In such case, only funds subject to the limitations and prohibitions of the Act shall be deposited into the federal account. No transfers shall be made from the nonfederal account to the federal account.[9] And all disbursements in connection with any federal election shall be made from the federal account. Commission regulations further provide that committees that establish separate accounts shall allocate administrative expenses between the two accounts "in proportion to the amount of funds expended on Federal and non-Federal elections, or on another reasonable basis." 11 C.F.R. §§ 106.1(e) and 102.5(a)(1)(i). This allocation requirement also applies to voter registration and GOTV activities. Advisory Opinion 1978-50.

In Advisory Opinion 1978-50, the Commission addressed a GOTV drive by the Michigan Democratic Party involving telephone calls, mailings, literature distribution, and personal visits, designed to turn out voters who supported the party's gubernatorial nominee. The Commission was asked whether payments for this

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9. New regulations adopted by the Commission will now permit limited transfers from the nonfederal to the federal account when the nonfederal account pays its proportionate share of administrative, fundraising, and other mixed activity. These regulations were not in effect at the time of the events at issue in these matters.

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activity was covered by the Act and, if so, whether any portion of the costs would be allocable to the coordinated party expenditure limitation on behalf of its Senate and House candidates. The Commission stated that although the GOTV drive was intended to aid the gubernatorial nominee, it would also have the purpose of influencing elections to federal office, citing Advisory Opinion 1978-10.

This conclusion was based on the Commission's view that GOTV drives inevitably and inherently influence the election of all candidates of a political party that are on the ballot. The opinion stated:

> The Commission therefore required that party expenditures for its get-out-the-vote campaign be allocated on a reasonable basis between the two classes of candidates who would appear on the same election ballot - those seeking Federal office and those seeking other elective pubic offices.

It further noted that GOTV expenditures "would not, however, need to be allocated as expenditures on behalf of specific candidates for Federal office if the drive is not conducted on behalf of clearly identified candidates for Federal office to whom the expenditure can be directly attributed," citing 11 C.F.R. § 106.1(c)(2). The Commission also stated that the federal account should pay the portion of the GOTV expenses allocable to federal elections pursuant to 11 C.F.R. § 106.1(e). See also, Advisory Opinions 1978-10 and 1978-28 and Campaign Guide for Political Party Committees at page 15 (September 1989).

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C. DISCUSSION

As noted, the payments to the Greer firm for the GOTV ads ($310,000) were made from the State Party's nonfederal account. The nonfederal account received $215,000 from the DNC and $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC") in the same general time frame as the payments to the Greer firm. The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from the DNC and ATLA PAC.

The complainants allege that Mary C. Bingham's gift to the DNC was made with the intent of having it used by the State Party on behalf of Sloane. In fact, the complainant in MUR 3182 alleges that Mrs. Bingham, Sloane, the Sloane Committee, the State Party, and the DNC "joined in a scheme to launder a massive, illegal contribution." It states that Mrs. Bingham was a supporter of Sloane's and had made maximum allowable contributions to his campaign and to the State Party. It further alleges that by mid-October 1990, the DNC or its designated agent had spent within $10,000 of the allowable coordinated party expenditure limitation on behalf of Sloane, who at that time it alleges had little cash on hand and trailed Sen. McConnell in the polls. The complainant claims Mrs. Bingham gave $250,000 to the DNC to influence the Kentucky Senate race. It argues that the DNC agreed with Mrs. Bingham that her money would be transferred to the State Party and spent in a way to benefit Sloane, thus allegedly making her gift a contribution under the Act.

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The complainant then alleges that the DNC transferred these funds to the State Party, directly after receiving them, for the purpose of influencing the Senate race, thus allegedly making the transfer subject to the Act's limitations on coordinated party expenditures and direct contributions. The complainant also alleges that the DNC exercised direction and control over Mrs. Bingham's funds. It then claims the State Party spent her funds on the ads, coordinated with the Sloane campaign, and for the purpose of influencing the Senate race, thus allegedly making the expenditures contributions to Sloane and his committee. Finally, the complainant alleges that the DNC, the State Party, and the Sloane Committee have not reported these transactions.

Mary C. Bingham states that for many years while the family owned the Louisville Courier Journal neither she nor her husband made political contributions. When the paper was sold in 1986, they contributed a total of $8,000 to federal and nonfederal candidates. She adds that in 1988, 1989, and 1990, she contributed to the DNC. In September 1988, she contributed $20,000 to the DNC's federal account and $80,000 to its nonfederal account. In August 1989, she gave $25,000 to the nonfederal account. In October 1990, she contributed $20,000 to the federal account and $230,000 to the nonfederal account. She provided copies of these checks. She states that she is aware that political parties often maintain federal and nonfederal accounts and that she has received solicitations for various nonfederal committees, including those maintained by the DNC and the State Party. She states that in making political

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contributions she has relied upon the representations of those soliciting the contributions regarding whether and how much she may contribute.

Mrs. Bingham states that in the fall of 1990 she became concerned about the course of the general election campaign and the lack of discussion of certain issues. She discussed her concerns at dinner with her grandson, who had participated in a number of Democratic campaigns and was a volunteer in the Sloane campaign. She said the thrust of the conversation was that if she wanted to help the Democratic Party she should consider making a contribution to the DNC. She said she contacted Harvey Sloane and was advised she could give up to $20,000 to the DNC's federal account and additional amounts to its nonfederal account. She avers that Sloane told her that if she gave to the DNC, it would decide how the funds were to be used and that she could not impose any conditions on its use. She avers that she made her contributions to the DNC "with no strings attached." She states that she "imposed no conditions on when, how, or where the donated funds would be used by the DNC" and that she did not "have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely use." She adds that she also had no conversation with any representative of the Kentucky Democratic Party regarding her contributions. She says that she made the contributions because she "wanted to help the Democratic Party present its side of the issues to the general public."

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The Senate candidate Harvey Sloane states that he first learned Mary C. Bingham was going to make a large contribution to the DNC when her grandson Rob Bingham informed him of this fact. Sloane says that he did not know its total size, but was told it would be large. He states that he discussed this contribution with Jim Cunningham of his campaign organization who informed him that under DNC policies no contribution could be earmarked for any particular candidate or state. Sloane avers that at no time was there any agreement "of any type" that Mrs. Bingham's contribution would be earmarked or designated in advance or after the fact for Sloane's campaign or for any Kentucky races.

The DNC responds that it maintains a nonfederal account to assist state and local parties and that Mrs. Bingham's contribution to the DNC's nonfederal account was "entirely legal." It also states that the gift was "given and received without any instructions as to its ultimate disposition." It argues that the DNC's transfers to the State Party were legal under both Commission regulations and Kentucky law. It adds that the amount transferred to a particular state is determined by a variety of considerations, including (in the case of Kentucky) the state's significance as a potential southern swing state in future presidential campaigns, the upcoming redistricting and reapportionment, the closeness of key races in the state, the potential for future Democratic gains, and the level of commitment by party leaders to a coordinated campaign plan directed to the election of the entire Democratic ticket. It states that each transfer of nonfederal funds was accompanied by

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a letter with express language restricting the use of the funds to efforts allocable only to state and local candidates or elections.[10] The response adds that whether or not the funds transferred to the State Party were the Bingham funds, the transfers were categorically limited to be used for state and local purposes.

Mary Ann Johnson, chairman of the Kentucky Democratic Party, states that at no time did she or the State Party have any knowledge or information to give them reason to believe Mrs. Bingham gave $250,000 to the DNC. She further states that at no time relevant to these matters did the DNC transfer money to the State Party "for the purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell." She adds that at no time did the State Party accept money from the DNC to influence the Senate race.

The complainants both allege that the television ads were on

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10. The relevant portion of these letters read:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion. ... Please note this contribution should not be deposited into any federal account maintained by you.

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behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[11]

The Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. The State Party claims the tax issue was

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11. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee. The payments by the committee to the Greer firm outlined earlier in this report do not indicate any noticeable gap in campaign advertising activity by the Sloane campaign around the time of the State Party's GOTV ads.

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also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[12] It further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

In this matter, the information clearly shows, however, that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane campaign before managing the State Party's coordinated campaign, that the Greer firm informed the Sloane campaign of the State Party's media buys, that the content of the GOTV ads meshed with the themes and tagline of the Sloane campaign ads, that the timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Furthermore, as detailed earlier, the candidate Harvey Sloane was clearly aware of Mrs. Bingham's donations and may have played a key role in seeing

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12. This statement is rather curious in that in 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

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that the funds got to the State Party and in how they were then used.

There is also little doubt that the GOTV ads would benefit the Sloane campaign. This conclusion fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr. Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.
>
> Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

The statements from the respondents all seek to refute the allegation that there was a plan or agreement among the various parties that Mrs. Bingham's donations would be funneled to Kentucky to help the Sloane campaign. Notwithstanding them, however, the timing of the gifts, transfers, and payments create an inference that Mrs. Bingham's gift to the DNC's nonfederal account may have been made to influence a federal election. A time line indicates that sometime in the "Fall of 1990" she had a conversation with her grandson that led to her calling

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Harvey Sloane to inform him of her intent to make a large gift (the grandson having already apprised Sloane of this). She wrote her check for $230,000 to the DNC on October 9. On October 10, the State Party retained the Greer firm, Sloane's media consultant, to produce its television ads, the party's first and at a point in time when it lacked sufficient funds in its accounts to pay for the ads. On October 11, the DNC received Mrs. Bingham's check. The DNC made two transfers on October 16 of $50,000 and $95,000 to the State Party, another $50,000 transfer on October 23, and two $10,000 transfers on October 25. The State Party made payments totaling $310,000 to the Greer firm on October 18 and November 2.

Mrs. Bingham's donations to the DNC in 1990 were substantially greater than in recent years. According to press accounts, her donation to the DNC was also the largest single gift it received in 1990. Furthermore, it appears that under Kentucky law, she could not contribute more than $6,000 to the nonfederal account but the State Party could accept unlimited transfers from the DNC, thus perhaps explaining the circuitous route her money took. The evidence indicates there may have been some implicit or tacit understanding or awareness that Mrs. Bingham's donations would find their way back to Kentucky, where they would be used to help the Sloane campaign. If so, then it appears that Mrs. Bingham may have made her donation for the purpose of influencing a federal election and the DNC and the State Party may have accepted it for such purpose.

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Therefore, there is reason to believe the DNC violated 2 U.S.C. § 441a(f) in accepting contributions from Mrs. Bingham in excess of the Act's limitations.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph A. Rieser, Jr., Esquire
Reed, Smith, Shaw & McClay
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MUR 3182
Mary C. Bingham

Dear Mr. Rieser:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your client, Mary C. Bingham, violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3). A copy of the Factual and Legal Analysis, which formed a basis for the Commission's finding, was enclosed with that notification. On June 21, 1991, you submitted a request to enter into conciliation negotiations prior to a finding of probable cause to believe.

The Commission has considered your request and determined, because of the need to complete the investigation, to decline at this time to enter into conciliation prior to a finding of probable cause to believe. At such time when the investigation in this matter has been completed, the Commission will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

Upon further review of the allegations contained in the complaint, and information obtained during the ongoing investigation, on September 15, 1992, the Commission made an additional finding that there is reason to believe your client violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3), in other aspects. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

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

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring your client, Mary C. Bingham, to appear and give sworn testimony regarding her contributions to the Democratic National Committee in 1990 and communications with Dr. Harvey I. Sloane and others regarding those contributions.

Within two days of your receipt of this notification, please confirm the scheduled deposition appearance with Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400. If you have any questions, please contact Ms. Mott.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Mary C. Bingham
c/o Joseph A. Rieser, Jr., Esquire
Reed, Smith, Shaw & McClay
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to your contributions to the Democratic National Committee in 1990 and communications with Dr. Harvey I. Sloane and others regarding your contributions. Notice is hereby given that the deposition is to be taken on October 23, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Mary C. Bingham **MUR:** 3182

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, (MUR 3145) and by a complaint by Common Cause (MUR 3182). The matters have been merged for administrative purposes. This matter relates to television advertising purchased by the Kentucky Democratic Central Executive Committee in 1990, the funding for these ads, and their relationship to the Senate campaign of Dr. Harvey Sloane.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to 40.6 percent. He lost the 1990 general election to Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

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According to the complaint, one of the advertisements broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.

He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.

He's walked every corner of the Commonwealth, listening to Kentucky.

Harvey Sloane -- health care, education, jobs, our environment.

With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.

Harvey Sloane -- Kentucky's Democrat, fighting for us.

This ad was prepared by the Greer firm.

The Greer firm states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and public relations strategy including the creation, production, and placement of campaign ads. It adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. The firm said that it performed no other work for the State Party. It further stated that no footage used in the State Party's ads appeared in Sloane ads. The Greer firm states that it is the firm's practice to assign employees to accounts in those states in which they have previously performed campaign work. Thus, Frank Greer (president), Kevin Geddings (senior account executive), and Bradley Perseke (media buyer) were assigned to the Sloane campaign and subsequently to the Kentucky Democratic Party account.

On or about October 12, 1990, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane Committee, that the Kentucky Democratic Party had retained the firm to produce and

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place two television ads. At the request of Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky Democratic Party. The firm asserts that it had no contact with the DNC or DSCC regarding the State Party's ads.

One memorandum is dated October 15, 1990, from Beth Daly and Bradley Perseke of the Greer firm to Jim Cunningham, campaign manager for the Sloane Committee. It provides the estimated cost of the October 18 to October 27 "flight" of television ads for the State Party along with the media markets, the gross ratings points, and the estimated cost per market. The total estimated cost was $145,828.00 with gross ratings points ranging from 350 in Huntington, West Virginia to 800 in Louisville. The second memorandum is similar and dated October 20, 1990. It provides the estimated cost for the October 28 to November 5 flight of ads for the State Party along with the media markets, gross ratings points, and the estimated cost per market. It also notes a "fringe" cable media buy on CNN and USA networks in the Cincinnati and the Charleston/Huntington/Ashland markets. The total estimated cost was $142,388.00 with gross ratings points ranging from 250 in Huntington to 800 in Louisville.

The firm contends that a schedule of the broadcast of the State Party's ads was not given to Sloane or the Sloane Committee or to any other person other than those employed by the firm or the State Party. The firm adds that neither Sloane nor the Sloane Committee was asked to preview or approve the ads, scripts

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or storyboards prior to their broadcast. Counsel for the firm, however, reviewed a draft of the scripts. No other person was apparently given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of the firm or the State Party. The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chairperson). The ads were completed on or about October 15, 1990, and first broadcast on October 18, 1990. The State Party made these payments to the Greer firm for the ads: $145,000 on October 18, $100,000 on October 23, $50,000 on October 26, and $15,000 on November 2. The Greer firm provided copies of the checks. The dates noted above are the dates on the checks. They were all drawn on the State Party's nonfederal account and total $310,000.00.

The date, purpose, and amount of the invoices from the firm to the State Party for the television ads are as follows:

Date	Purpose	Amount
10-16	media buy	$145,518.00
10-26	production	7,000.00
10-28	media buy	142,338.00
11-1	production	144.00
11-5	media	15,000.00
	Total	$310,060.00

The media buy on October 16 covered the flight of ads from October 18 through October 27. The media buy on October 28 covered the flight from October 28 through November 5. The above total amount invoiced is within $60 of the total amount of payments by the State Party.

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According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.[1]
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

As noted, the firm stated that the State Party's ads did not contain any footage which had appeared in Sloane for Senate commercials. The firm added that it owns and maintains an extensive video library of film previously shot on behalf of its clients which it uses to produce ads for other clients. The firm states that in producing the State Party's ads, it relied exclusively on pre-existing footage from its library. It notes that of this footage less than 1 percent had been shot during its work for the Sloane Committee and subsequently used in the State

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1. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

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Party's ads. The firm asserts that none of the footage used in the State Party's ads were used in Sloane ads and that no other materials produced for the Sloane Committee were used in the State Party's ads. The firm provided video tapes of the television ads it produced for the State Party and the television and radio ads it produced for the Sloane Committee.

A transcript of the audio portion of the State Party's and the Sloane Committee's ads produced by the Greer firm along with a description of the visual portion of these ads has been prepared. See Attachment. The two ads the Greer firm prepared for the State Party focused on alleged Republican tax breaks for the rich. Both ads said that Democrats always fight for good paying jobs, social security, health care, and quality education while the Republicans protect the wealthy. The visuals included pictures of three Democratic Presidents (Roosevelt, Truman, and Kennedy), businesspersons getting into limousines, and pictures of workers, families, and the elderly. Each ad ended with the statement: "That's why we need Kentucky's Democrats fighting for us."

The Greer firm prepared three radio ads and ten television ads for the Sloane Committee. The three radio ads ended with one of these statements: (1) "Harvey Sloane: Kentucky's Democrat fighting for us"; or (2) "Let's ditch Mitch and vote for Kentucky's Democrat Harvey Sloane." One of the three radio ads focused on Senator McConnell's alleged voting for tax increases on the middle class and tax breaks for the rich and forgiving $7 billion in loans to Egypt. Four of the ten television ads

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made reference at the end to "Harvey Sloane, Kentucky's Democrat." Two of the television ads focus on tax issues. One ad accuses Senator McConnell of voting for tax breaks for the rich and tax increases for the middle class and voting against such items as social security and Medicare, day-care, minimum wage, plant closing notifications, school lunches, and education. The visuals are sets of puppets and written statements. The other television ad consists of Harvey Sloane addressing the audience. He asks viewers if they are tired of the mess in Washington with tax breaks for the rich and pay raises. The announcer in several of the Sloane Committee ads appears to be the same person as the announcer in the State Party's ads.

The DSCC reported making these payments to the Greer firm for coordinated party expenditures on behalf of Sloane:[2]

September 10	$80,000.00
October 4	$25,000.00
October 22	$90,000.00
October 30	$7,000.00
October 31	$10,000.00
October 31	$8,000.00
Total	$220,000.00

The firm states that these payments were used to purchase broadcast time for the television ads it produced for the Sloane Committee and were used in conjunction with funds from the Sloane

2. The DSCC reported making a $17,500 contribution to the Sloane Committee in June 1990 and $270,737.00 in coordinated party expenditures relating to the 1990 general election. The coordinated party expenditure limitation for 1990 in Kentucky was $138,772.80 for the state party and the same amount for the national party. The reported expenditures by the DSCC indicate that both the state party and the national party authorized the DSCC to spend against their respective limitations.

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Committee to purchase the broadcast time. The Greer firm states that the payments from the DSCC did not relate in any way to the State Party's ads.

The following chart provides a comparison by date and amount of the payments made to the Greer firm in September, October, and November 1990 by the Sloane Committee, the DSCC, and the State Party for media buys and production costs related to the 1990 general election.

	Sloane	DSCC	State Party
September			
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11		$80,000.00	
12			
13			
14			
15			
16			
17			
18			
19			
20			
21	$50,000.00		
22			
23			
24			
25			
26			
27			
28			
29			
30			

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	Sloane	DSCC	State Party
October 1	$9,268.74		
2			
3		$25,000.00	
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			$145,000.00
18	$200,000.00		
19			
20			
21		$90,000.00	
22			$100,000.00
23	$19,562.98		
24			
25	$4,500.00		$50,000.00
26			
27			
28			
29		$7,000.00	
30	$10,000.00	$18,000.00	
31	$12,500.00		
November 1	$15,000.00		$15,000.00
2	$22,500.00		
Totals	$343,331.72	$220,000.00	$310,000.00

Thus, in the 20 days prior to the general election, the payments to the Greer firm were $310,000 by the State Party, $115,000 by the DSCC, and $284,062.98 by the Sloane Committee. The State Party's payments were financed by the $100,000 gift from ATLA PAC and the $215,000 in transfers from the DNC, made after Mary Bingham's $250,000 gift to the DNC.

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The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[3]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	$25,200.00

The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

3. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[4]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

Martin states that he understood the term "coordinated campaign" as used by the DNC "to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990." He identifies Mary Ann Johnson, the chairman of the State Party at that time, as the head of the coordinated campaign. Martin's responsibilities apparently involved the coordination of the various state legislative candidate races. Pat Goins was the bookkeeper, Neville Blakemore, III a field coordinator, Danny Ross the labor coordinator, Jim Cauley a field coordinator, Meg Conlon a researcher, Steve Bachar the field director, and Kevin Geddings

4. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

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the contact person with the Greer firm.[5] Jim Cunningham was the Sloane Committee's contact person with the State Party.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold Communications in Texas for "mailing/printing."[6]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee

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5. Geddings was employed by the Greer firm, not the State Party. The others were employed by the State Party.

6. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

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known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[7] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

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B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an

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7. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund.

aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). No individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5.

C. DISCUSSION

As noted, the payments to the Greer firm for the GOTV ads ($310,000) were made from the State Party's nonfederal account. The nonfederal account received $215,000 from the DNC and $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC") in the same general time frame as the payments to the Greer firm. The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from the DNC and ATLA PAC.

The complainants allege that Mary C. Bingham's gift to the DNC was made with the intent of having it used by the State Party on behalf of Sloane. In fact, the complainant in MUR 3182 alleges that Mrs. Bingham, Sloane, the Sloane Committee, the State Party, and the DNC "joined in a scheme to launder a massive, illegal contribution." It states that Mrs. Bingham was a supporter of Sloane's and had made maximum allowable contributions to his campaign and to the State Party. It further alleges that by mid-October 1990, the DNC or its designated agent had spent within $10,000 of the allowable coordinated party expenditure limitation on behalf of Sloane, who at that time it

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alleges had little cash on hand and trailed Sen. McConnell in the polls. The complainant claims Mrs. Bingham gave $250,000 to the DNC to influence the Kentucky Senate race. It argues that the DNC agreed with Mrs. Bingham that her money would be transferred to the State Party and spent in a way to benefit Sloane, thus allegedly making her gift a contribution under the Act.

The complainant then alleges that the DNC transferred these funds to the State Party, directly after receiving them, for the purpose of influencing the Senate race, thus allegedly making the transfer subject to the Act's limitations on coordinated party expenditures and direct contributions. The complainant also alleges that the DNC exercised direction and control over Mrs. Bingham's funds. It then claims the State Party spent her funds on the ads, coordinated with the Sloane campaign, and for the purpose of influencing the Senate race, thus allegedly making the expenditures and contributions to Sloane and his committee. Finally, the complainant alleges that the DNC, the State Party, and the Sloane Committee have not reported these transactions.

Mary C. Bingham states that for many years while the family owned the Louisville Courier Journal neither she nor her husband made political contributions. When the paper was sold in 1986, they contributed a total of $8,000 to federal and nonfederal candidates. She adds that in 1988, 1989, and 1990, she contributed to the DNC. In September 1988, she contributed $20,000 to the DNC's federal account and $80,000 to its nonfederal account. In August 1989, she gave $25,000 to the nonfederal account. In October 1990, she contributed $20,000 to

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the federal account and $230,000 to the nonfederal account. She provided copies of these checks. She states that she is aware that political parties often maintain federal and nonfederal accounts and that she has received solicitations for various nonfederal committees, including those maintained by the DNC and the State Party. She states that in making political contributions she has relied upon the representations of those soliciting the contributions regarding whether and how much she may contribute.

Mrs. Bingham states that in the fall of 1990 she became concerned about the course of the general election campaign and the lack of discussion of certain issues. She discussed her concerns at dinner with her grandson, who had participated in a number of Democratic campaigns and was a volunteer in the Sloane campaign. She said the thrust of the conversation was that if she wanted to help the Democratic Party she should consider making a contribution to the DNC. She said she contacted Harvey Sloane and was advised she could give up to $20,000 to the DNC's federal account and additional amounts to its nonfederal account. She avers that Sloane told her that if she gave to the DNC, it would decide how the funds were to be used and that she could not impose any conditions on its use. She avers that she made her contributions to the DNC "with no strings attached." She states that she "imposed no conditions on when, how, or where the donated funds would be used by the DNC" and that she did not "have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely

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use." She adds that she also had no conversation with any representative of the Kentucky Democratic Party regarding her contributions. She says that she made the contributions because she "wanted to help the Democratic Party present its side of the issues to the general public."

The Senate candidate Harvey Sloane states that he first learned Mary C. Bingham was going to make a large contribution to the DNC when her grandson Rob Bingham informed him of this fact. Sloane says that he did not know its total size, but was told it would be large. He states that he discussed this contribution with Jim Cunningham of his campaign organization who informed him that under DNC policies no contribution could be earmarked for any particular candidate or state. Sloane avers that at no time was there any agreement "of any type" that Mrs. Bingham's contribution would be earmarked or designated in advance or after the fact for Sloane's campaign or for any Kentucky races.

The DNC responds that it maintains a nonfederal account to assist state and local parties and that Mrs. Bingham's contribution to the DNC's nonfederal account was "entirely legal." It also states that the gift was "given and received without any instructions as to its ultimate disposition." It argues that the DNC's transfers to the State Party were legal under both Commission regulations and Kentucky law. It adds that the amount transferred to a particular state is determined by a variety of considerations, including (in the case of Kentucky) the state's significance as a potential southern swing state in future presidential campaigns, the upcoming redistricting and

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reapportionment, the closeness of key races in the state, the potential for future Democratic gains, and the level of commitment by party leaders to a coordinated campaign plan directed to the election of the entire Democratic ticket. It states that each transfer of nonfederal funds was accompanied by a letter with express language restricting the use of the funds to efforts allocable only to state and local candidates or elections.[8] The response adds that whether or not the funds transferred to the State Party were the Bingham funds, the transfers were categorically limited to be used for state and local purposes.

Mary Ann Johnson, chairman of the Kentucky Democratic Party, states that at no time did she or the State Party have any knowledge or information to give them reason to believe Mrs. Bingham gave $250,000 to the DNC. She further states that at no time relevant to these matters did the DNC transfer money

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8. The relevant portion of these letters read:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds"). Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion. ... Please note this contribution should not be deposited into any federal account maintained by you.

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to the State Party "for the purpose of influencing the 1990 United States Senate Race between Harvey Sloane and Mitch McConnell." She adds that at no time did the State Party accept money from the DNC to influence the Senate race.

The complainants both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[9]

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9. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee. The payments by the committee to the Greer firm outlined earlier in this report do not indicate any noticeable gap in campaign advertising activity by the Sloane campaign around the time of the State Party's GOTV ads.

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The Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. The State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[10] It further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

In this matter, the information clearly shows, however, that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane campaign before managing the State Party's coordinated campaign, that the Greer firm informed the Sloane campaign of the State Party's media buys, that the content of the GOTV ads meshed with the themes and tagline of the Sloane campaign ads, that the

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10. This statement is rather curious in that in 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

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timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Furthermore, as detailed earlier, the candidate Harvey Sloane was clearly aware of Mrs. Bingham's donations and may have played a key role in seeing that the funds got to the State Party and in how they were then used.

There is also little doubt that the GOTV ads would benefit the Sloane campaign. This conclusion fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr. Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.
>
> Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

The statements from the respondents all seek to refute the allegation that there was a plan or agreement among the various parties that Mrs. Bingham's donations would be funneled to Kentucky to help the Sloane campaign. Notwithstanding them, however, the timing of the gifts, transfers, and payments create

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an inference that Mrs. Bingham's gift to the DNC's nonfederal account may have been made to influence a federal election. A time line indicates that sometime in the "Fall of 1990" she had a conversation with her grandson that led to her calling Harvey Sloane to inform him of her intent to make a large gift (the grandson having already apprised Sloane of this). She wrote her check for $230,000 to the DNC on October 9. On October 10, the State Party retained the Greer firm, Sloane's media consultant, to produce its television ads, the party's first and at a point in time when it lacked sufficient funds in its accounts to pay for the ads. On October 11, the DNC received Mrs. Bingham's check. The DNC made two transfers on October 16 of $50,000 and $95,000 to the State Party, another $50,000 transfer on October 23, and two $10,000 transfers on October 25. The State Party made payments totaling $310,000 to the Greer firm on October 18 and November 2.

Mrs. Bingham's donations to the DNC in 1990 were substantially greater than in recent years. According to press accounts, her donation to the DNC was also the largest single gift it received in 1990. Furthermore, it appears that under Kentucky law, she could not contribute more than $6,000 to the nonfederal account but the State Party could accept unlimited transfers from the DNC, thus perhaps explaining the circuitous route her money took. The evidence indicates there may have been some implicit or tacit understanding or awareness that Mrs. Bingham's donations would find their way back to Kentucky, where they would be used to help the Sloane campaign. If so,

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then it appears that Mrs. Bingham may have made her donation for the purpose of influencing a federal election and the DNC and the State Party may have accepted it for such purpose.

Therefore, there is reason to believe Mrs. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3).

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lyn Utrecht
Manatt, Phelps & Phillips
Suite 200
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036

RE: MUR 3182
Association of Trial Lawyers of America

Dear Ms. Utrecht:

On October 25, 1990, the Federal Election Commission notified your clients, the Association of Trial Lawyers of America ("the Committee") and Joan C. Pollitt, 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 enclosed with that notification.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on September 15, 1992, found that there is reason to believe the Committee and its treasurer violated 2 U.S.C. § 441a(a)(2)(B), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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

In the absence of any additional information which demonstrates that no further action should be taken against the Committee and its treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring Alan Parker to appear and give sworn testimony regarding contributions by the Association of Trial Lawyers of America Political Action Committee to the Kentucky Democratic Central Executive Committee in 1990.

Within two days of your receipt of this notification, please confirm the scheduled deposition appearance with Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400. If you have any questions, please contact Ms. Mott.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual and Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3182
)

SUBPOENA

TO: Alan Parker
Association of Trial Lawyers of America
c/o Lyn Utrecht, Esquire
Manatt, Phelps & Phillips
Suite 200
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to contributions by the Association of Trial Lawyers of America Political Action Committee to the Kentucky Democratic Party in 1990. Notice is hereby given that the deposition is to be taken on October 28, 1992 in Room 657 at the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens

Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3182

RESPONDENTS: Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer

This matter was generated by a complaint by Robert Gable, chairman of the Republican Party of Kentucky, originally MUR 3145, which has been redesignated MUR 3182 for administrative purposes. This matter relates to television advertising purchased by the Kentucky Democratic Central Executive Committee in 1990, the funding for these ads, and their relationship to the Senate campaign of Dr. Harvey Sloane.

A. FACTUAL BACKGROUND

Dr. Harvey Sloane was the Democratic candidate for the U.S. Senate from Kentucky in the 1990 election. His Republican opponent was the incumbent, Senator Mitch McConnell. Dr. Sloane filed his Statement of Candidacy on September 27, 1988, designating the Sloane for Senate Committee ("the Sloane Committee") as his principal campaign committee. From inception through December 31, 1990, the Sloane Committee reported total receipts of $3,012,951 and total disbursements of $3,006,484 with ending cash-on-hand of $7,972.75 and no debts owed. Dr. Sloane won the May 29, 1990, Kentucky Democratic primary election against John Brock, the state superintendent of public instruction, by a vote of 183,629 to 125,496 or 59.4 percent to

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40.6 percent. He lost the 1990 general election to Senator McConnell by a vote of 436,470 to 476,810 or 48 percent to 52 percent.

The reports filed by the Sloane Committee disclose that Greer, Margolis, Mitchell & Associates of Washington, D.C., ("the Greer firm") was the campaign's principal media consultant for the 1990 primary and general election campaigns. The Sloane Committee reported making these payments to the Greer firm during the 1990 election cycle:

Date	Purpose	Amount
3-17-88	fee	$9,000.00
5-24-88	fee	$11,795.94
8-4-88	fee	$13,001.85
1-14-89	fee	$12,541.67
7-5-89	consulting fee	$17,009.19
8-9-89	consulting fee	$2,537.00
9-27-89	consulting fee	$6,835.82
1-4-90	consulting fee	$8,024.82
2-6-90	consulting fee	$3,507.91
3-7-90	consulting fee	$2,604.61
3-21-90	consulting fee	$2,500.00
4-20-90	production expense	$12,500.00
4-27-90	production expense	$18,384.55
5-5-90	media buy	$85,668.00
5-15-90	media buy	$96,773.00
5-21-90	media buy	$85,000.00
7-5-90	production expense	$46,105.67
7-29-90	consulting fee	$8,571.23
8-30-90	production expense	$12,156.72
9-21-90	media buy	$50,000.00
10-1-90	production expense	$9,268.74
10-18-90	media buy	$200,000.00
10-23-90	production expense	$19,562.98
10-25-90	media buy	$4,500.00
10-30-90	media buy	$10,000.00
10-31-90	media buy	$12,500.00
11-1-90	media buy	$5,000.00
11-1-90	media buy	$10,000.00
11-2-90	media buy	$6,000.00
11-2-90	media buy	$16,500.00
	TOTAL	$797,849.70

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According to the complaint, one of the advertisements broadcast by the Sloane Committee included this script:

> For 26 years, he's dedicated himself to serving the people of Kentucky.
>
> He volunteered to serve as a doctor in Vietnam. Elected Mayor, County Judge.
>
> He's walked every corner of the Commonwealth, listening to Kentucky.
>
> Harvey Sloane -- health care, education, jobs, our environment.
>
> With Harvey Sloane as our Senator, together we can build a better future for Kentucky's hard-working families.
>
> Harvey Sloane -- Kentucky's Democrat, fighting for us.

This ad was prepared by the Greer firm.

The Greer firm states that it served as the media consultant for the Sloane campaign and was responsible for advising it on media and public relations strategy including the creation, production, and placement of campaign ads. It adds that on October 10, 1990, the Kentucky Democratic Party retained the firm for the purpose of creating, producing, and placing two television commercials. The firm said that it performed no other work for the State Party. It further stated that no footage used in the State Party's ads appeared in Sloane ads. The Greer firm states that it is the firm's practice to assign employees to accounts in those states in which they have previously performed campaign work. Thus, Frank Greer (president), Kevin Geddings (senior account executive), and Bradley Perseke (media buyer)

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were assigned to the Sloane campaign and subsequently to the Kentucky Democratic Party account.

On or about October 12, 1990, Kevin Geddings informed Jim Cunningham, campaign director of the Sloane Committee, that the Kentucky Democratic Party had retained the firm to produce and place two television ads. At the request of Cunningham, Brad Perseke sent him two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the Kentucky Democratic Party. The firm asserts that it had no contact with the DNC or DSCC regarding the State Party's ads.

One memorandum is dated October 15, 1990, from Beth Daly and Bradley Perseke of the Greer firm to Jim Cunningham, campaign manager for the Sloane Committee. It provides the estimated cost of the October 18 to October 27 "flight" of television ads for the State Party along with the media markets, the gross ratings points, and the estimated cost per market. The total estimated cost was $145,828.00 with gross ratings points ranging from 350 in Huntington, West Virginia to 800 in Louisville. The second memorandum is similar and dated October 20, 1990. It provides the estimated cost for the October 28 to November 5 flight of ads for the State Party along with the media markets, gross ratings points, and the estimated cost per market. It also notes a "fringe" cable media buy on CNN and USA networks in the Cincinnati and the Charleston/Huntington/Ashland markets. The total estimated cost was $142,388.00 with gross ratings points ranging from 250 in Huntington to 800 in Louisville.

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The firm contends that a schedule of the broadcast of the State Party's ads was not given to Sloane or the Sloane Committee or to any other person other than those employed by the firm or the State Party. The firm adds that neither Sloane nor the Sloane Committee was asked to preview or approve the ads, scripts or storyboards prior to their broadcast. Counsel for the firm, however, reviewed a draft of the scripts. No other person was apparently given a preview of the ads, the scripts, or storyboards prior to broadcast other than employees of the firm or the State Party. The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chairperson). The ads were completed on or about October 15, 1990, and first broadcast on October 18, 1990. The State Party made these payments to the Greer firm for the ads: $145,000 on October 18, $100,000 on October 23, $50,000 on October 26, and $15,000 on November 2. The Greer firm provided copies of the checks. The dates noted above are the dates on the checks. They were all drawn on the State Party's nonfederal account and total $310,000.00.

The date, purpose, and amount of the invoices from the firm to the State Party for the television ads are as follows:

Date	Purpose	Amount
10-16	media buy	$145,518.00
10-26	production	7,000.00
10-28	media buy	142,338.00
11-1	production	144.00
11-5	media	15,000.00
	Total	$310,060.00

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The media buy on October 16 covered the flight of ads from October 18 through October 27. The media buy on October 28 covered the flight from October 28 through November 5. The above total amount invoiced is within $60 of the total amount of payments by the State Party.

According to the complaint, the following is one of the scripts used in these ads:

> When it comes to taxes, you can always count on the Republicans to protect the rich and make the middle class foot the bill.
>
> During the 1980s, the rich got huge tax breaks while the middle class actually paid more taxes.[1]
>
> That's the difference between wealthy Washington Republicans and Kentucky's Democrats. Our hard-working families know that Democrats always fight for good paying jobs, Social Security, health care, and education.
>
> Republicans haven't changed ... they're still protecting the rich and ignoring the rest of us.
>
> That's why we need Kentucky's Democrats fighting for us.

According to one of the news articles attached to the complaint, the Kentucky Democratic Party had "never before... run television commercials."

As noted, the firm stated that the State Party's ads did not contain any footage which had appeared in Sloane for Senate commercials. The firm added that it owns and maintains an extensive video library of film previously shot on behalf of its

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1. The other script substituted this sentence with the following:

> Democrats have always fought to make sure the rich pay their fair share of taxes.

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clients which it uses to produce ads for other clients. The firm states that in producing the State Party's ads, it relied exclusively on pre-existing footage from its library. It notes that of this footage less than 1 percent had been shot during its work for the Sloane Committee and subsequently used in the State Party's ads. The firm asserts that none of the footage used in the State Party's ads were used in Sloane ads and that no other materials produced for the Sloane Committee were used in the State Party's ads. The firm provided video tapes of the television ads it produced for the State Party and the television and radio ads it produced for the Sloane Committee.

A transcript of the audio portion of the State Party's and the Sloane Committee's ads produced by the Greer firm along with a description of the visual portion of these ads has been prepared. See Attachment. The two ads the Greer firm prepared for the State Party focused on alleged Republican tax breaks for the rich. Both ads said that Democrats always fight for good paying jobs, social security, health care, and quality education while the Republicans protect the wealthy. The visuals included pictures of three Democratic Presidents (Roosevelt, Truman, and Kennedy), businesspersons getting into limousines, and pictures of workers, families, and the elderly. Each ad ended with the statement: "That's why we need Kentucky's Democrats fighting for us."

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The Greer firm prepared three radio ads and ten television ads for the Sloane Committee. The three radio ads ended with one of these statements: (1) "Harvey Sloane: Kentucky's Democrat fighting for us"; or (2) "Let's ditch Mitch and vote for Kentucky's Democrat Harvey Sloane." One of the three radio ads focused on Senator McConnell's alleged voting for tax increases on the middle class and tax breaks for the rich and forgiving $7 billion in loans to Egypt. Four of the ten television ads made reference at the end to "Harvey Sloane, Kentucky's Democrat." Two of the television ads focus on tax issues. One ad accuses Senator McConnell of voting for tax breaks for the rich and tax increases for the middle class and voting against such items as social security and Medicare, day-care, minimum wage, plant closing notifications, school lunches, and education. The visuals are sets of puppets and written statements. The other television ad consists of Harvey Sloane addressing the audience. He asks viewers if they are tired of the mess in Washington with tax breaks for the rich and pay raises. The announcer in several of the Sloane Committee ads appears to be the same person as the announcer in the State Party's ads.

The DSCC reported making these payments to the Greer firm for

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coordinated party expenditures on behalf of Sloane:[2]

September 10	$80,000.00
October 4	$25,000.00
October 22	$90,000.00
October 30	$7,000.00
October 31	$10,000.00
October 31	$8,000.00
Total	$220,000.00

The firm states that these payments were used to purchase broadcast time for the television ads it produced for the Sloane Committee and were used in conjunction with funds from the Sloane Committee to purchase the broadcast time. The Greer firm states that the payments from the DSCC did not relate in any way to the State Party's ads.

The following chart provides a comparison by date and amount of the payments made to the Greer firm in September, October, and November 1990 by the Sloane Committee, the DSCC, and the State Party for media buys and production costs related to the 1990 general election.

	Sloane	DSCC	State Party
September			
1			
2			
3			
4			
5			
6			
7			
8			

2. The DSCC reported making a $17,500 contribution to the Sloane Committee in June 1990 and $270,737.00 in coordinated party expenditures relating to the 1990 general election. The coordinated party expenditure limitation for 1990 in Kentucky was $138,772.80 for the state party and the same amount for the national party. The reported expenditures by the DSCC indicate that both the state party and the national party authorized the DSCC to spend against their respective limitations.

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	Sloane	DSCC	State Party
September (cont'd)			
9			
10		$80,000.00	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21	$50,000.00		
22			
23			
24			
25			
26			
27			
28			
29			
30			
October			
1	$9,268.74		
2			
3			
4		$25,000.00	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18	$200,000.00		$145,000.00
19			
20			
21			
22		$90,000.00	
23	$19,562.98		$100,000.00
24			
25	$4,500.00		
26			$50,000.00

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	Sloane	DSCC	State Party
October (cont'd)			
27			
28			
29			
30	$10,000.00	$7,000.00	
31	$12,500.00	$18,000.00	
November			
1	$15,000.00		
2	$22,500.00		$15,000.00
Totals	**$343,331.72**	**$220,000.00**	**$310,000.00**

Thus, in the 20 days prior to the general election, the payments to the Greer firm were $310,000 by the State Party, $115,000 by the DSCC, and $284,062.98 by the Sloane Committee. The State Party's payments were financed by the $100,000 gift from ATLA PAC and the $215,000 in transfers from the DNC, made after Mary Bingham's $250,000 gift to the DNC.

The Sloane Committee reports also show that among the paid consultants to the campaign was Andrew "Skipper" Martin of Louisville. The Sloane Committee made these payments to Martin for consulting services:[3]

Date	Amount
1-30-90	$4,200.00
3-1-90	$4,200.00
4-4-90	$4,200.00
5-15-90	$4,200.00
6-4-90	$4,200.00
6-29-90	$4,200.00
TOTAL	**$25,200.00**

3. The Sloane Committee reports also disclose numerous payments to Skipper Martin in both 1989 and 1990 as travel reimbursements.

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The last payment on June 29, 1990, was described as "contract payoff."

According to one of the news articles attached to the complaint, Skipper Martin became the manager of the "coordinated campaign" of the Kentucky Democratic Party ("State Party") for the fall campaign. Reports filed by the federal and nonfederal accounts of the Kentucky Democratic Party list these payments to Skipper Martin:

Date	Account	Amount
8-15-90 to 9-7-90	Federal	$11,004.23[4]
9-18-90 to 11-9-90	Nonfederal	$6,766.00
10-5-90 to 10-16-90	Federal	$5,168.16
10-26-90	Federal	$2,584.26
	TOTAL	$25,522.65

The payments from the Federal Account also included expenses as well as salary. The payment from the Nonfederal Account is for salary only.

Martin states that he understood the term "coordinated campaign" as used by the DNC "to mean the coordination of all of the Democratic candidates campaigns both for federal and state offices in the year 1990." He identifies Mary Ann Johnson, the

4. The federal account originally reported one-half of this amount as a coordinated party expenditure on behalf of Harvey Sloane. It then amended its report to delete the Schedule F.

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chairman of the State Party at that time, as the head of the coordinated campaign. Martin's responsibilities apparently involved the coordination of the various state legislative candidate races. Pat Goins was the bookkeeper, Neville Blakemore, III a field coordinator, Danny Ross the labor coordinator, Jim Cauley a field coordinator, Meg Conlon a researcher, Steve Bachar the field director, and Kevin Geddings the contact person with the Greer firm.[5] Jim Cunningham was the Sloane Committee's contact person with the State Party.

During the period from July 1, 1990, through November 26, 1990, the Federal Account had receipts of $143,100 and disbursements of $136,527.24 with cash on hand of $6,644.87 and debts owed by the Federal Account of $2,990.25. The receipts included transfers of $61,500 from the Democratic National Committee ("DNC") and $10,000 from the Democratic Senatorial Campaign Committee ("DSCC"), and a $5,000 contribution from Mary C. Bingham. The disbursements consisted primarily of administrative and payroll expenses but included a $12,000 transfer to the State Account as reimbursement for administrative expenses and a $39,500 payment on October 26 to David Gold Communications in Texas for "mailing/printing."[6]

From June 1, 1990, to November 30, 1990, the State Account had receipts of $511,976.04 and disbursements of $493,201.40 with

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5. Geddings was employed by the Greer firm, not the State Party. The others were employed by the State Party.

6. David Gold Communications was also a vendor to the Sloane campaign. The State Party's nonfederal account also paid this vendor $5,713 on October 5.

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cash on hand of $19,732.98 and debts owed by the State Account of $62,012.53 (consisting of bank loans obtained to purchase a computer, a car, and a telephone system). The receipts included transfers of $215,000 from the DNC Victory '90 account, and donations of $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC"), $80,000 from various labor organizations, and $25,000 from a state committee known as Kentuckians for a Better Future. The donations from ATLA PAC occurred on September 17 and October 25 in the amount of $50,000 each. The transfers from the DNC were made in five separate transfers from October 16 to October 25 in various amounts ranging from $10,000 to $95,000.[7] The disbursements were primarily for administrative and payroll expenses along with fundraising, telephone, printing, and postage expenses. The disbursements also included payments totaling $310,000 on October 18 and November 2 to the Greer firm for "Democratic Party TV ads."

The only statewide election contest in Kentucky in the 1990 general election was the one for the U.S. Senate between Dr. Sloane and Sen. McConnell. Also on the ballot were all of the congressional seats, some of the state senate seats, all state representative seats, four state supreme court seats, and a handful of circuit and district judgeships and two commonwealth attorney seats. There were no mayors, sheriffs, Governor, or

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7. On October 9, 1990, Mary C. Bingham wrote two checks: one for $20,000 was made payable to the DNC's federal fund and the second for $230,000 was made payable to the DNC's nonfederal fund.

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other statewide officers on the ballot in 1990. Kentucky elects its governor and other statewide officers in odd-numbered years, such as 1991.

B. THE ACT, REGULATIONS, AND ADVISORY OPINIONS

The Act provides that a multicandidate political committee may contribute (1) an aggregate of $5,000 per election to any federal candidate, (2) an aggregate of $15,000 in any calendar year to a national party committee, and (3) an aggregate of $5,000 in any calendar year to any other political committee. 2 U.S.C. § 441a(a)(2).

C. DISCUSSION

As noted, the payments to the Greer firm for the GOTV ads ($310,000) were made from the State Party's nonfederal account. The nonfederal account received $215,000 from the DNC and $100,000 from the Association of Trial Lawyers of America Political Action Committee ("ATLA PAC") in the same general time frame as the payments to the Greer firm. The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from the DNC and ATLA PAC.

The complainant in MUR 3145 also alleges that the $100,000 donated by ATLA or ATLA PAC to the nonfederal account of the State Party was for the purpose of electing Sloane and therefore should have been deposited into the federal account. In such case, the complainant alleges that the amount of this donation would be excessive under the Act. The complainant relies primarily on a newspaper article. That article stated that ATLA

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PAC had donated $50,000 with another $50,000 expected as a contribution to the State Party's "coordinated campaign to elect Sloane and other Democrats."[8]

ATLA PAC's donations were made and reported from its federal account as "other disbursements." In its response it furnished an affidavit from Alan Parker, deputy executive director for public affairs for ATLA. He states that ATLA PAC donated $50,000 on September 14, 1990, and another $50,000 on October 9, 1990, to the nonfederal account of the Kentucky Democratic Party. Copies of the checks were attached and show that the checks were made payable to the state account. The checks have no indication of earmarking. Parker states that the funds were donated "for use by the party to defray the costs of the non-federal share of the Party's get-out-the-vote efforts in Kentucky." He adds that they "were not donated for the purpose of influencing a federal election."

He states that neither ATLA nor ATLA PAC "knowingly participated in any effort to circumvent the contribution limits of 2 U.S.C. § 441a(a)." He further states that "[i]f any of the funds donated by ATLA-PAC to the Party were used for the purpose of influencing a federal election, such use was contrary to the express intention of ATLA-PAC in making the donations for the non-federal get-out-the-vote effort." ATLA PAC registered and filed reports with Kentucky under state law regarding the donations to the nonfederal account.

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8. The quoted portion is the reporter's not ATLA PAC's.

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The $100,000 in donations from ATLA PAC to the Kentucky State Party's nonfederal account was only a portion of the funds ATLA PAC transferred to state nonfederal accounts in 1990. ATLA PAC reported transferring $980,000 to nonfederal accounts in 1990 out of approximately $2,573,136 in disbursements. A total of $759,000 of the $980,000 was transferred between September 1 and November 30, 1990. These transfers went to the nonfederal accounts of 12 state parties plus Citizen Action. Ten of the twelve state party nonfederal accounts receiving funds near the general election were in states with key Senate elections. These ten states with Senate elections received $729,000 or 74 percent of the $980,000 transferred to nonfederal accounts in 1990.

In 1988, ATLA PAC transferred at least $986,962 out of $2,903,193.96 in aggregate disbursements to the nonfederal accounts of state parties or to voter registration organizations in 19 states, 18 of which held Senate elections. Of these transfers, $846,962 was transferred to the nonfederal accounts or voter registration organizations in eighteen states with Senate elections in 1988, nearly all of it within the period prior to the general election. In 1986, ATLA PAC's other disbursements totaled only $237,267.80 out of aggregate disbursements of $2,240,766.24. All of these transfers went to state PACs affiliated with ATLA PAC.

The statements by Alan Parker in his affidavit must be viewed in conjunction with the above pattern of contributions to the nonfederal accounts of state parties by ATLA PAC, especially where there were contested Senate elections. When viewed in this

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context, there is reason to believe that ATLA PAC's contributions to the nonfederal account of the Kentucky State Party may have been made with the purpose, knowledge, or awareness, explicit or implicit, that they would be used to benefit the Sloane campaign and may have been accepted by the State Party for such purpose.

The complainants both allege that the television ads were on behalf of or coordinated with Harvey Sloane's Senate candidacy and therefore allocable to it. In this regard, both complainants claim that the State Party used the same media consultant as the Sloane campaign, the ads featured a slogan or tagline that echoed the one being used by the Sloane campaign, and the ads focused on topics or issues that were federal rather than state. In addition, the complainant in MUR 3145 alleged that the State Party used topics that tracked those used in recent Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents. This complainant also alleged that at the time of the State Party's ad the Sloane campaign had gone to the Governor for fundraising assistance, the State Party had assigned most or all of its coordinated party expenditure authority to the DSCC and lacked a cash balance in its federal account, thus making the nonfederal account and its receipts from the DNC and ATLA the only readily available source of funds to help the Sloane campaign.[9]

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9. The October Quarterly Report of the Sloane Committee discloses cash on hand of $553,899 and debts owed by the committee of $250,000. The Pre-General Election Report discloses $247,722.51 cash on hand and no debts owed by the committee. The payments by the committee to the Greer firm outlined earlier in this report do not indicate any noticeable gap in campaign

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The Sloane Committee argues that the use of prominent Democratic presidents and the references to taxes and Republicans in Washington do not clearly identify Sloane or make the ads allocable to him, even if the message is deemed to be predominately federal. The State Party claims the tax issue was also a state issue because the Kentucky General Assembly had just passed the largest tax increase in its history.[10] It further asserted that the use of the names or likenesses of prominent Democratic presidents does not serve to clearly identify the State Party's Senate candidate in 1990.

The script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subjects mentioned in the television ads, the use of Democratic presidents, and the similarity of the taglines in the State Party's and Sloane campaign's ads also do not serve to identify Harvey Sloane by "unambiguous reference." Thus, Sloane was not clearly identified in the ads.

In this matter, the information clearly shows, however, that the same media consultant was used by the Sloane campaign and the State Party, that Skipper Martin served as a consultant to the Sloane campaign before managing the State Party's coordinated campaign, that the Greer firm informed the Sloane campaign of the

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(Footnote 9 continued from previous page)
advertising activity by the Sloane campaign around the time of the State Party's GOTV ads.

10. This statement is rather curious in that in 1990 Kentucky's governor was a Democrat and the legislature was overwhelmingly Democratic (30-8 in Senate and 72-28 in the House).

State Party's media buys, that the content of the GOTV ads meshed with the themes and tagline of the Sloane campaign ads, that the timing of the television ads also meshed with the needs of the Sloane campaign, and that the State Party had not previously undertaken television ads. Furthermore, as detailed earlier, the candidate Harvey Sloane was clearly aware of Mrs. Bingham's donations and may have played a key role in seeing that the funds got to the State Party and in how they were then used.

There is also little doubt that the GOTV ads would benefit the Sloane campaign. This conclusion fits with the general public perception of the purpose of these ads. As the Louisville Courier-Journal stated in an editorial published November 1, 1990:

> It's true that the TV spots don't mention the names of any individual candidates and supposedly are intended to support the party's entire ticket, from property valuation administrators to state senators.
>
> But it's difficult to believe that the ads aren't also designed to reinforce the themes voiced by U.S. Senate candidate Harvey Sloane -- and therefore to win votes for him. They deal, after all, with federal tax and budget policies, Social Security and the GOP's supposed preference for the rich -- issues that Dr. Sloane hammers away at on the campaign trail. There's no mention of schools, state taxes, potholes or other matters that might figure in a state contest.
>
> Democratic spokesmen have said the ad campaign is legal and that money sources will be reported after the election. And a consultant says the budget battle is a legitimate focus since it's "illustrative" of differences between the parties. But that kind of argument extinguishes any meaningful boundary between state and federal races, making a hash of the federal regulation.

This case may present a classic illustration of the "soft money" issue and its relationship to federal elections. As noted, ATLA PAC makes a $50,000 gift to the State Party on

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September 17. The State Party decides to launch a television advertising campaign -- its first ever. And on October 10, it hires Sloane's media consultant to do the ads. The ads themselves echo the themes of Sloane campaign ads, only without any explicit mention of Sloane. Over the period of time that the ads run and the payments are made to the consultant, the DNC transfers $215,000 to the State Party. ATLA PAC contributes another $50,000 on October 25. The aggregate amount of these gifts ($315,000) nearly matches the payments to the consultant ($310,000). The respondent asks the Commission to accept that these series of events occurred by coincidence rather than by consequence. Accepting this argument at this point would be contrary to the possible import and effect of the respondents' own actions in this matter.

Therefore, there is reason to believe the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a(a)(2)(B) by making contributions to the Kentucky Democratic Central Executive Committee for the purpose of influencing federal elections in excess of the Act's limitations.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rob Bingham
4309 Glenview
Glenview, KY 40025

RE: MUR 3182

Dear Mr. Bingham:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to appear and give sworn testimony in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

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

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $40, plus mileage. Subsequent to the deposition, you will be sent a check for the witness fee and mileage.

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Within two days of your receipt of this notification, please confirm your scheduled appearance with me at (800) 424-9530.

Sincerely,

Tenda M. Nott
Attorney

Enclosure
Subpoena

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Rob Bingham
4309 Glenview
Glenview, KY 40025

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to communications regarding contributions by Mary C. Bingham to the Democratic National Committee in 1990 and communications with Dr. Harvey I. Sloane and the Sloane campaign regarding such contributions. Notice is hereby given that the deposition is to be taken on October 22, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 9:00 a.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this First day of October, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

RE: MUR 3182
Dr. Harvey I. Sloane
Sloane for Senate Committee

Dear Mr. Cox:

On June 11, 1991, you were notified that the Federal Election Commission found reason to believe that your clients, Dr. Harvey I. Sloane, and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f). A copy of the Factual and Legal Analysis, which formed a basis for the Commission's finding, was enclosed with that notification.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring your client, Dr. Harvey I. Sloane, to appear and give sworn testimony regarding the television ads broadcast by the Kentucky Democratic Party in 1990 and communications regarding Mary C. Bingham's contributions to the Democratic National Committee in 1990.

Within two days of your receipt of this notification, please confirm the scheduled deposition appearance with me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

Enclosures
Subpoena

2504365412 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Dr. Harvey I. Sloane
Sloane for Senate Committee
c/o Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to television ads broadcast by the Kentucky Democratic Party in 1990 and communications regarding Mary C. Bingham's contributions to the Democratic National Committee in 1990. Notice is hereby given that the deposition is to be taken on October 22, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 2:00 p.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Cunningham
754 Colonial Trace
Frankfort, KY 40601

RE: MUR 3182

Dear Mr. Cunningham:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires you to appear and give sworn testimony regarding the television ads broadcast by the Kentucky Democratic Party in 1990 and communications regarding Mary C. Bingham's contributions to the Democratic National Committee in 1990. The Commission does not consider you a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

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

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $40, plus mileage. Subsequent to the deposition, you will be sent a check for the witness fee and mileage.

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Within two days of your receipt of this notification, please confirm your scheduled appearance with me at (800) 424-9530. If you have any questions, please contact me.

Sincerely,

Tonda M. Mott
Attorney

Enclosures
Subpoena

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182)

SUBPOENA

TO: James Cunningham
Sloane for Senate Committee
c/o Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to television ads broadcast by the Kentucky Democratic Party in 1990 and communications regarding Mary C. Bingham's contributions to the Democratic National Committee in 1990. Notice is hereby given that the deposition is to be taken on October 20, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 9:00 a.m. and continuing each day thereafter as necessary.

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WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edgar N. James, Esquire
Robert S. Clayman, Esquire
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

RE: MUR 3182

Dear Messrs. James and Clayman:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires your client, Kevin Geddings of Greer, Margolis, Mitchell, Grunwald & Associates, to appear and give sworn testimony in connection with an investigation it is conducting. The Commission does not consider your client 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.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $40, plus mileage. Subsequent to the deposition, you will be sent a check for the witness fee and mileage.

Within two days of your receipt of this notification, please confirm your scheduled appearance with me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Subpoena

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182)

SUBPOENA

TO: Kevin Geddings
Greer, Margolis, Mitchell, Grunwald & Associates
c/o Edgar N. James, Esquire
Robert S. Clayman, Esquire
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to the production and broadcast of television ads for the Harvey Sloane campaign and the Kentucky Democratic Party in 1990. Notice is hereby given that the deposition is to be taken on November 6, 1992 in Room 657 at the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

2043654137

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 2, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

W. Patrick Mulloy, II, Esq.
Suite 700 North
200 South Fifth Street
Louisville, KY 40202

RE: MUR 3182

Dear Mr. Mulloy:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires your client, Andrew "Skipper" Martin, to appear and give sworn testimony in connection with an investigation it is conducting. The Commission does not consider your client 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.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $40, plus mileage. Subsequent to the deposition, you will be sent a check for the witness fee and mileage.

Within two days of your receipt of this notification, please confirm your scheduled appearance with me at (800) 424-9530.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Subpoena

2504365413 9

2043654140

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 3182

SUBPOENA

TO: Andrew "Skipper" Martin
c/o W. Patrick Mulloy, II, Esquire
Mulloy, Walz, Wetterer, Fore & Schwartz
Suite 700 North
200 South Fifth Street
Louisville, KY 40202

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to the coordinated campaign by the Kentucky Democratic Party in 1990, fundraising for the campaign including contributions by Mary C. Bingham to the Democratic National Committee, and contributions from the Association of Trial Lawyers of America Political Action Committee and others to the Kentucky Democratic Party, and the production and broadcast of television ads by the Kentucky Democratic Party in 1990. Notice is hereby given that the deposition is to be taken on October 21, 1992 at the Bank of Louisville Building, 10th Floor, 510 West Broadway, Louisville, Kentucky, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this 30th day of September, 1992.

Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

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LAW OFFICES
MICHAEL T. McKINNEY
Attorney at Law
MICHAEL T. McKINNEY

TELEPHONE (606) 586-9955
FAX No. (606) 586-6937
2922 WASHINGTON SQUARE
BURLINGTON, KENTUCKY 41005-0888

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 OCT 19 PM 3:50

October 15, 1992

Ms. Tonda M. Mott
Federal Election Commission
Washington, D.C. 20463

IN RE: **MUR 3182**
Kentucky Democratic Party/Richard Rankin, as Treasurer

Dear Ms. Mott:

In confirming our earlier telephone communication, request is hereby made for extension of time in the amount of twenty (20) days within which to file a response to the additional thirty-one (31) page findings which you forwarded to me under date of October 2, 1992.

This request is made in good faith and is not for purposes of delay. The basis for the request is the volume of information to be reviewed in a making a response. Additionally, you have requested to depose the past Chairman of Kentucky Democratic Party and there will be time involved in preparing for such deposition.

Thank you for your courtesy in this regard.

Yours truly,

Michael T. McKinney

MTM:trt

2504365412

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992

Michael T. McKinney, Esq.
2922 Washington Square
Burlington, Kentucky 41005-0688

RE: MUR 3182
Kentucky Democratic
Party/Richard Rankin,
as Treasurer

Dear Mr. McKinney:

This is in response to your letter dated October 15, 1992, which we received on October 19, 1992, requesting an extension of 20 days to file a response to additional findings. 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 November 9, 1992.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

2504365443

jar6139/bingham/fec.matter/corres.92/mott.10.19
Mon Oct 19 14:27:03 1992

RECEIVED
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REED SMITH SHAW & McCLAY

1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036
202-457-6100

PITTSBURGH, PA
PHILADELPHIA, PA
HARRISBURG, PA
McLEAN, VA

FAX 202-457-6113
TELEX NO. 64711

WRITER'S DIRECT DIAL NUMBER

(202) 457-6139

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 OCT 20 PM 3:31

October 19, 1992

Tonda Mott, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3182 -- Subpoena of Rob Bingham

Dear Ms. Mott:

Confirming our conversation by telephone today, the deposition of Rob Bingham -- which you had noticed pursuant to a subpoena for September 22, 1992 in Louisville, Kentucky, but notice of which he did not receive until Friday, October 16, 1992 by telephone while in California upon its delivery on that date to an apartment he shares in New York, New York -- has been put off until sometime after the November 3, 1992 general election. Mr. Bingham has family who live in the Washington, D.C., metropolitan area. Accordingly, we have agreed that he will appear for a deposition in Washington, D.C., at a mutually-agreeable date after the election.

Very truly yours,

Joseph A. Rieser, Jr.
Attorney for Rob Bingham

JAR/tli

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1992

Joseph Rieser, Esq.
Reed, Smith, Shaw & McClay
1200 Eighteenth St., N.W.
Washington, D.C. 20036

RE: MUR 3182

Dear Mr. Rieser:

This is to confirm that the deposition of Rob Bingham will occur on Friday, December 4, 1992 at 10:00 a.m. at the Office of the General Counsel, 999 E Street, N.W., Washington D.C.

Sincerely,

Tonda M. Mott

> 5043654145

OGC 7198

LYNCH, COX, GILMAN & MAHAN P.S.C.
500 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
Fax (502) 589-4994

DONALD L. COX
ALSO ADMITTED U.S. PATENT OFFICE

INDIANA OFFICE:
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7636

October 21, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 OCT 29 AM 11: 11

HAND-DELIVERED

Tonda Mott
c/o Seelbach Hotel
Fourth and Muhammad Ali
Louisville, Kentucky

MUR 3182

Dear Ms. Mott:

As my secretary explained to you today, I have been unable to get together with Dr. Sloane who, as I informed you before, has been out of the country for several weeks. We told you in the telephone conversation today that we know Dr. Sloane can be available next week on either the 29th or I believe the 30th. If this is not satisfactory, please let me know.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.

Donald L. Cox

DLC/wc

19/sloane-5

2504365416

GUERRIERI, EDMOND & JAMES
1331 F STREET, N.W.
WASHINGTON, D.C. 20004
(202) 624-7400
FACSIMILE: (202) 624-7420

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FEDERAL ELECTION
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JOSEPH GUERRIERI, JR.
JOHN A. EDMOND
EDGAR N. JAMES*
ROBERT S. CLAYMAN
JOHN J. SULLIVAN
MARK S. MAILING**
GREGORY A. STALLAR**
JOHN S. LICHTBLAU**
NORA CARROLL**

*ALSO ADMITTED IN MARYLAND
**NOT ADMITTED IN D.C.

OF COUNSEL
MARTHA WALFOORT
SAMUEL BRACHAROFF

92 NOV -2 PM 4:15
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

MUR3182

October 29, 1992

Tonda M. Mott, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Greer, Margolis, Mitchell, Grunwald & Associates, Inc.

Dear Ms. Mott:

This is to confirm that the deposition of Kevin Geddings of Greer, Margolis, Mitchell, Grunwald & Associates, Inc., will occur on Tuesday, November 10, 1992.

Sincerely,

Edgar N. James

ENJ:bjw

cc: Ms. Annie Burns
Mr. Kevin Geddings

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1992

Edgar N. James, Esq.
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, D.C. 20004

Re: MUR 3182

Dear Mr. James:

This is to confirm that the deposition of Kevin Geddings, of Greer, Margolis, Mitchell, Grunwald & Associates, Inc., will occur on Monday, November 23, 1992 at 10:00 a.m. at the Office of the General Counsel, 999 E Street, N.W., Washington, D.C.

Sincerely,

Tonda M. Mott

)5043654148

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1992

Lyn Utrecht, Esq.
Manatt, Phelps & Phillips
Suite 200
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036

RE: MUR 3182

Dear Ms. Utrecht:

This is to confirm that the deposition of Alan Parker, of the American Trial Lawyers Association, will occur on Monday, November 16, 1992 at 2:00 p.m. at the Office of the General Counsel, 999 E Street, N.W., Washington D.C.

Sincerely,

Tonda M. Mott

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 4, 1992

John C. Keeney, Jr., Esq.
Hogan & Hartson
Columbia Square
555 Thirteenth Street, N.W.
Washington, D.C. 20004-1109

RE: MUR 3182

Dear Mr. Keeney,

This is to confirm that the deposition of Will Robinson of the Democratic National Committee will occur on Thursday, November 12, 1992 at 10:00 a.m. at the Office of the General Counsel, 999 E Street, N.W., Washington, D.C.

Sincerely,

Tonda M. Mott

> 5043654150

THE DEPOSITION TRANSCRIPTS OF MARY ANN JOHNSON, ANDREW SKIPPER MARTIN, MARY C. BINGHAM, JAMES CUNNINGHAM, PATRICIA GOINS, DR. HARVEY SLOANE, WILLIAM J. ROBINSON, ALAN A. PARKER, KEVIN L. GEDDINGS AND ROBERT WORTH BINGHAM CAN BE FOUND AT THE END OF THIS CASE FILE.

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FEDERAL ELECTION COMMISSION
MUR 3182

RESPONSE TO MUR 3182

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OFFICE OF GENERAL COUNSEL
92 NOV 12 PM 3:08

KENTUCKY DEMOCRATIC CENTRAL EXECUTIVE COMMITTEE
AND RICHARD RANKIN, AS TREASURER — RESPONDENT

* * * * * * * * * * * *

This Response to MUR 3182 is filed on behalf of the Kentucky Democratic Central Executive Committee and Richard Rankin, as Treasurer.

SUMMARY

The Kentucky Democratic Central Executive Committee and Richard Rankin, as Treasurer, respectfully request that the Federal Election Commission dismiss MUR 3182 and take no action thereunder.

BACKGROUND

Much of the within background has been previously supplied to the Federal Election Commission, but is provided again herein for purposes of continuity.

At the November, 1990, General Election in Kentucky, there were Democratic candidates on the ballots in each of Kentucky's one-hundred twenty (120) counties, including candidates for a vast number of offices throughout the State, such as one (1) U.S. Senate and Congressional Seats, nineteen (19) State Senate Seats, one hundred (100) State Representative Seats, two (2) Commonwealth

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MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

Attorneys and various judicial seats for District, Circuit and the State Supreme Courts, as well as numerous other local offices.

Additionally, the November, 1990, General Election was in close proximity to the May, 1991, Kentucky Democratic Primary at which time Kentuckians would elect their Democratic gubernatorial and other nominees and experience a rare Republican Primary. This Republican Primary was the result of a then current resurgence of the Republican Party in Kentucky.

The Kentucky Democratic Party has taken note of the recent efforts of the Republican Party in Kentucky and the increase in Republican candidacies. As part of the Kentucky Democratic Party's ongoing efforts to promote the Democratic message throughout Kentucky, the Kentucky Democratic State Central Executive Committee embarked upon a new style of campaigning for Democratic candidates all across the State of Kentucky by producing and airing two (2) television commercials embracing the grassroots Democratic theme. Never before in the history of the Kentucky Democratic Party had such television commercials been utilized as a tool for generally reaching registered Democrats and encouraging them to go to the polls and vote.

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THE COMPLAINT

The complaints, as contained in MUR 3145 and MUR 3182, consolidated as MUR 3182, both allege that the subject television ads were made and aired on behalf of, or coordinated with, the United States Senatorial Campaign of Harvey Sloane and, therefor, should be

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Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

allocable to said Campaign. Further, it is alleged that the subject ads were paid for with funds donated by Mary Bingham to the Democratic National Committee with the intent that such funds would, in turn, be channeled to the Kentucky Democratic Party to be used for the benefit of Harvey Sloane's senatorial campaign. Additionally, Common Cause alleged in MUR 3145 that a $100,000.00 contribution from the American Trial Lawyers Association (ATLA) PAC was improperly deposited into the non-federal account of the Kentucky Democratic Party. MUR 3145 alleges that the ATLA contribution was made for the purpose of electing Harvel Sloane as U.S. Senator and should have been deposited into the federal account of the Kentucky Democratic Party.

In support of their complaints, both Complainants complained that the Kentucky Democratic State Party used the same media consultant as the Harvey Sloane Campaign for the production of the television commercials and that the ads featured a slogan that "echoed" the slogan being used by the Sloane Campaign, and that the ads focused on topics or issues that were federal rather than state issues. Additionally, the Complainant in MUR 3145 makes various allegations that the Kentucky Democratic State Party used topics that "track" topics used in contemporaneous Harvey Sloane ads, used footage from the Sloane ads in its ads, and used photographs of Democratic presidents.

A review of the Factual and Legal Analysis rendered by the Federal Election Commission reveals that MUR 3182 is based largely upon the hearsay of newspaper articles and a reliance upon the

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Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

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"timing" of events. There is no direct evidence in support of any of the allegations made. There is no credible circumstantial evidence to support any of the allegations.

One error in particular found in the Factual and Legal Analysis can be found at Page 5 of the Analysis. Therein the statement is made that "The final version of the ads was approved by Frank Greer, Kevin Geddings, Michael McKinney (counsel for the State Party), and Mary Ann Johnson (State Party chaiperson. The undersigned, Michael McKinney, at no time approved the subject ads. Significantly, the subject ads were never submitted to the undersigned for approval. More significantly, the undersigned was never asked by the FEC investigators if he had ever approved the subject ads. It is unclear where such misinformation could have been generated.

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ARGUMENT

Regarding the allegation that Mary Bingham made a $250,000.00 contribution to the DNC for the purpose of having it channeled to the non-federal account of the Kentucky Democratic Party for the purpose of benefiting the Sloane campaign, one has to look no further than the Factual and Legal Analysis to reach a conclusion as to the propriety of the Bingham contribution.

At Page 20 of the Factual and Legal Analysis, Mary Bingham is quoted as saying that her contribution to the DNC was made "with no strings attached"... that she "imposed no conditions on when, how, or where the donated funds would be used by the DNC" and that she did

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not... "have, before or after my contribution, any conversation with any representative of the DNC in which they indicated its likely use". Additionally, Mrs. Bingham is attributed with the statement that she also had no conversation with any representative of the Kentucky Democratic Party regarding her contributions.

Similarly Harvey Sloane indicated that there was no agreement of any type that Mrs. Bingham's contribution would be earmarked or designated in advance or after the fact for Sloane's campaign or for any Kentucky races. (Factual and Legal Analysis, Page 22).

Likewise, the DNC indicated to the FEC that the Bingham contribution was "entirely legal", that the donation was "given and received without any instructions as to its ultimate disposition". (Factual and Legal Analysis, Page 22).

Mary Ann Johnson, then chairperson of the Kentucky Democratic Party echoed these statements when she stated that at no time relevant to the within proceedings did the DNC transfer money to the Kentucky Democratic Party "for the purpose of influencing the 1990 United States Senate race between Harvey Sloane and Mitch McConnell".

At Page 19 of the Factual and Legal Analysis, the statement is made that "The reports of the nonfederal account make it clear that the State Party could not have undertaken its television ads and paid for them without receiving these funds from the DNC and the ATLA PAC". This is not quite accurate. The television ads could have been paid for with <u>any</u> contributions to the nonfederal account.

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Monies are not segregated by donor when they are placed into the account and they are not designated in advance as to what they will be spent for. They are reviewed prior to receipt to ensure their compatibility with current regulations. That the DNC and ATLA PAC contributed to the nonfederal account was not a significant event in that the contributions were proper and within the scope of existing regulations.

The subject television advertisments are not governed by the Act inasmuch as the advertisments did not support a "clearly identified federal candidate".

The FEC's Factual and Legal Analysis correctly states the premise that "The regulations further provide that expenditures by registration or get-out-the-vote ("GOTV") drives of 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". citing 11 C.F.R.106.1(c)(2). The Analysis also defines "clearly identified" as the "candidate's name, photograph, or drawing" thereof or that the "identity of the candidate is apparent by unambiguous reference". The subject television ads meet this test on all counts.

In order to give credence to the complaints alleged in MUR 3145 and 3182, that the television ads were on behalf of or coordinated with Harvey Sloane's Senate Candidacy and, therefor, allocable to it, it is first necessary to determine whether or not the ads were made on behalf of, or coordinated with, Harvey Sloane's Senate Candidacy.

The Commission has found, in its factual analysis at page 25, that "the script and storyboard for the television ads give no indication that Sloane's name, photograph, drawing or other likeness was used. The subject television ads, the use of Democratic presidents, and the similarity of the taglines in the

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

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state parties and Sloane Campaigns Ad also do not serve to identify Harvey Sloane by `unambiguous reference'. Thus, Sloane was not clearly identified in the ads." (emphasis provided)

The acid test for determining the treatment of Party expenditures is to be found in 11 C.F.R. Section 106. Section 106.1 (c) (2) embraces the "clearly identified candidate" test as previously identified in the Commission's analysis. The Commission, in conceding that "Sloane was not clearly identified in the ads" removes the subject television advertisments from the scope of in-kind contributions to particular candidates.

The Commission strains somewhat in reaching to conclude that, notwithstanding the absence of any clear identification of Harvey Sloane in television ads, because the Kentucky State Democratic Party utilized the same media consultant as the Sloane Campaign and that a previous consultant to the Sloane Campaign subsequently managed the Kentucky Democratic Party's coordiinated campaign, and that there was a certain "timing" of the Bingham contribution to the DNC, that these circumstances raise an "inference" that there may have been some intent by Mrs. Bingham to influence a federal election. Additionally, the Commission alleges generally that the ads "meshed" with the themes and tagline of the Sloane Campaign Ads and that the timing of the television ads also meshed with the needs of the Sloane Campaign. It should be pointed out that the timing for all candidates would have been the same at the November General Election inasmuch as they were all seeking to be elected on the same day.

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

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Curiously, the Commission places some special consideration on the fact that the Kentucky State Democratic Party had not previously undertaken television ads. In this day of electronic electioneering, television has played an increasingly important role in reaching the voting public. The Kentucky Democratic Central Executive Committee merely utilized the media to stir up support for all of the Democratic candidates across the state.

The Commission goes further to declare that there was little doubt that the ads would benefit the Sloane Campaign. How can this possibly be determined? Again, this assertion only lends credence to the thought that the Commission strains to make a point where no such point exists.

The Commission goes on to state that this conclusion fits with the general public perception of the purpose of these ads and quotes a November 1, 1990 editorial opinion from the Louisville Courier Journal. The Commission does not attempt to clarify exactly what the Commission deems to be public perception in Kentucky, nor does the Commission erroneously annoint the Louisville Courier Journal as the arbiter of general public perception. The Commission then pulls together these generalities to conclude that there is reason to believe that the television ads paid for by the nonfederal account of the Kentucky Democratic Party were allocable to Harvey Sloane as contributions or coordinated expenditures. This simply is not the case.

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MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

The Kentucky Democratic State Central Executive Committee has a great interest in races for all Democratic candidates in Kentucky and its support is not limited to races of only statewide scope. The subject television ads were designed to generate support for all Democratic candidates in Kentucky and to encourage voters in each election wherein Democratic candidates were seeking office whether the office be of a strictly local nature or of a statewide service area.

Lastly the Commission has raised the issue of the ATLA PAC contribution of $100,000.00. As the Commission points out in its factual analysis, the ATLA PAC registered and filed reports with the Kentucky Registry of Election Finance under state law regarding these donations to the nonfederal account. (Factual and Legal Analysis, Page 29). What does not appear in the factual analysis is the information that also filed with the ATLA PAC reports is a listing, by name, of each of the individuals who contributed to the ATLA donation.

The Commission, again, strains credibility to the limit when it cites donation patterns of the ATLA PAC since 1986 in arriving at a conclusion that the ATLA PAC sought to benefit the Sloane campaign. The deputy executive director of public affairs for the ATLA indicated in his affidavit that the funds "were not donated for the purpose of influencing a federal election". The record of events supports this statement.

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square • P.O. Box 688 • Burlington, Kentucky 41005 • 606/586-9955

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CONCLUSION

There appears to be no probable cause to determine any violations by the Kentucky Democratic Party Central Executive Committee and Richard Rankin, its Treasurer. The within MUR should be dismissed and held for naught.

Respectfully submitted,

MICHAEL T. McKINNEY
Attorney at Law
2922 Washington Square
P.O. Box 688
Burlington, Kentucky 41005
Telephone: (606) 586-9955
FAX: (606) 586-6937

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was served by ordinary mail this 9th day of November, 1992, on the following: Ms. Tonda Mott, Federal Election Commission, Washington, D.C. 20463.

Michael T. McKinney

2504365416 1



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PREFACE

The 1990 Kentucky coordinated campaign will provide broad-based support for all Democratic candidates in the 1990 elections. Campaigns involved will include the U.S. Senate, U.S. House, and Kentucky State Senate and House races.

The program consists of numerous components beginning with the updating and enhancement of the computerized state-wide voter file built during the 1988 Presidential elections.

An initial state-wide canvass will be undertaken in the fall and will attempt to contact 140,000 of the state's voters who have phones to identify split-ticket voters. The likely Democratic voters will be targeted for persuasion mailings, scheduled to begin in mid-September. This phase will then be followed by a GOTV drive November 1.

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I. KENTUCKY: THE 1990 POLITICAL SITUATION

The importance of getting a coordinated campaign off the ground can't be stressed enough. In the State Legislature, there are 56 House seats and 13 Senate seats. And there are four Congressional races, along with a U.S. Senate seat. In addition, a coordinated campaign plan can be in place for the Governor's race in 1991, which the Republican party claims they have the best shot at in years.

1989 proved to be a very volatile year for the legislature. Relations with the Governor were strained and they passed one of the highest tax increases on the books to pay for an overhaul of the education system. While most Kentuckians support education reform, they don't believe such a large tax increase was necessary or is actually going to be used exclusively for education reform.

However, the party has made a concerted effort to put differences behind them and to work together. Starting on primary night, leaders of the Democratic party, including the Governor and primary opponents, agreed to work together in the fall elections. The leaders of the legislature are very excited about the short- and long-term benefits of a coordinated campaign.

The U.S. Senate race will be highly competitive and visible. While 44 state House seats are not being contested, there are still races (especially in the East and North) in need of extra attention. The Congressional races are likely to be won by the incumbents -- three Democrats and one Republican.

II. COORDINATED CAMPAIGN GOALS

The Kentucky coordinated campaign must bring together party, candidate and constituency group organizations to maximize resources, expand voter contact, and faciilitate mutually supportive campaign activity.

Electorally, the campaign must accomplish the following:

1. Elect Harvey Sloane as Democratic U.S. Senator.
2. Re-elect Ron Mazzoli as Democratic U.S. Congressman in the 3rd district.
3. Re-elect Chris Perkins as Democratic U.S. Congressman in the 7th district.
4. Re-elect William Natcher as Democratic U.S. Congressman in the 2nd district.
5. Help a Democratic candidate make a serious challenge to Jim Bunning in the 4th district.
6. Defend endangered Democratic State Senate and House seats and help strong Democratic candidates take Republican seats.

Organizationally, the coordinated campaign must accomplish the following:

1. Conduct an extensive, state-wide canvass that will identify both GOTV targets for election day and undecided voters who can be

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targetted for persuasion voter contact.

2. Conduct a full-scale get-out-the-vote program utilizing all possible phone and in-person voter contact.

III. BUILDING A CONSENSUS: The Coordinated Effort

The coordinated effort should include the following political components in the state of Kentucky:

- o The State Democratic Party
- o The Sloane Senate Campaign
- o The Congressional Campaigns
- o The State Legislative Leadership and Campaigns
- o The County Chairs
- o Constituency Groups

These players constitute the core of the coordinated effort, without which there is no program. Each of these groups will hopefully work to achieve coordination, provide financial support, and enlist Democrats in the effort.

The coordination effort will work under the umbrella of the state Democratic party and the Sloane campaign, each of which is making a significant contribution of staff and finances to the effort.

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Timetable

- o August 15 — Finalize phone/mail program timeline
- o September 5 — Drop pre-phone bank mail to 186,000 households.
- o September 10 — Voter identification phoning begins to 186,000 targeted households.
- o October 1 — Voter identification phone banks completed. 140,000 completed calls.
- o October 22 — Begin drop targeted mail.
- o October 30 — Complete drop of targeted mail.
- o November 1 — GOTV calls initiated. 150,000 calls to be made.
- o November 6 — GOTV calls completed.

A. THE STATE DEMOCRATIC PARTY

The party already plays an important coordinating role, including campaign seminars, voter files and lists, and basic candidate mail. The party has a paid executive director and three paid staff. The party is seen as responsive and trying to expand services. There is every reason to believe that other players in the state would welcome a further expanded set of services.

The party is committed to the coordinated program. They are anxious to work with all the campaigns.

B. THE SLOANE CAMPAIGN

The Sloane campaign is committed to a coordinated effort and is excited about working with state and congressional candidates to maximize services and GOTV efforts.

C. THE CONGRESSIONAL CAMPAIGNS

All three incumbents will play an active role in the coordinated effort. The 4th district candidate will also work with the coordinated program, but it is very uncertain whether he could make a financial commitment to the effort.

D. STATEWIDE CAMPAIGNS

The candidates for these offices will likely to be among the most to benefit from the staff and organization of the program. They will be likely to offer some financial assistance.

E. CONSTITUENCY GROUPS

The constituency groups endorse candidates, place ads, use mail and phonebanks, and contribute to the state party. These groups, including labor, need to play a central part in the coordinated campaign.

The principle constituency groups include the following:

- o Labor
- o State AFL-CIO
- o Teachers
- o Environmental Groups
- o Trial Lawyers

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IV. VOTER FILE

In 1988, the Kentucky Democratic Party built a voter file with Ridder/Braden, Inc. of Denver, Co. It was fully owned by the Democratic Party of Kentucky.

That voter file was based on the Secretary of State's voter file of all registered voters in the State of Kentucky. The data available on the Secretary of State's file includes:

- o Age
- o Birth Date
- o Party Affiliation
- o Date of Registration
- o Extensive voter history

The Secretary of State's file in Kentucky is probably the best in the nation in terms of collecting and providing critical data. However, in 1988, that file was further enhanced. It was:

- o Householded
- o Carrier-routed
- o Gender coded
- o Ethnic coded
- o Juris coded, and
- o Phone matched.

The party utilized this voter file extensively in 1988.

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For 1990, the file has been enhanced to the same extent as the 1988 file with the additional enhancement of the coding of NCEC data to the file. Again, the Kentucky Democratic Party will own this file and all enhancements to it.

From this file, the coordinated campaign can get the following information to use for cheshire labels, walking lists, phone list, 3X5 cards, or laser letters:

- o sex
- o age
- o race
- o date of registration
- o party affiliation
- o voting history
- o building size

The cost of the purchase of the Secretary of State's base file is approximately $900.00. The conversion of the file, householding, carrier-routing, gender and ethnic coding will cost $5,125 ($500 plus $2.50/k voters passed). The cost for adding the NCEC data will be $2700 (100 plus $1.50/k voters passed) and updating phone match will be $7500.

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COSTS OF VOTER FILE ELEMENT:

o Adding NCEC data to file & updating phone match...$16,225

In addition, the coordinated campaign will set up a program to reach those voters who have changed addresses, but have not reregistered.

COSTS OF RELOCATED VOTER PROGRAM:

o National Change of Address Tape $10,000

TOTAL COST OF VOTER FILE $26,225

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V.TARGETING

The National Committee for an Effective Congress has provided precinct, as well as county by county targeting, for use by all participating campaigns. This information will be used for targeting specific messages to various areas.

The targeting includes democratic index, persuadable index, and a turnout figure. The precinct targeting will be placed directly on the voter file.

According to NCEC data, some 840-900,000 Kentucky voters are likely to go to the polls in 1990. Therefore, 441,000 voters can win the Senate election. 55.6 percent of Kentucky voters normally support Democratic candidates. Winning or losing the Senate seat will depend on the 186,000 estimated ticket-splitters spread widely throughout Kentucky.

VI. POLLING

Polling will be conducted to determine with precision the demographic breakdown of independent voters and to identify what issues are important. The budget includes one bench mark poll to provide information, not only to the Senate race, but also to Legislative and Congressional races.

The pollster (Garin/Hart) will provide a memorandum on issues and attitudes most important to voters, which will then be distributed by the State Party.

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TIMETABLE

- o August — A bench mark poll will be conducted to test both national and state issues. Then data will then be analyzed and provided to all state and local races. The purpose of the bench mark poll is to develop a coordinated message throughout the state.

COSTS OF PROJECT:

Bench mark Poll $21,000

TOTAL COST OF POLLING PROGRAM: $21,000

VII. IDENTIFICATION OF SPLIT-TICKET VOTER

The partisan breakdown of voter registration is as follows:

Democratic Households	912,264
Republican Households	411,030
Independent Households	47,018

The coordinated campaign will operate a 1990 voter canvass whose main component will be a phone bank with paid personnel. This phone bank will identify Democratic candidate supporters and undecided voters from areas with large percentages of swing voters (based on NCEC targeting information.) Calls will only be made to Democrats because of the large number of "disloyal" Democrats in the state.

Information from the calls will be forwarded to campaign organizations for follow-up mailings, canvassing, etc. In addition, the data collected from these calls will be coded back to the voter file for use in the GOTV effort as well as for future campaigns.

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IDENTIFICATION PHASE

The identification phase of the phone operation will begin in mid-September and end in mid-October. The phone contact will include the following elements:

- o Vote intention for U.S. Senate
- o Vote intention for Congress
- o Vote intention for State Senate
- o Vote intention for State House

No call will be comprised of more than three identifications depending on the jurisdiction and importance of the legislative race.

The target for the initial phone identification will be 186,000 voters in "swing" areas as determined by NCEC with the goal of completing 140,000 calls in the month period.

The calls will be made from one central location with the capacity to handle 140,000 contacts in a month period.

In addition, the coordinated campaign will contact an additional 100,000 swing-voters through a coordinated volunteer phone effort. This would include the Sloane field organization, along with other federal, state and local field operations.

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COST OF VOLUNTEER PHONE EFFORT:

(a) List $6,400
(b) Volunteer Phone bank Coordinator.....$3,750
(Two and a half months @ $1,500)
(c) Delivery and Distribution of Lists $2,000

TOTAL.....$12,150

COST OF IDENTIFICATION PHONE BANKS:

140,000 calls @ $1.00 .....$140,000
(including lists and misc. expenses)

PERSUASION MAILINGS

Due to the high cost of GRPs in some markets in the state of Kentucky it is very important that we develop a very solid mail program. For example, the Cincinnati market is far more important to the Sloane campaign than its counterparts in the Charleston market. 31.1 percent in the Cincinnati market are potential ticket splitters, as opposed to 13.1 percent in the Charleston market. The cost of GRPs in the Cincinnati market makes it cost prohibitive, therefore our persuasion mail program will have to be used to target those ticket-splitters in lieu of paid media.

Earlier numbers indicate that the Sloane campaign has a great deal of work to do with the Senior vote. The persuasion mail will be an

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important piece as poll numbers indicate the importance of targeting these special groups.

Beginning in August, a series of persuasion mailings are scheduled. The first mailing will be to approximately 186,000 households targeted to be phoned. The target drop date for this mailing is September 5. Those households identified as Democratic will later receive a GOTV mailing. Those identified as Republican will receive no further communication from the coordinated campaign.

The households identified as undecided by the phone banks or otherwise targeted for the persuasion mail program, will receive an average of three pieces of persuasion mail. Target drop dates for these mailings are from October 22 to October 30.

Different households will receive different mixes of mailers. Some mailings to seniors, for example, will focus on Social Security and a state issue of importance to seniors.

It is currently expected that the coordinated campaign will send out a total of approximately 790,000 pieces of persuasion mail to 260,000 targeted households.

The coordinated campaign will be using the services of Gold Communications Company, an affiliate of Public Strategies, Inc. (Austin, Texas)

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COST OF PERSUASION MAIL PROGRAM:

(a) Initial Split-ticket mailing
186,000 @ .25 .....$46,500

(b) Three Pieces Persuasion Mail to 260,000 voters
790,000 pieces @ .25 .....$194,000

(c) Consultant's Fee $10,000

(d) Consultant's Travel Expenses.....$3,000

Total $253,500

TOTAL COST OF SPLIT-TICKET/PERSUASION PROGRAM: $405,650

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VIII. GET-OUT-THE-VOTE PROGRAM

The success of the coordinated program rests on its ability to identify and encourage individuals to vote in November. The Kentucky effort will attempt to reach the following target voters:

1. Identified favorable voters.
2. Democrats in targeted precincts.
3. Other registered Democrats.

The program will include the following components:

1. GOTV door-to-door canvassing in target GOTV precincts.
2. GOTV phonebanks

3. GOTV Mailing
4. Election Day -- phoning, door knob hangers, transportation, pollwatchers and canvassing.
5. GOTV Radio

COMPONENTS OF THE GOTV PROGRAM:

1. Door-to-Door Canvassing

Door-to-door canvassing will be concentrated in areas where there is a 65+ percent Democratic households. The coordinated campaign looks to reach 100,000 voters in this program.

(a) Walking cards (150,000 x .006) = $900
(b) Transportation & other costs = $3,100

TOTAL COST OF CANVASSING: $4,000

2. Telephone Banks

Approximately 150,000 GOTV calls will be initiated in the five-day period prior to the election. The call will consist of simply a reminder to vote on election day. These calls will be concentrated in areas identified through NCEC targeting as high performance/low turn-out areas.

COST OF GOTV PHONE BANKS: 150,000 calls @ .83/call.....$126,990

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3. Mailings

At present, estimates for the number of households to be targeted for GOTV purposes is still tentative. Once precinct targeting, survey research data, and campaign cash flow data are on hand, a final, detailed mail timeline will be confirmed.

It is currently expected that the coordinated campaign will send out GOTV mailings to 10 percent of the state's Democratic households for a total of approximately 90,000 pieces of GOTV mail.

COST OF GOTV MAILINGS: 90,000 @ .25.....$22,500

4. Election Day Activity

This component will include canvassing, phoning, pollwatching, slate cards and transportation.

COST FOR ELECTION DAY ACTIVITY:.....$44,000

5. GOTV Radio

This element will be produced in-state, in coordination with state candidates, using both federal and state

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officials/candidates with high positive ratings among voters. The message will be targeted to those areas with high numbers of Democratic voters.

COST FOR GOTV RADIO:.....$50,000

TOTAL COST FOR GOTV PROGRAM $247,490

TIMETABLE

- o October 22 — Block walks begin and continue through Election Day.
- o October 30 — GOTV Mailer to households identified as Democratic.
- o November 1 — GOTV calls initiated
- o November 1 — GOTV radio begins, running through Election Day
- o November 6 — GOTV calls completed

IX. ADMINISTRATION

The object here is to relieve the various campaigns of as much staff as possible, and to simultaneously provide services to both federal and state races.

The coordinated campaign should include the following staff:

- o Program Director for three and a half months.
- o Field Director for three and a half months.

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- o Research Director for three and a half months.
- o Field Representatives to direct coordinated operation in 24 targeted counties making up 56 percent of the split-ticket market for three and a half months.
- o Labor Coordinator for three and a half months.
- o Two Staff Assistants for three and a half months.

The campaign will need additional professional direction on mailings, and phone banks. The state party will be responsible for the voter file.

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COSTS FOR ADMINISTRATION:

Program Director (3.5 months @ $4,000)	$14,000
Field Director (3.5 months @ $3,000)	$10,500
Research Director (3.5 months @ $3,000)	$10,500
4 Field Representatives (3.5 months @ $1,500)	$21,000
Staff Assistants (3.5 for 4 months @ $800)	$5,600
Labor Coordinator (3.5 months @ $3,000)	$10,500
Office Costs (including office equipment and phone expenses)	$40,000
Travel	$10,000
TOTAL COST FOR ADMINISTRATION:	**$122,100**

X. BUDGET SUMMARY

TOTAL FOR VOTER FILE	$26,225
TOTAL FOR POLLING	$21,000
TOTAL FOR SPLIT-TICKET ID AND PERSUASION MAILINGS	$405,650
TOTAL FOR GOTV PROGRAM	$247,490
TOTAL FOR ADMINISTRATION	$122,100

GRAND TOTAL COST OF COORDINATED CAMPAIGN: $822,465

XI. FUNDRAISING

The Kentucky Democratic Party will have two accounts set up for the purpose of raising and spending money on behalf of the coordinated campaign: a federal account and a state account.

FEDERAL ACCOUNT

1. Individuals may contribute up to $5,000 per calendar year to this account;
2. Federal PACs, including corporate and labor, can contribute up to $5,000 per calendar year;
3. No corporate or labor dues money can be accepted.

STATE ACCOUNT

1. Individuals may contribute up to $6,000;
2. There is no limitation on labor dues money;
3. There is no limitation on PAC contributions, including labor

and corporate;

4. No corporate money can be accepted;
5. There is no limitation on political contributions.

Senator Wendell Ford has received and approved this plan, And has also committed to assist the Kentucky Democratic Party in fundraising.

Sloane for Senate Campaign	$50,000
Perkins for U.S. Congress	$10,000
Mazzolli for U.S. Congress	$10,000
State Senate and House Candidates	$20,000
Corporate PACs	$150,000
Party Committees	$200,000
Labor Committees	$250,000
Individual	$132,500
TOTAL	$822,500

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Checks can be made payable to:

Kentucky Democratic Party Victory 90; Non-Federal Account

or

Kentucky Democratic Party Victory; Federal Account

Checks can be sent to the following address:

Kentucky Democratic Party
P.O. Box 694
Frankfort, Kentucky 40601

CASH FLOW CHART

EXPENSES-OVERHEAD	08/90	09/90	10/90	11/90	TOTAL
STAFF-GENERAL:					
FIELD REP.	1,500	1,500	1,500	750	5,250
FIELD REP.	1,500	1,500	1,500	750	5,250
FIELD REP.	1,500	1,500	1,500	750	5,250
FIELD REP.	1,500	1,500	1,500	750	5,250
STAFF ASST.	800	800	800	400	2,800
STAFF ASST.	800	800	800	400	2,800
RESEARCH DIRECTOR	3,000	3,000	3,000	1,500	10,500
PROGRAM DIRECTOR	4,000	4,000	4,000	2,000	14,000
FIELD DIRECTOR	3,000	3,000	3,000	1,500	10,500
LABOR COORDINATOR	3,000	3,000	3,000	1,500	10,500
SUBTOTAL-OVERHEAD:	20,600	20,600	20,600	10,300	72,100
EXPENSES COMM.:					
BENCH MARK	21,000	0	0	0	21,000
VOLUNTEER PHONE EFFORT	12,150	0	0	0	12,150
PHONE VOTER ID	140,000	0	0	0	140,000
MAILING #1	0	46,500	0	0	46,500
3 PERSUASION MAILINGS	0	0	194,000	0	194,000
CONSULTING FEES	13,000				13,000
VOTER FILE	26,225	0	0	0	26,225
GOTV RADIO BUY	0	0	0	50,000	50,000
GOTV PHONE BANKS	0	0	0	126,990	126,990
GOTV MAILINGS	0	0	0	22,500	22,500
GOTV MISC.	0		0	48,000	48,000
OFFICE COSTS	0	0	0	0	0
TRAVEL COSTS	15,000	10,000	10,000	5,000	40,000
	5,000	2,000	2,000	1,000	10,000
SUBTOTAL-COMM.:	232,375	58,500	206,000	253,490	750,365
TOTAL EXPENSES:	252,975	79,100	226,600	263,790	822,465

This plan has been approved by the Chairman of the Kentucky Democratic Party, Mary Ann Johnson.

Chairman, Kentucky Democratic Party

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andrew Jackson Martin, Jr.
11007 Greenock Ct.
Louisville, KY 40243

Re: MUR 3182

Dear Mr. Jackson:

Enclosed is a check in the amount of $62.50. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney

United States Treasury 15-51/000 W 069,814,314

01 22 93 32 WASHINGTON, DC Check No.
772062 0 ANDREW JACKSON M 3007 85854259
95350001

Pay to the order of ANDREW JACKSON MARTIN JR F E C WASH DC

$******62*50

VOID AFTER ONE YEAR

PO NO 3AW025 WITNESS FEE

⑈300 74⑈ ⑆000000518⑆ 85854259⑈ 010193

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary Ann Johnson
P.O. Box 125
Burnside, KY 42519

Re: MUR 3182

Dear Ms. Johnson:

Enclosed is a check in the amount of $105.00. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney



United States Treasury 15-51/000 W 069,814,313

Check No.

01 22 93 56 WASHINGTON, DC 3007 85854258
772062 0 MARY ANN JOHNSON 95350001
F E C WASH DC

Pay to the order of MARY ANN JOHNSON

$****105*00

VOID AFTER ONE YEAR

PO NO 3AW025 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 858542586⑈ 010193

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William J. Robinson
510 A. Street, NE
Washington, DC 20002

Re: MUR 3182

Dear Mr. Robinson:

Enclosed is a check in the amount of $41.00. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney

95043654190

United States Treasury 15-51/000 W 069,423,562

Check No.

01 04 93 78 WASHINGTON, DC 3007 85367880
772025 0 WILLIAM J ROBINS 95350001
F E C WASH DC

Pay to the order of WILLIAM J ROBINSON

$*****41*00

VOID AFTER ONE YEAR

PO NO 3AW018 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 853678804⑈ 010193

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alan Parker
1050 31st Street, NW
Washington, DC 200071

Re: MUR 3182

Dear Mr. Parker:

Enclosed is a check in the amount of $41.00. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney



United States Treasury 15-51/000 W 069,423,561

Check No.

01 04 93 98 WASHINGTON, DC 3007 85367879
772025 0 ALAN PARKER 95350001

Pay to the order of ALAN PARKER F E C WASH DC

$*****41*00

VOID AFTER ONE YEAR

PO NO 3AW018 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 853678793⑈ 010193

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Cunningham
754 Colonial Trace
Frankfort, KY 40601

Re: MUR 3182

Dear Mr. Cunningham:

Enclosed is a check in the amount of $43.50. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney

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United States Treasury 15-51/000 W 069,423,560

Check No.

01 04 93 45 WASHINGTON, DC 3007 85367878
772025 0 JANES CUNNINGHAM 95350001

Pay to the order of JANES CUNNINGHAM F E C WASH DC

$*****43*50

VOID AFTER ONE YEAR

PO NO 3AW018 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 853678782⑈ 010193

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Harvey Sloane
1601 28th Street, NW
Washington, DC 20007

Re: MUR 3182

Dear Mr. Sloane:

Enclosed is a check in the amount of $40.00. This check represents payment of the witness fee. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney

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United States Treasury 15-51/000 W 069,423,559

Check No.

01 04 93 17 WASHINGTON, DC 3007 85367877

772025 0 HARVEY SLOANE 95350001

Pay to the order of HARVEY SLOANE F E C WASH DC

$*****40*00

VOID AFTER ONE YEAR

PO NO. 3AW018 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 853678771⑈ 010193

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 11, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Patricia Goins
3880 Harrodswood Drive
Frankfort, KY 40601

Re: MUR 3182

Dear Ms. Goins:

Enclosed is a check in the amount of $62.50. This check represents payment of the witness fee and mileage reimbursement. Thank you for your cooperation in this matter.

Sincerely,

Tonda M. Mott
Staff Attorney

United States Treasury 15-51/000 W 069,423,558

Check No.

01 04 93 92 WASHINGTON, DC 3007 85367876
772025 0 PATRICIA GOINS 95350001
F E C WASH DC

Pay to the order of PATRICIA GOINS

$*****62*50

VOID AFTER ONE YEAR

PO NO 3AW018 WITNESS FEE

⑈30074⑈ ⑆000000518⑆ 853678760⑈ 010193

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leukemia
society of america
research foundation
4640 40th Street, N.W., Washington, D.C. 20016 • Phone: (202) 537-8900 or (202) 885-7802 Fax: (202) 537-2

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
RECEIVED
93 APR -8 AM 9:49

April 6, 1993

Dear Ms. Moth,

Thank you for sending the $40 witness fee. However I was told that I would also get reimbursed for my special trips from Washington to Louisville and back for the testimony and deposition.

Thank you for your time in this matter.

Sincerely,

Harvey Sloane

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SECRETARIAT
94 JAN 31 PM 1:09

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Mary C. Bingham	)	MUR 3182
	)	
Democratic National Committee and Robert T. Matsui, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

This report presents recommendations to assure that this matter conforms to the court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. Oct. 22, 1993), and makes additional recommendations pertaining to the issues raised in the matters originally designated as MURs 3175 and 3182, based on information ascertained during the investigation.

II. BACKGROUND

This matter came before the Commission in the form of three separate complaints filed by: the Kentucky Republican Party (MUR 3145); the Center for Responsive Politics (MUR 3175); and Common Cause (MUR 3182). The First General Counsel's Report, dated May 6, 1991, addressed all three complaints jointly.[1]

1. This report will not address the issues in the complaint originally designated as MUR 3145, i.e., coordination issues concerning the Sloane Committee and the Kentucky State Democratic Central Executive Committee ("KSDCEC"); allocation issues concerning KSDCEC; excessive contribution issues concerning Sloane (except Mary Bingham's liability for such), KSDCEC, and American Trial Lawyers Association. This Office determined it best to deal with the issues of MUR 3145 separately, in part, because we will likely proceed to the probable cause stage on those issues, as pre-probable cause conciliation has not been requested by those Respondents and does not appear likely. Further, separation of the issues is appropriate because the issues which are addressed in this

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The Complainant in MUR 3175 alleges that Mary C. Bingham exceeded the $25,000 personal annual limitation in both 1988 and 1990, and that she also made excessive contributions to both the Democratic National Committee ("DNC") and the Democratic Senatorial Campaign Committee ("DSCC"). These allegations included a $20,000 contribution by Respondent to the federal account of the DNC in October 1990. These allegations did not include a $230,000 contribution made by Respondent, at the same time, to the non-federal account of the DNC, which was at issue in the other two complaints.

The Complainant in MUR 3182 alleges that Mrs. Bingham exceeded her $25,000 personal annual limitation by virtue of her $250,000 in contributions to the DNC in 1990, because the DNC accepted these monies and passed them on to the Kentucky State Democratic Central Executive Committee ("KSDCEC") for the benefit of Dr. Harvey Sloane ("Sloane") and his authorized committee, Sloane for Senate Committee ("Sloane Committee").[2] The Complainant further alleges that the $250,000 in contributions thereby resulted in the receipt of excessive contributions by all of the committees.

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(Footnote 1 continued from previous page)
report are the subject of a current suit against the Commission, pursuant to 2 U.S.C. § 437g(a)(8). See, Center for Responsive Politics v. FEC, D.C. Cir., No.93-2250, October 29, 1993.

2. The Complainant in MUR 3145 filed an amendment containing allegations similar to those in MUR 3182, stating that the $230,000 gift from Mrs. Bingham to the DNC was funneled to the Sloane campaign; however, the amendment was neither notarized nor sworn to.

On May 21, 1991, the Commission found:

1) Reason to believe that Mary Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3), but took no action at that time with regard to the allegations of the complaint in MUR 3182.

2) Reason to believe that the DNC and its treasurer violated 2 U.S.C. § 441a(f) regarding the receipt of an excessive contribution from Mary Bingham on the basis of the complaint in MUR 3175, but took no action at that time with regard to the allegations of the complaint in MUR 3182.[3]

On June 19, 1992, the Commission rejected, at that time, requests by Mrs. Bingham and the DNC to enter into pre-probable cause conciliation in order to enable this Office to investigate the allegations. Later, on September 16, 1992, the Commission found reason to believe that: (1) Mary Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3); and (2) the DNC and its treasurer violated 2 U.S.C. § 441a(f), regarding the allegations of the complaint in MUR 3182. These additional findings resulted in a broader investigation into this matter, additional factual and legal analyses, and numerous subpoenas for depositions.

III. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the NRA opinion, and based on the complaints filed in this matter and responses thereto, this

3. Pertaining to the allegations of MUR 3175, on the same day, the Commission also voted to find reason to believe that the DSCC violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Mary Bingham, but took no further action and closed the file with respect to DSCC. Because this matter has already been closed as to the DSCC, this Office makes no recommendation relating to compliance with the NRA on this earlier action by the Commission.

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Office recommends that the Commission revote its earlier determinations involving MURs 3175 and 3182 to:

(1) find reason to believe[4] that Mary Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3);

(2) find reason to believe that the DNC and its treasurer violated 2 U.S.C. § 441a(f);

(3) approve the factual and legal analyses as previously sent to the DNC on June 11, 1991 and on October 2, 1992.

For the Commission's information, this Office has attached the certifications in this matter dated May 20, 1991 (2); May 22, 1991; June 19, 1992; and September 16, 1992.

IV. ANALYSIS

This analysis is divided into two sections. The first section analyzes the excessive contributions that were alleged in the complaint in MUR 3175. Based on the complaint, responses, and the investigation, this report assesses:

Whether Mrs. Bingham's 1988 and 1990 contributions were in excess of the $25,000 aggregate limit, allowed per year;

Whether Mrs. Bingham's 1988 and 1990 contributions to the DNC were in excess of the $20,000 limit allowed, per year, as contributions to a national political party; and

Whether Mrs. Bingham's 1990 contributions to the Sloane Committee were in excess of the $1,000 limit allowed, per election, as contributions to a federal candidate.

The second section analyzes the "soft money" issues alleged in the complaint in MUR 3182. Based on the complaint,

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4. This recommendation has been altered from a 2 U.S.C. § 441a(a)(1)(B) violation to a 2 U.S.C. § 441a(a)(1) violation, so as to include Mrs. Bingham's excessive contribution to the Sloane Committee in 1990, as well as her excessive contributions to the DNC in 1988. See, footnote 7. Thus, this Office will also recommend that the Commission approve a new factual and legal analysis for Mrs. Bingham, which includes the excessive contribution to the Sloane Committee.

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responses, and the investigation, this report assesses:

Whether the $250,000 in contributions by Mrs. Bingham to the DNC in 1990 were made with the intent or purpose to finance the KSDCEC's ads on behalf of the Sloane campaign or with knowledge that they would be so used;

Whether DNC made transfers to KSDCEC with the intent or purpose to finance the KSDCEC's ads on behalf of the Sloane campaign or with knowledge that they would be so used; and

Whether Mrs. Bingham's $230,000 contribution to the DNC's non-federal account is attributable to her $25,000 aggregate limit.

A. EXCESSIVE CONTRIBUTIONS

The Federal Election Campaign Act, as amended, (the "Act") provides that no individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5. Any contribution to a candidate, or his or her authorized committee, counts against the contributor's annual limit for the year of the election for which the contribution is made. 11 C.F.R. § 110.5(c)(2). Any contribution made to a party committee or a political action committee counts against the contributor's annual limit for the year in which the contribution is made. 11 C.F.R. § 110.5(c)(3).

Further, the Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1).

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Mrs. Bingham's 1988 and 1990 contributions are the subject of the allegations in MUR 3175. According to the Commission databases, Mrs. Bingham made the following contributions, applicable toward her 1988 individual contributor limitation:

Contribution to	Date	Amount	P/G*
R.L. Mazzoli Campaign Fund	03/31/88	$ 500	P
R.L. Mazzoli Campaign Fund	05/27/88	1,000	G
Albert Gore Jr. for President	07/13/88	500	P
Albert Gore Jr. for President	07/29/88	500[5]	P
DNC	09/15/88	1,000	-
DCCC	09/26/88	2,000	-
KSDCEC	10/01/88	5,000	-
DNC	10/03/88	20,000	-
	TOTAL	30,500	

According to the Commission databases, Mrs. Bingham made the following contributions, which are applicable toward her 1990 individual contributor limitation:

Contribution to	Date	Amount[6]	P/G*
Sloane for Senate Committee	07/08/88	$2,000	P
Friends of Senator Carl Levin	11/27/89	1,000	P
Friends of Senator Carl Levin	11/27/89	1,000	G
Bill Bradley for US Senate '90	11/30/89	1,000	P
Bill Bradley for US Senate '90	11/30/89	1,000	G
Friends of Senator Rockefeller	12/05/89	500	P
Democrats for the 90's	02/22/90	5,000	-
Friends of Senator Rockefeller	04/16/90	500	P
Friends of Senator Rockefeller	04/16/90	500	G
DSCC	06/27/90	20,000	-
Galen Martin for Congress	07/03/90	200	-
DSCC	08/23/90	300	-
Galen Martin for Congress	08/24/90	100	-
Friends of Senator Carl Levin	09/13/90	[100]**	-
KSDCEC	09/17/90	5,000	-
DNC	10/11/90	20,000	-
	TOTAL	58,000	

*Designated to the primary (P) or general (G) election.
**Indicates refund to contributor.

5. The DNC report lists the contributor as "Mr. M C Bingham" [sic] of "Glenview, Ky 40025".

6. See, footnote 8.

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Mrs. Bingham made contributions to federal candidates and political committees that exceeded her $25,000 annual limitation by $5,500 in 1988 and $33,000 in 1990. Mrs. Bingham also made contributions to federal candidates and political committees that were excessive in the amounts of $1,000 to the DNC in 1988, $300 to DSCC in 1990,[7] and $1,000 to the Sloane Committee in the 1990 cycle.[8] These excessive contributions by Mrs. Bingham are clearly supported by the evidence. Furthermore, in her response, Mrs. Bingham conceded that she "inadvertently and unintentionally exceeded the annual aggregate limitation," and in fact requested conciliation on that issue.

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7. The Commission previously closed the file as it pertained to DSCC. See, footnote 3.

8. Although Mrs. Bingham did dispute the inclusion of her $2,000 contribution to Sloane's exploratory committee, she stated under oath that in Sloane's 1990 Senate campaign she contributed "what [she] could -- that was legal to his campaign." M.Bingham deposition, p. 7. Mrs. Bingham could only have been referring to the $2,000 contribution to the exploratory committee, as no other contributions by her to the Sloane Committee were reported.

The Commission's regulations at 11 C.F.R. §§ 100.7(b)(1) and 101.3 clearly provide that contributions for "testing the waters" purposes become contributions under the Act once the individual becomes a candidate. The Commission's Explanation and Justification of those provisions fully explains that the regulations "require that all funds received for 'testing the waters' must be subject to the Act's limitations and prohibitions." 50 Fed. Reg. 9994, March 13, 1985.

Therefore, once Sloane became a candidate, the $2,000 contribution became a contribution under the Act and subject to the $25,000 annual contribution limitation. Additionally, in this instance, the contribution was an excessive contribution as to the Sloane Committee, because the entire amount was reported as having been designated to the primary election.

Recommendations against the Sloane Committee involving this violation will be addressed in the probable cause briefs regarding the issues of MUR 3145.

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B. SOFT MONEY

1. Applicable Law

The Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1). A person may contribute to a candidate, or his or her authorized committee with respect to a particular election, and also to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as:

(1) The political committee is not the candidate's principal campaign committee or other authorized political committee or a single candidate committee;

(2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

11 C.F.R. § 110.1(h).

Commission regulations permit transfers without limitation between political committees of the same political party whether or not they are political committees under the Act. 11 C.F.R. § 102.6(a)(1)(ii). However, transfers shall be made only from funds which are permissible under the Act. 11 C.F.R. § 102.6(a)(1)(iv).

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2. Evidence

On October 11, 1990, Mrs. Bingham contributed $230,000 to the non-federal account and $20,000 to the federal account of the DNC. According to federal and state reports and by her own admission, Mrs. Bingham had made the maximum allowable contributions to the Sloane campaign and to KSDCEC, both its federal and non-federal accounts, at that time.[9] The DSCC had made $270,738.97 in coordinated party expenditures relating to the 1990 senatorial general election in Kentucky. The applicable coordinated party expenditure limitation was $138,772.80 for the state party and the same amount for the national party. It appears from the reported expenditures by the DSCC that both the state party and the national party authorized the DSCC to spend against their respective limitations, and that DSCC had, in fact, spent within approximately $6,800 of the allowable coordinated party expenditure limitation on behalf of Sloane.[10]

In his deposition, William Robinson, Coordinating Campaign Director of the DNC, stated that Kentucky was on the DNC's

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9. Under Kentucky law, an individual can not contribute more than $6,000 to the non-federal account of KSDCEC; however, under both federal and state law KSDCEC's non-federal account could accept unlimited transfers from the DNC.

10. Of the total coordinated expenditures, the DSCC reported making $220,000 in payments to the Greer firm to purchase broadcast time for the television ads it produced for the Sloane Committee.

Also, KSDCEC originally reported $19,425.29 in coordinated expenditures to the Sloane Committee in its October Quarterly Report. KSDCEC later amended its report, adding this amount to its operating expenses. This issue will be further discussed in the probable cause briefs regarding the allegations in MUR 3145.

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initial list of targeted states in the 1990 elections. Robinson deposition, p. 28. Robinson stated that in a September 1990 meeting with Steve Bachar, of KSDCEC's Coordinated Campaign, and Jim Cunningham, Campaign Manager of the Sloane Committee, he expressed the DNC's need for funds and also discussed a possible solicitation of Mrs. Bingham, who had previously contributed to the DNC. Id., pp. 14-15. He also testified that in a subsequent conversation, Sloane told him that "he [Sloane] would get someone to solicit Bingham." Id., p. 15.

Robinson later had telephone conversations with Cunningham, in which Cunningham informed him that the Bingham contribution was being made. Id., p. 24. Robinson testified that, during those conversations, Cunningham "made an impassioned plea for money to come to [Kentucky] as soon as possible." Id. Robinson also had a conversation with Bachar, who made a similar request for funds. Id., p. 25. Apparently, Paul Tulley of the DNC also received a similar request directly from Sloane. Id., pp. 23-34. According to Robinson, both he and Tulley answered with the "standard spiel" that they appreciated the contribution from Mrs. Bingham, but couldn't say how much or when any funds might be sent to Kentucky. Id.; see also, Sloane deposition, p. 25.

Mrs. Bingham testified that during dinner one evening in September 1990 she spoke with her grandson Rob Bingham, a volunteer with the Sloane Committee, about the campaign. M.Bingham deposition, p. 11. Rob Bingham testified that during that conversation he asked his grandmother "if there was

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anything she could do to help the party and she subsequently made a donation." R.Bingham deposition, p. 23. He said that he didn't know that she was specifically going to contribute to the DNC, (Id., p. 24), but later stated that "my grandmother did tell me that she was planning to make a donation to the party,[11] and I did relay that information to Jim Cunningham." Id., p. 26.

Following her conversation with her grandson, Mrs. Bingham spoke with Sloane about her anticipated contribution and asked him to explain to her the rules on non-federal contributions, and to whom checks should be written. Id., p. 10; see also, Sloane deposition, p. 23. After speaking with Cunningham and Tulley, Sloane advised Mrs. Bingham that she could give up to $20,000 to the DNC's federal account and additional amounts to its non-federal account, and that she should make out two checks, "one for so-called hard money and one for so-called soft money." Id., p. 24.

According to Mrs. Bingham's testimony, Sloane further advised her that "there could be absolutely no expectation that the money would come to Kentucky, that it might go anywhere else." M.Bingham deposition, p. 11. She stated that she "realized that I gave the money with no strings. I didn't communicate with the DNC or with [KSDCEC]. I hoped that it

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11. He later explains that he did not know whether the contribution was going to the DNC or the DSEC [sic], but only that it was going to Washington. Id., p. 27. Mrs. Bingham testified, however, that she did indicate to Rob that she was going to contribute to the DNC. M.Bingham deposition, p. 25.

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would come back.... But I had absolutely no assurance of that." Id., pp. 16-17.

Mrs. Bingham testified that her decision to make the contributions to the DNC involved the following:

> [t]he campaign [involving Sloane] was a typical Mitch McConnell campaign, full of mud slinging and no discussion of the issues, and it seemed to me that if I could help with the party's support of this campaign that I might -- it might be a good thing to do that. I was interested in various Kentucky state races of people who supported measures that I approved of. And so I thought that -- I gave it [contributions to DNC] with the hope that it might possibly, some of it might come back to Kentucky to the Kentucky Democratic Party and that they would -- and that it might possibly help Harvey.

Id., pp. 9-10. However, Mrs. Bingham denied expressing to anyone her wish that her contributions to the DNC would be returned to Kentucky in order to benefit Sloane. Id., p. 17 and p. 27.

Mrs. Bingham stated that she asked her accountant Leon Tallichet to write the checks for the contributions to the DNC; one check in the amount of $20,000 was made payable to the DNC's federal fund, and the second check in the amount of $230,000 was made payable to the DNC's non-federal fund. Both checks were dated October 9, 1990.[12] Apparently, Mrs. Bingham never actually saw the checks. Id., pp. 13-14.

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12. According to press accounts, Mrs. Bingham's contribution to the DNC was also the largest single gift the DNC received in 1990. Her contributions to the DNC in 1990 were substantially greater than in previous years. In September 1988, she contributed $20,000 to the DNC's federal account and $80,000 to its non-federal account. In August 1989, she gave $25,000 to the non-federal account.

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Although the method by which Mrs. Bingham's checks were delivered to the DNC is not entirely clear, it appears that Mr. Tallichet gave the checks either directly to Sloane's wife, or to someone unknown who gave the checks to Mrs. Sloane. Sloane deposition, pp. 30-31. Mrs. Sloane then gave the checks to Sloane, who in turn gave them to Cunningham. Id., p. 30. Cunningham called Robinson at the DNC to let him know that the contributions had been made and that the checks were being sent. Robinson deposition, p. 19. Cunningham then apparently had them delivered to Washington, although there are several conflicting stories and failing recollections as to the details of how this occurred. See, Id., p. 30; M.Bingham deposition, p. 14; Robinson deposition, pp. 16-17; Cunningham deposition, p. 35.

The DNC reported receiving Mrs. Bingham's contributions on October 11, 1990. The DNC then made two transfers of funds to the state account of KSDCEC on October 16 in the amounts of $50,000 and $95,000, another $50,000 transfer on October 23, and two $10,000 transfers on October 25. According to the DNC, each transfer of non-federal funds was accompanied by a letter with express language restricting the use of the funds to efforts allocable only to state and local candidates or elections.[13]

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13. The relevant portion of these letters reads:

> This contribution is transmitted for use only in connection with your party's efforts allocable to candidates for state and local office. We wish to remind you that the Federal Election Commission requires that party committees defray the portion of party-wide activities allocable to federal elections with contributions allowable under the Federal Election Campaign Act of 1971, as amended ("federal funds").

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On October 10, KSDCEC retained the Greer firm, Sloane's media consultant, for the purpose of creating, producing, and placing two television commercials, the party's first. The commercials, without naming any candidate specifically, dealt with various issues, i.e., taxes, jobs, social security, health care and education. On October 18 and November 2, KSDCEC made payments totaling $310,000 from its state account to the Greer firm.

3. Conclusion

The contributions made by Mrs. Bingham to the DNC in 1990 serve as the basis for the allegations in MUR 3182. The Complainant alleges that the timing of her contributions, the transfers from the DNC to KSDCEC, and the payments by KSDCEC to the Greer firm for advertisements, creates an inference that Mrs. Bingham's gift to the DNC's non-federal account may have been made to influence a federal election.

The circumstantial evidence, alone, which provides the basis for this Office's recommendation that the Commission find reason to believe that a violation occurred based on the complaint in MUR 3182, suggests that Mrs. Bingham made contributions to the DNC in an effort to provide further support

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(Footnote 13 continued from previous page)
Accordingly, we are transferring these funds subject to the express condition that they be used only in accordance with applicable federal and state laws and upon the express condition that, if these funds are to be used to defray a portion of party-wide activities that include a federal election, the appropriate amount of federal funds be used to pay for the federal portion. ... Please note this contribution should not be deposited into any federal account maintained by you.

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to the Sloane campaign. In October 1990, Mrs. Bingham had already contributed the maximum amount allowable to the Sloane Committee, as well as to the state and federal accounts of KSDCEC. In addition, there were discussions amongst members of DNC, KSDCEC, and the Sloane campaign regarding a solicitation of Mrs. Bingham for a contribution to the DNC. Mrs. Bingham was solicited by a member of the Sloane campaign, and the contribution checks themselves made their way to the DNC via various Sloane campaign members, including Sloane himself. Furthermore, as a whole, the timing of the events appears questionable. On October 9, Mrs. Bingham had contribution checks written to the DNC; on October 10, KSDCEC retained the Greer firm for ads; and, in mid-October, the DNC made several transfers to KSDCEC's state account, from which payments were subsequently made to the Greer Firm for advertisements with "tag lines" similar to those used by the Sloane Committee in its advertisements.

While the circumstantial evidence suggests that some implicit understanding may have existed regarding Mrs. Bingham's contributions to the DNC,[14] the investigation has not provided further evidence that she made her donations for the purpose of influencing a federal election, e.g., documentation expressing

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14. Because only the intentions and expectations of Mrs. Bingham and the DNC are at issue in these particular allegations, we are not required to reach the question of whether the ads were made by KSDCEC for the benefit of Sloane. That question, including the issue of the similarity of the ads by the Sloane Committee and KSDCEC, will be addressed in the probable cause briefs regarding the issues of MUR 3145.

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her wishes that the funds be spent in Kentucky, or documentation assuring such. All parties deposed by this Office have stated that no commitments that the DNC would spend Mrs. Bingham's contributions for the benefit of Sloane were made or expected. Further, since Kentucky was on DNC's initial list of targeted states, available funds might have been spent in that state regardless of any contribution by Mrs. Bingham.

The investigation thus far has revealed no evidence to further substantiate the circumstantial evidence that the contributions by Mrs. Bingham to the DNC were made for the purpose of influencing a federal election. Because the General Counsel's Office does not believe that additional investigation will result in sufficient evidence to fully resolve this issue, this Office recommends that the Commission take no further action regarding this allegation.

V. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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VI. RECOMMENDATIONS

(1) Find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3).

(2) Find reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer violated 2 U.S.C. § 441a(f).

(3) Approve the factual and legal analyses as previously sent to the Democratic National Committee and Robert T. Matsui, as treasurer, on June 11, 1991 and on October 2, 1992.

(4) Approve the attached factual and legal analysis for Mary C. Bingham.

(5) Enter into conciliation prior to a finding of probable cause to believe with Mary C. Bingham, and with the Democratic National Committee and Robert T. Matsui, as treasurer.

(6) Take no further action against Mary C. Bingham, or against Democratic National Committee and Robert T. Matsui, as treasurer, regarding the allegations of the complaint in MUR 3182.

(7) Approve the attached conciliation agreements.

(8) Approve the appropriate letters.

1/28/94
Date

LMNoble (LR)
Lawrence M. Noble
General Counsel

Attachments:
1. Commission's previous certifications
2. Factual and Legal Analysis
3. Proposed conciliation agreements (2)

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FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARDY
COMMISSION SECRETARY

DATE: FEBRUARY 3, 1994

SUBJECT: MUR 3182 - GENERAL COUNSEL'S REPORT DATED JANUARY 28, 1994.

The above-captioned document was circulated to the Commission on Monday, January 31, 1994 at 4:00 P.M.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XX
Commissioner Thomas	XX

This matter will be placed on the meeting agenda for Tuesday, February 8, 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 3182
Mary C. Bingham;	)	
	)	
Democratic National Committee and Robert T. Matsui, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on February 15, 1994, do hereby certify that the Commission took the following actions in MUR 3182:

1. Decided by a vote of 6-0 to

   a) Find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3).

   b) Find reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f).

   c) Approve the factual and legal analyses as previously sent to the Democratic National Committee and Robert T. Matsui, as treasurer, on June 11, 1991 and on October 2, 1992.

(continued)

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d) Approve the factual and legal analysis for Mary C. Bingham as recommended in the General Counsel's report dated January 28, 1994

e) Enter into conciliation prior to a finding of probable cause to believe with Mary C. Bingham, and with the Democratic National Committee and Robert T. Matsui, as treasurer.

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

2. Decided by a vote of 4-2 to take no further action against Mary C. Bingham, or against the Democratic National Committee and Robert T. Matsui, as treasurer, regarding the allegations of the complaint in MUR 3182.

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

(continued)

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3. Decided by a vote of 6-0 to approve the conciliation agreements recommended in the General Counsel's report dated January 28, 1994

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

4. Decided by a vote of 6-0 to approve the appropriate letters, as recommended in the General Counsel's report dated January 28, 1994.

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

Attest:

2-18-94
Date

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	**SENSITIVE**
	)	
Mary C. Bingham	)	MUR 3182
	)	
Democratic National Committee and Robert T. Matsui, as treasurer	)	

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

Upon further review of this matter, which was discussed at the February 15, 1994 Executive Session Meeting, this Office recommends modification of the Commission's approval of certain actions previously recommended by this office. This report explains the proposed approach and recommends that the Commission rescind or amend certain actions taken during its February 15, 1994 Executive Session Meeting, in order to proceed accordingly.

II. BACKGROUND

This matter came before the Commission in the form of three separate complaints filed by: the Kentucky Republican Party (MUR 3145)[1]; the Center for Responsive Politics (MUR 3175); and Common Cause (MUR 3182).

The Complainant in MUR 3175 alleged that Mary C. Bingham

1. The General Counsel's Report dated January 28, 1994, and the Commission's actions taken on February 15, 1994 did not address the issues in the complaint originally designated as MUR 3145, i.e., coordination issues concerning the Sloane Committee and the Kentucky State Democratic Central Executive Committee ("KSDCEC"); allocation issues concerning KSDCEC; excessive contribution issues concerning Sloane (except Mary Bingham's liability for such), KSDCEC, and American Trial Lawyers Association.

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exceeded the $25,000 personal annual limitation in both 1988 and 1990, and that she also made excessive contributions to both the Democratic National Committee ("DNC") and the Democratic Senatorial Campaign Committee ("DSCC").[2] These allegations included a $20,000 contribution by Mrs. Bingham to the federal account of the DNC in October 1990. The allegations did not include the $230,000 contribution made by Mrs. Bingham, at the same time, to the non-federal account of the DNC, which was at issue in the other two complaints.

The Complainant in MUR 3182 alleged that Mrs. Bingham exceeded her $25,000 personal annual limitation by virtue of her $250,000[3] in contributions to the DNC in 1990 because the DNC accepted these monies and passed them on to the Kentucky State Democratic Central Executive Committee ("KSDCEC") for the benefit of Dr. Harvey Sloane ("Sloane") and his authorized committee, Sloane for Senate Committee ("Sloane Committee"). The Complainant further alleged that the $250,000 in contributions thereby resulted in the receipt of excessive contributions by all of the committees.[4]

2. On May 21, 1991, the Commission voted to find reason to believe that the DSCC violated 2 U.S.C. § 441a(f), but took no further action and closed the file with respect to DSCC.

3. This figure included Mrs. Bingham's $20,000 contribution to the DNC's federal account and her $230,000 to the DNC's non-federal account.

4. The Complainant in MUR 3145 filed an amendment containing allegations similar to those in MUR 3182; however, the amendment was neither notarized nor sworn to.

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On February 15, 1994,[5] the Commission re-voted the reason to believe findings against Mrs. Bingham and the DNC and its treasurer, and approved the Factual and Legal Analyses previously sent to the DNC, to assure conformance with the court's opinion in FEC v. NRA Political Victory Fund, et al., No. 91-5360 (D.C. Cir. October 22, 1993). The Commission approved a new Factual and Legal Analysis for Mrs. Bingham. Further, the Commission voted to enter into conciliation prior to a finding of probable cause to believe with Mrs. Bingham and the DNC and its treasurer, and approved conciliation agreements. The Commission also determined to take no further action against Mrs. Bingham or the DNC and its treasurer, regarding the allegations of the complaint originally designated as MUR 3182.

III. DISCUSSION

A. Rescission of action

The Commission has determined that it will not proceed against Mrs. Bingham and the DNC in regards to the allegations presented in the complaint originally designated as MUR 3182. This Office makes no recommendation concerning any change to the Commission's determination to take no further action against Mrs. Bingham regarding these allegations.[6]

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5. The General Counsel's Report, dated January 28, 1994, outlines the history of the Commission's actions in this matter prior to this date.

6. Regardless of the result of further investigation, this Office would not likely recommend proceeding against Mrs. Bingham on these issues for various prosecutorial discretion reasons, including Mrs. Bingham's age.

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However, this Office is considering whether additional investigation is necessary with respect to the remaining issues in this matter.[7] With that possibility in mind, this Office is concerned that the Commission's approval of our recommendation to take no further action against the DNC on issues presented in the complaint originally designated as MUR 3182 could potentially jeopardize our ability to obtain additional evidence against other Respondents in this matter. Therefore, this Office recommends that the Commission rescind its earlier determination to take no further action against the DNC and its treasurer regarding the allegations of the complaint originally designated as MUR 3182. See, General Counsel's Report dated January 28, 1994, recommendation 6.

B. Severance of MUR 3175 and Corrective actions

This Office believes that separation of MUR 3175 from this MUR is necessary in light of our recommendation that the Commission rescind its earlier determination to take no further action against the DNC and its treasurer regarding the allegations of the soft money issue. This Office further believes that separation of MUR 3175 from this MUR is appropriate at this time for two reasons.

First, MUR 3175 was initially merged with the other matters on the theory that "[t]he amount by which [Mrs. Bingham]

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7. If it is determined that further investigation is needed, this Office will present, prior to further investigation, a report to the Commission containing recommendations to re-vote reason to believe findings against the other respondents in this matter, to assure conformance with the court's opinion in NRA.

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exceeded the 1990 limitation would rise if all or part of her contribution at issue in MURs 3145 and 3182 are deemed to be federal contributions." General Counsel's Report dated May 6, 1991, p. 5. Because the Commission has made a determination to not proceed against Mrs. Bingham on the soft money issue, the concern involved in merging MUR 3175 into the other cases no longer exists.

Second, the issues presented in the complaint in MUR 3175 constitute the entire subject matter of the Commission's determination, on February 15, 1994, to enter into conciliation with Mrs. Bingham and the DNC. Because the allegations of the complaint originally designated as MUR 3175 involve straightforward excessives, and because Mrs. Bingham and the DNC previously requested conciliation on these issues,[8] resolution of MUR 3175 alone should be relatively quick. In addition to obvious reasons for a desired quick resolution, the allegations of the complaint originally designated as MUR 3175 are the subject of a current suit against the Commission, pursuant to 2 U.S.C. § 437g(a)(8). Center for Responsive Politics v. FEC, D.C. Cir., No.93-2250, October 29, 1993.

Therefore, this Office recommends that the Commission now sever MUR 3175 from MUR 3182, thereby permitting conciliation with Respondents on the issues presented in the complaint originally designated as MUR 3175.

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8. On June 19, 1992, the Commission rejected, at that time, requests by Mrs. Bingham and the DNC to enter into pre-probable cause conciliation in order to enable this Office to investigate the allegations.

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As a result of this proposed severance, this Office recommends that the Commission amend its February 15, 1994 determination to find reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f), by doing so within the context of MUR 3175, as a separate matter.[9] See, General Counsel's Report dated January 28, 1994, recommendation 2. Thus, this Office recommends that the Commission rescind its February 15, 1994 determination to approve the Factual and Legal Analyses as previously sent to the DNC on June 11, 1991 and on October 2, 1992. See, General Counsel's Report dated January 28, 1994, recommendation 3. This Office recommends that the Commission approve the attached Factual and Legal Analysis to the DNC, which analyzes only the allegations in MUR 3175. Attachment 1.

The Factual and Legal Analysis for Mrs. Bingham that was approved by the Commission on February 15, 1994 included analysis of both the allegations in the complaint originally designated as MUR 3182 and the allegations in the complaint originally designated as MUR 3175. As a result of the proposed severance, this Office recommends that the Commission rescind its February 15, 1994 approval of the Factual and Legal Analysis for Mrs. Bingham. See, General Counsel's Report dated January 28, 1994, recommendation 4 and attachment 2. This

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9. This action was taken in order to conform with NRA. Because the DNC would remain as a respondent in MUR 3182, actions regarding conformance with NRA, as to the DNC in that matter, will be recommended when this Office makes NRA recommendations regarding all other Respondents in MUR 3182.

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Office recommends that the Commission approve the attached Factual and Legal Analysis to Mrs. Bingham, which analyzes only the allegations in MUR 3175. Attachment 2. For the purpose of conforming with NRA, this Office also recommends that the Commission approve the Factual and Legal Analysis previously sent to Mrs. Bingham on October 2, 1992, which regarded only the allegations in the complaint originally designated as MUR 3182.[10] See, General Counsel's Report dated August 13, 1992, attachment 1, pp. 32-55.

This Office further recommends that the Commission amend its earlier determination to enter into conciliation with Mrs. Bingham and the DNC, by doing so within the context of MUR 3175, as a separate matter. See, General Counsel's Report dated January 28, 1994, recommendation 5. Additionally, this Office recommends that the Commission amend its earlier determination to approve conciliation agreements, so that the agreements identify the matter to be conciliated as MUR 3175. See, General Counsel's Report dated January 28, 1994, recommendation 7 and attachment 3.

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10. This recommendation is merely a matter of housekeeping, pursuant to NRA. Because the Commission determined on February 15, 1994 to take no further action against Mrs. Bingham on the allegations in the complaint originally designated as MUR 3182, this Office will notify her of the Commission's action but we need not issue a Factual and Legal Analysis on these allegations nor refer her to the previously sent Factual and Legal Analysis.

IV. RECOMMENDATIONS

(1) Rescind the Commission's February 15, 1994 determination to take no further action against the Democratic National Committee and Robert T. Matsui, as treasurer, regarding the allegations of the complaint originally designated as MUR 3182.

(2) Sever MUR 3175 from MUR 3182.

(3) Amend the Commission's February 15, 1994 determination to find reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f), by doing so within the context of MUR 3175, as a separate matter.

(4) Rescind the Commission's February 15, 1994 determination to approve the Factual and Legal Analyses as previously sent to the Democratic National Committee and Robert T. Matsui, as treasurer, on June 11, 1991 and on October 2, 1992.

(5) Approve the attached Factual and Legal Analysis for the Democratic National Committee and Robert T. Matsui, as treasurer.

(6) Rescind the Commission's February 15, 1994 approval of the Factual and Legal Analysis attached to the General Counsel's Report dated January 28, 1994.

(7) Approve the attached Factual and Legal Analysis for Mary C. Bingham.

(8) Approve the Factual and Legal Analysis as previously sent to Mary C. Bingham on October 2, 1992.

(9) Amend the Commission's February 15, 1994 determination to enter into conciliation prior to a finding of probable cause to believe with Mrs. Bingham and the DNC, by doing so within the context of MUR 3175, as a separate matter.

(10) Amend the Commission's February 15, 1994 determination to approve the conciliation agreements attached to the General Counsel's Report dated January 28, 1994, to identify the matter to be conciliated as MUR 3175.

2/24/94
Date

Lawrence M. Noble
General Counsel

Attachment:
1. Factual and Legal Analysis for the DNC
2. Factual and Legal Analysis for Bingham

Staff: Tonda M. Phalen

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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: FEBRUARY 23, 1994

SUBJECT: MUR 3182 - GENERAL COUNSEL'S REPORT
DATED FEBRUARY 22, 1994.

The above-captioned document was circulated to the Commission on Tuesday, February 22, 1994 at 4:00 p.m.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	XXX
Commissioner Thomas	_____

This matter will be placed on the meeting agenda for Thursday, March 3, 1994 (After the Open Meeting).

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 3182
Mary C. Bingham;	)	
Democratic National Committee and Robert T. Matsui, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 3, 1994, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3182:

1. Rescind the Commission's February 15, 1994 determination to take no further action against the Democratic National Committee and Robert T. Matsui, as treasurer, regarding the allegations of the complaint originally designated as MUR 3182.

2. Sever MUR 3175 from MUR 3182.

3. Amend the Commission's February 15, 1994 determination to find reason to believe that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f), by doing so within the context of MUR 3175, as a separate matter.

(continued)

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4. Rescind the Commission's February 15, 1994 determination to approve the Factual and Legal Analyses as previously sent to the Democratic National Committee and Robert T. Matsui, as treasurer, on June 11, 1991 and on October 2, 1992.

5. Approve the Factual and Legal Analysis for the Democratic National Committee and Robert T. Matsui, as treasurer, as recommended in the General Counsel's report dated February 22, 1994.

6. Rescind the Commission's February 15, 1994 approval of the Factual and Legal Analysis attached to the General Counsel's report dated January 28, 1994.

7. Approve the Factual and Legal Analysis for Mary C. Bingham as recommended in the General Counsel's report dated February 22, 1994.

8. Approve the Factual and Legal Analysis as previously sent to Mary C. Bingham on October 2, 1992.

9. Amend the Commission's February 15, 1994 determination to enter into conciliation prior to a finding of probable cause to believe with Mrs. Bingham and the DNC, by doing so within the context of MUR 3175, as a separate matter.

(continued)

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10. Amend the Commission's February 25, 1994 determination to approve the conciliation agreements attached to the General Counsel's Report dated January 28, 1994, to identify the matter to be conciliated as MUR 3175.

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

Attest:

3-4-94
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MARCH 10, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joseph A. Rieser, Jr., Esquire
Reed, Smith, Shaw & McClay
1200 Eighteenth Street, N.W.
Washington, D.C. 20036

RE: MURs 3175 and 3182

Dear Mr. Rieser:

On June 11, 1991 and October 2, 1992, you were notified that the Federal Election Commission found reason to believe that your client, Mary C. Bingham, violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3). These findings were based on allegations in complaints, originally designated as MURs 3175 and 3182, which were merged by the Commission on May 16, 1991.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, (U.S. No. 93-1151, Jan. 18, 1994). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on March 3, 1994, the Commission voted to sever MUR 3175 from MUR 3182. On the same day the Commission revoted to find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated MUR 3175. The Factual and Legal Analysis, which formed a basis for the Commission's finding in MUR 3175, is attached for your information. The Commission also revoted to find reason to believe that your client violated

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2 U.S.C. §§ 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated as MUR 3182, and to approve the Factual and Legal Analysis previously mailed to you on October 2, 1992. However, the Commission voted to take no further action against your client regarding the allegations of the complaint originally designated as MUR 3182.

In addition, the Commission voted to enter into negotiations directed towards reaching a conciliation agreement in settlement of MUR 3175 prior to a finding of probable cause to believe, and approved the the enclosed proposed conciliation agreement.

If your client agrees with the provisions of the enclosed agreement, please sign and return it to the Commission. Please make the check for the civil penalty payable to the Federal Election Commission.

Given the unique circumstances engendered by the NRA decision, conciliation negotiations, prior to a finding of probable cause to believe, will be limited to a maximum of 30 days.

If you have any questions, please contact Tonda M. Phalen, the attorney assigned to these matters, at (202) 219-3400.

For the Commission,

Trevor Potter
Chairman

Enclosures
Factual and Legal Analysis (MUR 3175)
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Mary C. Bingham MUR: 3175

This matter was generated by a complaint filed by Ellen Miller, executive director of the Center for Responsive Politics. The Complainant alleges that Mary C. Bingham ("Respondent") exceeded the $25,000 personal annual limitation in both 1988 and 1990, and that she also made excessive contributions to both the Democratic National Committee ("DNC") and the Democratic Senatorial Campaign Committee ("DSCC"). The complainant alleges that Respondent made contributions to federal candidates and political committees that exceeded the Act's annual $25,000 limitation by $5,500 in 1988 and $32,700 in 1990 and made an excessive contribution of $1,000 to the DNC in 1988 and of $300 to DSCC in 1990.[1]

The Federal Election Campaign Act, as amended, (the "Act") provides that no individual shall make contributions to candidates and political committees that aggregate more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3); 11 C.F.R. § 110.5. Any contribution to a candidate, or his or her authorized committee, counts against the contributor's annual limit for the year of the election for which the contribution is

1. On May 21, 1991, upon receiving documentation regarding Mrs. Bingham's contributions to and refunds from DSCC, the Commission voted to find reason to believe that the DSCC violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Mary Bingham, but took no further action and closed the file with respect to DSCC.

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made. 11 C.F.R. § 110.5(c)(2). Any contribution made to a party committee or a political action committee counts against the contributor's annual limit for the year in which the contribution is made. 11 C.F.R. § 110.5(c)(3).

Further, the Act provides that no person may make contributions (1) to any federal candidate that exceed an aggregate of $1,000 per election, (2) to any national party committee that exceed an aggregate of $20,000 in any calendar year, or (3) to any other political committee that exceed an aggregate of $5,000 in any calendar year. 2 U.S.C. § 441a(a)(1).

According to the Commission databases, Respondent made the following contributions, applicable toward her 1988 individual contributor limitation:

Contribution to	Date	Amount	P/G*
R.L. Mazzoli Campaign Fund	03/31/88	$ 500	P
R.L. Mazzoli Campaign Fund	05/27/88	1,000	G
Albert Gore Jr. for President	07/13/88	500	P
Albert Gore Jr. for President	07/29/88	500	P
DNC	09/15/88	1,000	-
DCCC	09/26/88	2,000	-
KSDCEC	10/01/88	5,000	-
DNC	10/03/88	20,000	-
	TOTAL	30,500	

*Attributable to the primary (P) or general (G) election.

According to the Commission databases, Respondent made the following contributions, which are applicable toward her 1990 individual contributor limitation:

Contribution to	Date	Amount	P/G*
Sloane for Senate Committee	07/08/88	$2,000	P
Friends of Senator Carl Levin	11/27/89	1,000	P
Friends of Senator Carl Levin	11/27/89	1,000	G
Bill Bradley for US Senate '90	11/30/89	1,000	P
Bill Bradley for US Senate '90	11/30/89	1,000	G

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(continued)			
Friends of Senator Rockefeller	12/05/89	500	P
Democrats for the 90's	02/22/90	5,000	-
Friends of Senator Rockefeller	04/16/90	500	P
Friends of Senator Rockefeller	04/16/90	500	G
DSCC	06/27/90	20,000	-
Galen Martin for Congress	07/03/90	200	P
DSCC	08/23/90	300	-
Galen Martin for Congress	08/24/90	100	P
Friends of Senator Carl Levin	09/13/90	[100]**	-
KSDCEC	09/17/90	5,000	-
DNC	10/11/90	20,000	-
	TOTAL	58,000	

*Attributable to the primary (P) or general (G) election.
**Indicates refund to contributor.

Respondent's contribution to the Sloane for Senate Committee ("Sloane Committee") was initially made to Sloane's exploratory committee. Sloane became a senatorial candidate on September 15, 1988. Respondent's contribution was reported by the Sloane Committee in an amendment to their 1988 Year End Report. The contribution was reported as attributable to the primary election.

Commission regulations clearly provide that contributions for "testing the waters" purposes become contributions under the Act once the individual becomes a candidate. 11 C.F.R. §§ 100.7(b)(1) and 101.3. The Commission's Explanation and Justification of those provisions fully explains that the regulations "require that all funds received for 'testing the waters' must be subject to the Act's limitations and prohibitions." 50 Fed. Reg. 9994, March 13, 1985.

Thus, once Sloane became a candidate, the $2,000 contribution became a contribution under the Act and subject to the $25,000 annual contribution limitation. Additionally, in

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this instance, the contribution was an excessive contribution as to the Sloane Committee, because the entire amount was attributed to the primary election.

The evidence clearly shows that Respondent made contributions to federal candidates and political committees that exceeded her $25,000 annual limitation by $5,500 in 1988 and $33,000 in 1990. Respondent also made contributions to federal candidates and political committees that were excessive in the amounts of $1,000 to the DNC in 1988, and $1,000 to the Sloane Committee in the 1990 cycle.

Therefore, there is reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3).

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TO THE READER OF THE PUBLIC RECORD FILE:

THE GENERAL COUNSEL'S REPORT, DATED APRIL 28, 1995, IN THE MATTER OF 28 U.S.C §2462 - STATUTE OF LIMITATIONS, CONTAINS DISCUSSION OF SEVERAL CASES CURRENTLY UNDER REVIEW BY THE COMMISSION. THAT DISCUSSION HAS BEEN DELETED FROM THE PUBLIC RECORD FILE, AND PAGES FOLLOWING IT HAVE BEEN REDESIGNATED AS (A), (B), ETC.

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AGENDA DOCUMENT NO. 95-39

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Apr 28 4 02 PM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) 28 U.S.C. § 2462
) Statute of Limitations
)
)

GENERAL COUNSEL'S REPORT

SENSITIVE
MAY 16 1995
EXECUTIVE SESSION

I. INTRODUCTION[1]

As the Commission is aware, on February 24, 1995, the U.S. District Court for the District of Columbia decided in Federal Election Commission v. National Republican Senatorial Committee, 1995 WL 83006 (D.D.C. 1995) ("NRSC"), that the statute of limitations set forth at 28 U.S.C. § 2462 ("Section 2462") applied to Commission enforcement suits seeking civil penalties, relying upon the D.C. Circuit's opinion in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994). This Report discusses the statute of limitations generally, describes

enforcement matters potentially affected by the NRSC court's conclusion and makes recommendations for each of the potentially affected matters.[2]

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1. This is a combined General Counsel's Report from the Enforcement and Public Financing, Ethics and Special Projects ("PFESP") areas of the Office of the General Counsel.

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In NRSC, Judge Pratt held that the Commission could not seek a civil penalty in conjunction with its civil enforcement action against the defendant for violations of 2 U.S.C. §§ 441a(h) and 434(b) because the 5-year federal catch-all statute of limitations found at 28 U.S.C. § 2462 applied to Commission-initiated enforcement suits seeking civil penalties. The court, however, allowed the Commission's suit to go forward notwithstanding this conclusion, ruling that Section 2462 did not apply to the declaratory and equitable relief also sought by the Commission. Therefore, the court so far has issued no final appealable decision.

On May 17, 1994, in FEC v. Williams, the U.S. District Court for the Central District of California reached the opposite conclusion about the applicability of 28 U.S.C. § 2462 to the Commission's enforcement actions. Mr. Williams' contributions in the name of another took place more than 5 years before the Commission filed its complaint and counsel raised 28 U.S.C. § 2462 as an affirmative defense. However, the court ruled at an oral hearing that the statute of limitations did not apply. Instead, the court awarded the Commission a $10,000 civil penalty against Mr. Williams for violations of 2 U.S.C. § 441f. FEC v. Williams, No. 93-6321 (C.D. Cal. Jan. 31, 1995), appeal docketed, No. 95-55320 (9th Cir. 1995) ("Williams"). Mr. Williams has filed a notice of appeal regarding, inter alia, the district court's

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statute of limitations decision. Thus, whether and to what extent the statute of limitations at 28 U.S.C. § 2462 will apply to Commission enforcement cases will be before the 9th Circuit shortly, and could also be the subject of a later appeal before the D.C. Circuit in NRSC.[3]

In light of this conflict between the courts and the pendency of the appeal, this Office believes a decision to close enforcement cases based solely on a conclusion that the 5 year statute of limitations would apply to any potential enforcement suits would be unwarranted. This is especially true since neither 28 U.S.C. § 2462 nor the NRSC decision limits the Commission's authority to complete administrative investigations or seek civil penalties in voluntary conciliation prior to filing suit. Nonetheless, the Office of the General Counsel recognizes that until the stautue of limitations is finally resolved by the courts, respondents are likely to raise it as a defense, making settlement more complicated. Thus, even though the Commission is not bound by the NRSC decision in other cases, the Office of the General Counsel believes the Commission should take this issue into consideration on a case-by-case basis when looking at its active and inactive enforcement cases -- particularly those with older activity -- and, in an exercise of its prosecutorial discretion, attempt to bring the matters most vulnerable to

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statute of limitations difficulties to an early administrative disposition.[4]

In order to give the Commission the broadest picture of the possible effect of a statute of limitations on its caseload, this Office has analyzed all enforcement cases where there is FECA-violative activity that will be 5 years old at some point during this year. Section II of this Report gives an overview of principles involved in analyzing the statute of limitations issue, with particular attention to determining when a Commission cause of action might accrue, and when the running of the statute may be tolled by equitable principles. Section III describes how this Office applied these principles to its active and inactive enforcement caseload and the approach used in making its recommendations for Commission action. Section IV includes descriptions of each of the potentially affected enforcement matters, outlines the statute of limitations difficulties this Office foresees for each, and recommends specific Commission action for each potentially affected matter.

II. THE LAW

This section discusses 28 U.S.C. § 2462, the federal catch-all statute of limitations, and issues relating to when the statute begins to run, under what circumstances it may be tolled

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and declaratory and equitable relief available to the Commission even if the statute of limitations has run completely.

A. Accrual

Section 2462 requires commencement of a suit for civil penalties within five years from the date when the claim first accrued.[5] Thus, as a threshold matter, in considering the potential effect of the limitations period on a particular case, one must determine the complex issue of when the claim first accrued.

1. General Principles

A cause of action normally accrues when the factual and legal prerequisites for filing suit are in place, i.e., at the precise moment when the violation occurred.[6] However, federal courts have generally applied the discovery rule of accrual, an equitable doctrine under which a claim is considered to have accrued at the time that a potential claimant knew, or through the exercise of reasonable diligence should have known, of the facts underlying the cause of action.[7]

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5. 28 U.S.C. § 2462 provides:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued . . . .

6. United States v. Lindsay, 346 U.S. 568, 569 (1954).

7. See, e.g., Delaware State College v. Ricks, 449 U.S. 250, 259 (1980) (Court implicitly applied discovery rule to Title VII discrimination suit); United States v. Kubrick, 444 U.S. 111, 122-25 (1979) (court implicitly endorsed discovery rule of accrual, but limited it to discovery of facts underlying a claim,

The substantial harm theory of accrual can be considered analytically as a particular application of the discovery rule. It is usually advanced in personal injury actions involving latent injuries or injuries difficult to detect, especially in cases of "creeping disease" such as asbestosis. The rule rests on the idea that plaintiffs cannot have a tenable claim for the recovery of damages unless and until they have been harmed. Under the substantial harm theory, therefore, damage claims in cases involving latent injuries or illnesses do not accrue until substantial harm matures or, in other words, until the harm becomes apparent.

The Supreme Court has cautioned against "attempting to define for all purposes when a cause of action first accrues. Such words are to be interpreted in light of the general purposes of the statute and of its other provisions, and with due regard to those practical ends which are to be served by any limitation of the time within which an action must be brought."[8] Thus, in determining the time of accrual in cases arising under the FECA,

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(Footnote 7 continued from previous page)
rather than extending the rule to discovery of legal cause of action); see also Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1386 (3d Cir. 1994); Dixon v. Anderson, 928 F.2d 212, 215 (6th Cir. 1991); Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450 (7th Cir. 1990); Corn v. City of Lauderdale Lakes, 904 F.2d 585, 588 (11th Cir. 1990); Alcorn v. Burlington Northern Railroad Co., 878 F.2d 1105, 1108 (8th Cir. 1989); Lavellee v. Listi, 611 F.2d 1129, 1131 (5th Cir. 1980); Cullen v. Margiotta, 811 F.2d 698, 725 (2d Cir. 1987); Cline v. Brusett, 661 F.2d 108, 110 (9th Cir. 1981); Bireline v. Seagondollar, 567 F.2d 260, 263 (4th Cir. 1977).

8. Crown Coat Front Co., Inc. v. United States, 386 U.S. 503, 517 (1967) (quoting Reading Co. v. Koons, 271 U.S. 58, 62 (1926)).

courts will look to the nature and goals of the FECA versus the interests underlying the five-year limitations period.

2. Accrual in the Context of the FECA

While the discovery rule has been applied in a wide range of cases, originating in the tort context and extending to, inter alia, contract, Title VII, and RICO actions, to date, it appears that only the United States District Court for the District of Columbia has held that the Section 2462 statute of limitations is applicable to the FECA. The court also addressed the precise question of when a cause of action accrues under the FECA. Inasmuch as the district court in NRSC relied on the decision of the Court of Appeals for the District of Columbia in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994) ("3M"), the latter case will be summarized first.

3M was an action brought by the Environmental Protection Agency ("EPA") to impose civil penalties against a company for violations of the Toxic Substances Control Act, wherein the EPA argued that in the exercise of due diligence it could not have discovered the violations earlier. In 3M, the defendant misstated and failed to include information on notices required by the EPA. The court acknowledged that the District of Columbia Circuit has adopted the discovery rule, under which, as discussed above, a claim is considered to have accrued at the time that a claimant knew or should have known of the facts underlying the cause of action. However, the 3M court found that the discovery rule had only been applied in limited circumstances -- those involving remedial, civil claims -- and specifically rejected the discovery

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rule under the circumstances presented, stating that the rule proposed by the EPA in that case was a "discovery of violation" rule. The court concluded that in civil penalty actions the running of the limitations period of Section 2462 is measured from the date of the violation.[9]

In NRSC, a suit arising from violations of the FECA involving excessive contributions and failure to report such contributions to the FEC, the court repeated the options for defining the time of accrual set forth in 3M, stating that a claim accrues "when the defendant commits his wrong or when substantial harm matures." Then, without pinpointing the exact time of accrual, and without specifically attempting to define accrual in the FECA context, the court held that the FECA claim accrued "considerably before the end of the [FEC's] administrative process." While the district court's accrual finding was imprecise, Judge Pratt's construction of 3M suggests that the discovery rule of accrual may be rejected in FECA claims brought in that Circuit.

On the other hand, the Court of Appeals for the Third Circuit, in considering a citizens' suit brought under the Clean

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9. In 3M, the court cited the Supreme Court's decision in Unexcelled Chemical Corp. v. United States, 345 U.S. 59 (1953), which was a suit for liquidated damages against a government contractor for unlawfully employing child labor. As the 3M decision noted, in that case, the Supreme Court held that "a cause of action is created when there is a breach of duty owed the plaintiff. It is that breach of duty, not its discovery, that normally is controlling." However, the Supreme Court's focus was the question of whether the claim accrued at the time of the violation versus after it had been administratively determined that the contractor was liable. The Court was not concerned specifically with the question of whether the claim accrued at the time of the violation versus when the plaintiff knew or should have known of the facts underlying the claim.

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Water Act, which has statutory self-reporting requirements comparable to the FECA, held the Section 2462 statute of limitations applicable and embraced the discovery rule. There, the Third Circuit held that since the defendant was responsible for filing reports under the Act and the public could not reasonably be deemed to have known about any violation until the defendant filed the report, the cause of action did not accrue until the reports listing the violations were filed.[10] A district court in Virginia[11] has also embraced this discovery rule for determining accrual under the Clean Water Act.[12]

B. EQUITABLE TOLLING

There are instances in which a court may determine that equitable considerations require the statute of limitations to be tolled. Such a determination is made on a case-by-case basis and

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10. Public Interest Research Group v. Powell Duffryn Terminals, Inc., 913 F.2d 64, 75 (3d Cir. 1990), cert. denied, 498 U.S. 1109 (1991).

11. United States v. Hobbs, 736 F. Supp. 1406 (E.D. Va. 1990).

12. Various other circuit courts have grappled with the question of when the federal five-year statute of limitations of Section 2462 begins to run, but these cases, which have produced conflicting rulings, have all involved actions to recover civil penalties rather than actions to impose them. Compare United States Dept. of Labor v. Old Ben Coal Co., 676 F.2d 259 (7th Cir. 1982) (in action to recover civil penalty, claim accrues only after administrative proceeding has ended, penalty has been assessed, and violator failed to pay) and United States v. Meyer, 808 F.2d 912 (1st Cir. 1987) (in civil penalty enforcement action limitations period is triggered on date civil penalty is administratively imposed) with United States v. Core Laboratories Inc., 759 F.2d 480 (5th Cir. 1985) (in suit to recover civil penalty limitations period begins to run on date of underlying violation).

is referred to as equitable tolling.[13] Equitable tolling presumes claim accrual and steps in to toll, or stop, the running of the statute of limitations in light of established equitable considerations.[14] The most fundamental rule of equity is that a party should not be permitted to profit from its own wrongdoing.

There are three principal situations in which equitable tolling may be appropriate: (1) where the defendant has actively misled the plaintiff regarding the plaintiff's cause of action; (2) where the plaintiff in some extraordinary way has been prevented from asserting his or her rights; and (3) where the

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13. Some courts have pointed out that, in instances where the defendant has taken active steps to prevent the plaintiff from suing, e.g., in cases involving fraudulent concealment, the tolling of the statute of limitations is more appropriately referred to as equitable estoppel. See Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450-51 (7th Cir. 1990).

14. Courts have held that statutes of repose cannot be extended by federal tolling principles, see Baxter Healthcare, 920 F.2d at 451; First United Methodist Church of Hyattsville v. United States Gypsum Company, 882 F.2d 862 (4th Cir. 1989). While statutes of repose and statutes of limitations have sometimes been referred to interchangeably, a statute of repose is legally distinguishable from a statute of limitations. Whereas a statute of limitations is a procedural device motivated by considerations of fairness to the defendant, a statute of repose is a substantive grant of immunity after a legislatively determined period of time and is based on the economic interest of the public as a whole and a legislative balance of the respective rights of potential plaintiffs and defendants. See First United Methodist Church, supra. To date, this Office's research has revealed no instances in which a court has held that Section 2462 is a statute of repose in the legal sense and, therefore, held tolling principles to be inapplicable. Indeed, in 3M, the court noted the potential applicability of the doctrine of fraudulent concealment to Section 2462. See 3M, 17 F.3d at 1461, n.15.

plaintiff has timely asserted his or her rights mistakenly in the wrong forum.[15]

1. Doctrine of Fraudulent Concealment

The Supreme Court has defined the doctrine of fraudulent concealment as the rule that "where a plaintiff has been injured by fraud and remains in ignorance of it without any fault or want of diligence or care on his part, the bar of the statute does not begin to run until the fraud is discovered, though there be no special circumstances or efforts on the part of the party committing the fraud to conceal it from the knowledge of the other party." Holmberg v. Armbrecht, 327 U.S. 392, 397 (1946). The Court went on to state that this equitable doctrine is read into every federal statute of limitation. Id.

The doctrine, as applied by the circuit courts of appeal, requires the plaintiff to plead[16] and prove three elements:

15. School District of City of Allentown v. Marshall, 657 F.2d 16, 19-20 (3d Cir. 1981) (quoting Smith v. American President Lines, Ltd., 571 F.2d 102, 109 (2d Cir. 1978)). It should also be noted that statutes of limitations are subject to waiver and may be tolled by agreement of the parties. See Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 393 (1982).

16. Pleading requirements for fraudulent concealment are very strict. Some courts ihvoke Fed. R. Civ. P. 9(b) and require a plaintiff to meet the pleading requirements for fraud. See Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389, 394 (6th Cir. 1975). Other courts, while not specifically invoking Rule 9, still require specificity and particularity in pleading. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Weinberger v. Retail Credit Co., 498 F.2d 552, 555 (4th Cir. 1974).

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(1) use of fraudulent means by the defendant;
(2) plaintiff's failure to discover the operative facts that are the basis of his cause of action within the limitations period; and
(3) plaintiff's due diligence until discovery of the facts.

State of Colorado v. Western Paving Construction, 833 F.2d 867, 874 (10th Cir. 1987).

The first prong of the plaintiff's burden under the doctrine - the use of fraudulent means by the defendant - warrants some elaboration. The courts have generally held that to establish this element of the doctrine one of two facts must be shown: 1) that fraud is an inherent part of the violation so that the violation conceals itself; or 2) that the defendant committed an affirmative act of concealment - a trick or contrivance intended to exclude suspicion or prevent inquiry.[17] These approaches to establishing the first element of the doctrine of fraudulent concealment have been referred to, respectively, as the self-concealing theory and the subsequently concealed theory. By contrast, the courts have pointed out that silence, without some fiduciary duty, never satisfies this element.[18]

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17. See Riddell v. Riddell Washington Corp., 866 F.2d 1480, 1491 (D.C. Cir. 1989); State of Colorado v. Western Paving Construction, 833 F.2d at 876-78.

18. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Dayco Corp. v. Firestone Tire & Rubber Co., 386 F. Supp. 546, 549 (N.D. Ohio 1974), aff'd sub. nom., Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389 (6th Cir. 1975). Some courts have also held that a denial of an accusation of wrongdoing does not constitute fraudulent concealment. See King & King Enters. v. Champlin Petroleum Co., 657 F.2d 1147, 1155 (10th Cir. 1981), cert. denied, 454 U.S. 1164 (1982); but see Rutledge, supra ("denying wrongdoing may constitute fraudulent concealment where the circumstances make the plaintiff's reliance upon the denial reasonable").

Where the plaintiff establishes all three of the required elements, the doctrine provides the plaintiff with the full statutory limitations period, starting from the date the plaintiff discovers, or with due diligence could have discovered, the facts supporting the plaintiff's cause of action.

2. Inducement Due to Intentional or Unintentional Misrepresentation

In cases where the plaintiff has refrained from commencing suit during the period of limitation because of inducement by the defendant, the Supreme Court has found the statutory period tolled because of the conduct of the defendant. See Glus v. Brooklyn Eastern Terminal, 359 U.S. 231 (1973). Under the facts of Glus, supra, the plaintiff averred that the defendant had fraudulently or unintentionally misstated information upon which the plaintiff relied in withholding suit.

3. Subpoena Enforcement

Several district courts have tolled other statutes of limitations in circumstances where the plaintiff was forced to initiate subpoena enforcement proceedings to uncover facts underlying the cause of action.[19] While research to date has not revealed specific instances in which a court has tolled the Section 2462 statute of limitations because the plaintiff was

19. EEOC v. Gladieux Refinery, Inc., 631 F. Supp. 927, 935-36 (N.D. Ind. 1986) (Court held that the statute of limitations was tolled during the time between issuance of subpoena and enforcement because defendant did not have valid basis for not complying with subpoena); EEOC v. City of Memphis, 581 F. Supp. 179, 182 (W.D. Tenn. 1983) (Court held that the statute of limitations was tolled until documents sought in subpoena were made available to EEOC).

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forced to initiate subpoena enforcement proceedings, Section 2462 is sufficiently similar to those statutes which courts have tolled to suggest that the same result would be appropriate. Further, a good argument could be made for equitably tolling Section 2462 in such circumstances because defendants' refusal to comply with the Commission's subpoenas, whether that refusal is reasonable or otherwise, frustrates the Commission's ability to bring the action within the limitations period. Not tolling the statute of limitations in such circumstances while allowing defendants to plead the statute of limitations as an affirmative defense to actions brought by the Commission would allow defendants to profit from refusing to comply with subpoenas, and thus "offer a tempting method of defeating the basic purpose of [the Act]."[20]

4. Continuous Violation Theory

The continuous violation theory is another theory that operates to toll statutes of limitations. In the case of a continuing violation, the violation is not complete for purposes of the statute of limitations as long as the proscribed course of conduct continues, and the statute of limitations does not begin to run until the last day of the continuing offense.[21]

The Supreme Court has cautioned that continuing offenses are not to be too readily found, explaining in the criminal context that "such a result should not be reached unless the

20. See Hodgson v. International Printing Press, 440 F.2d 1113, 1119 (6th Cir. 1973).

21. See Fiswick v. United States, 329 U.S. 211, 216 (1946); United States v. Butler, 792 F.2d 1528, 1532-33 (11th Cir. 1986).

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explicit language of the substantive criminal statute compels such a conclusion, or the nature of the crime involved is such that Congress must assuredly have intended that it be treated as a continuing one." Toussie v. United States, 397 U.S. 112, 115 (1970). Thus, the question of whether a violation is a continuing one is largely a matter of statutory interpretation involving the precise statutory definition of the violation.

Courts will generally not find that a violation is continuous absent clear language in the statute.[22]

C. Declaratory Relief and Equitable Remedies

The limitations period set forth in 28 U.S.C. § 2462 applies only to suits for civil penalties. Section 2462, by its own terms, has no bearing on suits in equity.[23] The following is a purely exemplary, non-exhaustive list of various forms of equitable relief that may be available. It should be noted that it is within the discretion of the courts to grant or withhold

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22. Compare Toussie, 397 U.S. 112 (1970) (Court held that failure register for draft was not continuing violation where draft statute contained no language that clearly contemplated continuing offense, and regulation under Act referring to continuing duty to register was insufficient, of itself, to establish continuing offense) with United States v. Cores, 356 U.S. 405 (1958) (statute prohibiting alien crewmen from remaining in United States after permits expired contemplated continuing offense where conduct proscribed is the affirmative act of willfully remaining, and crucial word "remains" permits no connotation other than continuing presence). See also Keystone Insurance Company v. Houghton, 863 F.2d 1125 (3d Cir. 1988) (In RICO action, court held that language of the Act, which makes a pattern of conduct the essence of the crime, "clearly contemplates a prolonged course of conduct."); West v. Philadelphia Electric Co., 45 F.3d 744 (3d Cir. 1995) (Court applied continuing violation theory where cause of action required showing of intentional, pervasive, and regular racial discrimination).

23. See Hobbs, 736 F. Supp. at 1410; NRSC, 1995 WL 83006, at *4.

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equitable remedies and courts will exercise that discretion on a case-by-case basis in light of the particular circumstances of each case.

o Declaratory Judgment - A declaratory judgment is a court judgment which establishes the rights of parties or expresses the opinion of the court on a question of law without the court necessarily ordering anything to be done. While a declaratory judgment is similar in some respects to an advisory opinion, unlike the latter, a declaratory judgment is rendered in an adversarial proceeding and is legally binding on all the parties involved.

o Disgorgement - Disgorgement is aimed at preventing the unjust enrichment of a wrongdoer. The disgorgement remedy takes away "ill-gotten gains," thereby depriving a respondent of wrongfully obtained proceeds and returning the wrongdoer to the position the wrongdoer was in before the proceeds were wrongfully obtained.

o Injunction - A prohibitory injunction is a court order that requires a party to refrain from doing or continuing a particular act or activity. Prohibitory injunctions are generally considered preventative measures which guard against future acts rather than affording remedies for past wrongs.

By contrast, a mandatory injunction is a type of injunction that requires some positive action. A mandatory injunction (1) commands the respondent to do a particular thing; (2) prohibits the respondent from refusing (or persisting in refusing) to do or permit some act to which the plaintiff has a legal right; or (3) restrains the respondent from permitting his previous wrongful act to continue to take effect, thus virtually compelling him or her to undo it. A conciliation agreement provision that requires a committee to amend its reports in conformance with the Act is similar in effect to a mandatory injunction, albeit one entered into voluntarily and without court order. In addition, the creative forms of equitable relief listed below are examples of possible mandatory injunctions that the Commission might seek in court.

o Creative Forms of Equitable Relief

- require defendant(s) to notify the public that the defendant(s) violated the FECA, e.g., bulletin board posting.
- require additional reporting relevant to preventing future violations of the type committed.
- require defendant(s) to put different procedures in place to prevent future violations of the type committed.
- require defendant(s) to take courses to become familiar with the requirements of the FECA.

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III. ANALYSIS

This section outlines the underlying legal assumptions and other factors considered by this Office in evaluating and making recommendations for each of the potentially affected cases discussed in Section IV, infra. As a preliminary matter, this Office notes that it has reviewed all of the active and inactive enforcement matters where there appears to have been FECA-violative activity prior to January 1, 1991 that will thus be at least 5 years old by the end of this year. By selecting the cases in this manner, this Office has attempted to bring to the Commission's attention all of the matters where, were the NRSC decision applied, the statute of limitations might run this year.[24]

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This Office has assumed for purposes of these recommendations the possibility of a uniform application of the Section 2462 statute of limitations to the FECA in all circuits

This Office has further assumed that it is possible courts will deem claims arising under the FECA to have accrued at the precise moment that the violation occurred.

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In setting forth the case summaries, this Office has divided its discussion into three sections.

The third

section analyses matters which this Office recommends that the Commission not pursue.

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IV. CASE DISCUSSIONS

This section provides brief descriptions of enforcement matters assigned to the Public Financing, Ethics and Special Projects and Enforcement areas, including the Central Enforcement Docket.

3. Cases this Office Recommends the Commission Close

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments

No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

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MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necesarry. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991

Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloan Committee has virtually no money for disgorgement and Sloan has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

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MUR 3228 (Dahlson for Congress, et al.)

This matter was generated by a referral from the Commission's Reports Analysis Division, and involves the subsidization of the campaign by a corporation associated with the candidate (§ 441b(a)) and the misreporting of one of the corporate loans (§ 434(b)). Specifically, the candidate funneled approximately $47,000 in corporate funds to the campaign through his personal checking account, thus concealing the true source of the funds. The candidate/corporate loans took place from May to October 1990. Further, the committee misreported the source of a May 2, 1990 direct contribution from the corporation ($10,000) in its 12-Day Pre-Primary report filed May 21, 1990. Consequently, assuming 28 U.S.C. § 2462 applies, the Commission might be unable to obtain a judicially imposed civil penalty for most of the violations as early as May of this year.

This matter is presently in the investigative stage after an unsuccessful attempt at pre-probable cause conciliation. Most recently, on March 2, 1995, this Office interviewed the campaign's treasurer. The interview established that the treasurer was not involved in the committee's receipt of the funneled corporate contributions and that the misreporting may have resulted from innocent error. Consequently, the available evidence suggests that the candidate Roy Dahlson was the individual chiefly responsible for the violations in this matter.

Additional investigation would be necessary -- including the taking of depositions -- to prove that the § 441b(a) violations by Mr. Dahlson are knowing and willful. This investigation and the subsequent procedural stages leading to litigation would have to be completed in the most expeditious fashion. This Office recommends that the Commission forgo this course. Mr. Dahlson was a one-time candidate who won the primary election but lost the general election with 35% of the vote. Mr. Dahlson is now retired. Accordingly, this matter does not warrant the expenditure of resources necessary for its most expeditious completion and resolution. Therefore, this Office recommends that the Commission take no further action in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Jose Rodriguez

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MUR 3787 (Georgia Republican Party)
Public Financing, Ethics and Special Projects

This case involves violations committed during the 1988 election cycle. In particular, an audit of the Georgia Republican Party ("the Party") revealed that the Party accepted $20,350 in excessive contributions from five individuals that were not resolved in a timely manner. Similarly, the Party accepted $13,403 in prohibited contributions that were not resolved in a timely manner. The Party also did not properly document approximately $333,270 in individual contributions. In addition, the Commission found reason to believe that the respondent violated 2 U.S.C. § 441a(f) by paying phone bank employees to conduct get-out-the-vote activities and voter identification on behalf of the Bush-Quayle campaign.

The Party admits that it erred in accepting the prohibited and excessive contributions, but urged the Commission to accept as a mitigating factor the fact that it rid its accounts of the impermissible amounts upon discovery. Similarly, the Party concedes that it failed to keep adequate records for certain contributions, but asserts that a large portion of those receipts were $35 contributions which it did not believe it was required to document. Finally, this Office has concluded that documentation and affidavits furnished by the Party demonstrate that only $26,700 of the more than $300,000 in Party expenditures made for get-out-the-vote and voter identification activities amounted to impermissible contributions by the Party.

Although it may be possible to enjoin similar conduct in future elections, the Party has acknowledged that it violated the Act. Accordingly, assuming that the NRSC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of this case and the ordering of the Commission's priorities, we recommend that the Commission take no further action in this matter and close the file. If the Commission adopts this recommendation, the notification letter to the Party will contain appropriate admonishment language.

Staff Assigned: Kenneth E. Kellner and Jane Whang

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MUR 3973 (Bob Davis)

This matter stems from a House Bank Task Force referral indicating that former Representative Bob Davis used his committee's petty cash to make disbursements in excess of $100. Between 1988 and 1992, the committee reported disbursing $22,708 in petty cash disbursements, $16,567 of which was reported as having been disbursed by Mr. Davis. In May of last year the Commission found reason to believe that Mr. Davis, his committee and its treasurer violated 2 U.S.C. § 432(h)(1), and that his committee and its treasurer additionally violated 2 U.S.C. § 432(h)(2) for failing to maintain a petty cash journal as required. However, because RAD had allowed the committee to terminate some months before, the Commission took no further action with respect to the committee's violations. Thus, only Mr. Davis remains a respondent in the case.

Of the $22,708 in petty cash, all but approximately $9,400 was disbursed prior to 1991. Thus, if 28 U.S.C. § 2462 applies, the Commission might be time-barred from obtaining a judicially imposed civil penalty for a substantial portion of the petty cash.

While our inquiries have confirmed that the committee kept no petty cash journal, that it possesses receipts for only a portion of its cash transactions, and that a small number of the disbursements exceeded $100, it now appears that Mr. Davis' role in the committee's petty cash was de minimus. Affidavits from two members of Mr. Davis' congressional staff and one from his former campaign treasurer state that while Mr. Davis was the payee of many of the checks, and was reported as same, this was to enable the staff to easily cash the checks at the Wright-Patman Federal Credit Union. In fact, the affiants maintain, the majority of the petty cash was disbursed by the campaign and congressional staff and not Mr. Davis.

Given the age of these violations, the fact that Mr. Davis is no longer a candidate for federal office and his apparently limited personal involvement in his committee's petty cash violations, this Office recommends the Commission take no further action in MUR 3973 and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

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MUR 4013 (National Freedom PAC)
Public Financing, Ethics and Special Projects

This matter involves chronic reporting violations and the apparent commingling of Committee funds with the personal funds of the Committee's treasurer, Rick Woodrow. The respondents are the Committee and Mr. Woodrow. The material events occurred in 1990.[31]

This is an inactive, internally generated matter. Assuming that the NRSC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of the violations at issue, this Office recommends that the Commission take no further action with respect to this matter and close the file.

Staff Assigned: Kenneth E. Kellner and Delanie Dewitt Painter

31. On July 20, 1994, MUR 3516 was merged with MUR 4013. In MUR 3516, which arose out of a RAD referral, the Commission found reason to believe that National Freedom PAC committed reporting violations.

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V. RECOMMENDATIONS

Take no further action, close the file and approve the appropriate letters in the following matters:

1) MUR 2984
2) MUR 3182
3) MUR 3228
4) MUR 3787
5) MUR 3973
6) MUR 4013

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With regard to MUR 3492:

1) Accept the attached conciliation counteroffer.

2) Close the file.

3) Approve the appropriate letter.

4) Approve the appropriate letters.

4/28/75
Date

Lawrence M. Noble
General Counsel

Staff Assigned

Staff members assigned to each of the potentially affected matters prepared their respective case discussions; the FFESP cases were coordinated by Jim Portnoy; Tracey Ligon drafted the legal section; and Colleen Sealander combined the parts into one document.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Multiple MURS
28 U.S.C. § 2462	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 16, 1995, do hereby certify that the Commission took the following actions with respect to the above-captioned matter:

1. Decided by a vote of 6-0 to take no further action, close the file and approve the appropriate letters in the following matters.

   MUR 3182
   MUR 3228
   MUR 3973
   MUR 4013

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

2. Decided by a vote of 5-0 to take no further action, close the file and approve the appropriate letters in the following matters:

   MUR 2984
   MUR 3787

   Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself with respect to these matters and was not present during their consideration.

Attest:

5-18-95
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Roger Witten, Esq.
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037

RE: MUR 3182

Dear Mr. Witten:

This is in reference to the complaint you filed with the Federal Election Commission on November 27, 1990, on behalf of Common Cause, concerning advertisements broadcast by the Kentucky Democratic Party during the 1990 General election campaign on behalf of the Democratic Party's Senatorial candidate in Kentucky, Harvey Sloane.

The Commission received complaints involving similar issues, MUR 3145 (filed by the Republican Party of Kentucky) and MUR 3175 (filed by the Center for Responsive Politics). These matters were merged on May 16, 1991. Please note that MUR 3175 was severed from the merged matters and concluded with two signed conciliation agreements accepted by the Commission on April 21, 1994, in settlement of violations of 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(1)(B), and 441a(a)(3) by Mary C. Bingham and a violation of 2 U.S.C. § 441a(f) by the Democratic National Committee and Robert T. Matsui, as treasurer.

In MUR 3182, the Commission made several findings at different times in the investigation. On May 16, 1991, the Commission found reason to believe that the Kentucky State Democratic Central Executive Committee and its treasurer violated 2 U.S.C. §§ 441a(f), 434(b), and 441b and 11 C.F.R. §§ 102.5(a)(1)(i) and 106. On May 21, 1991, the Commission found reason to believe Mary C. Bingham violated 2 U.S.C. § 441a(a)(1)(B) and 441a(a)(3). The Commission also found reason to believe that Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f). The Commission further found reason to believe that the Democratic National Committee and its treasurer violated 2 U.S.C. § 441a(f).

The Commission voted to take no action at that time regarding the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer. In addition, the Commission voted to found no reason to believe that the Association of Trial Lawyers of America and Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint in MUR 3145, and closed the filed with respect to them.

On September 15, 1992, Commission took several actions regarding this matter. The Commission voted to find reason to believe the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a(a)(2)(B). The Commission also voted to find reason to believe that the Kentucky Democratic Central Executive Committee and its treasurer violated 2 U.S.C. § 441a(f). In addition, the Commission voted to find reason to believe Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3) and that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f).

On March 3, 1994, the Commission voted to sever MUR 3175 from MUR 3182. Also on March 3, 1994, the Commission revoted to find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated as MUR 3175. In addition, the Commission revoted to find reason to believe that Mary C. Bingham violated 2 U.S.C. § 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated as MUR 3182. On the same date the Commission voted to take no further action against Mary C. Bingham regarding the allegations of the complaint designated as MUR 3182.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Kentucky State Democratic Central Executive Committee and Clay Patrick, as treasurer, the Sloane for Senate Committee and Victoria Buster, as treasurer, the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, Mary C. Bingham, Dr. Harvey I. Sloane, and DNC Services Corporation/Democratic National Committee and Robert T. Matsui, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995. This matter will become part of the public record within 30 days.

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The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown
Paralegal Specialist

Enclosure
Narrative

25043655427 1

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necessary. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991. Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloane Committee has virtually no money for disgorgement and Sloane has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

5043654272

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary Fisher, Chairman
Republican Party of Kentucky
P. O. Box 1068
Frankfort, KY 40602

RE: MUR 3182

Dear Ms. Fisher:

This is in reference to the complaint Bob Gable filed on behalf of the Republican Party of Kentucky with the Federal Election Commission on October 23, 1990 concerning television advertisements broadcast by the Kentucky Democratic Party during the 1990 general election, and the amendment to the complaint, filed on November 20, 1990, concerning Mary C. Bingham's $250,000 contribution to the nonfederal account of the Democratic National Committee.

The Commission received complaints involving similar issues, MUR 3182 (filed by Common Cause) and MUR 3175 (filed by the Center for Responsive Politics). These matters were merged on May 16, 1991. Please note that MUR 3175 was severed from the merged matters and concluded with two signed conciliation agreements accepted by the Commission on April 21, 1994, in settlement of violations of 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(1)(B), and 441a(a)(3) by Mary C. Bingham and a violation of 2 U.S.C. § 441a(f) by the Democratic National Committee and Robert T. Matsui, as treasurer.

In MUR 3182, the Commission made several findings at different times in the investigation. On May 16, 1991, the Commission found reason to believe that the Kentucky State Democratic Central Executive Committee and its treasurer violated 2 U.S.C. §§ 441a(f), 434(b), and 441b and 11 C.F.R. §§ 102.5(a)(1)(i) and 106. On May 21, 1991, the Commission found reason to believe Mary C. Bingham violated 2 U.S.C. § 441a(a)(1)(B) and 441a(a)(3). The Commission also found reason to believe that Harvey Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer, violated 2 U.S.C. § 441a(f). The Commission further found reason to believe that the Democratic National Committee and its treasurer violated 2 U.S.C. § 441a(f).

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The Commission voted to take no action at that time regarding the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer. In addition, the Commission voted to found no reason to believe that the Association of Trial Lawyers of America and Greer, Margolis, Mitchell & Associates violated any provision of the Act on the basis of the complaint in MUR 3145, and closed the filed with respect to them.

On September 15, 1992, Commission took several actions regarding this matter. The Commission voted to find reason to believe the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, violated 2 U.S.C. § 441a(a)(2)(B). The Commission also voted to find reason to believe that the Kentucky Democratic Central Executive Committee and its treasurer violated 2 U.S.C. § 441a(f). In addition, the Commission voted to find reason to believe Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1)(B) and 441a(a)(3) and that the Democratic National Committee and Robert T. Matsui, as treasurer, violated 2 U.S.C. § 441a(f).

On March 3, 1994, the Commission voted to sever MUR 3175 from MUR 3182. Also on March 3, 1994, the Commission revoted to find reason to believe that Mary C. Bingham violated 2 U.S.C. §§ 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated as MUR 3175. In addition, the Commission revoted to find reason to believe that Mary C. Bingham violated 2 U.S.C. § 441a(a)(1) and 441a(a)(3), on the basis of the complaint originally designated as MUR 3182. On the same date the Commission voted to take no further action against Mary C. Bingham regarding the allegations of the complaint designated as MUR 3182.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Kentucky State Democratic Central Executive Committee and Clay Patrick, as treasurer, the Sloane for Senate Committee and Victoria Buster, as treasurer, the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer, Mary C. Bingham, Dr. Harvey I. Sloane, and DNC Services Corporation/Democratic National Committee and Robert T. Matsui, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995. This matter will become part of the public record within 30 days.

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The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

Enclosure
Narrative

50436542775

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necessary. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991. Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloane Committee has virtually no money for disgorgement and Sloane has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

5043654276

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

Michael T. McKinney, Esq.
P.O. Box 688
2922 Washington Square
Burlington, KY 41005-0688

RE: MUR 3182
Kentucky State Democratic Central Executive Committee and
Clay Patrick, as treasurer

Dear Mr. McKinney:

On October 25, 1990, November 28, 1990, and December 4, 1990, the Federal Election Commission notified your clients, the Kentucky State Democratic Central Executive Committee and its treasurer, of complaints alleging certain violations of the Federal Election Campaign Act of 1971, as amended. Copies of the complaints were enclosed with those notifications. The matters were merged on May 16, 1991, and designated as MUR 3182.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Kentucky State Democratic Central Executive Committee and Clay Patrick, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

Attachment
Narrative

2504365427

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

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Staff Assigned: Lisa Klein (pending reassignment)

5043654278

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

June 8, 1995

Donald L. Cox, Esq.
Lynch, Cox, Gilman & Mahan, P.S.C.
500 Meidinger Tower
Louisville, KY 40202

RE: MUR 3182
Dr. Harvey I. Sloane
Sloane for Senate Committee and
Victoria Buster, as treasurer

Dear Mr. Cox:

On October 25, 1990, November 28, 1990, and December 4, 1990, the Federal Election Commission notified your clients, referenced above, of complaints alleging certain violations of the Federal Election Campaign Act of 1971, as amended. Copies of the complaints were enclosed with the notifications. These matters were merged on May 16, 1991, and designated as MUR 3182.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against Dr. Harvey I. Sloane and the Sloane for Senate Committee and Victoria Buster, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

Attachment
Narrative

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MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

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Staff Assigned: Lisa Klein (pending reassignment)

5043654280

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

Lyn Utrecht, Esq.
Oldaker, Ryan & Leonard
818 Connecticut Avenue, Suite 1100
Washington, DC 20006

RE: 3182
Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer
Association of Trial Lawyers of America

Dear Ms. Utrecht:

On October 25, 1990, the Federal Election Commission notified your clients, referenced above, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Association of Trial Lawyers of America Political Action Committee and Joan C. Pollitt, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions of 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 prior

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to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

Attachment
Narrative

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MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necessary. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991. Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloane Committee has virtually no money for disgorgement and Sloane has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

5043654263

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

Joseph A. Rieser, Jr., Esq.
Reed Smith Shaw & McClay
1200 Eighteenth Street, N.W.
Washington, DC 20036

RE: MUR 3182
Mary C. Bingham

Dear Mr. Rieser:

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) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

Robert S. Clayman, Esq.
Guerrieri, Edmond & James
1331 F Street, N.W.
Washington, DC 20004

RE: MUR 3182
Greer, Margolis, Mitchell & Associates

Dear Mr. Clayman:

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) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1995

Joseph Sandler, Esq.
DNC Services Corporation/
Democratic National Committee
430 S. Capitol Street, S.E.
Washington, DC 20003

RE: MUR 3182
DNC Services Corporation/
Democratic National Committee and
Robert T. Matsui, as treasurer

Dear Mr. Sandler:

On November 28, 1990, and December 4, 1990, the Federal Election Commission notified your clients of complaints alleging certain violations of the Federal Election Campaign Act of 1971, as amended. Copies of the complaints were enclosed with those notifications.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Democratic National Committee and its treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions of 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 prior

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to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Eric S. Brown

Eric S. Brown
Paralegal Specialist

Attachment
Narrative

150436542887

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the NRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necessary. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991. Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloane Committee has virtually no money for disgorgement and Sloane has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

In the Matter of

Democratic National Committee, and Robert T. Matsui, as treasurer, and

Mary C. Bingham

MUR 3182

STATEMENT
Commissioner Trevor Potter

On May 16, 1995, I voted with my colleagues to close this case, on the recommendation of the Office of General Counsel. The recommendation was partially based on the age of the matter, and the death of one of the key respondents, Mary C. Bingham. In my view, however, this case really ended over a year ago, when the Commission voted on February 15, 1994 to take no further action against Mary C. Bingham or the Democratic National Committee ("DNC") and Robert T. Matsui, as treasurer, on allegations raised in a complaint filed by Common Cause. That complaint alleged that Mrs. Bingham and the DNC illegally attempted to circumvent federally mandated contribution limits in the 1990 Kentucky Senate race, as a result of an alleged contribution "laundering" scheme.[1] At that point I voted

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1. The complaint alleged that Mrs. Bingham violated the following sections of Title 2 of the United States Code: 441a(a)(1)(A) by making a general election contribution in excess of $1,000; 441a(a)(1)(B) by making a contribution greater than $20,000 to the DNC within a given calendar year; 441a(a)(1)(C) by making a contribution to the Kentucky Democratic Party ("KDP") greater than $5,000 within a calendar year; and 441a(a)(3) by making aggregate contributions greater than $25,000 in a calendar year. The complaint also alleged that the DNC, the KDP, Harvey Sloane, and the Harvey Sloane for U.S. Senate Committee ("the Sloane Committee") violated 2 U.S.C. § 441a(f) by knowingly accepting a contribution from Mrs. Bingham in violation of the Federal Election Campaign Act of 1971, as amended ("the Act"). Finally, complainant alleged that the DNC and KDP violated the contribution and expenditure limits established under 2 U.S.C. §§ 441a(d) and (h), and as a result also violated the Act's reporting obligations at 2 U.S.C. § 434, as well. See Common Cause Complaint filed November 27, 1990.

against dropping any element of the investigation. Having lost that argument, I can now see no reason to prolong the use of Commission resources on what has become a hollow case.[2]

Specifically, the Commission voted on February 15, 1994 not to pursue the allegation that Mrs. Bingham's 1990 contribution of $230,000 to the DNC's non-federal account[3], the subsequent transfer of $215,000 by the DNC to the Kentucky Democratic Party ("KDP"), and the use of those funds for broadcast advertisements during the 1990 Senate campaign, was a deliberate attempt by the DNC, Mrs. Bingham and her advisors (including Harvey Sloane, the Democratic Senatorial candidate) to bypass federal contribution limits.[4]

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2. Four Commissioners voted to narrow the scope of this matter in the February 15, 1994 vote. Commissioner McDonald joined me in objecting. I have been at the Commission long enough to know that there are good arguments on both sides of almost every vote. In this instance, objections were raised that 1) a violation could never be conclusively proven because each of the individual actions here was, in isolation, legal; and 2) that continuing this aspect of the case would require an enormous use of Commission investigative (and probably litigation) resources. It was argued that these resources would provide a better return if directed to other important, but more promising, matters. My purpose in issuing this Statement is not to take issue with my colleagues' votes in this matter. In the circumstances of the Commission's severely strained enforcement resources and large caseload they may well have had the more prudent argument. Rather, it is to raise the question of whether the conduct and spending at issue here is, or should be, permissible conduct for individuals, corporations, unions, state parties and national party committees. If the answer to that question is no, then this case demonstrates that some further review of the election laws in this area, and of the ability of the Commission to enforce them, is required.

3. Mrs. Bingham had previously given the allowable maximum $20,000 in contributions to the DNC's federal account. This, when combined with her $230,000 "soft money" gift, resulted in a total contribution of $250,000 to the Democratic National Committee in 1990.

4. One aspect of this matter which causes me regret is the necessity of canvassing the actions of Mrs. Bingham, who died this Spring and therefore can no longer present her own view of the matter. However, she spoke at length with Commission attorneys during the course of this investigation, and the transcript of her deposition is a part of the public record in this case. Further, her death after the Commission had voted not to pursue this investigation, should not require us to ignore the important legal issues raised by this case. Questions about the circumvention of contribution limits and the

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Commission regulations provide that a person may contribute up to his or her individual contribution limit to a candidate committee, as well as any other political committee which supports the same candidate, so long as the following conditions are met: 1) the two recipient committee's are not both authorized committees of the same candidate; 2) "the contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election"; and 3) the contributor does not continue to control the funds after the contribution. 11 C.F.R. 110.1(h) (emphasis added). As codified at 11 C.F.R. 110.6(b), if each of these three conditions are not met, the contribution is considered earmarked due to:

> [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.

Based on this standard and the evidence discovered during the investigation of this case by the Office of General Counsel, I could not vote on February 15, 1994 to take no further action against Mrs. Bingham and the DNC. To the contrary, short of an explicit admission of guilt by these Respondents in this matter, I would not expect to find stronger evidence of a coordinated scheme to violate the federal campaign contribution limits.

Facts Revealed by the Commission Investigation

Prior to October 1990, Mrs. Bingham had exhausted all legal avenues for supporting Dr. Harvey Sloane, a long-time personal friend and the 1990 Kentucky Democratic Senatorial candidate. Mrs. Bingham had already contributed the $1,000 maximum federally permissible amount to Sloane's primary election campaign, as well as the maximum $1,000 toward his general election effort. Mrs. Bingham further had contributed $5,000 -- the maximum permitted by law -- to the Kentucky Democratic State Party's federal account. See the January 28, 1994 General Counsel's Report at pg. 9. Significantly, Kentucky law also prohibited her from contributing more than the $6,000 which she had contributed to the State Party's non-federal account. According to news accounts submitted along with the complaint, during the Fall of 1990 the Sloane Committee's cash on hand was being quickly depleted. By mid-October 1990 some public opinion

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(Footnote 4 continued from previous page)
use of party funds transfers, especially non-federal funds, appear in many elections. The resolution of these issues is of importance far beyond the individual actors in this matter.

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polls showed Sloane 20 points behind his opponent, and he was reportedly unable to mount a comprehensive television campaign due to lack of funds. See Exhibit A of the Common Cause Complaint, "Mary Bingham's $250,000 Gift to Democrats Buoyed Sloane," Louisville Courier-Journal, Nov. 9, 1990 (Louisville Courier-Journal, Nov. 9, 1990).

During the course of the Commission's investigation, Mrs. Bingham denied that she received any guarantee that her $250,000 in contributions to the DNC would be utilized in the Kentucky Senatorial race. However, the evidence indicates that she knew, or should have known, that her unusually large contribution would find its way back to the Kentucky Democratic Party, where it would then be used for advertisements designed to benefit the Sloane campaign. The investigation included the following relevant facts:

- In her own deposition Mrs. Bingham stated, "[she] hoped that it [her DNC contribution] would come -- some of it might come back to Kentucky and be used by the Kentucky Democratic Party to raise the level of the campaign and to help all the Democratic candidates." Mary Bingham Deposition at 16. Contemporaneous news accounts also quote Mrs. Bingham as saying, "Of course, I'm happy to think that Harvey would profit from it, . . . He would be a first-rate senator." Louisville Courier-Journal, Nov. 9, 1990.

- Mrs. Bingham was regularly kept abreast of the Sloane campaign effort by her grandson, Rob Bingham, who was Sloane's day-to-day "traveling aide" and helped write Sloane's speeches. Deposition of Robert Bingham, pg. 10.

- It was this grandson, legally an agent of the Sloane campaign, who first solicited Mrs. Bingham for a substantial contribution to the Democratic Party. Deposition of Robert Bingham, pg. 23.

- Harvey Sloane himself was informed of Mrs. Bingham's potential contribution to the DNC by Rob Bingham. Deposition of Harvey Sloane, pg. 20.

- Subsequently, Mrs. Bingham contacted Harvey Sloane personally (rather than the DNC) for advice on how to make the contribution to the DNC. Mary Bingham Deposition, pg. 13.

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- The Sloane Committee was responsible for the physical relay of the Bingham contributions to the DNC, thus insuring that the Sloane Committee received credit for the contribution. After Mrs. Bingham spoke to Dr. Sloane about making the contribution, the Bingham checks were actually delivered to the DNC by agents of the Sloane Committee. Mary Bingham Deposition at 14. Thus, Mrs. Bingham had no direct contact with the DNC concerning these contributions, but rather the Sloane Committee's agent handled the solicitation and the delivery.

- The Sloane Committee's campaign manager, Jim Cunningham, informed the DNC that the contribution was going to be made by Mrs. Bingham, and requested that some of the money come back to Kentucky for the Senate race. Deposition of William J. Robinson at pp. 15, 24 & 25. Dr. Sloane himself then spoke to Paul Tully, Political Director of the DNC, and again asked that some of the Bingham contribution be returned to Kentucky. Id. at 23.

This chain of events leads me to only one possible legal conclusion: Mrs. Bingham gave her contribution to the DNC for the purpose of aiding Dr. Sloane, and the Sloane campaign solicited, encouraged, and facilitated the contribution in the hope and expectation that they would benefit from it.

My conclusion in this matter is influenced by the personal conversations between Dr. Sloane and Mrs. Bingham which led to the DNC contribution, as well as the Sloane Committee's heavy involvement in the transfer of the Bingham contribution to the DNC. While there may have been no express agreement, it seems clear that all the parties implicitly understood that some of the Bingham contribution would be returned to Kentucky, as it was. The contribution would never have been made to the DNC in the first place without Harvey Sloane's intervention and guidance, not to mention personal delivery to the DNC by agents of the Sloane Committee.

The next question is what the DNC actually did with Mrs. Bingham's money. They did what I believe Mrs. Bingham and the Sloane campaign intended: during the course of the next 16 days following receipt of the contribution, the DNC made various transfers totaling $215,000 to the Kentucky State Party.

What did the Kentucky State Party do with this windfall from the DNC? The 1990 Kentucky general election ballot included the one U.S. Senate contest central to this matter,

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seven various U.S. House races, some of the state senate seats, all state representative seats, four state supreme court seats, several circuit and district judgeships, and two commonwealth attorney seats. Yet, the KDP appears to have used the $215,000 in DNC contributions entirely to hire the Sloane campaign's own media firm to create and place television advertisements. These ads criticized "wealthy Washington Republicans" for not advocating higher taxes on the rich, an issue on which Sloane was concentrating in the final weeks of the campaign. Each television ad concluded with "That's why we need Kentucky's Democrats fighting for us;" (a near repeat of the Sloane campaign slogan, "Harvey Sloane -- Kentucky's Democrat, fighting for us"). See Republican Party of Kentucky Complaint received by the Commission on October 23, 1990, Exhibit C and Exhibit E; See also May 1, 1992 General Counsel's Report, Attachment 7 (Advertisement Transcripts submitted by the Greer firm).

The media firm of Greer, Margolis, Mitchell & Associates ("the Greer firm") had been associated with the Sloane campaign committee since at least March 17, 1988 when reports filed with the Commission reveal a fee paid by the Sloane campaign to the Greer firm. It can hardly be a coincidence that this same firm was hired by the State Party on October 10, 1990 to produce these particular television advertisements, the first ever run by the State Party. First General Counsel's Report dated May 6, 1991 at 7 & 24; see also Lexington Herald-Leader, October 18, 1990, at B1. This was one day after Mrs. Bingham wrote her October 9, 1990 $230,000 contribution to the DNC. See May 9, 1991 First General Counsel's Report, Attachment 5, pp. 19 & 20; and Attachment 6, pg. 5.

Furthermore, prior to the State Party's actual receipt from the DNC of sufficient funds for the television advertisement campaign, the Greer firm had completed production of the advertisements. The Greer firm states in its response that the Kentucky State Party advertisements were completed on or about October 15, 1990, and then first broadcast on October 18, 1990. Given the State Party's empty coffers, it is difficult to believe that it would have committed the funds to produce and air these television advertisements without assurances that Mrs. Bingham's DNC money would make its way to Kentucky in time to pay for them. The DNC transfers to the KDP were made as follows: two transfers on October 16, 1990 of $50,000 and $95,000, another $50,000 transfer on October 23, 1990, and two $10,000 transfers on October 25. In fact, the KDP non-federal account payments to the Greer firm for the advertisements closely corresponds to those dates as follows: $145,000 on October 18, 1990, $100,000 on October 23, 1990, $50,000 on October 26, 1990, and $15,000 on November 2, 1990.

The factors of a common vendor and the timing of the advertisement campaign's development and placement are all relevant to this case. So too is the strange discrepancy between the testimony of key players in this matter. The Greer

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firm maintains that no one but Greer firm employees or Kentucky Democratic State Party employees previewed or approved the state party ads, scripts, or storyboards prior to broadcast. Geddings Deposition at 21-26. This statement conflicts with the testimony of Jim Cunningham, who says that as the Sloane Committee Campaign Director he previewed the State Party advertisements before they ran and often spoke with Skipper Martin, the Director of the State Party's Coordinated Campaign, and with Meg Connley, the State Party researcher for the advertisements.. Cunningham deposition pp. 11-16, and 25.

It is also a fact that Skipper Martin had been the principal Sloane Committee contact for the Greer firm, until Martin went to the Kentucky State Party to run the coordinated campaign advertisement effort. Deposition of Kevin L. Geddings, pg. 10 and Cunningham Deposition, pg. 16. Furthermore, the Greer firm actually admits that at the request of Jim Cunningham of the Sloane Committee, the Greer firm sent Cunningham two memoranda which stated the amount being spent in each market to purchase broadcast time for the television ads of the KDP. July 22, 1991 Response of Greer firm to Commission Request for Production of Documents, pg. 4. Amazingly, the Greer firm also indicates that the same announcer was used in the Sloane Committee radio spots as was used in the KDP advertisements. Geddings Deposition, pg. 26. In context, these "coincidences" and overlaps create a clear picture of a group of persons working hand in hand to spend Mrs. Bingham's DNC money through the Kentucky State Party in an effort to benefit Dr. Sloane's candidacy.

After reviewing all of the circumstances outlined above I continue to concur with the Office of the General Counsel statement in its First General Counsel's Report that "evidence that Mrs. Bingham did not encumber or earmark her donations and that the DNC specifically limited the use of its transfers to non-federal purposes should not be controlling over the substance and effect of what may have actually taken place." First General Counsel's Report dated May 6, 1991, at 25. For all the reasons outlined above in this matter I believe the Commission should have continued to proceed against Mary Bingham, as well as the Democratic National Committee and Robert T. Matsui, as treasurer.

If arrangements of this sort are not pursued by the Commission, and are not understood to be violations of the election laws, then the statutory contribution limits, and the Commission's allocation regulations, are nothing but a fiction, and a dangerous one at that. Dangerous because the public may be lulled into a false belief that contributions are limited and the laws enforced, and because opposing candidates may likewise be lulled into an unwarranted sense of security that all candidates will be following the same set of rules. Ultimately,

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this sort of activity, and the Commission's refusal to challenge it, is dangerous because it undermines public confidence in our entire election process, and thus in the elected officials it produces.

Trevor Potter
Commissioner

June 13, 1995
June 13, 1995

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IN RE: FEDERAL ELECTION COMMISSION

MUR 3182

* * * * * * * * * * * *

DEPONENT: MARY ANN JOHNSON

DATE: OCTOBER 20, 1992

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ORIGINAL

MICHELE P. KEOWN
COURT REPORTER

AFFILIATED REPORTERS
644 S. THIRD STREET, SUITE 214
CRESENT CENTRE
LOUISVILLE, KENTUCKY 40202
(502) 585-2800

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THE DEPOSITION OF MARY ANN JOHNSON, WAS TAKEN AT THE OFFICE OF THE U.S. ATTORNEY, 510 W. BROADWAY 8TH FLOOR, LOUISVILLE, JEFFERSON COUNTY, KENTUCKY, ON OCTOBER 20, 1992 AT APPROXIMATELY 2:00 P.M., UPON ORAL EXAMINATION.

APPEARANCES

FOR MS. JOHNSON:

MICHAEL MCKINNEY, ESQ.
P.O. BOX 688
BURLINGTON, KY 41005

FOR THE FEDERAL ELECTION COMMISSION:

TONDA M. MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFF LONG
FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, DC 20463

* * * * * * * * *

MARY ANN JOHNSON, CALLED ON BEHALF OF THE FEDERAL ELECTION COMMISSION, AFTER BEING FIRST DULY SWORN, WAS EXAMINED AND DEPOSED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOTT:

Q COULD YOU PLEASE STATE YOUR NAME FOR THE RECORD.

A MARY ANN JOHNSON.

Q AND YOU HAVE COUNSEL HERE WITH YOU TODAY?

A YES. MIKE MCKINNEY.

Q HAS ANYONE ELSE REPRESENTED YOU IN THIS MATTER? HAVE YOU EVER HAD YOUR DEPOSITION TAKEN BEFORE IN THIS MATTER?

A NO, MA'AM.

Q MY NAME IS TONDA MOTT AND I REPRESENT THE OFFICE OF THE GENERAL COUNSEL AT THE FEDERAL ELECTION COMMISSION. YOU ALREADY MET ANNE WEISSENBORN WHO IS HERE WITH ME TODAY, AND JEFF LONG. THIS DEPOSITION IS BEING TAKEN PURSUANT TO THE FEDERAL ELECTION COMMISSION SUBPOENA WHICH YOU RECEIVED, ISSUED IN CONNECTION WITH THE INVESTIGATION UNDER SECTION 437G OF TITLE II OF THE UNITED STATES CODE. THE COMMISSION HAS JURISDICTION OVER THE FEDERAL ELECTION ACT OF 1971 AS AMENDED. THE STATUTE PROVIDES THAT THE CONFIDENTIALITY OF THIS INVESTIGATION MUST BE MAINTAINED UNTIL THE COMMISSION CLOSES ITS FILE IN THIS MATTER.

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LET ME EXPLAIN THIS TO YOU, MS. JOHNSON. WE DON'T CONSIDER YOU A RESPONDENT IN THIS CASE. YOU ARE HERE AS A WITNESS. BUT THE CONFIDENTIALITY RULES OF THE ACT REQUIRE THAT IT BE CONFIDENTIAL -- MAINTAINED CONFIDENTIAL UNTIL THE ENTIRE MATTER IS CLOSED. SO IN OTHER WORDS, YOU KNOW, YOU CAN'T DISCUSS THIS WITH PRESS OR ANYONE LIKE THAT. IT HAS TO BE CONFIDENTIAL. OKAY?

A YES, MA'AM.

Q THIS INVESTIGATION IS DESIGNATED AS MATTER UNDER REVIEW, OR MUR 3182. OUTSIDE OF THIS, HAVE YOU EVER HAD A DEPOSITION TAKEN BEFORE?

A NO, MA'AM.

Q LET ME KIND OF EXPLAIN, JUST GIVE YOU SOME INSTRUCTIONS AND IF YOU HAVE ANY QUESTIONS FEEL FREE TO ASK. I'M GOING TO ASK A SERIES OF QUESTIONS SEEKING INFORMATION ABOUT THIS MUR, OR MATTER UNDER REVIEW. THE QUESTIONS THAT I WILL ASK YOU WILL NOT NECESSARILY BE LIMITED TO YOUR INVOLVEMENT, BUT MAY ALSO INCLUDE REQUESTS FOR INFORMATION ABOUT OTHER PEOPLE. PLEASE MAKE SURE THAT YOU VERBALLY ANSWER THE QUESTIONS SO THE COURT REPORTER CAN GET IT DOWN. IF YOU DON'T UNDERSTAND A QUESTION THAT I ASK, PLEASE FEEL FREE TO LET ME KNOW AND I WILL REPHRASE IT OR REPEAT IT. OKAY? AND IF AT ANY TIME YOU REALIZE THAT YOU GAVE AN ANSWER EARLIER THAT WAS INCOMPLETE OR INACCURATE, WILL YOU LET ME KNOW THAT TOO?

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A YES, MA'AM.

Q AND WE CAN GO BACK AND WORK ON IT. OKAY. IF YOU NEED TO TAKE A BREAK TOO, PLEASE LET ME KNOW AND WE CAN DO THAT.

WHAT DOCUMENTS DID YOU REVIEW IN PREPARING FOR THIS DEPOSITION TODAY?

MR. MCKINNEY: I'M GOING TO OBJECT TO THAT QUESTION. THERE ARE PRIVILEGED MATTERS.

Q I'M SORRY. OUTSIDE OF ANYTHING THAT WOULD FALL UNDER YOUR ATTORNEY/CLIENT PRIVILEGE.

MR. MCKINNEY: OKAY.

Q DO YOU HAVE ANY PERSONAL DOCUMENTS THAT YOU LOOKED AT?

A NO, MA'AM.

Q AND DID YOU BRING ANY DOCUMENTS WITH YOU TODAY?

A NO, MA'AM.

Q FOR THE RECORD, MISS JOHNSON, CAN YOU STATE YOUR HOME ADDRESS?

A POST OFFICE BOX 125, BURNSIDE, KENTUCKY.

Q AND HOW LONG HAVE YOU LIVED THERE?

A TWENTY-FOUR YEARS YESTERDAY.

Q AND A TELEPHONE NUMBER WHERE YOU CAN BE REACHED?

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A 606-561-4477.

Q AND ALSO FOR THE RECORD WE NEED A SOCIAL SECURITY NUMBER.

A [redacted]

Q MISS JOHNSON, COULD YOU JUST TELL US A LITTLE BIT ABOUT -- FIRST OF ALL WHERE ARE YOU PRESENTLY EMPLOYED? ARE YOU PRESENTLY EMPLOYED?

A YES, MA'AM.

Q AND WHERE IS THAT?

A SOMERSET, KENTUCKY.

Q AND WITH WHOM?

A SUN SPLASH. I DO -- I'M A SKIN CARE SPECIALIST. I DO SKIN CARE. I HAVE A SALON. WE DO SKIN CARE AND NAILS.

Q IN 1990 WHERE WERE YOU EMPLOYED?

A 1990 IN JANUARY, KENTUCKY DEMOCRATIC PARTY.

Q AND HOW LONG WERE YOU EMPLOYED WITH THE KENTUCKY DEMOCRATIC PARTY?

A FROM JANUARY 1990 UNTIL MAY 1991.

Q AND WHAT WERE YOUR DUTIES WITH THE KENTUCKY DEMOCRATIC PARTY?

A I WAS THE DEMOCRATIC PARTY CHAIR.

Q AND WHAT DID THAT CONSIST OF AS FAR AS YOUR DAILY DUTIES? I KNOW THAT'S KIND OF FAR

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ENCOMPASSING, BUT . . .

A WELL, I WAS IN CHARGE OF THE KENTUCKY DEMOCRATIC PARTY. YOU MEAN WHAT WERE MY DUTIES?

Q YES.

A WELL, COUNTY ORGANIZATION IN 120 COUNTIES, FUNDRAISING IN 120 COUNTIES. YOU HAD 120 COUNTY CHAIRS THAT YOU WORKED WITH.

Q AND WHAT WAS YOUR AUTHORITY WITHIN THE -- DID YOU MAKE THE DECISIONS AS FAR AS WHAT INDIVIDUAL COUNTIES WERE GOING TO DO IN THEIR CAMPAIGN?

A WHAT EACH INDIVIDUAL COUNTY WAS GOING TO DO DID I MAKE THE DECISION?

Q YES.

A NO, MA'AM. I WORKED -- IF YOU'RE TALKING ABOUT IN CAMPAIGNS OR -- ARE YOU TALKING ABOUT IN A POLITICAL CAMPAIGN OR ARE YOU TALKING ABOUT REGISTRATION DRIVES OR ARE YOU TALKING ABOUT --

Q YOU WERE IN CHARGE OF REGISTRATION DRIVES AND EVERYTHING ELSE AS WELL; CORRECT?

A WELL, ULTIMATELY I GUESS YOU WOULD SAY I'M THE BOTTOM LINE. I WAS THE BOTTOM LINE. BUT BY THE SAME TOKEN I TRIED TO LEAVE DAY-BY-DAY OPERATIONS IN COUNTIES UP TO THE COUNTY CHAIR IN THAT COUNTY ALONG WITH THEIR EXECUTIVE COMMITTEE.

Q AND AS FAR AS STATEWIDE ACTIVITY OF THE

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PARTY, SOMETHING THAT WAS DONE --

A WELL, IF IT WAS A STATEWIDE FUNCTION, YES, I WAS IN CHARGE.

Q MISS JOHNSON, CAN YOU TELL ME WHAT IS MEANT BY THE COORDINATED CAMPAIGN OF THE KENTUCKY DEMOCRATIC PARTY?

A WHAT IT MEANS?

Q DOES THAT MEAN SOMETHING TO YOU? YES.

A WELL --

MR. MCKINNEY: I'M JUST GOING TO OBJECT. ARE YOU SPEAKING ABOUT ANY PARTICULAR COORDINATED CAMPAIGN OR ANY THAT SHE MAY HAVE HAD INVOLVEMENT WITH?

Q I'M SORRY. ANY THAT YOU MAY HAVE HAD INVOLVEMENT WITH OR KNOWLEDGE OF.

A WELL, A COORDINATED CAMPAIGN IS JUST BASICALLY WHAT IT SAYS. A COORDINATED CAMPAIGN WOULD BE EXACTLY WHAT THEY'RE DOING OUT AT DEMOCRATIC HEADQUARTERS TODAY. THEY GOT THE PRESIDENT, THE SENATE RACE, THE CONGRESSIONAL RACES AND WHOMEVER IS IN CHARGE OF THE COORDINATED CAMPAIGN AT HEADQUARTERS WOULD BE OVERSEEING ALL THOSE THINGS. AND TODAY I'M NOT SURE WHO IS IN CHARGE OF THE COORDINATED CAMPAIGN.

Q BUT THE KENTUCKY DEMOCRATIC PARTY HAD ITS OWN WHAT WOULD BE TERMED AS A COORDINATED CAMPAIGN?

A ARE YOU TALKING ABOUT WHEN I WAS THERE?

Q YES. I'M SORRY.

A I CAN ONLY SPEAK FOR WHEN I WAS THERE.

Q ANYTHING THAT I ASK WOULD BE FOR THAT TIME PERIOD WHEN YOU WERE THERE.

A WHEN I WAS THERE WE DID A COORDINATED CAMPAIGN, WHICH THAT ENTAILS AT THAT TIME HARVEY SLOANE, THE U.S. SENATE RACE. IT ENTAILED THE CONGRESSIONAL RACES AND AT THAT TIME LEGISLATIVE RACES.

Q BY LEGISLATIVE YOU MEAN?

A HOUSE SEATS.

Q WHAT ABOUT ANY LOCAL GOVERNORATORIAL CANDIDATES, STATE LEGISLATIVE CANDIDATES?

A WELL, THE GOVERNORATORIAL -- WHEN THE GOVERNORATORIAL CAMPAIGN BEGAN, OBVIOUSLY I WAS AT HEADQUARTERS, BUT IN A PRIMARY ELECTION--AND THAT'S WHEN I WAS THERE, THE PRIMARY WAS GOING ON--THE KENTUCKY DEMOCRATIC PARTY DOESN'T PARTICIPATE IN THE PRIMARY. IN OTHER WORDS WE WOULDN'T SUPPORT CANDIDATE "A" OVER CANDIDATE "B". YOU KNOW WHAT I'M SAYING?

WHEN YOU RUN YOUR COORDINATED CAMPAIGN IS ONCE THE PRIMARIES ARE OVER AND THEN YOU PUT YOUR COORDINATED CAMPAIGN TOGETHER FOR DEMOCRATES UNITED AGAINST REPUBLICANS. BUT THE PARTY IS STRICTLY AGAINST THE BYLAWS TO SUPPORT ONE DEMOCRATE OVER ANOTHER AS FAR AS THE KENTUCKY DEMOCRATIC PARTY IS CONCERNED. SO THERE IS

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NO COORDINATED CAMPAIGN AT HEADQUARTERS DURING A PRIMARY.

Q SO IT'S COORDINATED CAMPAIGN --

A IT WOULD BE A GENERAL ELECTION.

Q AND I'M SORRY, WHAT WAS THE TIME PERIOD THAT YOU SAID YOU WERE THERE? FROM JANUARY UNTIL --

A I WENT IN IN JANUARY '90 AND LEFT IN MAY '91.

Q SO YOU WERE THERE THROUGHOUT THE GENERAL CAMPAIGN AS WELL?

A I WAS THERE IN THE PRIMARY FOR THE U.S. SENATE RACE, THE CONGRESSIONAL RACES OF COURSE AND THEN THE GENERAL ELECTION IN NOVEMBER. AND THEN, OF COURSE, WHEN THE PRIMARY, THE MAY PRIMARY FOR THE GOVERNORS RACE WAS OVER, I LEFT.

Q SO THE --

A AND THE NEW ADMINISTRATION MOVED IN.

Q SO THE GOVERNORATORIAL RACE --

A I HAD NOTHING TO DO WITH THE GOVERNORATORIAL RACE PERIOD.

Q -- WAS IN THE FOLLOWING YEAR?

A WELL, OF COURSE, THEY WERE CAMPAIGNING THEN, BUT THEY DIDN'T VOTE UNTIL MAY.

Q RIGHT.

A THAT'S WHEN THEY ELECTED THE NEW GOVERNOR, THE NOMINEE.

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Q OKAY. AT THE TIME THAT THE SENATE, U.S. SENATE AND CONGRESSIONAL SEATS WERE -- THE CAMPAIGN FOR THOSE WAS GOING ON, WERE THERE ANY STATE LEGISLATIVE POSITIONS IN THOSE ELECTIONS AS WELL?

A YES. STATE REPRESENTATIVES AND SENATE SEATS.

Q AND WERE THOSE PART OF THE COORDINATED CAMPAIGN?

A YES. EVERY DEMOCRATIC NOMINEE WOULD FALL UNDER YOUR COORDINATED CAMPAIGN.

Q DID THE KENTUCKY DEMOCRATIC PARTY MAINTAIN SEPARATE FEDERAL AND NON-FEDERAL ACTIVITIES? DO YOU UNDERSTAND THE QUESTION?

A ARE YOU SPEAKING OF MONEY?

Q OKAY. LET'S TALK ABOUT MONEY FIRST.

A WELL, I MEAN IT DEPENDS ON WHAT YOU'RE TALKING ABOUT, AND I'M NOT BEING CUTE . . .

Q NO. I UNDERSTAND.

A DON'T GET ME WRONG. BUT, WHEN YOU SAY SEPARATE ACCOUNTS, IF YOU'RE TALKING ABOUT MONEY --

MR. MCKINNEY: MARY, I'M SORRY, SHE SAID SEPARATE ACTIVITIES.

THE WITNESS: ACTIVITIES. OKAY. I'M SORRY.

MR. MCKINNEY: I'M NOT TRYING TO

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INTERRUPT YOUR QUESTIONING.

MS. MOTT: NO, THAT'S FINE.

A WELL, I DON'T KNOW IF I UNDERSTAND THE QUESTION. IN OTHER WORDS ARE YOU SAYING DID WE HAVE SEPARATE FUNCTIONS FOR A U.S. SENATE SEAT THAT WE DIDN'T HAVE FOR A CONGRESSIONAL OR A REPRESENTATIVE OR WHATEVER? I'M NOT SURE I UNDERSTAND.

Q SEPARATE FEDERAL AND NON-FEDERAL. BY THAT I GUESS WHAT I'M ASKING IS DID YOU HAVE ACTIVITIES, FUNDRAISERS, SPEECHES, WHATEVER, THAT ONLY INVOLVED FEDERAL CANDIDATES AND ACTIVITIES THAT ONLY INVOLVED STATE OR NON-FEDERAL CANDIDATES?

A NO, I DON'T THINK SO BECAUSE WHEN WE HAD RALLIES, FOR INSTANCE, AND FUNCTIONS, IF IT WAS PUT ON BY THE KENTUCKY DEMOCRATIC PARTY, IT WAS PUT ON FOR ALL CANDIDATES RUNNING IN THAT AREA. SAY YOU WERE GOING TO DO A RALLY IN ASHLAND, KENTUCKY, OKAY, THAT WOULD INCLUDE CHRIS PERKINS, OF COURSE, CONGRESSMAN PERKINS ALONG WITH ANY DEMOCRATES. ALL DEMOCRATES RUNNING FOR OFFICE IN THAT VICINITY WOULD HAVE BEEN INVITED AND ANY STATE CANDIDATE AND IN THAT CASE IT WOULD HAVE BEEN DR. SLOANE, OF COURSE.

Q AND SO MEMBERS OF THE KENTUCKY DEMOCRATIC PARTY THAT WERE WORKING AN ACTIVITY, THEY WOULD BE TALKING WITH PEOPLE FROM THE CAMPAIGNS OF BOTH FEDERAL AND NON-FEDERAL CANDIDATES; IS THAT CORRECT?

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A WELL, I'M SURE, YES.

Q IN THESE TYPE OF COORDINATED CAMPAIGN ACTIVITIES, WHAT WAS THE ROLE THAT -- THE DEMOCRATIC NATIONAL COMMITTEE'S ROLE IN THESE TYPE OF ACTIVITIES?

A WHAT WAS THAT?

Q DID THEY SUPPLY ANY GOODS OR SERVICES OR TRAINING OF PERSONNEL OR FUNDING OR ANYTHING LIKE THAT FOR THESE TYPE OF COORDINATED CAMPAIGN ACTIVITIES?

A ARE YOU TALKING ABOUT WORKSHOPS?

Q SURE. LET'S TALK ABOUT WORKSHOPS.

A WELL, THE ACTIVITIES THAT -- THE PLANNED ACTIVITIES WERE PLANNED BY THE KENTUCKY DEMOCRATIC PARTY. MANY TIMES WHEN YOU HAD WORKSHOPS USUALLY THEY WERE DISTRICT BY DISTRICT.

Q NOW WHAT EXACTLY DO YOU MEAN BY -- WHAT DID A WORKSHOP CONSIST OF?

A WELL, POLITICAL WORKSHOPS WHETHER IT WAS GET OUT THE VOTE WORKSHOP OR A WORKSHOP FOR REGISTRATION OF VOTERS, YOU KNOW, WHATEVER. THERE'S BEEN TIMES WHEN THE NATIONAL PARTY HAS SENT PEOPLE IN TO PARTICIPATE IN THE WORKSHOP.

Q LET ME JUST MAKE SURE I UNDERSTAND WHAT YOU MEAN BY A WORKSHOP. DOES THAT INVOLVE THE PUBLIC? DOES THAT INVOLVE --

A THAT WOULD INVOLVE ANY REGISTERED

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DEMOCRATE.

Q SO IT WASN'T A WORKSHOP IN THE SENSE THAT IT WAS TEACHING PEOPLE WHO WERE WORKING WITH THE KENTUCKY DEMOCRATIC PARTY HOW TO ORGANIZE THESE TYPE OF THINGS? THAT'S NOT WHAT IT WAS?

A IF I UNDERSTAND YOUR QUESTION RIGHT, FOR INSTANCE, JUST TO GIVE YOU AN EXAMPLE, USUALLY A WORKSHOP, A FUNCTION LIKE THAT, WAS DONE DISTRICT, WHICH IS SEVEN DISTRICTS IN THE STATE OF KENTUCKY. YOU'RE NOT GOING TO GO COUNTY TO COUNTY TO DO THESE THINGS. THERE'S OBVIOUSLY NOT ENOUGH TIME. THERE'S BEEN TIMES WHEN YOU WOULD BE PUTTING ON FUNCTIONS LIKE THAT THAT THERE WOULD BE SOMEONE FROM WASHINGTON FROM THE DEMOCRATIC NATIONAL COMMITTEE THAT WOULD COME. MAYBE THEY WOULD SEND SOMEONE WHO HAD EXPERTISE IN FUNDRAISING OR WHETHER THEY HAD EXPERTISE IN GETTING OUT THE VOTE OR WHATEVER.

Q I BELIEVE I'M STILL HAVING TROUBLE WITH EXACTLY HOW -- WHAT YOU'RE DEFINING A WORKSHOP AS. IS IT SOMETHING THAT -- WHEN YOU SAY WORKSHOP ARE YOU MEANING JUST A FUNCTION, A RALLY, A FUNDRAISING EFFORT OR WHATEVER, OR DO YOU MEAN WORKSHOP AS IN A TRAINING SENSE?

A TRAINING SENSE.

MR. MCKINNEY: I THINK WE CAN PROBABLY STIPULATE FOR YOU AND FOR THE RECORD THAT PARTY WORKERS ACROSS THE STATE IN THE SEVEN DISTRICTS WOULD GET

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DIRECTION AND GUIDANCE FROM STATE DEMOCRATIC HEADQUARTERS HOW TO GO ABOUT RAISING FUNDS, HOW TO GO ABOUT CONDUCTING A GET-OUT-THE-VOTE EFFORT AND WE CAN STIPULATE THAT FROM TIME TO TIME THOSE WORKSHOPS WOULD BE HELD. IT WOULDN'T BE SO MUCH FOR THE GENERAL PUBLIC AS IT WOULD BE FOR DEMOCRATIC PARTY WORKERS AND PARTY MEMBERS. IS THAT ACCURATE, MARY ANN?

THE WITNESS: RIGHT.

MR. MCKINNEY: AND I'M NOT TRYING TO TESTIFY FOR HER, BUT I THINK MAYBE THAT MIGHT HELP YOU.

MS. MOTT: THAT CLEARS THINGS UP. OKAY. THANK YOU.

BY MS. MOTT:

Q NOW, ASIDE FROM THE WORKSHOPS WHEN YOU WERE HAVING ACTUAL FUNCTIONS OR RALLIES OR FUNDRAISING EVENTS OR WHATEVER, WHAT WOULD BE THE DEMOCRATIC NATIONAL COMMITTEE'S ROLE IN SOMETHING LIKE THAT WHERE THE PUBLIC WAS INVOLVED?

A IF WE JUST HAD A RALLY?

Q YES.

A THEY WOULD HAVE NO ROLE.

Q NOW, WE TALKED ABOUT THE ACTUAL ACTIVITIES BEING FEDERAL AND NON-FEDERAL AND BEING A MIX OF THE TWO. BUT AS FAR AS THE MONEY WAS INVOLVED, WERE THERE SEPARATE ACCOUNTS, SEPARATE BANKS FOR THE ACTIVITIES

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FEDERALLY AND NON-FEDERALLY?

A ARE YOU TALKING ABOUT SEPARATE BANKS?

Q WELL, LET'S GO WITH SEPARATE ACCOUNTS FIRST.

A SEPARATE ACCOUNTS. NOT SEPARATE BANKS.

Q SEPARATE ACCOUNTS. SO THERE WERE SEPARATE ACCOUNTS BUT WITHIN THE SAME BANK?

A THAT'S RIGHT.

Q AND WERE YOU INVOLVED IN ALLOCATING WHICH -- ALLOCATING IN AN ACTIVITY BETWEEN WHICH ACCOUNT THAT WOULD BE PAID FOR?

A WELL, I HAD A BOOKKEEPER WHO TOOK CARE OF ALL THOSE THINGS.

Q AND WHAT WAS THE BOOKKEEPER'S NAME?

A MY BOOKKEEPER WAS PAT GOINS. HOWEVER, PAT -- WE BOTH SIGNED THE CHECKS.

Q WHAT ABOUT THE REPORTS THAT WERE FILED WITH THE FEDERAL ELECTION COMMISSION? WHO ACTUALLY ALLOCATED ON THOSE REPORTS THOSE KINDS OF FUNDS, INDICATED WHAT WAS PAID FROM WHICH ACCOUNT?

A PAT. SHE FILED THE REPORTS.

Q MISS JOHNSON, DO YOU KNOW IF THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE, DO YOU KNOW -- I'M SORRY. DO YOU KNOW IF THE KENTUCKY DEMOCRATIC PARTY AUTHORIZED THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE TO

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USE ANY COORDINATED PARTY EXPENDITURE LIMIT FOR MR. SLOANE'S CAMPAIGN? DO YOU UNDERSTAND THE QUESTION?

A ASK ME THAT AGAIN, PLEASE.

Q SURE. LET'S BACK UP AND TRY TO TAKE IT ONE STEP AT A TIME. A COORDINATED PARTY EXPENDITURE LIMIT, DO YOU UNDERSTAND WHAT I MEAN BY THAT?

A A COORDINATED CAMPAIGN EXPENDITURE LIMIT?

Q RIGHT. IF YOU DON'T UNDERSTAND WHAT THAT MEANS, JUST TELL ME.

A NO, I DON'T.

Q UNDER THE FEDERAL ELECTION CAMPAIGN ACT THERE ARE CERTAIN DOLLAR LIMITS WHICH ARE PLACED ON THE COORDINATED PARTY EXPENDITURES THAT ANY COMMITTEE CAN PAY TOWARDS ANY PARTICULAR CANDIDATE.

A OKAY.

Q OKAY. NOW, AS FAR AS THE CAMPAIGN OF DR. SLOANE, ARE YOU AWARE OF THE KENTUCKY DEMOCRATIC PARTY AUTHORIZING ANYONE ELSE TO USE PART OF THEIR LIMIT INSTEAD OF THE KENTUCKY DEMOCRATIC PARTY USING THEIR ENTIRE LIMIT?

A DID I AUTHORIZE SOMEONE TO DO THAT, IS THAT YOUR QUESTION?

Q ARE YOU AWARE OF THAT BEING --

A NO, MA'AM.

MR. MCKINNEY: JUST TO BE SURE I'M

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UNDERSTANDING TOO, IS THE SCOPE OF THE QUESTION LIKE ANY LIMIT THAT THE KENTUCKY DEMOCRATIC PARTY WOULD HAVE HAD, ARE YOU ASKING DID THE KENTUCKY DEMOCRATIC PARTY SEEK TO SPLIT ITS LIMIT WITH SOMEBODY ELSE AND SHARE THE AMOUNT OF THE CONTRIBUTION?

MS. MOTT: WELL, FOR INSTANCE, DID THEY SAY TO DSCC OR DNC YOU CAN SPEND AGAINST OUR LIMIT.

MR. MCKINNEY: OKAY. BY WAY OF EXAMPLE SHE'S SAYING IF THE KENTUCKY DEMOCRATIC PARTY HAD A $5,000 LIMIT, DID YOU TELL THE DSCC YOU CAN SPEND 3,000 AND WE'RE GOING TO SPEND 2,000 OF THE -- I SEE WHAT YOU'RE SAYING.

BY MS. MOTT:

Q DOES THAT --

A I DON'T RECALL DOING THAT. NO, MA'AM.

Q DID THE KENTUCKY DEMOCRATIC PARTY CREATE OR OBTAIN ANY KIND OF VOTER LIST WHICH THEY THEN SHARED WITH FEDERAL CANDIDATES?

A DID WE CREATE A VOTER LIST AND SHARE --

Q YES.

A -- WITH CANDIDATES? YES.

Q AND WAS THAT LIST SHARED WITH THE SLOANE CAMPAIGN?

A I DON'T KNOW. I DON'T REMEMBER.

Q DO YOU KNOW WHO MIGHT KNOW THAT?

A I'LL HAVE TO THINK ABOUT THAT. NO,

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MA'AM, RIGHT OFF.

MR. MCKINNEY: MISS MOTT, LET US ALSO STIPULATE FOR THE RECORD ONE OF THE SERVICES THAT THE KENTUCKY DEMOCRATIC PARTY PROVIDES TO THE 120 COUNTIES IS THE MAINTENANCE OF SOME VOTER REGISTRATION LISTS, AND SO A COUNTY COORDINATOR IN ANY OF THE 120 COUNTIES COULD CALL HEADQUARTERS AND SAY I NEED A LIST, AND SO THAT'S NOT UNUSUAL FOR THOSE TO BE MAINTAINED.

A AND BY THE WAY I'LL ADD, YOU KNOW, THOSE LISTS LIKE THAT WOULD BE PUBLIC RECORD TO WHEREAS IF YOU WERE INVOLVED IN A CAMPAIGN AND YOU CALLED UP AND SAID TO WHOMEVER, I NEED A VOTER LIST FOR MASON COUNTY, THAT'S PUBLIC RECORD.

Q SO THOSE COULD BE OBTAINED FROM ANYONE?

MR. MCKINNEY: FROM THE SECRETARY OF STATE. THEY MAINTAIN THOSE AT THE KENTUCKY SECRETARY OF STATE'S OFFICE. YOU, I, ANYBODY CAN CALL THERE AND FOR A VERY SMALL NOMINAL FEE THEY WILL PRODUCE LABELS, MAILING LABELS, COMPUTER PRINTOUTS, ALL OF THAT TYPE OF INFORMATION GEARED TO THE VOTER REGISTRATION LIST, REPUBLICANS, DEMOCRATES ALIKE.

Q AND THAT'S WHERE THE KENTUCKY DEMOCRATIC PARTY WOULD HAVE RECEIVED THEIR VOTER LIST THEN FROM THE SECRETARY OF STATE'S OFFICE?

A THAT'S WHERE WE GOT OUR LIST.

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Q AND WERE THERE ANY OTHER LISTS CREATED BEYOND THAT THAT YOU'RE AWARE OF?

A I DON'T THINK SO.

Q MISS JOHNSON, I'M GOING TO LIST SEVERAL NAMES AND I'M GOING TO ASK YOU A COUPLE OF QUESTIONS ABOUT THESE INDIVIDUALS. STEVE BARCHARD?

A STEVE BAHAR.

Q HOW IS THAT SPELLED? DO YOU KNOW?

A BAHAR.

Q B-A-H-A-R?

A I THINK SO.

Q WHO WAS HE AS FAR AS THE 1990 KENTUCKY DEMOCRATIC PARTY?

A HE WORKED FOR THE COORDINATED CAMPAIGN. HE WAS -- I BELIEVE I THINK HE WAS FRIEND OF JIM CUNNINGHAM'S. I THINK CUNNINGHAM BROUGHT HIM IN.

Q AND WHAT WERE HIS DUTIES?

A I DON'T KNOW WHAT HIS DUTIES WERE DUE TO THE FACT THAT AT THE TIME I WAS NOT HIS BOSS SO TO SPEAK. OKAY?

Q SO HE WORKED FOR MR. CUNNINGHAM?

A HE WORKED FOR SKIPPER MARTIN. SKIPPER MARTIN WAS IN CHARGE OF THE COORDINATED CAMPAIGN. STEVE BAHAR WORKED FOR THE COORDINATED CAMPAIGN.

Q NOW, DID SKIPPER MARTIN, DID HE REPORT

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TO YOU?

A YES, HE DID.

Q AND STEVE BAHAR WOULD HAVE BEEN WORKING FOR MR. MARTIN?

A HE EITHER WORKED -- WELL, I'M SURE HE WORKED FOR SKIPPER OR CUNNINGHAM ONE. I MEAN I DIDN'T HIRE STEVE BAHAR. OKAY? AND HE WORKED FOR THE COORDINATED CAMPAIGN. HE DIDN'T WORK FOR THE KENTUCKY DEMOCRATIC PARTY.

Q SO WHO WAS HE PAID BY, DO YOU KNOW?

A THE COORDINATED CAMPAIGN.

Q SO IS THE COORDINATED CAMPAIGN A SEPARATE ENTITY ENTIRELY FROM THE KENTUCKY DEMOCRATIC PARTY?

A YES, YOU COULD SAY THAT.

Q NEVILLE BLAKEMORE?

A NEVILLE BLAKEMORE WAS WITH THE COORDINATED CAMPAIGN. NEVILLE WAS A VOLUNTEER.

Q SO HE WAS NEITHER PAID BY THE KENTUCKY DEMOCRATIC PARTY OR THE COORDINATED CAMPAIGN?

A THAT'S MY UNDERSTANDING, AND I THINK I'M RIGHT.

Q AND AS A VOLUNTEER WHAT WERE HIS DUTIES?

A GOSH, YOU KNOW, I THINK HE WORKED WITH

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COUNTY ORGANIZATIONS AND I'M NOT SURE WHAT AREA HE WORKED WHETHER IT WAS LIKE WESTERN KENTUCKY, WHAT AREA IN THE STATE HE WORKED, BUT I BELIEVE HE DID SOME COUNTY ORGANIZATION WORK.

Q AND BY THAT DOES THAT MEAN THAT HE WENT OUT WITHIN THE PARTICULAR COUNTIES OF THAT AREA AND ORGANIZED ACTIVITIES?

A WELL, HE COULD HAVE. NOW BECAUSE HE DIDN'T WORK DIRECTLY FOR ME SO THEREFORE NOW I CAN'T TELL YOU. BUT I THINK HE WORKED WITH ORGANIZATION AND I'M NOT SURE WHAT HIS DUTIES WERE.

Q MEG CONNELLY?

A MEG CONLON.

Q CONLON, MARGARET CONLON.

A MEG WAS WITH THE COORDINATED CAMPAIGN AND I'M NOT SURE WHAT SHE DID.

Q SO SHE WAS PAID BY THE COORDINATED CAMPAIGN?

A YES. BUT AGAIN SHE DIDN'T WORK DIRECTLY FOR ME, SO YOU KNOW, I CAN'T TELL YOU WHAT SHE DID. I KNOW SHE WORKED THERE AND I KNOW HER.

Q JAMES CAULEY?

A JIM CAULEY. HE WORKED FOR THE COORDINATED CAMPAIGN, BUT I DON'T REMEMBER EXACTLY WHAT HIS DUTIES WERE.

Q PAID FOR BY THE COORDINATED CAMPAIGN?

A HE WAS EITHER PAID BY THE COORDINATED CAMPAIGN OR HE WAS PAID BY SLOANE'S CAMPAIGN, ONE OF THE TWO, I DON'T KNOW, BECAUSE SEE THAT WAS SEPARATE AND I'M NOT SURE ABOUT CAULEY.

Q MARGARET CONLON, WOULD SHE HAVE BEEN PAID BY THE SLOANE CAMPAIGN AT ALL?

A WELL, SHE COULD HAVE BEEN. I DON'T KNOW. I DON'T REMEMBER.

Q NEVILLE BLAKEMORE?

A NEVILLE WAS A VOLUNTEER.

Q I'M SORRY. THAT'S RIGHT. MR. BAHAR, STEVE BAHAR, WAS HE PAID BY THE SLOANE COMMITTEE?

A I BELIEVE HE WAS PAID BY THE COORDINATED CAMPAIGN.

Q NOW YOU SAID ANDREW SKIPPER MARTIN WAS IN CHARGE OF THE --

A OF THE COORDINATED CAMPAIGN.

Q AND HE WAS PAID BY THE COORDINATED CAMPAIGN?

A YES, MA'AM.

Q WAS HE ALSO PAID BY THE SLOANE COMMITTEE?

A I DON'T KNOW.

Q PAT GOINS WAS THE BOOKKEEPER FOR --

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A FOR THE KENTUCKY DEMOCRATIC PARTY.

Q SO SHE WAS PAID FOR BY THE PARTY RATHER THAN THE CAMPAIGN; IS THAT CORRECT?

A YES.

Q AND WAS SHE PAID BY THE SLOANE COMMITTEE AT ALL DO YOU KNOW?

A NO, MA'AM.

Q I'M SORRY, NO, YOU DON'T KNOW OR --

A NO, SHE WASN'T PAID BY -- YOU DID SAY THE SLOANE COMMITTEE?

Q YES.

A NO.

Q DANNY ROSS?

A DANNY ROSS. HE WAS PAID FOR BY THE COORDINATED CAMPAIGN I THINK. SEE, WHAT HAPPENED IS THESE PEOPLE -- AND I DON'T KNOW IF YOU UNDERSTAND THIS OR NOT, BUT ONCE THE CAMPAIGN WAS OVER, SEE THESE PEOPLE, MOST OF THESE PEOPLE HAD BEEN WORKING FOR SLOANE. OKAY?

Q OKAY.

A AND THEY SENT THEM TO DEMOCRATIC HEADQUARTERS TO RUN THE COORDINATED CAMPAIGN. SO I DON'T KNOW A LOT ABOUT A LOT OF THESE PEOPLE. AND I'M NOT TRYING TO BE EVASIVE.

Q NO, THAT'S FINE.

A I JUST DON'T KNOW.

Q AND WHEN WERE THEY SENT FROM THE SLOANE COMMITTEE TO THE COORDINATED CAMPAIGN?

A AFTER DR. SLOANE WON THE PRIMARY, WHICH WOULD HAVE BEEN SOMETIME SAY RIGHT AFTER THE MAY PRIMARY IN '90.

Q I'VE JUST GOT A COUPLE OF MORE NAMES. JACKIE HOLLAR?

A JACKIE WORKED FOR THE DEMOCRATIC PARTY.

Q PAID FOR BY THE KENTUCKY DEMOCRATIC PARTY?

A YES, MA'AM.

Q AND DORIS SAUNDERS?

A SHE WAS PAID BY THE KENTUCKY DEMOCRATIC PARTY.

Q WHAT FUNDS WERE USED TO PAY THOSE PEOPLE WHO WORKED FOR THE COORDINATED CAMPAIGN? WHERE DID THOSE COME FROM?

A WELL, DIFFERENT AVENUES. IT WAS MONEY THAT WAS RAISED AND I CAN'T TELL YOU WHERE IT COME FROM.

Q WOULD ANY OF IT HAVE COME FROM THE KENTUCKY DEMOCRATIC PARTY ITSELF?

A THAT WENT INTO THE COORDINATED CAMPAIGN?

Q RIGHT.

A I REALLY DON'T REMEMBER.

Q WAS IT A SEPARATE -- DID THE COORDINATED CAMPAIGN HAVE A SEPARATE ACCOUNT?

A ABSOLUTELY, YES, MA'AM.

Q CAN YOU THINK OF ANY OTHERS THAT WORKED IN THE COORDINATED CAMPAIGN THAT MIGHT HAVE ALSO WORKED FOR THE SLOANE COMMITTEE?

A NO, MA'AM.

Q I REALIZE WE'RE WORKING WITH A LONG TIME AGO.

A WELL, IT IS AND I HAVE TO THINK ABOUT THESE THINGS.

Q THAT'S FINE.

A AND IN ALL SINCERITY I DON'T REMEMBER SOME OF THOSE THINGS. YOU KNOW, AS TO HOW IT WORKED I HAVE TO THINK ABOUT IT BECAUSE I JUST HAVEN'T THOUGHT ABOUT THESE THINGS.

Q WERE PEOPLE INVOLVED IN THE COORDINATED CAMPAIGN INVOLVED IN ANY TELEVISION OR RADIO ADS?

A RADIO AND TELEVISION?

Q UH-HUH.

A WELL, I'M SURE THERE WAS -- THE COORDINATED CAMPAIGN?

Q UH-HUH.

A YES. YES.

Q WERE THEY INVOLVED IN ADS OF THE

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KENTUCKY DEMOCRATIC PARTY OR IN ADS OF THE INDIVIDUAL CANDIDATES?

A THE PEOPLE WHO WORKED AT THE COORDINATED CAMPAIGN HAD -- I DON'T THINK THEY WOULD HAVE BEEN INVOLVED IN ANY -- MAYBE DIRECTLY.

Q YOU DON'T THINK THEY WOULD HAVE BEEN DIRECTLY INVOLVED WITH ADS?

A WELL, THE DEMOCRATIC PARTY DID AN AD AND I DON'T REMEMBER ABOUT THE COORDINATED CAMPAIGN.

Q WHEN DID THE KENTUCKY DEMOCRATIC PARTY FIRST DECIDE TO DO TV ADS FOR THE 1990 ELECTION?

A WHEN?

Q UH-HUH.

A WELL, I CAN'T TELL YOU EXACTLY WHEN, OF COURSE, BUT I MEAN I'M SURE IT WAS DISCUSSED AND WE DID A DEMOCRATIC PARTY TV COMMERCIAL.

Q AND WHO WOULD YOU HAVE DISCUSSED THAT WITH?

A PROBABLY CUNNINGHAM AND SKIPPER MARTIN.

Q WHEN DID THE KENTUCKY DEMOCRATIC PARTY DECIDE TO RETAIN GREER, MARGOLIS, THE FIRM OF GREER, MARGOLIS, MITCHELL & ASSOCIATES?

A AREN'T THOSE -- ISN'T THAT THE SAME CONCERN THAT DR. SLOANE USED?

Q YES.

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A THAT DID HARVEY'S?

Q THIS IS THE FIRM THAT DID THE KENTUCKY DEMOCRATIC ADS, KENTUCKY DEMOCRATIC PARTY ADS; IS THAT CORRECT?

A YES.

Q AND WHEN WAS IT THAT THE PARTY DECIDED TO USE THEM FOR THE ADS, DO YOU KNOW?

A I DON'T KNOW. I DON'T REMEMBER.

Q WHO WOULD HAVE MADE THAT DECISION TO RETAIN THEM?

A I THINK THEY'RE THE SAME FIRM THAT HARVEY USED TO DO HIS COMMERCIALS. AND WHO WOULD HAVE MADE THE DECISION, IS THAT YOUR QUESTION, TO USE THAT CONCERN? PROBABLY MYSELF, SKIPPER MARTIN AND CUNNINGHAM.

Q DID YOU HAVE A CONVERSATION WITH HARVEY SLOANE ABOUT GREER, MARGOLIS?

A NO, MA'AM.

Q HOW IS IT THAT YOU DECIDED TO RETAIN GREER, MARGOLIS?

A TO BE VERY HONEST WITH YOU I'VE NEVER HAD A CONVERSATION WITH THOSE PEOPLE.

Q WITH GREER MARGOLIS?

A THAT'S RIGHT. AS MARY ANN JOHNSON I'VE NEVER HAD A CONVERSATION WITH THOSE PEOPLE. I'D SAY WE DECIDED PROBABLY WITH CUNNINGHAM SINCE I THINK THEY'RE THE

SAME FIRM WHO WAS DOING HARVEY'S COMMERCIALS.

Q AND I'M SORRY, WHAT'S THE TIE THERE WITH CUNNINGHAM?

A WELL, JIM CUNNINGHAM WAS HARVEY SLOANE'S CAMPAIGN MANAGER. AM I GETTING YOU CONFUSED WITH ALL THESE PEOPLE?

Q NO, NO, NOT AT ALL. I'M JUST TRYING TO PINPOINT WHAT CUNNINGHAM'S ROLE WOULD HAVE BEEN.

A WELL, HARVEY WAS SLOANE'S CAMPAIGN MANAGER.

Q AND WHEN WAS THAT?

A I DON'T KNOW WHEN HE TOOK SLOANE'S CAMPAIGN. I MEAN I CAN'T TELL YOU THAT.

Q PRIOR TO OR AFTER WORKING FOR THE COORDINATED CAMPAIGN?

A HE WAS THE CAMPAIGN MANAGER DURING HARVEY'S CAMPAIGN PERIOD.

Q AND HE ALSO -- WAS HE INVOLVED WITH THE COORDINATED CAMPAIGN AT ALL?

A NOT DIRECTLY.

Q WHAT WAS HIS INVOLVEMENT?

A WELL, ANYONE WHO WOULD BE A CAMPAIGN MANAGER FOR ANY CANDIDATE RUNNING WOULD AUTOMATICALLY BE MAYBE INVOLVED AS FAR AS PLANNING THINGS ARE CONCERNED. YOU KNOW, OBVIOUSLY YOU'RE NOT GOING TO IGNORE SOMEONE'S

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MANAGER.

Q SO MR. CUNNINGHAM IN SOME WAY HAD A ROLE IN THE KENTUCKY DEMOCRATIC PARTY DECIDING TO USE GREER FOR THEIR ADS; IS THAT ACCURATE?

A I CAN'T TRUTHFULLY SAY THAT. I'M THINKING, AND YOU KNOW, THIS IS SOMETHING THAT I DON'T REMEMBER, I THINK IT WAS TALKED ABOUT BETWEEN MARY ANN JOHNSON, MARTIN AND CUNNINGHAM AND I THINK THAT WE DECIDED TO USE THESE PEOPLE BASED ON THE FACT THAT, I'M THINKING, THAT THEY DID HARVEY'S COMMERCIALS. BUT YOU KNOW, WHEN YOU'RE ASKING ME WHEN AND WHY AND THESE THINGS, TO BE VERY HONEST SOME OF THIS STUFF I DON'T REMEMBER.

Q I UNDERSTAND.

A AND YOU'VE GOT TO UNDERSTAND THAT WAS A BUSY PLACE.

Q SO DID YOU HAVE THE FINAL SAY-SO ON WHO WAS CHOSEN TO DO THE ADS OR WAS THAT --

A THE DEMOCRATIC PARTY AD?

Q YES.

A WELL, I'M SURE I WOULD HAVE HAD.

Q WHAT ROLE DID THE SLOANE CAMPAIGN HAVE IN DECIDING TO -- IN THE KENTUCKY DEMOCRATIC PARTY DECIDING TO RUN THEIR ADS, ASIDE FROM WHAT WE'VE ALREADY DISCUSSED ABOUT MR. CUNNINGHAM AND THE GREER FIRM?

A ASK ME THAT AGAIN.

Q SURE. WHAT ROLE DID THE SLOANE CAMPAIGN HAVE IN THE KENTUCKY DEMOCRATIC PARTY'S DECISION TO RUN THEIR ADS, THE KENTUCKY DEMOCRATIC PARTY'S ADS?

A WELL, YOU'VE GOT TO UNDERSTAND THAT EVERYBODY WAS WANTING -- ALL CANDIDATES WERE WANTING -- THE DEMOCRATIC NOMINEES WERE WANTING THESE ADS RUN. YOU'VE GOT TO UNDERSTAND THAT WE JUST COME OFF OF A BIG TAX INCREASE AND SOME OF THESE PEOPLE WERE BARELY GOING TO EDGE BY. FOR INSTANCE, CONGRESSMAN PERKINS JUST SNEAKED BY THE SKIN OF HIS TEETH. YOU KNOW, IT WAS IMPORTANT AT THAT POINT IN TIME TO DO EVERYTHING POSSIBLE TO ELECT DEMOCRATES AND SOME OF THESE PEOPLE WEREN'T -- IT WASN'T GOING TO BE A PIECE OF CAKE TO GET THEM ELECTED.

Q SO DID THE SLOANE CAMPAIGN, WERE THEY ACTUALLY INVOLVED IN DECIDING TO RUN THESE ADS?

A I CAN'T TELL YOU THEY WERE INVOLVED. I'M SURE THAT WE SIT DOWN AND TALKED ABOUT IT.

Q AND WHO WOULD YOU HAVE TALKED ABOUT IT WITH? WOULD YOU HAVE TALKED ABOUT IT WITH DR. SLOANE?

A NO. TO MY KNOWLEDGE I NEVER HAD A CONVERSATION PERTAINING TO THE ADS WITH HARVEY. IT WOULD HAVE BEEN CUNNINGHAM AND MARTIN.

Q AND DO YOU RECALL HAVING A CONVERSATION WITH JAMES CUNNINGHAM ABOUT RUNNING THE ADS?

A THE KENTUCKY DEMOCRATIC PARTY ADS?

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Q YES.

A I'M SURE I DID. I DON'T REMEMBER WHAT WAS SAID, BUT I FEEL LIKE I HAD THE CONVERSATION.

Q DO YOU KNOW IF ROB BINGHAM HAD ANY ROLE IN THE DECISION TO RUN THESE ADS?

A WELL, NOT THROUGH ME. I KNOW WHO HE IS AND I KNOW HE WORKED FOR HARVEY, BUT HE DID NOT WORK OUT AT DEMOCRATIC HEADQUARTERS. HE WORKED, I'M ASSUMING OUT OF HARVEY'S HEADQUARTERS HERE IN LOUISVILLE AT THE TIME.

Q SO HE WASN'T AT ALL CONNECTED WITH THE KENTUCKY DEMOCRATIC PARTY?

A NO, MA'AM, HE WASN'T.

Q OR THE COORDINATED CAMPAIGN?

A NO.

Q DO YOU KNOW IF HE HAD ANY ROLE IN THE KENTUCKY DEMOCRATIC PARTY CHOOSING GREER TO DO THE ADS, THE GREER FIRM?

A NOT THROUGH ME HE NEVER DISCUSSED IT. I ONLY SAW HIM AT A COUPLE OF FUNCTIONS. I WOULDN'T KNOW HIM IF HE WALKED THROUGH THE DOOR, SO THEREFORE I KNOW WHO YOU'RE TALKING ABOUT BUT I HAD NO CONTACT WITH MR. BINGHAM.

Q DID THE DEMOCRATIC NATIONAL COMMITTEE HAVE ANY ROLE IN THE DECISION TO RUN THE KENTUCKY DEMOCRATIC PARTY'S ADS?

A YOU MEAN WAS IT DISCUSSED WITH THEM?

Q YES.

A PROBABLY WAS.

Q AND WHO WOULD YOU HAVE SPOKEN WITH ABOUT THAT?

A PAUL TULLEY WHO WAS THE POLITICAL DIRECTOR AT THAT TIME.

Q AND WOULD THEY HAVE HAD A ROLE IN THE FUNDING OF THAT, OF THE ADS?

A PROBABLY SO. BECAUSE WHEN YOU'RE SITTING AT DEMOCRATIC HEADQUARTERS, YOU'VE GOT TO UNDERSTAND THAT YOU'RE ON THE PHONE FIVE DAYS A WEEK ASKING FOR DONATIONS.

Q HOW DID THE KENTUCKY DEMOCRATIC PARTY RAISE THE FUNDS THAT WERE USED FOR THE TELEVISION ADS?

A WELL, I DON'T REMEMBER CONCRETELY. OF COURSE, WE HAD FUNDRAISERS. WE RAISED -- SOME LABOR GAVE SOME MONEY.

Q I'M SORRY BY LABOR YOU MEAN?

A LABOR IN WASHINGTON GAVE SOME MONEY AND I DON'T RECALL HOW MUCH RIGHT OFF BUT THEY DID GIVE MONEY. WE GOT MANY CONTRIBUTIONS.

Q WERE ANY OF THESE CONTRIBUTIONS SOLICITED SPECIFICALLY FOR THE ADS? IN OTHER WORDS WAS THERE A FUNDRAISING EFFORT IN WHICH YOU WERE RAISING FUNDS

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SPECIFICALLY FOR THE --

A TO PAY FOR TV?

Q -- TV AND RADIO ADS?

A I'D SAY SO.

Q AND WHO WOULD HAVE BEEN IN CHARGE OF THAT FUNDRAISING EFFORT?

A WELL, EVERYBODY OUT THERE WAS TRYING TO RAISE MONEY, BUT ARE YOU TALKING ABOUT RAISING MONEY IN WASHINGTON OR ARE YOU TALKING ABOUT RAISING MONEY IN KENTUCKY?

Q LET'S TALK ABOUT RAISING MONEY IN KENTUCKY FIRST. WELL, DID IT MAKE A DIFFERENCE AS FAR AS RAISING MONEY IN KENTUCKY VERSUS RAISING MONEY IN WASHINGTON FOR THESE ADS?

A NO.

Q SO WHO -- IS IT SEPARATE PEOPLE WHO WOULD HAVE BEEN INVOLVED IN RAISING THE MONEY IN WASHINGTON VERSUS RAISING THE MONEY IN KENTUCKY?

LET ME ASK YOU THIS. DID THE DEMOCRATIC NATIONAL PARTY ITSELF HAVE ANY FUNDRAISING EFFORTS TO RAISE MONEY FOR ADS?

A I COULDN'T -- I DON'T KNOW THAT THEY HAD ANY FUNDRAISING EFFORT. THE DEMOCRATIC NATIONAL PARTY WAS VERY, VERY INTERESTED IN KENTUCKY. THEY VERY MUCH WANTED, OF COURSE, HARVEY SLOANE TO WIN. THEY WANTED TO

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UNSEAT MITCH MCCONNELL AND IT WAS A VERY TARGETED STATE AT THAT TIME.

Q BUT YOU'RE NOT AWARE OF ANYONE WHO WOULD HAVE BEEN IN CHARGE IN WASHINGTON OF RAISING FUNDS?

A NO, NOT RIGHT OFF.

Q WAS THERE SOMEONE LOCALLY IN KENTUCKY WHO WAS IN CHARGE OF RAISING FUNDS FOR THE ADS?

A WELL, WE WERE RAISING MONEY DAILY FOR THE COORDINATED CAMPAIGN. WE WERE RAISING MONEY FOR HARVEY, FOR THE DEMOCRATIC PARTY.

Q CORRECT ME IF I'M WRONG, DID YOU EARLIER SAY THAT YOU SPECIFICALLY RAISED MONEY FOR THE ADS?

A WE WERE CONSTANTLY RAISING MONEY DURING THE CAMPAIGN.

Q WERE THERE ANY SOLICITATIONS THAT WENT OUT TO PEOPLE WHERE YOU SAID WE'D LIKE TO RUN THESE ADS, WILL YOU GIVE US A CONTRIBUTION TO --

A I'M SURE THERE WERE MANY PHONE CALLS MADE SAYS WE NEED MONEY.

Q BUT WAS THAT PART OF THE GENERAL FUNDRAISING OR WAS THAT SPECIFIC TO THE ADS?

A WELL, ANY TIME YOU'RE IN A CAMPAIGN AND YOU'RE GETTING DOWN TO THE WIRE, EVERYBODY IS GOING FRANTIC TO RAISE MONEY. I MEAN THAT'S ALWAYS THE BOTTOM

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LINE.

Q WAS THERE EVER A SOLICITATION EFFORT WHERE YOU CALLED OR WROTE OR CONTACTED PEOPLE SAYING WE WANT TO RUN THESE ADS, WILL YOU CONTRIBUTE SO THAT WE CAN RUN THESE ADS OR ANYTHING ALONG THAT LINE?

A I'M SURE.

Q AND THAT EFFORT, WHO WOULD HAVE ORGANIZED THAT EFFORT?

A WHO WOULD HAVE ORGANIZED THE FUNDRAISING?

Q UH-HUH.

A I DON'T REMEMBER WHO WAS IN CHARGE OF THE FUNDRAISING. AND YOU'RE TALKING ABOUT THE DEMOCRATIC PARTY HERE?

Q THE KENTUCKY DEMOCRATIC PARTY, YES.

A OKAY. I DON'T REMEMBER WHO WAS IN CHARGE.

Q WAS THERE SEPARATE FUNDRAISING WITH THE COORDINATED CAMPAIGN FOR THESE ADS?

A THERE WAS SEPARATE FUNDRAISING -- I DON'T THINK SO. I THINK YOU'VE GOT TO UNDERSTAND THAT HARVEY, OF COURSE, WAS RAISING MONEY HIMSELF. ALL THE CANDIDATES WERE RAISING MONEY THEMSELVES. IT WASN'T JUST HARVEY, BUT THERE WERE SOME PEOPLE IN THE COORDINATED CAMPAIGN WERE -- I DON'T REMEMBER WHO WAS IN CHARGE OF

FUNDRAISING FOR THE COORDINATED CAMPAIGN. I DON'T.

Q WOULD FUNDS THAT WERE BEING SOLICITED BY THE CANDIDATES THEMSELVES GO TO EITHER THE KENTUCKY DEMOCRATIC PARTY OR THE COORDINATED CAMPAIGN FOR THESE ADS?

A IF THEY WERE FOR THE ADS THEY WOULD HAVE HAD TO COME TO THE DEMOCRATIC PARY TO HAVE BEEN PAID FOR.

Q BUT WAS THERE SOLICITATION FOR THE ADS BEING DONE BY THE CANDIDATES THEMSELVES?

A I DON'T KNOW. I DON'T KNOW.

Q SO ARE YOU AWARE OF ANY FUNDS THAT WERE SENT BY THE SLOANE COMMITTEE TO THE KENTUCKY DEMOCRATIC PARTY TO PAY FOR THESE ADS?

A NO, MA'AM.

Q WERE THESE ADS PAID FOR FROM THE FEDERAL ACCOUNT OF THE KENTUCKY DEMOCRATIC PARTY OR THE NON-FEDERAL ACCOUNT?

A I DON'T KNOW. I DON'T REMEMBER.

MR. MCKINNEY: I THINK WE CAN STIPULATE THAT THAT ACCOUNT WOULD PROBABLY BE LISTED ON THOSE CAMPAIGN REPORTS FOR THAT PERIOD OF TIME, AND WHATEVER THE CAMPAIGN REPORTS SAY WOULD ACCURATELY REFLECT THE ACCOUNT THAT IT CAME FROM.

Q DO YOU KNOW IF THERE WOULD BE ANY

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PARTICULAR REASON WHY IT WOULD BE PAID FROM ONE ACCOUNT AS OPPOSED TO THE OTHER?

A WELL, THERE'S JUST RULES AND REGULATIONS, OF COURSE, AS TO WHAT YOU CAN PAY OUT OF CERTAIN ACCOUNTS AND THE BOOKKEEPER ALWAYS TOOK CARE OF THAT AND DID A BEAUTIFUL JOB.

Q MISS JOHNSON, WERE YOU INVOLVED IN DETERMINING THE CONTENT OF THE KENTUCKY DEMOCRATIC PARTY'S AD?

A NO.

Q WHO WOULD HAVE MADE THOSE TYPES OF DECISIONS?

A THE PEOPLE -- I THINK THE WAY IT WAS THE PEOPLE WHO PUT THE ADS TOGETHER, AND PROBABLY TALKED TO CUNNINGHAM ABOUT IT, BUT I THINK WE PRETTY MUCH LEFT IT UP TO THEM.

Q LEFT IT UP TO GREER?

A UH-HUH. YES, MA'AM.

Q BUT JAMES CUNNINGHAM HAD CONTACT WITH GREER AS FAR AS YOU KNOW ABOUT --

MR. MCKINNEY: I'M GOING TO OBJECT. I DON'T THINK THAT'S WHAT SHE SAID.

MS. MOTT: I'M SORRY. COULD YOU -- CAN I GET YOU TO READ BACK THE LAST READ STATEMENT THAT SHE MADE. I MAY HAVE MISUNDERSTOOD.

(THE ANSWER BEGINNING ON PAGE 38 LINE 13 WAS READ BACK.)

BY MS. MOTT:

Q WHO WOULD HAVE TALKED TO CUNNINGHAM ABOUT THE ADS, ABOUT THE KENTUCKY DEMOCRATIC PARTY ADS?

A WHO WOULD HAVE TALKED TO CUNNINGHAM?

Q YES. WHEN YOU SAID THAT DID YOU MEAN THAT --

A IF --

Q I'M SORRY. GO AHEAD.

A IF MY MEMORY SERVES ME RIGHT, I THINK CUNNINGHAM TALKED TO GREER. THEY PUT THE ADS TOGETHER AND I THINK WE PRETTY MUCH LEFT IT UP TO GREER AS TO WHAT THE CONTENT OF THE AD WAS.

Q AND DO YOU KNOW IF -- DO YOU KNOW IF ROB BINGHAM HAD ANY ROLE IN THE CONTENT OF THE KENTUCKY DEMOCRATIC ADS?

A CERTAINLY NOT TO MY KNOWLEDGE.

Q DID YOU PREVIEW THOSE ADS?

A I THINK I SAW THE AD BEFORE IT WENT ON TELEVISION, YES, MA'AM.

Q AND DID ANYONE ELSE WITHIN THE KENTUCKY DEMOCRATIC PARTY PREVIEW THOSE ADS?

A I DON'T REMEMBER.

Q WOULD JAMES CUNNINGHAM HAVE PREVIEWED

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THOSE ADS?

A I DON'T REMEMBER.

Q SKIPPER MARTIN?

A I REALLY DON'T REMEMBER WHO ALL.

Q WHO ACTUALLY APPROVED THE ADS BEFORE THEY WERE AIRED?

A WELL, I'D SAY I DID.

Q DO YOU KNOW IF JAMES CUNNINGHAM HAD ANY APPROVAL OF THOSE ADS?

A NOT TO MY KNOWLEDGE.

Q AND DO YOU KNOW IF ANY MEMBER OF THE SLOANE CAMPAIGN WOULD HAVE PREVIEWED OR APPROVED THOSE ADS?

A NO, MA'AM.

Q I'M SORRY, YOU DON'T KNOW OR THEY DID NOT?

A TO MY KNOWLEDGE THEY DID NOT.

Q OKAY. WERE YOU AWARE THAT THE GREER FIRM HAD PROVIDED THE SLOANE CAMPAIGN INFORMATION ABOUT THE ADS?

A WHAT TYPE OF INFORMATION ARE YOU TALKING ABOUT?

Q INFORMATION ABOUT THE COST OF THE ADS, WHEN THE ADS WOULD BE RUN.

A THAT GREER PROVIDED THAT INFORMATION TO

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CUNNINGHAM?

Q TO THE SLOANE CAMPAIGN, YES.

A I DON'T KNOW.

Q WAS THE KENTUCKY DEMOCRATIC PARTY KEPT ABREAST OF ADS THE INDIVIDUAL CANDIDATES WOULD BE RUNNING?

A NOT ALL THE TIME.

Q DID GREER, MARGOLIS EVER GIVE THE KENTUCKY DEMOCRATIC PARTY ANY INFORMATION ABOUT THE SLOANE ADS THAT WERE RUN?

A NOT TO MY KNOWLEDGE.

Q DO YOU KNOW OF ANYONE WITHIN THE KENTUCKY DEMOCRATIC PARTY OR THE COORDINATED CAMPAIGN THAT WOULD HAVE RECEIVED ANY INFORMATION FROM GREER ABOUT THE SLOANE CAMPAIGN ADS?

A PROBABLY CUNNINGHAM, THE CAMPAIGN CHAIRMAN.

Q IS THERE ANYONE WITHIN THE --

A BUT SKIPPER MARTIN HAD CHARGE OF THE COORDINATED CAMPAIGN.

Q DID THE KENTUCKY DEMOCRATIC PARTY ACTUALLY RECEIVE ANY COPIES OF TAPES OR SCRIPTS OF THE SLOANE ADS?

A I DON'T REMEMBER.

Q DO YOU KNOW WHO MIGHT KNOW THAT?

A NO.

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Q DO YOU KNOW WHO THE CONTACT WITH GREER, MARGOLIS WAS FOR THE KENTUCKY DEMOCRATIC PARTY?

A NOT RIGHT OFF I DON'T.

Q DOES THE NAME KEVIN GETTINGS MEAN ANYTHING TO YOU?

A I'VE HEARD THE NAME.

Q DO YOU KNOW IF -- DO YOU KNOW IF HE WAS INVOLVED IN THE KENTUCKY DEMOCRATIC PARTY ADS AT ALL?

A I DON'T KNOW.

Q MISS JOHNSON, LET'S TALK ABOUT THE TRANSFERS OF FUNDS THAT THE KENTUCKY DEMOCRATIC PARTY RECEIVED FROM THE DNC DURING THAT PERIOD. IN OCTOBER IT APPEARS THAT WHAT WAS REPORTED WAS FIVE TRANSFERS OF FUNDS FROM THE DEMOCRATIC NATIONAL COMMITTEE TO THE KENTUCKY DEMOCRATIC PARTY. DO YOU RECALL IF ANY OF THOSE HAD ANY INDICATION FROM THE DEMOCRATIC PARTY AS TO WHAT THAT MONEY WAS TO BE SPENT FOR?

A YOU MEAN WHEN MONEY WAS SENT WAS IT STIPULATED THAT IT WAS SPENT FOR TV FOR INSTANCE, OR WHATEVER?

Q YES.

A I DON'T REMEMBER, BUT I THINK THAT'S WHAT THE MONEY WAS SPENT FOR WAS TELEVISION. I DON'T REMEMBER.

Q DO YOU REMEMBER IF THE DEMOCRATIC

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NATIONAL COMMITTEE ACTUALLY INDICATED THAT THAT'S WHAT THE MONEY WAS TO BE SPENT FOR? IS THERE ANYTHING IN WRITING OR DID YOU EVER HAVE A CONVERSATION WITH ANYONE AT THE DEMOCRATIC NATIONAL COMMITTEE THAT SAID BASICALLY WE'RE SENDING THIS MONEY, USE IT FOR ADS?

A I DON'T RECALL THAT CONVERSATION.

Q DO YOU RECALL THERE BEING ANY RESTRICTIONS IN LETTERS THAT WOULD HAVE ACCOMPANIED THE CHECKS OR ANY CONVERSATION SAYING THAT THERE ARE CERTAIN THINGS THAT YOU COULD NOT USE THE MONEY FOR?

A I DON'T RECALL.

Q THE MONEY THAT WAS SENT FROM DNC WAS USED -- WAS THAT USED FOR ANY PARTICULAR PURPOSE?

A I DON'T RECALL WHAT ALL, BUT I'M SURE IT DID PAY FOR TELEVISION.

Q RADIO?

A AND I'M NOT SURE ABOUT RADIO.

Q DID THE KENTUCKY DEMOCRATIC PARTY ASK THE DNC FOR THIS MONEY OR DID DNC JUST SEND THE MONEY?

A I WAS ALWAYS ASKING FOR MONEY.

Q AREN'T WE ALL?

A THEY THOUGHT OH, NO, NOT THAT LADY AGAIN.

Q SO YOU THINK AT THIS POINT THAT YOU DID?

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A I'M SURE I DID, YES. BECAUSE I ASKED ANYONE THAT I THOUGHT HAD ANY MONEY AT ALL TO GIVE TO THE DEMOCRATIC PARTY.

Q NOW, MONEY THAT DNC SENT WAS DEPOSITED IN THE KENTUCKY DEMOCRATIC PARTY'S ACCOUNTS; IS THAT CORRECT?

A I DON'T REMEMBER IF IT WAS DEPOSITED IN THE KENTUCKY DEMOCRATIC PARTY ACCOUNT OR THE COORDINATED CAMPAIGN ACCOUNT. I DON'T REMEMBER. BUT I THINK THE FINANCE REPORT WOULD SHOW THAT.

Q ON OCTOBER 9TH AND OCTOBER 14TH -- I'M SWITCHING GEARS ON YOU HERE. THIS IS REGARDING CONTRIBUTIONS RECEIVED FROM THE ASSOCIATION OF TRIAL LAWYERS -- AMERICAN ASSOCIATION OF TRIAL -- AMERICAN TRIAL LAWYERS ASSOCIATION. THANK YOU. CONTRIBUTIONS WERE MADE TO THE KENTUCKY DEMOCRATIC PARTY ON OCTOBER 9 AND OCTOBER 14. DO YOU RECALL THESE PARTICULAR CONTRIBUTIONS?

A I REMEMBER THEY SENT MONEY, YES.

Q WAS THAT SOLICITED BY YOU OR WAS THAT AGAIN, WAS THAT JUST SENT IN AS A CONTRIBUTION?

A BELIEVE ME, VERY FEW PEOPLE EVER SENT IT IN. I'M SURE THAT I SOLICITED THE MONEY. I DON'T REMEMBER WHO AND HOW, BUT YES, I'M SURE I DID.

Q AND WOULD THAT MONEY HAVE BEEN SOLICITED SPECIFICALLY FOR THE ADS?

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A FOR ADS OR CAMPAIGN EXPENDITURES.

Q WERE THOSE CONTRIBUTIONS RESTRICTED IN ANY WAY WHEN THEY WERE GIVEN TO THE KENTUCKY DEMOCRATIC PARTY?

A I DON'T REMEMBER.

Q AND THE CONTRIBUTIONS BY ATLA, WHAT ACCOUNT WERE THEY DEPOSITED INTO, DO YOU REMEMBER?

A I DON'T REMEMBER THAT EITHER.

MS. MOTT: LET'S TAKE A BREAK.

(THERE WAS A SHORT BREAK TAKEN.)

MS. MOTT: BACK ON THE RECORD.

BY MS. MOTT:

Q I'M JUST GOING TO BACK UP WITH A COUPLE OF QUESTIONS THAT WE KIND OF GOT SIDETRACKED ON AND THAT I MISSED, SO THEY'RE PROBABLY NOT GOING TO SOUND VERY COHERENT HERE.

WHAT WERE THE DUTIES OF JIM CAULEY WITH THE -- HE WAS WITH THE COORDINATED CAMPAIGN?

A YES, MA'AM.

Q WHAT WERE HIS ACTUAL DUTIES WITH THE COORDINATED CAMPAIGN?

A I THINK HE DID ORGANIZATIONAL WORK.

Q MEANING ORGANIZING EVENTS, FUNDRAISING?

A I THINK THAT WAS ONE OF HIS DUTIES. HE WORKED WITH COUNTIES IN ORGANIZING EVENTS.

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Q YOU HAD STATED THAT THE KENTUCKY DEMOCRATIC PARTY HAD GONE WITH THE GREER FIRM BECAUSE SLOANE HAD USED THEM; IS THAT CORRECT?

A THAT'S WHAT I SAID AND THAT'S WHAT I THINK.

Q WHY WAS THAT A FACTOR IN YOUR DECISION TO CHOOSE GREER?

A WELL, I ASSUME BECAUSE WE VERY MUCH WANTED TO DO A DEMOCRATE COMMERCIAL TO TRY TO GET THE VOTE OUT FOR VARIOUS REASONS, BUT IF MY THINKING SERVES ME RIGHT IN THE CONVERSATION, PERHAPS CUNNINGHAM SUGGESTED WE USE THEM.

Q AND THIS WAS A CONVERSATION THAT YOU HAD WITH JAMES CUNNINGHAM?

A I'M SURE THAT THAT WAS PART OF A CONVERSATION THAT WE HAD.

Q WHAT ROLE DID PAT TULLEY OF THE DNC HAVE IN THE KENTUCKY DEMOCRATIC PARTY'S ADS ASIDE FROM THE FUNDING?

A PAUL TULLEY?

Q I'M SORRY, PAUL TULLEY, YES.

A WHAT DID HE -- WHAT WAS HIS ROLE IN THE ADS?

Q UH-HUH.

A TO MY KNOWLEDGE NOTHING. HE HAD NO

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ROLE IN IT.

Q DO YOU KNOW IF HE HAD ANY ROLE IN THE SLOANE ADS?

A I DON'T KNOW. PAT TULLEY WAS THE POLITICAL DIRECTOR AT THE DNC.

Q PAT TULLEY?

A PAUL TULLEY.

Q I'M SORRY.

A PAUL TULLEY.

Q NOW YOU SAID YOU LOOKED AT THE KENTUCKY DEMOCRATIC PARTY ADS BEFORE THEY WERE ACTUALLY AIRED. WHERE WAS IT THAT YOU VIEWED THOSE?

A I THINK AT DEMOCRATIC HEADQUARTERS.

Q AT YOUR HEADQUARTERS?

A UH-HUH.

Q DO YOU REMEMBER WHO WAS WITH YOU WHEN YOU PREVIEWED THOSE?

A NO, I DON'T.

Q AND WHEN WAS IT THAT YOU PREVIEWED THOSE, DO YOU RECALL?

A I DON'T RECALL.

Q WAS PAUL TULLEY THE PERSON THAT YOU WOULD SPEAK WITH AT DNC WHEN YOU CALLED SOLICITING MONEY FROM THEM?

A YES. I'VE HAD CONVERSATIONS WITH HIM

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MANY TIMES PERTAINING TO MONEY.

Q AND WAS THERE ANYONE ELSE AT DNC?

A PERTAINING TO MONEY?

Q YES.

A I DON'T THINK SO.

Q DID YOU HAVE ANY CONVERSATION WITH ANYONE AT DNC ABOUT THE ADS?

A I DON'T RECALL.

Q I JUST WANT TO ASK YOU A COUPLE OF QUESTIONS ABOUT THE COORDINATED CAMPAIGN. WAS THAT A FEDERAL COMMITTEE? BY THAT I GUESS DO YOU KNOW IF THEY FILED ANY REPORTS WITH THE FEDERAL ELECTION COMMISSION?

A THE COORDINATED CAMPAIGN?

Q YES.

A I NEVER FILED ANY REPORTS, SO I DON'T KNOW ABOUT THE REPORTS.

Q BUT DO YOU KNOW IF IT WAS ACTUALLY A REGISTERED FEDERAL COMMITTEE?

A THE COORDINATED CAMPAIGN?

Q YES.

A I DON'T KNOW.

Q WHERE WERE THEIR OFFICES LOCATED?

A DEMOCRATIC HEADQUARTERS.

Q BUT I BELIEVE YOU STATED IT WAS A SEPARATE ENTITY FROM THE DEMOCRATIC HEADQUARTERS THOUGH?

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A THEIR OFFICES WERE AT DEMOCRATIC HEADQUARTERS. ONCE THE PRIMARY WAS OVER AND THE GENERAL ELECTION BEGAN THE COORDINATED CAMPAIGN MOVED IN.

Q MOVED INTO YOUR OFFICE SPACE?

A MOVED IN DEMOCRATIC HEADQUARTERS' OFFICE SPACE.

Q WHO ACTUALLY ORGANIZED AND STARTED THE COORDINATED CAMPAIGN?

A YOU MEAN WHO MADE THE DECISION TO RUN A COORDINATED CAMPAIGN; IS THAT YOUR QUESTION?

Q YES.

A PROBABLY MARY ANN JOHNSON AND JIM CUNNINGHAM.

Q WERE THERE PEOPLE FROM OTHER CAMPAIGNS WORKING WITH THE COORDINATED CAMPAIGN?

A YES. ARE YOU TALKING ABOUT A PAID POSITION OR JUST WORKING?

Q LET'S TALK ABOUT A PAID POSITION FIRST.

A NO PAID POSITION.

Q YOU SAID THERE WERE PEOPLE THAT CAME FROM THE SLOANE CAMPAIGN AND WORKED WITH THE COORDINATED CAMPAIGN; IS THAT CORRECT?

A YES.

Q AND THERE WERE PEOPLE FROM OTHER CANDIDATES' CAMPAIGNS THAT ALSO CAME AND WORKED FOR THE

COORDINATED CAMPAIGN?

A THEY WOULD COME AND WORK, YES, VOLUNTEERS, HAD MANY VOLUNTEERS.

Q WERE THE PEOPLE FROM THE SLOANE CAMPAIGN VOLUNTEERS AS WELL OR WERE THEY MOSTLY PAID?

A THE PEOPLE THAT CAME TO HEADQUARTERS AND WORKED FROM THE SLOANE CAMPAIGN, OF COURSE, WERE PAID PEOPLE, BUT THERE WERE PEOPLE WHO CAME TO HEADQUARTERS AND WORKED ON BEHALF OF HARVEY AND DEMOCRATES THAT WERE VOLUNTEERS.

Q THE PEOPLE WHO CAME FROM THE SLOANE CAMPAIGN WERE PAID BY --

A BY THE SLOANE CAMPAIGN IF THEY CAME IN AND WORKED OTHER THAN THE COORDINATED CAMPAIGN.

Q WERE ANY OF THOSE PEOPLE PAID BY THE COORDINATED CAMPAIGN ITSELF?

A IF THEY WERE AFFILIATED WITH HARVEY'S CAMPAIGN AND NOT THE COORDINATED CAMPAIGN, NO, THEY WERE NOT PAID BY THE COORDINATED CAMPAIGN. THEY WOULD HAVE BEEN PAID BY THE SLOANE CAMPAIGN.

Q DID YOU MAKE ARRANGEMENTS WITH GREER FOR THE KENTUCKY DEMOCRATIC PARTY ADS BEFORE OR AFTER YOU HAD THE MONEY TO PAY FOR THOSE ADS?

A WELL, OBVIOUSLY BEFORE THAT YOU HAVE A TV COMMERCIAL DONE YOU'RE GOING TO HAVE TO KNOW HOW YOU'RE

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GOING TO PAY FOR IT. YOU'RE GOING TO HAVE TO HAVE SOME COMMITMENTS THAT YOU'RE GOING TO GET MONEY. YOU KNOW, I'M SURE I DID BECAUSE I COULDN'T JUST GO OUT HERE AND ORDER A COMMERCIAL OR WHATEVER AND NOT KNOW HOW YOU'RE GOING TO PAY FOR IT. SO OBVIOUSLY I HAD SOME COMMITMENTS FROM PEOPLE WHO SAID HEY, I'LL RAISE YOU MONEY OR SEE THAT YOU GET MONEY TO PAY FOR IT.

Q WOULD ANY OF THOSE COMMITMENTS HAVE COME FROM THE DNC?

A WELL, I'M SURE I TALKED TO THE DNC AND I'M SURE THEY SAID WE'LL HELP YOU WITH SOME FUNDS.

Q THE SLOANE COMMITTEE?

A AS FAR AS HELPING PAY FOR THE DEMOCRATIC PARTY COMMERCIAL? THE SLOANE COMMITTEE, TO MY KNOWLEDGE, DID NOT PUT ANY MONEY IN THE DEMOCRATIC PARTY.

Q DID THEY HAVE ANY COMMITMENTS FROM CONTRIBUTORS WHO WOULD GIVE MONEY TO THE KENTUCKY DEMOCRATIC PARTY FOR ADS?

A I DON'T KNOW. BECAUSE, YOU KNOW, WHEN THEY RAISE MONEY I DON'T KNOW WHO THEY RAISED IT FROM. YOU COULD GO BACK AND CHECK THE RECORDS AND SEE WHERE THE MONEY COME FROM, BUT I DON'T KNOW ABOUT THEIR COMMITMENTS.

Q DID THEY EVER TELL YOU THAT THEY HAD COMMITMENTS FOR ANY ADS THAT WERE BEING RUN?

A WELL, IN CAMPAIGNS, HONEY, AND I'M NOT

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BEING CUTE, THEY'RE ALWAYS WALKING THROUGH THE DOOR AND SAY LOOK, I'VE GOT A FUNDRAISER AND WE'RE GOING TO RAISE 40 GRAN AND YOU MAY HAVE A FUNDRAISER AND HAVE $10,000. SO YOU'VE ALWAYS GOT PEOPLE RUNNING AROUND SAY, YOU KNOW, I'M GOING TO RAISE "X" AMOUNT OF DOLLARS. BUT YOU HAVE TO KNOW PRETTY MUCH CONCRETE WHERE THE MONEY IS COMING FROM BECAUSE YOU CAN'T AIR THE COMMERCIALS UNTIL YOU GET THE MONEY.

Q HOW LONG DID IT TAKE TO ACTUALLY PUT THE TELEVISION AD PROGRAM TOGETHER? ONCE YOU DECIDED TO DO THE ADS HOW LONG DID IT TAKE?

A I DON'T REMEMBER.

Q DO YOU KNOW HOW LONG IT TOOK THE GREER FIRM TO ACTUALLY COME UP WITH THE ADS ONCE THEY HAD BEEN RETAINED?

A I REALLY DON'T REMEMBER.

Q DO YOU KNOW IF THE PLAN TO DO THE ADS OCCURRED IN THE SPRING OF THAT YEAR OR WAS IT SOMETHING THAT CAME ABOUT LATE IN THE CAMPAIGN?

A WELL, IT OBVIOUSLY COULDN'T OF COME ABOUT IN THE SPRING. AT SOME POINT AFTER THE PRIMARY AND AS WE GOT INTO THE GENERAL CAMPAIGN, AT THAT TIME IS WHEN WE DECIDED WE WANTED TO DO A DEMOCRATIC PARTY COMMERCIAL.

Q SO THAT WOULD HAVE BEEN SOMETIME IN THE FALL THEN?

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A THAT'S RIGHT.

Q BUT IT WASN'T PART OF ANY LONG-TERM PLAN OF THE OVERALL --

A NO, MA'AM,

Q DO YOU HAVE ANYTHING YOU WOULD LIKE TO ADD TO THE RECORD?

A NO.

MS. MOTT: MR. MCKINNEY?

MR. MCKINNEY: NO.

Q PROCEDURALLY I'M JUST GOING TO GO THROUGH A COUPLE OF THINGS. YOU HAVE THE OPTION OF SIGNING THIS IF YOU WOULD LIKE. WHAT THAT WOULD ENTAIL IS READING THROUGH THE TRANSCRIPT, MAKING ANY CORRECTIONS THAT YOU BELIEVE DOES NOT ACCURATELY REFLECT WHAT HAD GONE ON HERE TODAY, AND THEN YOU WOULD SIGN IT AND THEN THE COURT REPORTER WOULD RETURN IT TO US. IF YOU DO WANT TO SIGN IT, YOU WOULD HAVE TO MAKE ARRANGEMENTS WITH THE COURT REPORTER TO VIEW THAT AT SOME POINT. I REALIZE YOU'RE OUT OF TOWN.

A WHAT TIME FRAME ARE YOU TALKING ABOUT?

MR. MCKINNEY: ABOUT 30 DAYS, ISN'T IT? WHY DON'T WE GET IN TOUCH WITH THE REPORTER AND WE'LL LET HER KNOW IF WE WAIVE SIGNATURE BECAUSE LOGISTICALLY IT'S A LITTLE BIT OF A PROBLEM. I'M UP NORTHERN KENTUCKY AND MARY ANN IS DOWN IN SOUTH CENTRAL KENTUCKY AND THE

REPORTER IS HERE IN LOUISVILLE AND A LOT OF REPORTERS DON'T LIKE TO SEND THE TRANSCRIPT OUT FOR SOMEBODY TO READ. AND I GUESS TO BE BLUNT THAT'S A LOT OF TROUBLE TO DRIVE BACK TO LOUISVILLE JUST TO REVIEW IT FOR SIGNATURE, SO WE MAY WAIVE SIGNATURE BUT WE HAVE TO CONSIDER THAT.

BY MS. MOTT:

Q MISS JOHNSON, PURSUANT TO THE ACT YOU WILL RECEIVE A CHECK FOR A WITNESS FEE AND ALSO FOR REIMBURSEMENT FOR MILEAGE. CAN YOU TELL ME APPROXIMATELY HOW FAR YOU TRAVELED TODAY TO BE HERE?

A WHAT IS IT, LIKE --

MR. MCKINNEY: I REALLY DON'T KNOW.

A ABOUT 120 MILES I'D SAY.

MS. WEISSENBORN: ONE WAY?

A WOULDN'T YOU THINK? BECAUSE IT'S LIKE -- IT MAY BE MORE THAN THAT BECAUSE IT WAS 100 MILES FROM MY HOUSE TO FRANKFORT.

MR. MCKINNEY: I'VE NEVER BEEN FROM LOUISVILLE TO FRANKFORT.

A PROBABLY 130 MILES. I'M NOT UNDER OATH IN TELLING THAT AM I?

MS. WEISSENBORN: YOU'RE ALSO NOT GOING TO GET RICH ONE WAY OR THE OTHER . . .

A NO, I UNDERSTAND THAT. BUT I MEAN, YOU KNOW . . .

Q AND TO WHAT ADDRESS WOULD YOU LIKE THE CHECK SENT?

A POST OFFICE BOX 125, BURNSIDE, KENTUCKY 42519.

Q ALTHOUGH I REALLY DON'T SEE ANY NEED TO FURTHER DEPOSE YOU OR TO HAVE TO GO THROUGH ANY OF THIS AGAIN, WHAT WE DO AS A MATTER OF COURSE IS INSTEAD OF ACTUALLY ADJOURNING A DEPOSITION WE CONTINUE IT.

MR. MCKINNEY: CONTINUE IT.

Q THAT'S CORRECT. AND WE DO THAT MOSTLY BECAUSE THE INVESTIGATION IS ONGOING. I'D LIKE TO THANK YOU FOR COMING TODAY, AND ONCE AGAIN, I JUST WANT TO REMIND YOU THAT IT'S CONFIDENTIAL AND HAS TO REMAIN THAT WAY UNTIL THE CASE IS CLOSED.

A OKAY. MY LIPS ARE SEALED.

MS. MOTT: WE'RE OFF THE RECORD.

(WITNESS EXCUSED)

*** *** ***

STATE OF KENTUCKY)
) SS.
COUNTY OF JEFFERSON)

I, MICHELE P. KEOWN, A NOTARY PUBLIC, WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING DEPOSITION OF

MARY ANN JOHNSON

WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH; THAT THE DEPOSITION WAS REDUCED TO SHORTHAND WRITING BY ME IN THE PRESENCE OF THE WITNESS; THAT THE FOREGOING IS A FULL, TRUE AND CORRECT TRANSCRIPT OF THE SAID DEPOSITION SO GIVEN; THAT THERE WAS NO REQUEST THAT THE WITNESS READ AND SIGN THE DEPOSITION; THAT THE APPEARANCES WERE AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR OF KIN TO THE PARTIES TO THIS ACTION, AND AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID ACTION.

WITNESS MY SIGNATURE THIS 29TH DAY OF OCTOBER, 1992.

MY COMMISSION EXPIRES THE 14TH DAY OF AUGUST, 1995.

Michele P. Keown

MICHELE P. KEOWN
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY

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92 NOV -4 AM 11:03
FEDERAL ELECTION COMMISSION
RECEIVED

IN RE: FEDERAL ELECTION COMMISSION

MUR 3182

* * * * * * * * * * *

DEPONENT: ANDREW SKIPPER MARTIN

DATE: OCTOBER 21, 1992

* * * * * * * * * * *

ORIGINAL

MICHELE P. KEOWN
COURT REPORTER

AFFILIATED REPORTERS
644 S. THIRD STREET, SUITE 214
CRESENT CENTRE
LOUISVILLE, KENTUCKY 40202
(502) 585-2800

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THE DEPOSITION OF ANDREW SKIPPER MARTIN, WAS TAKEN AT THE OFFICE OF THE U.S. ATTORNEY, 510 W. BROADWAY 8TH FLOOR, LOUISVILLE, JEFFERSON COUNTY, KENTUCKY, ON OCTOBER 21, 1992 AT APPROXIMATELY 10:00 A.M., UPON ORAL EXAMINATION.

APPEARANCES

FOR MR. MARTIN:

WILLIAM S. WETTERER, III,, ESQ.
MULLOY, WALZ, WETTERER,
FORE & SCHWARTZ
SUITE 700 NORTH
200 S. FIFTH STREET
LOUISVILLE, KY 40202

FOR THE FEDERAL ELECTION COMMISSION:

TONDA M. MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFF LONG
FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, DC 20463

* * * * * * * * *

ANDREW SKIPPER MARTIN, CALLED ON BEHALF OF THE FEDERAL ELECTION COMMISSION, AFTER BEING FIRST DULY SWORN, WAS EXAMINED AND DEPOSED AS FOLLOWS:

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DIRECT EXAMINATION

BY MS. MOTT:

Q MR. MARTIN, COULD YOU PLEASE STATE YOUR FULL NAME.

A ANDREW JACKSON MARTIN, JR.

Q AND YOU HAVE COUNSEL WITH YOU TODAY?

A YES, I DO.

MR. WETTERER: I'LL IDENTIFY MYSELF. I'M WILLIAM S. WETTERER, III. MY OFFICE ADDRESS IS 200 SOUTH FIFTH STREET, SUITE 700 NORTH. I'M AN ATTORNEY REPRESENTING MR. MARTIN TODAY.

Q MR. MARTIN, HAS ANYONE ELSE EVER REPRESENTED YOU IN THIS PARTICULAR MATTER?

A YES.

Q AND WHO WAS THAT?

A PAT MULLOY.

Q ANYONE ELSE?

A NO.

Q FOR THE RECORD MY NAME IS TONDA MOTT AND I REPRESENT THE OFFICE OF THE GENERAL COUNSEL, FEDERAL ELECTION COMMISSION. WITH ME TODAY IS ANNE WEISSENBORN OF THE OFFICE OF THE GENERAL COUNSEL AND ALSO JEFF LONG OF THE OFFICE OF GENERAL COUNSEL. THIS DEPOSITION IS BEING TAKEN PURSUANT TO THE FEDERAL ELECTION COMMISSION SUBPOENA ISSUED IN CONNECTION WITH AN INVESTIGATION UNDER SECTION

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437G OF TITLE II OF THE UNITED STATES CODE. THE COMMISSION HAS JURISDICTION OVER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AS AMENDED. THE STATUTE PROVIDES THAT THE CONFIDENTIALITY OF THIS INVESTIGATION MUST BE MAINTAINED UNTIL THE COMMISSION CLOSES ITS FILE IN THIS MATTER. LET ME EXPLAIN THIS TO YOU. THE COMMISSION CONSIDERS YOU A WITNESS RATHER THAN A RESPONDENT IN THIS MATTER, BUT IN THAT PARTICULAR SECTION THE CONFIDENTIALITY APPLIES TO YOU AS A WITNESS AS WELL.

A WHICH MEANS I DON'T NEED TO TALK ABOUT THIS TO ANYBODY ELSE?

Q EXACTLY. THAT'S CORRECT. THIS INVESTIGATION IS DESIGNATED AS MATTER UNDER REVIEW OR MUR 3182. HAVE YOU EVER HAD A DEPOSITION TAKEN BEFORE, MR. MARTIN?

A YES.

Q IN THIS MATTER?

A NO, NOT IN THIS MATTER. OTHER THAN THE STATEMENT, THAT WAS THE EXTENT OF IT.

Q WHAT WAS THE CIRCUMSTANCES OF THE PREVIOUS DEPOSITIONS?

A I'M SORRY, YOU MEAN -- I HAVE HAD NO DEPOSITIONS REGARDING THIS MATTER. THE ONLY THING I'VE HAD REGARDING THIS MATTER ARE THESE AND I DON'T GUESS THAT WAS A DEPOSITION, WAS IT?

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MR. WETTERER: I THINK HE IS REFERRING TO ANSWERS TO INTERROGATORIES HE FILLED OUT.

Q OH, THE INTERROGATORIES?

A THE INTERROGATORIES. THEN NO IN REGARDING TO THIS MATTER, NO.

Q EVEN THOUGH YOU HAVE HAD A DEPOSITION TAKEN BEFORE I'M GOING TO JUST RUN THROUGH A COUPLE OF INSTRUCTIONS FOR YOU. I'LL BE ASKING A SERIES OF QUESTIONS THAT ARE NOT NECESSARILY LIMITED TO YOUR INVOLVEMENT BUT MAY INVOLVE OTHER PEOPLE AS WELL. PLEASE MAKE SURE THAT YOU VERBALLY ANSWER ALL THE QUESTIONS SO THAT THE COURT REPORTER CAN GET IT DOWN. IF YOU DON'T UNDERSTAND A QUESTION, PLEASE LET ME KNOW AND I CAN REPHRASE IT OR REPEAT IT FOR YOU. ALSO, AT ANY TIME IF YOU REALIZE THAT YOU HAVE GIVEN AN INCOMPLETE OR INACCURATE ANSWER, JUST LET ME KNOW AND WE CAN GO BACK AND CHANGE THAT FOR THE RECORD.

A SURE.

Q ONCE AGAIN I JUST REMIND YOU THAT YOU ARE UNDER OATH AND LET'S GET STARTED.

MR. MARTIN, CAN YOU TELL ME WHAT DOCUMENTS YOU REVIEWED IN PREPARATION FOR THIS DEPOSITION TODAY?

A THE INTERROGATORIES.

Q THAT WERE SENT BY YOU?

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A CORRECT.

Q AND THOSE ARE THE INTERROGATORIES THAT YOU PREVIOUSLY PROVIDED TO US?

A CORRECT.

Q DO YOU STILL RESIDE AT 11007 GREENOCK COURT?

A CORRECT.

Q AND WHAT IS THE PHONE NUMBER WHERE YOU CAN BE REACHED?

A OFFICE 564-7562. HOME [redacted]

Q AND ALSO FOR THE RECORD WE NEED YOUR SOCIAL SECURITY NUMBER.

A [redacted]

Q MR. MARTIN, CAN YOU JUST DESCRIBE FOR US YOUR EDUCATIONAL BACKGROUND JUST BRIEFLY?

A BACHELOR OF SCIENCE DEGREE, A MASTER'S DEGREE FROM UNIVERSITY OF LOUISVILLE.

Q AND WHERE ARE YOU PRESENTLY EMPLOYED?

A FOR THE LIEUTENANT GOVERNOR OF KENTUCKY.

Q AND HOW LONG HAVE YOU BEEN IN THAT POSITION?

A LESS THAN A YEAR. NINE MONTHS. SEVEN MONTHS.

Q AND IN 1990 WHERE WERE YOU EMPLOYED?

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A FOR THE ENTIRE YEAR?

Q WELL, LET'S START IN JANUARY.

A JANUARY '90 I WAS THE CAMPAIGN MANAGER FOR THE SLOANE FOR SENATE CAMPAIGN AND THEN IN, I'M GOING TO SAY JUNE OR RIGHT AFTER THE PRIMARY, I MOVED TO DEMOCRATIC HEADQUARTERS.

Q AND WHAT WERE YOUR DUTIES WITH THE DEMOCRATIC HEADQUARTERS?

A I WAS CAMPAIGN MANAGER OF THE COORDINATED CAMPAIGN.

Q IS THE COORDINATED CAMPAIGN PART OF THE KENTUCKY DEMOCRATIC PARTY?

A AT THAT TIME IT WAS A PART OF THE PARTY, YES. YES.

Q WERE YOU PAID BY THE PARTY?

A CORRECT.

Q THE TERM COORDINATED CAMPAIGN HAS COME UP SEVERAL TIMES AND WE'RE NOT REALLY SURE WHAT THAT IS. IF YOU COULD JUST EXPLAIN HOW THAT WORKS.

A I'M GOING TO EXPLAIN MY INTERPRETATION OF THE COORDINATED CAMPAIGN, WHICH WAS TO COORDINATE THE ACTIVITIES OF THE ENTIRE ELECTIONS OF 1990 OUT OF THE DEMOCRATIC HEADQUARTERS. THAT WOULD INCLUDE THE RACES FOR THE HOUSE RACES, THE SENATE RACES, STATE SENATE RACES, WORKING WITH THE LEADERSHIP OF THE HOUSE AND THE SENATE,

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TO COORDINATE THAT WITH THE SLOANE CAMPAIGN AND ALSO TO BRING IN THE OTHER ELECTIONS THAT YEAR, THE OTHER CONGRESSIONAL RACES AND ANY LOCAL RACES THAT EXISTED. SO IT WAS A COORDINATION OF ALL ELECTIONS, ALL CAMPAIGNS GOING ON IN 1990 FOR A SINGLE FOCUS OR AT LEAST A DIRECTION OUT OF THE DEMOCRATIC HEADQUARTER.

Q THAT WOULD HAVE BEEN FEDERAL AND NON-FEDERAL CANDIDIDATES?

A THAT WOULD HAVE BEEN FEDERAL AND NON-FEDERAL CANDIDATES, THAT'S CORRECT.

Q AT THE TIME THAT YOU WERE WORKING WITH THE COORDINATED CAMPAIGN, WERE YOU ALSO BEING PAID BY THE SLOANE COMMITTEE?

A NO. NO.

Q SO YOUR SOLE COMPENSATION AT THAT POINT WAS FROM THE KENTUCKY DEMOCRATIC PARTY?

A YES.

Q LET'S BACK UP AND TALK ABOUT YOUR WORK AT THE SLOANE COMMITTEE. WHAT EXACTLY WERE YOUR DUTIES WHEN YOU WORKED FOR THE SLOANE COMMITTEE?

A AS CAMPAIGN MANAGER FOR THE SLOANE '90 RACE I WAS CAMPAIGN MANAGER, SO I HAD THE ENTIRE CAMPAIGN TO COORDINATE, ORGANIZE AND MANAGE IN THE PRIMARY, SO THAT WAS JANUARY TO MAY 28TH, GIVE OR TAKE A COUPLE OF DAYS.

Q AND DID THAT INCLUDE MEDIA AS WELL?

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A IT INVOLVED -- THERE WAS INVOLVEMENT WITH MEDIA, YES. AS A PART OF THE RESPONSIBILITY OF THE CAMPAIGN IT WAS A PART OF THE MEDIA, YES.

Q DID YOU PERSONALLY -- WERE YOU PERSONALLY INVOLVED IN ANY TELEVISION OR RADIO ADS WITH THE SLOANE COMMITTEE?

A DON'T THINK I UNDERSTAND THE QUESTION TOTALLY, IF I WAS PERSONALLY INVOLVED.

Q AS THE CAMPAIGN MANAGER, DID YOU PERSONALLY HAVE INVOLVEMENT IN ARRANGING TELEVISION AND RADIO ADS FOR THE SLOANE COMMITTEE?

A YEAH, IN THE PRIMARY, WHAT ADS WE RAN, WHICH WEREN'T MANY, THERE WAS SOME SITE SELECTION OF LOCATIONS AND WORKING OUT VARIOUS DETAILS FOR THE MEDIA COMPANY.

Q AND WHAT WAS THE MEDIA COMPANY?

A GREER, MARGOLIS & MITCHELL.

Q SO THEY WERE THE AD FIRM FOR THE SLOANE COMMITTEE EVEN DURING THE PRIMARY; IS THAT CORRECT?

A CORRECT.

Q WHO DID YOU WORK WITH AT THE SLOANE COMMITTEE?

A AT THE SLOANE COMMITTEE. NOW, ARE WE STILL IN THAT TIME FRAME WHILE I WAS CAMPAIGN MANAGER?

Q DURING THE PRIMARY.

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A IN THE PRIMARY.

Q THAT'S CORRECT.

A WELL, I WAS THE SLOANE COMMITTEE. I MEAN I WAS THERE SO I WAS WORKING WITH MYSELF, BUT OTHERS. SO I MEAN I WAS WITH -- THERE WAS A NUMBER OF PEOPLE IN THAT TIME FRAME THAT I WAS CAMPAIGN MANAGER.

Q WAS JAMES CUNNINGHAM WORKING WITH THE SLOANE COMMITTEE AT THAT TIME?

A NO, NOT IN THE PRIMARY.

Q DURING THE PRIMARY WHEN YOU WERE WORKING FOR THE SLOANE COMMITTEE, DID ANYONE AT THE KENTUCKY DEMOCRATIC PARTY EVER -- DID YOU HAVE ANY INVOLVEMENT WITH THEM AS FAR AS ADS FOR THE SLOANE COMMITTEE?

A NO.

Q LET'S TALK ABOUT YOUR WORK AT THE COORDINATED CAMPAIGN.

A UH-HUH.

Q WHO FROM THE SLOANE COMMITTEE DID YOU -- WHO WAS THE CONTACT FROM THE SLOANE COMMITTEE WHEN --

A JIM CUNNINGHAM WAS THE PRINCIPAL CONTACT. TALKED TO MANY OTHER PEOPLE.

Q WHAT WAS MR. CUNNINGHAM'S --

A HE WAS CAMPAIGN MANAGER OF WHAT YOU

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WOULD CALL THE GENERAL CAMPAIGN.

Q DID YOU TALK TO HIM REGARDING ANY KIND OF TELEVISION OR RADIO ADS?

A THERE WAS PROBABLY SOME DISCUSSION THERE AT THE END AND MAYBE SOME AT THE BEGINNING, BUT I'M SURE THERE WAS SOME AT THE END.

Q AND THAT WOULD HAVE BEEN ABOUT THE SLOANE ADS?

A THOSE WERE -- WELL, I DON'T WANT TO CALL THOSE THE SLOANE ADS. AND I'M TRYING TO REMEMBER EXACTLY WHAT THEY DID SAY, BUT AS THOSE ADS WERE PLACED THERE WAS SOME DISCUSSION. I CAN'T RECALL ANY EXACT DISCUSSION BUT . . .

Q WHAT ABOUT THE ADS THAT WERE RUN BY THE KENTUCKY DEMOCRATIC PARTY?

A WELL, NOW THOSE ARE THE ONES I'D BE TALKING ABOUT. I'M TALKING ABOUT THE ONES RUN BY THE -- THE ADS OF THE DEMOCRATIC PARTY. SO ANYTHING I MENTIONED BEFORE THIS, I'M REFERRING TO THE ADS THAT WERE RUN AND PAID FOR BY THE KENTUCKY DEMOCRATIC PARTY.

Q SO YOU HAD SOME DISCUSSIONS WITH MR. CUNNINGHAM?

A GENERAL DISCUSSIONS. NOTHING REALLY SPECIFIC, BUT GENERAL DISCUSSIONS.

Q AND DID MR. CUNNINGHAM HAVE ANY

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DISCUSSIONS WITH YOU ABOUT THE SLOANE ADS THAT WERE RUN?

A I'M SURE THERE WAS SOME DISCUSSION BECAUSE THERE WERE ADS BEING RUN FROM WHENEVER THEY STARTED THEM UNTIL THE END OF THE RACE BECAUSE WE WERE BOTH HAD BEEN WORKING FOR THE SAME MAN. SO TO SAY THERE WAS NO DISCUSSION WOULD BE LITTLE BIT RIDICULOUS. I MEAN AS HARVEY RAN DIFFERENT ADS I'M SURE THERE WAS SOME DISCUSSION. THERE WAS GOODS ADS. THERE WERE BAD ADS. SO THERE WAS GENERAL DISCUSSION ABOUT HIS JUST GENERAL TELEVISION, DIRECTION OF HIS TELEVISION.

Q WAS THERE EVER ANY DISCUSSION ABOUT COORDINATING BETWEEN ADS BEING RUN BY THE SLOANE COMMITTEE VERSUS ADS BEING RUN BY THE KENTUCKY DEMOCRATIC PARTY?

A NO. THERE WAS NO DISCUSSION OF ANY COORDINATION OF ADVERTISING.

Q COORDINATION MAY BE A BAD WORD. LET ME TRY IT THIS WAY. DID YOU EVER DISCUSS WITH MR. CUNNINGHAM WE'RE GOING TO RUN OUR ADS AT THIS PARTICULAR TIME AND MR. CUNNINGHAM WOULD SAY, WELL, WE'RE GOING TO RUN OUR ADS AT THIS PARTICULAR TIME.

A NO. THERE WAS NO DISCUSSION OF ANY COORDINATION OR STRATEGY ABOUT FITTING ADS, ONE FITTING INTO THE OTHER OR ANY -- I'M TRYING TO USE ANOTHER WORD OTHER THAN COORDINATE. THERE WAS NO SCHEME OR COORDINATION TO MAKE THINGS WORK.

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Q CAN YOU TELL ME WHAT THE DNC'S ROLE WAS IN THE COORDINATED CAMPAIGN?

A NOT EXACTLY.

Q DO YOU KNOW IF THEY PROVIDED ANY GOODS OR SERVICES TO THE COORDINATED CAMPAIGN?

A NO. AND THE REASON I SAY THAT BECAUSE MY ROLE WAS MORE WITH THE INDIVIDUALS AND THE PLAYERS OF THE STATE. SO MY ROLE DID NOT DIRECTLY FIT WITH TALKING THAT MUCH TO THE DNC. SO FOR ME TO SAY THERE WAS NO ROLE, I MEAN IT WAS REALLY AN AREA THAT I WASN'T PRIVIED TO.

Q DO YOU KNOW IF THEY EVER PROVIDED ANY FUNDING SPECIFICALLY FOR THESE ADS?

A I DON'T KNOW AND I DON'T RECALL.

Q DO YOU KNOW ABOUT THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE WHETHER THEY HAD A ROLE IN IT?

A NO.

Q MR. MARTIN, DO YOU KNOW DID THE KENTUCKY DEMOCRATIC PARTY MAINTAIN SEPARATE FEDERAL AND NON-FEDERAL ACTIVITIES?

A I BELIEVE THEY DID. NOW I WAS NOT -- I WAS NOT PRIVIED TO THE BOOKKEEPING, BUT I BELIEVE THEY DID HAVE A GOOD FILING SYSTEM OF THE VARIOUS ACCOUNTS THAT WERE REQUIRED.

Q AND WHO WOULD HAVE BEEN IN CHARGE OF

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THE BOOKKEEPING?

A PAT GOINS WAS THE BOOKKEEPER AND MAYBE HAD ANOTHER TITLE UNDER THE CHAIR.

Q WAS THERE SOMEONE WHO WAS RESPONSIBLE FOR THE FEDERAL SIDE OF THE COORDINATED CAMPAIGN AND SOMEONE FOR THE NON-FEDERAL SIDE OF THE COORDINATED CAMPAIGN?

A NO.

Q SO ALL OF THAT WAS DONE TOGETHER THEN?

A IN REGARDS TO BOOKKEEPING?

Q IN REGARDS TO ACTIVITIES OR FUNDRAISERS?

A NO. I CAN'T SPEAK TO BOOKKEEPER, BUT ANYTHING OUTSIDE OF BOOKKEEPING I'D SAY NO, THERE WAS NOT A DIVISION BETWEEN THIS IS A NON-FEDERAL, THIS IS FEDERAL.

Q SO YOU WERE ESSENTIALLY IN CHARGE OF BOTH THE FEDERAL AND THE NON-FEDERAL ACTIVITIES THAT --

A ACTIVITIES OF THE GENERAL COORDINATION OF ALL THE RACES OUT OF THE DEMOCRATIC HEADQUARTERS AND UNDER DEMOCRATIC HEADQUARTERS.

Q DID THE STATE PARTY CREATE OR OBTAIN ANY VOTER LISTS IN THE 1990 CAMPAIGN?

A WE CREATED A VOTER FILE, YES.

Q AND WHERE DID THOSE NAMES COME FROM?

A OF COURSE ULTIMATELY THEY CAME FROM THE

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SECRETARY OF THE STATE FOR THE RECORDS. I BELIEVE WE HAD A PERSON WHO WAS KNOWLEDGEABLE THAT HELPED US CREATE A FILE AND I CAN'T RECALL HIS NAME.

Q DID HE WORK FOR THE KENTUCKY DEMOCRATIC PARTY?

A I DON'T KNOW IF HE GOT PAID BY THE PARTY. I DON'T KNOW THAT. I DON'T KNOW. I DON'T KNOW IF HE WAS PAID. HE MAY HAVE BEEN A VOLUNTEER. I DON'T KNOW.

Q AND YOU DON'T RECALL HIS NAME?

A NO. NO, I DON'T. HE CAME IN AND DID SOME HELP WITH THE DATA FILE AND I DON'T RECALL HIS NAME.

Q DO YOU KNOW IF THOSE VOTER LISTS WERE PROVIDED TO THE SLOANE COMMITTEE?

A I PROVIDED THE VOTER LIST TO THE VARIOUS OTHER ELECTED OFFICIALS AND THEN SHOWED THEM HOW TO -- SHOWED THEM HOW TO USE THEM. I CAN'T RECALL IF THEY WERE PROVIDED TO THE SLOANE CAMPAIGN.

Q DO YOU RECALL WHETHER THEY WERE PROVIDED TO ANY OTHER FEDERAL CANDIDATES AT THAT TIME?

A I'M GOING TO SAY YES.

Q DO YOU KNOW WHO ELSE THEY WOULD HAVE BEEN PROVIDED TO?

A WELL, THEY -- NO. WE WOULD HAVE OFFERED IT TO ANYONE RUNNING TO USE THE FILE, BUT . . .

Q AND WHAT DID THEY GENERALLY USE THOSE

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FOR?

A FOR GET-OUT-THE-VOTE AND TO DECIDE WHERE THE VOTERS ARE YOU WANT TO TARGET.

Q DO YOU KNOW WHEN THOSE WOULD HAVE BEEN PROVIDED?

A NO, OTHER THAN BEFORE THE ELECTION, BUT NO. NO.

Q MR. MARTIN, IN YOUR INTERROGATORIES THAT YOU SENT TO US YOU STATED THAT THERE WAS A PLAN WRITTEN THAT INVOLVED THE COMMUNICATION BETWEEN THE CANDIDATES. THIS WAS A WRITTEN PLAN?

A A WRITTEN PLAN WAS SUBMITTED. IT WAS WRITTEN, THAT'S CORRECT. AND WAS DISTRIBUTED TO, I BELIEVE THE DNC GOT SOME, MAYBE SOME LABOR ORGANIZATIONS USED AS A FUNDRAISING TOOL. NO, I DON'T HAVE A COPY OF IT. PROBABLY SOMEBODY DOES.

Q DO YOU KNOW WHO?

A THERE WAS A WRITTEN PLAN TO SHOW HOW THE CAMPAIGN WAS GOING TO BE COORDINATED WITH OTHER PEOPLE, AND IF IT'S NOT STILL AT HEADQUARTERS BECAUSE IT WAS A DOCUMENT ON -- IT'S A PARTY DOCUMENT OF THE DEMOCRATIC PARTY AND IT SHOWED HOW TO COORDINATE AND THE CAMPAIGN WOULD RUN. IT WAS A FORMAL PLAN.

Q WHO WAS INVOLVED IN WRITING UP THIS PLAN?

A A YOUNG WOMAN THAT'S ON MY INTERROGATORIES. MEG CONLON, THAT'S MISSPELLED, BUT IT'S MEG CONLON AND SHE WAS THE PRINCIPAL DRAFTER, BUT WITH THE COORDINATION AND INFORMATION BEING BROUGHT INTO HER FOR IT TO BE COMPLETED.

Q AND DID SHE WORK FOR THE KENTUCKY DEMOCRATIC PARTY?

A THAT'S CORRECT.

Q SHE WAS PAID BY THE KENTUCKY DEMOCRATIC PARTY?

A THAT'S CORRECT.

Q NOW YOU SAID YOU WEREN'T INVOLVED IN THE BOOKKEEPING BUT DID YOU HAVE TO SUPPLY ANY INFORMATION TO PAT GOINS AS FAR AS WHAT ACTIVITIES AND EXPENDITURES WERE FOR FEDERAL CANDIDATES VERSUS NON-FEDERAL CANDIDATES?

A YOUR QUESTION WAS DID I HAVE TO. NO, AND I DIDN'T.

Q YOU DIDN'T. DO YOU KNOW WHAT SHE MIGHT HAVE BASED ANY DECISION ON THAT?

A NO.

Q I'M GOING TO RUN THROUGH A LIST OF SOME NAMES OF SOME PEOPLE AND ASK YOU A SERIES OF QUESTIONS ABOUT THEM. THE FIRST ONE IS MARY ANN JOHNSON. CAN YOU TELL ME WHAT HER ROLE WAS AT THE --

A CHAIRMAN OF THE DEMOCRATIC PARTY.

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Q AND DO YOU KNOW WHAT HER DUTIES CONSISTED OF?

A NOT EXACTLY. I MEAN I DON'T THINK -- NO. IT WASN'T MY JOB TO KNOW AND I DON'T THINK I SHOULD GUESS AT WHAT HER DUTIES WERE.

Q DID YOU HAVE TO REPORT TO HER IN ANY CAPACITY?

A SHE LIKED KNOWING WHAT WAS GOING ON, SO YES.

Q AND THIS WOULD HAVE INCLUDED KEEPING HER APPRISED OF MEDIA, TELEVISION ADS AND RADIO ADS?

A THAT'S CORRECT.

Q AND SHE WAS PAID BY THE KENTUCKY DEMOCRATIC PARTY; IS THAT CORRECT?

A FACTUALLY I DON'T KNOW.

Q DO YOU KNOW IF SHE WAS PAID BY THE SLOANE COMMITTEE?

A I WOULD THINK NOT, BUT AGAIN, I WOULDN'T HAVE ANY IDEA.

Q DID YOU EVER HAVE ANY CONVERSATIONS WITH HER ABOUT THE SLOANE ADS? LET'S DEFINE THE ADS HERE BECAUSE WE'RE GOING TO BE WORKING BACK AND FORTH BETWEEN TWO SETS OF ADS. AND WHEN I SAY SLOANE ADS I MEAN THE ADS THAT WERE PRODUCED AND PAID FOR BY THE SLOANE COMMITTEE AND THEN I'LL REFER TO THE ADS THAT THE COORDINATED

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CAMPAIGN PRODUCED AND PAID FOR AS THE KENTUCKY DEMOCRATIC PARTY ADS.

A UH-HUH. I'M HAVING TROUBLE WITH THE DISTINCTION. AND I CAN'T RECALL. I CAN'T RECALL THE ADS. I'M HAVING TROUBLE WITH THAT DISTINCTION. TO ME THEY WERE THE PARTY ADS. NOW, I DON'T KNOW -- TO ME THEY WERE PAID FOR BY THE PARTY, SO IN MY BRAIN I SEE THEM AS ADS FOR THE PARTY. SO I'M HAVING TROUBLE WITH CALLING THEM THE SLOANE ADS. SO I HAVE THAT DIFFICULTY.

Q LET ME SEE IF I CAN CLEAR THAT UP. THERE WERE SEPARATE ADS THAT WERE PAID FOR BY THE SLOANE COMMITTEE THAT --

A THAT ADVERTISED HARVEY?

Q -- ADVERTISED HIM SOLELY, THAT'S CORRECT.

A THAT MAY BE. AND I MAY HAVE JUST TOTALLY FORGOTTEN IT. BUT OKAY, SO LET'S GO BACK TO THE QUESTION NOW.

Q THE QUESTION WAS DID YOU EVER HAVE ANY CONVERSATIONS WITH MARY ANN JOHNSON ABOUT THE SLOANE ADS?

A NO.

Q DO YOU RECALL EVER HAVING SEEN THE SLOANE ADS?

A I GUESS I DID, BUT I CANNOT RECALL BECAUSE I'M HAVING DIFFICULTY WITH THE DIVISION THAT I

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JUST MENTIONED. I'M JUST HAVING DIFFICULTY WITH THAT.

Q DID YOU HAVE ANY CONVERSATIONS WITH MISS JOHNSON ABOUT THE KENTUCKY DEMOCRATIC PARTY'S ADS?

A NO, NOT REALLY. NO.

Q DO YOU KNOW IF SHE PREVIEWED THOSE ADS BEFORE THEY WERE --

A I CAN'T SAY. I KNOW I SAW THEM JUST BEFORE SO I REALLY -- I DON'T KNOW IF SHE SAW THEM BEFORE OR IF SHE SAW THEM THE SAME TIME I DID.

Q BUT YOU DID SEE THEM PRIOR TO THEIR BEING --

A I BELIEVE I SAW THEM PRIOR TO THEM GOING ON TELEVISION, YES.

Q STEVE BAHAR?

A BAHAR.

Q WHAT WERE HIS DUTIES WITH THE --

A AS A FIELD COORDINATOR TO JUST WORK ON ANY OTHER FIELD PROBLEMS THAT CAME UP IN KENTUCKY. JUST WHATEVER CATCH-ALL THINGS THAT HAPPENED HE WOULD DO.

Q AND HE WORKED WITH THE COORDINATED CAMPAIGN?

A THAT'S CORRECT. PAID BY THE PARTY.

Q PAID BY THE PARTY.

A NOW, I NEVER SAW THE CHECKS, SO WHEN WE SAY PAID BY THE PARTY THAT'S A GUESS ON MY PART. HE WAS

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SUPPOSED TO BE PAID BY THE PARTY. I NEVER SAW THE CHECKS, WAS NEVER ALLOWED TO SEE THE BOOKKEEPING, ET CETERA. SO THAT WAS MY UNDERSTANDING THAT HE WAS TO BE PAID BY THE PARTY.

Q YOU WERE PAID BY THE PARTY?

A THAT'S CORRECT.

Q THE CHECK YOU GOT SAID --

A THE ONLY CHECK I SAW WAS MINE AND THAT CAME FROM THE PARTY.

Q ON THE CHECK DO YOU KNOW IF THE PARTY HAD A SEPARATE ACCOUNT FOR THE COORDINATED CAMPAIGN?

A I THINK IT DID. BUT I WASN'T TOO WORRIED ABOUT WHERE -- I WAS MORE WORRIED ABOUT WAS THE MONEY IN IT. BUT I'M GOING TO GUESS YES, IT WAS AND I THINK PAT GOINS KEEPS PRETTY GOOD RECORDS ON THE ACCOUNTS, SO I THINK YOU WILL FIND THAT THERE WAS A FEDERAL AND NON-FEDERAL ACCOUNT. YEAH, I'D HAD SAY THAT WAS ON IT, BUT I MAY BE WRONG.

Q DID MR. BAHAR HAVE ANY DUTIES WITH THE SLOANE COMMITTEE?

A NOT THAT I ASSIGNED HIM TO.

Q NEVILLE BLAKEMORE?

A NEVILLE BLAKEMORE.

Q WHAT WERE MR. BLAKEMORE'S --

A NEVILLE SERVED SORT OF MY ASSISTANT.

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HE WAS A FINE YOUNG MAN OUT OF COLLEGE AND JUST A SUPER, SUPER YOUNG MAN. HE DID A LOT OF DATA GATHERING AND PHONE CALL, RETURNING CALLS, A LOT OF GOPHER WORK. FINE YOUNG MAN. MORE MY ASSISTANT THAN ANYTHING ELSE.

Q NOW, DID YOU EVER HAVE ANY CONVERSATIONS WITH HIM ABOUT THE SLOANE ADS?

A NO. MAYBE ONLY GENERAL DISCUSSION BUT NOTHING SPECIFIC.

Q WAS HE INVOLVED AT ALL WITH THE KENTUCKY DEMOCRATIC PARTY ADS?

A NO. NO.

Q SORRY. LET'S BACK UP. WAS STEVE BAHAR AT ALL INVOLVED WITH THE ADS?

A NO.

Q NOW YOU HAD MENTIONED MEG CONLON.

A UH-HUH.

Q WHAT WERE HER DUTIES WITH THE PARTY?

A SHE DID A LOT RESEARCH. SHE WROTE THE PLAN AND DID A LOT ON ANY ISSUE RESEARCH. SHE WAS BIG ON ISSUE RESEARCH AND WROTE THE PLAN AND WAS OUR -- WAS THE MORE ACADEMIC OF THE GROUP.

Q AND AS FAR AS YOU KNOW SHE WAS PAID BY THE PARTY?

A AS FAR AS I KNOW. I'M PRETTY SURE SHE WAS, BUT AS FAR AS I KNOW.

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Q DO YOU KNOW IF SHE HAD ANY DUTIES WITH THE SLOANE COMMITTEE?

A NO.

Q JIM CAULEY?

A UH-HUH.

Q WHAT WERE HIS DUTIES WITH THE KENTUCKY DEMOCRATIC PARTY?

A JIM IS FROM EASTERN KENTUCKY AND HE WORKED WITH CANDIDATES IN EASTERN KENTUCKY AND TRAVELED TO WESTERN KENTUCKY TO EVENTS OR RALLIES AND WORKED WITH ANY LEGISLATIVE CANDIDATES THAT WAS GOING ON. A COLLEGE STUDENT THAT JUST TRAVELED FOR US AND COMMUNICATED FROM THE HEADQUARTERS THAT HE WAS -- THAT WE CARED ABOUT THE RACES AND CARRIED INFORMATION BACK AND FORTH. ON THEIR RACES DATA WE WOULD SHARE WITH THEM SUCH AS VOTER DATA FILE OR THE TARGETING INFORMATION. WE DID HAVE TARGETING INFORMATION.

Q WHAT DO YOU MEAN BY TARGETING?

A TARGET INFORMATION WAS SUPPLIED BY NCEC AND TRADITIONAL THINGS THAT -- AND TARGETING MEANING TARGETING WHERE THE VOTES ARE AND WHERE TO GO GET THEM.

Q FOR THE RECORD CAN YOU YOU JUST CLARIFY WHAT NCEC IS.

A NATIONAL COMMITTE FOR AN EFFECTIVE CONGRESS.

Q AND DO YOU KNOW IF MR. CAULEY HAD ANY DUTIES WITH THE SLOANE COMMITTEE?

A NO, I BELIEVE HE DIDN'T. NO.

Q I THINK WE PRETTY MUCH ESTABLISHED THAT PAT GOINS WAS THE BOOKKEEPER?

A I BELIEVE PAT GOINS WAS -- YES, PAT GOINS WAS THE BOOKKEEPER.

Q I'M SORRY. LET ME BACK UP. I MAY HAVE MISSED -- MEG CONLON, DID YOU EVER HAVE ANY CONVERSATIONS WITH HER ABOUT THE SLOANE ADS?

A I'M SURE THERE WAS GENERAL DISCUSSION BUT NOTHING SPECIFIC, NOTHING DEALING WITH ANYTHING OTHER THAN JUST GENERAL DISCUSSION WERE THEY GOOD OR WERE THEY BAD AFTER THEY WERE ON THE AIR. JUST GENERAL DISCUSSION.

Q AND JIM CAULEY?

A THE SAME.

Q WAS PAT GOINS EVER INVOLVED IN ANY OF THE ADS?

A NO, NOT TO MY KNOWLEDGE.

Q DO YOU KNOW WHERE PAT GOINS IS PRESENTLY EMPLOYED?

A AT THE DEMOCRATIC HEADQUARTERS.

Q AND WHAT'S HER POSITION?

A I'M NOT SURE TITLEWISE, BUT I'M SURE SHE'S STILL DOING SOME OF THE BOOKS.

Q DANNY ROSS?

A DANNY ROSS WAS THE LABOR COORDINATOR AND WORKED WITH ORGANIZED LABOR. HE AND I TRIED TO RAISE A LOT OF THE MONEY THAT WE RECEIVED FROM LABOR BY VISITING LOCAL LABOR UNIONS HERE TO CONTACT OTHER LABOR UNIONS.

Q AND DID HE HAVE ANY DUTIES WITH THE SLOANE COMMITTEE?

A NO.

Q AND DID YOU AND HE EVER HAVE ANY CONVERSATIONS ABOUT THE ADS?

A ONLY AS THE OTHERS, JUST GENERAL DISCUSSION ABOUT ARE THEY GOOD, ARE THEY BAD, WHICH WOULD HAVE BEEN AFTER THEY WERE ON TV.

Q JACKIE HOLLAR?

A NEW ONE ON ME.

Q DON'T KNOW?

A NO.

Q DORIS SAUNDERS?

A GOSH, I HATE TO SAY I DON'T KNOW THEM BECAUSE MAYBE I DO. DON'T WANT TO TELL THEM.

Q DID ANY OF THESE PEOPLE THAT YOU WORKED WITH AT THE COORDINATED CAMPAIGN COME WITH YOU FROM THE SLOANE COMMITTEE?

A YES. YES. DANNY ROSS AND I GUESS THAT'S THE ONLY ONE.

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Q STEVE BAHAR?

A NO.

Q NEVILLE BLAKEMORE?

A MEG WAS -- HAD BEEN PAID ON THE SLOANE CAMPAIGN AND THEN STOPPED BEING PAID, BUT SO MAYBE SHE DID AND MAYBE SHE DIDN'T BASED UPON PAYROLL. I CAN'T RECALL. BUT THAT WOULD BE THE ONLY ONE. THAT'S RIGHT.

Q MR. MARTIN, WOULD IT BE FAIR TO SAY THAT THE COORDINATED CAMPAIGN INVOLVED ALL OF THE KENTUCKY DEMOCRATIC PARTY'S CAMPAIGN ACTIVITY IN 1990?

A I CAN ONLY SPEAK TO THAT WHICH TIME I WAS THERE WHICH WOULD BE FROM MAY UNTIL NOVEMBER, LET'S SAY, JUNE OR JULY UNTIL NOVEMBER, JUNE OR JULY TILL NOVEMBER. SO THAT'S THE ONLY TIME FRAME I CAN SPEAK TO AND I WOULD SAY THAT THE COORDINATED CAMPAIGN WAS INVOLVED WITH ALL OF THE RACES IN THAT TIME FRAME, YES.

Q AND WAS THERE WORK WITH THE KENTUCKY DEMOCRATIC PARTY BEING DONE OUTSIDE OF THE COORDINATED CAMPAIGN?

A SAY THAT AGAIN.

Q DID THE KENTUCKY DEMOCRATIC PARTY HAVE ACTIVITIES OUTSIDE OF THE COORDINATED CAMPAIGN?

A OUTSIDE THE TIME FRAME?

Q OUTSIDE OF --

A WAS THERE OTHER THINGS GOING ON EVEN

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WITHIN THAT TIME FRAME?

Q THAT'S CORRECT.

A WELL, SINCE I'M NOT CHAIRMAN OF THE KENTUCKY DEMOCRATIC PARTY IT WOULD BE HARD FOR ME TO ANSWER THAT, SO I'D HAVE TO SAY I DON'T KNOW.

Q LET'S TALK ABOUT THE ADS THAT THE KENTUCKY DEMOCRATIC PARTY PAID FOR AND RAN. WHEN DID THEY FIRST DECIDE TO DO THOSE ADS?

A I DON'T KNOW.

Q WERE YOU INVOLVED IN THE DECISION TO RUN THOSE?

A THE TIMING AND DECISION, NO.

Q WHO WOULD HAVE BEEN MAKING THOSE DECISIONS?

A WELL, I KNOW IT WAS NOT ME. SO I'M GOING TO HAVE SAY IT WAS THOSE THAT WERE IN CHARGE AT THE TIME, WHICH MARY ANN AND ANYONE ELSE SHE WOULD SAY ON THE TIMING OF RUNNING THOSE. BUT I WAS NOT INVOLVED IN RUNNING THOSE ADS.

Q WERE YOU INVOLVED IN THE DECISION TO RETAIN GREER, MARGOLIS?

A NO.

Q WHO MADE THAT DECISION?

A IT WASN'T ME BECAUSE THEY DIDN'T LET ME MAKE DECISIONS. SO THAT'S ALL I CAN SPEAK TO IS WHAT I

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KNOW AND IT WASN'T ME.

Q DO YOU KNOW WHY THEY WERE CHOSEN?

A FACTUALLY I CAN SAY NO, I DON'T.

Q DO YOU HAVE AN IDEA WHY THEY WERE CHOSEN?

A I DON'T KNOW IF I -- MY IDEAS. I DON'T KNOW IF I WANT TO ASK ABOUT MY IDEAS. I MEAN DO WE WANT TO TALK ABOUT MY IDEAS HERE?

MR. WETTERER: IF YOU CAN SPEAK GENERALLY TO THE QUESTION.

A GENERALLY I'D SAY THERE WAS A -- HE HAD BEEN INVOLVED IN HARVEY'S RACE. THAT'S GENERALLY.

Q HE BEING FRANK GREER?

A HE, THE FIRM. I'LL SAY THE FIRM.

Q DO YOU KNOW IF JAMES CUNNINGHAM HAD ANY DECISION, ANY PART IN THE DECISION FOR THE KENTUCKY DEMOCRATIC PARTY TO USE THE GREER FIRM?

A FACTUALLY I DO NOT KNOW.

Q DO YOU KNOW WHAT THE TIME PERIOD WAS WHEN THEY -- WHEN GREER STARTED WORKING ON THESE CAMPAIGN ADS?

A THESE MEANING THE TWO THAT YOU KEEP TALKING ABOUT?

Q THE KENTUCKY -- YES.

A THE PARTY ADS. I'M GOING TO SAY IT WAS

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FAIRLY CLOSE TO THE ELECTION, BUT I CAN'T SAY AND I DON'T REMEMBER HOW MANY WEEKS WE EVEN STARTED RUNNING THE THING BEFORE THE RACE. THE RACE SAY NOVEMBER THE 1ST OR SOMETHING, SO I REALLY DON'T KNOW, BUT IT WAS NOT A LONG-TERM THING.

Q DO YOU RECALL WHETHER THOSE WERE BEING RUN AT THE SAME TIME THAT THE SLOANE ADS WERE BEING RUN?

A NOT FACTUALLY I CAN'T RECALL.

Q DO YOU KNOW IF ROB BINGHAM HAD ANY ROLE IN THE DECISION TO USE THE GREER FIRM?

A NO. NO, I DON'T.

Q DO YOU KNOW WHAT HIS ROLE WAS WITH THE SLOANE COMMITTEE?

A NO. THAT'S THE FIRST TIME I HEARD THAT NAME IN A LONG TIME, BUT NO, I DON'T.

Q WAS ROB BINGHAM WORKING WITH THE COORDINATED CAMPAIGN?

A NO, HE WAS NOT.

Q DID YOU EVER HAVE ANY CONVERSATIONS WITH KEVIN GETTINGS?

A SURE. YES, I DID.

Q AND WHAT WOULD THOSE HAVE BEEN ABOUT?

A IT WOULD JUST BE GENERAL TONE ABOUT THE CAMPAIGN. I TALKED TO KEVIN SINCE THE PRIMARY. IT WOULD BE JUST ABOUT THE GENERAL TONE OF THE CAMPAIGN.

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Q ONCE THE DECISION WAS MADE BY THE KENTUCKY DEMOCRATIC PARTY TO RUN THESE ADS, WHO WAS THE CONTACT PERSON WITHIN THE COORDINATED CAMPAIGN WHO TALKED WITH GREER ABOUT THE ADS?

A IT WAS NOT ME. I DON'T KNOW, BUT IT WASN'T ME.

Q DO YOU KNOW IF MARY ANN JOHNSON WOULD HAVE BEEN THE ONE?

A DON'T KNOW. DO NOT KNOW.

Q DID YOU EVER TALK TO KEVIN GETTINGS ABOUT THE SLOANE ADS?

A NOT YOU'RE TALKING ABOUT THE SLOANE ADS THAT YOU SAY PAID FOR BY THE PARTY?

Q I'M SORRY, NO. THE ONES PAID FOR BY --

A BY THE SLOANE CAMPAIGN.

Q -- BY THE SLOANE CAMPAIGN.

A I'M SURE THERE WAS GENERAL DISCUSSION IF I THOUGHT THEY WERE GOOD OR IF I THOUGHT THEY WERE BAD. GENERAL DISCUSSION. BUT I HAD NO AUTHORITY, BUT IT WOULD MAYBE BE SOME COMMON DISCUSSION AND NOT VERY MANY OF THOSE.

Q DID YOU EVER TALK WITH HIM ABOUT THE SLOANE ADS IN CONJUNCTION WITH THE KENTUCKY DEMOCRATIC PARTY ADS?

A NO, I DIDN'T.

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Q AND AGAIN DID YOU SAY THAT YOUR DISCUSSIONS WITH MR. GETTINGS ABOUT THE KENTUCKY DEMOCRATIC PARTY ADS WERE -- WHAT WAS THE CONTENT OF THOSE DISCUSSIONS?

A IT WAS A DISCUSSION -- I CAN RECALL ONE SPECIFIC TIME, AND ONLY ONE, BECAUSE THERE WASN'T MUCH DISCUSSION BECAUSE THEY HAD THEIR THING GOING AND WE HAD OUR THING. BUT I REMEMBER ONE DISCUSSION HONESTLY WHERE I SAID WE OUGHT TO HAVE SOME ADS. BUT TO MY KNOWLEDGE WE DIDN'T HAVE ANY MONEY, BUT I DIDN'T DO THE BOOKKEEPING. BUT THERE WAS ONE TIME THAT I DO RECALL TALKING ABOUT GETTING ON TV, DID WE HAVE THE MONEY TO GET ON TV WITH A MESSAGE FROM THE PARTY. BUT I'D SAY THAT WAS THE ONE TIME AND NOT ANYMORE THAN THAT.

Q AND YOU DON'T RECALL WHO IN THE COORDINATED CAMPAIGN WOULD HAVE BEEN IN CONTACT ON A REGULAR BASIS WITH THE GREER --

A I DON'T BELIEVE ANYBODY TO MY KNOWLEDGE. THERE WAS NO ONE OTHER THAN ME AND I WAS NOT ON A REGULAR BASIS. NOT REGULAR. VERY IRREGULAR.

Q DO YOU KNOW IF JIM CUNNINGHAM HAD ANYTHING TO DO WITH COORDINATING WITH THE GREER FIRM FOR THE ADS?

A I CAN FACTUALLY SAY NOTHING ABOUT WHAT JIM CUNNINGHAM DID.

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Q DID YOU EVER TALK WITH JIM CUNNINGHAM ABOUT THE ADS?

A TALKED WITH JIM PERIODICALLY, NOT A LOT. I'D SAY YES, I TALKED ABOUT THE ADS.

Q AND WHAT WOULD THAT DISCUSSION HAVE BEEN ABOUT?

A ARE WE GOING TO GET MONEY TO GET THEM ON? WILL THERE BE MONEY? THAT WOULD BE MY DISCUSSIONS TO HIM. BUT STILL IN A VERY GENERAL NATURE. NOTHING SPECIFIC.

Q AND DID YOU EVER TALK TO HIM ABOUT THE SLOANE ADS THAT WERE RUN, THE EARLIER ADS BY THE SLOANE COMMITTEE?

A I HAVE A HARD TIME WITH THE DISTINCTION BETWEEN THE TWO, SO IT'S HARD FOR ME TO SPECIFICALLY SAY I TALKED TO HIM ABOUT ONE OR THE OTHER. I TALKED WITH HIM GENERALLY ABOUT IF WE HAD THE MONEY TO GET SOME ADS UP AND THAT WAS THE GENERAL DISCUSSION ABOUT EITHER BOTH OR ONE, HOWEVER, WHATEVER THIS IS.

Q LET'S JUST -- SO THAT WE DON'T HOPEFULLY CONTINUE TO HAVE CONFUSION ON THIS, LET'S TRY TO -- THERE WERE ADS THAT WERE PAID FOR BY THE KENTUCKY DEMOCRATIC PARTY.

A OKAY.

Q AND RAN AS SUCH. THERE WERE --

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SEPARATELY THERE WERE ADS THAT WERE PAID FOR BY THE SLOANE COMMITTEE ABOUT HARVEY SLOANE.

A PAID FOR BY THE SLOANE COMMITTEE.

Q THAT'S CORRECT. TOTALLY SEPARATE.

A RIGHT.

Q AND SO WHEN I SAY THE SLOANE ADS, I'M REFERRING TO THE ONES THAT WERE PAID FOR BY THE SLOANE COMMITTEE.

A OKAY. WELL, THEN NO, I HAD NO DISCUSSION IN REGARDS TO HARVEY'S ADS, IN REGARDS TO HIS CAMPAIGN AND HIS ADS, NO. THERE WAS ZERO ON ANY OF THAT. FROM THE TIME OF -- FROM MY BEGINNING AT DEMOCRATIC HEADQUARTERS UNTIL NOVEMBER THERE WAS ZERO DISCUSSION ABOUT HARVEY SHOULD SPEND HIS MONEY ON TELEVISION OR SUBJECT MATTER TO THE BEST OF MY KNOWLEDGE AND RECALL. IT'S ZERO.

NOW, WHEN YOU GET INTO THE DISCUSSION ABOUT, YEAH, I WISH WE HAD TV IF WE HAD MONEY, THAT WOULD BE THE EXTENT OF WHERE I WAS AND ANY DISCUSSION BECAUSE I HAD TRIED TO RAISE MONEY AND KNEW THAT THERE WASN'T ENOUGH TO GET ON TELEVISION.

Q WHAT FUNDRAISING METHODS DID YOU USE TO TRY TO RAISE MONEY?

A DOOR-TO-DOOR MEANING MAINLY WORKING WITH LABOR UNIONS AND THE ELECTED OFFICIALS, WHICH WAS

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VERY SMALL BECAUSE THEY WEREN'T TOO EXCITED ABOUT PUTTING MONEY IN EXCEPT FOR THEIR OWN RACE, BUT THAT WAS THE EXTENT OF WHAT I DID.

Q DO YOU KNOW WHERE THE MONEY EVENTUALLY CAME FROM FOR THE ADS?

A ONLY FROM WHAT I'VE READ IN THE NEWSPAPERS.

Q WHICH WAS?

A THERE'S SOME SOMETHING REGARDING TO MRS. BINGHAM AND THROUGH SOMETHING, AND I HAVEN'T READ THE ARTICLES IN TWO YEARS MAYBE, OR WHATEVER THE LAST ARTICLE, SO I'M ONLY FAMILIAR FROM THE STANDPOINT OF NEWSPAPER ADS.

Q BUT YOURSELF YOU HAD NO PERSONAL KNOWLEDGE OF WHERE THE MONEY CAME FROM?

A I HAD KNOWLEDGE OF THAT MONEY WHICH I HAD PARTICIPATED WITH, WHICH WERE SOME OF THE LABOR UNION MONEY, AND THAT KNOWLEDGE I HAD. BUT ANYTHING BEYOND THAT I HAD NO KNOWLEDGE UNTIL I READ NEWSPAPERS OTHER THAN COMMON DISCUSSION OR RUMORS OR SOMETHING LIKE THAT.

Q THE FUNDS THAT YOU RAISED FROM THE LABOR UNIONS, WAS THAT SPECIFICALLY SOLICITED FOR TELEVISION ADS?

A COORDINATED CAMPAIGN. NO. NO. NO, IT WAS SORT OF KEEP THE PAYROLL, PAY THE RENT, HOUSEKEEPING ITEMS BECAUSE -- AND TO PAY FOR THINGS LIKE THE

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GET-OUT-THE-VOTE EFFORT OR THE VOTER LIST AND THESE ITEMS BECAUSE IT WAS EARLY IN THE TIME OF MAY, JUNE. NOT MAY. JUNE, JULY, AUGUST, SO THAT WAS THE EXTENT OF MY INVOLVEMENT.

Q SO WAS THERE EVER A FUNDRAISING EFFORT THAT WAS SPECIFICALLY TARGETED AT TELEVISION OR RADIO ADS?

A NOT TO MY KNOWLEDGE.

Q WAS THE MEDIA ASPECT OF THE CAMPAIGN HANDLED OUTSIDE OF THE COORDINATED CAMPAIGN?

A THE MEDIA. NOW, WE'RE TALKING ABOUT THE MEDIA OF THE COORDINATED CAMPAIGN? THERE WAS THE HARVEY SLOANE CAMPAIGN MEDIA DID THEIR OWN THING AND THEY WENT THEIR DIRECTION AND THERE WASN'T ANY DISCUSSION WITH US, ME, WITH THE SLOANE SENATE MEDIA IN THE GENERAL RACE. THERE WAS NO DISCUSSION ABOUT YOU OUGHT TO DO THIS, YOU OUT TO DO THAT. THERE WAS NONE OF THAT FROM MY STANDPOINT AND TO THE BEST OF MY KNOWLEDGE THE OTHERS.

Q WERE YOU AWARE THAT THE -- WELL, LET ME ASK. WERE YOU AWARE THAT THE SLOANE COMMITTEE WAS ALSO USING THE GREER FIRM?

A YES.

Q AND WERE OTHERS WITHIN THE KENTUCKY DEMOCRATIC PARTY AWARE OF THAT?

A YES.

Q OTHERS WITHIN THE COORDINATED CAMPAIGN?

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A YES.

Q DO YOU KNOW IF ROB BINGHAM HAD ANY PART IN THE DECISION TO RUN THE ADS?

A FROM THE DEMOCRATIC HEADQUARTERS?

Q YES.

A MY STANDPOINT, NO, NOT AT ALL.

Q DO YOU KNOW WHAT HIS INVOLVMENT WAS IN THE CAMPAIGN OVERALL?

A NO, I DON'T. NO.

Q DO YOU KNOW IF HE WORKED FOR THE SLOANE COMMITTEE?

A NO, NOT FACTUALLY. LIKE WORKED ON THE PAYROLL? NO.

Q DID HE WORK FOR THE KENTUCKY DEMOCRATIC PARTY?

A THERE WAS A PRESENCE. I HAD TOTALLY FORGOTTEN THAT. THERE WAS A PRESENCE OF ROB BINGHAM. YOU DON'T TAKE A ROB BINGHAM AND NOT HAVE A PRESENCE. BUT I'M NOT AWARE MUCH OF THE PRESENCE. I JUST MET HIM ONCE OR TWICE. PROBABLY TWICE.

Q SO WHEN YOU SAY THERE WAS A PRESENCE, HE WAS AROUND?

A WELL, HE WASN'T ANYWAY ASSIGNED TO DEMOCRATIC HEADQUARTERS OR THE COORDINATED CAMPAIGN, WHICH ARE THE SAME. BUT IN THE ONCE OR TWICE THAT I MET HIM HE

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WAS DOING WHETHER VOLUNTEER OR PAYROLL I DON'T KNOW ON THE SLOANE, I DON'T KNOW. BUT THERE WAS A PRESENCE OF HIM ON THE SLOANE CAMPAIGN. I HAD A CHANCE TO MEET HIM BECAUSE OF THE SLOANE CAMPAIGN.

Q LET'S TALK ABOUT THE FUNDRAISING ASPECT FOR A MOMENT. YOU SAID YOU MADE SOME SOLICITATIONS YOURSELF AND THAT WAS LARGELY TO LABOR ORGANIZATIONS.

A LABOR ORGANIZATIONS MOSTLY. THAT'S WHERE WE WERE THE MOST PRODUCTIVE AND MAYBE SOME OTHERS OUTSIDE, BUT THE MOST PRODUCTIVE WAS THROUGH LABOR ORGANIZATIONS.

Q AND DID YOU PERSONALLY MAKE ANY OF THOSE SOLICITATIONS?

A YES. I MADE MANY OF THOSE WITH DANNY ROSS. DANNY ROSS AND I WOULD GO AROUND AND EXPLAIN THE COORDINATED CAMPAIGN, THE NEED FOR MONEY AND SHOW THEM THE PLAN AND LET THEM KNOW THAT THOUGH THEY HAD MAXED OUT TO THE INDIVIDUAL THAT THEY COULD GIVE TO THE COORDINATED CAMPAIGN. EXPLAIN THE PROCESS.

Q DID YOU EVER EXPLAIN THAT PROCESS TO ROB BINGHAM?

A NO.

Q WHAT ABOUT MRS. MARY BINGHAM?

A NO. NO.

Q DO YOU RECALL HOW MUCH WAS RAISED

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DOLLARWISE IN THIS PARTICULAR FUNDRAISING?

A FOR THE COORDINATED CAMPAIGN?

Q YES.

A NO, I DON'T.

Q AT THE TIME THAT THE ADS WERE BEING PRODUCED, TO YOUR KNOWLEDGE WAS THERE SUFFICIENT FUNDING FOR THOSE ADS?

A I CAN'T SPEAK TO THAT. I WAS NOT THE BOOKKEEPER, DID NOT KNOW WHERE THE MONEY FLOW WAS, WAS KEPT FROM THAT. DIDN'T WANT ME TO KNOW THAT INFORMATION. THERE WAS A GUARDED WHATEVER TO THE MONEY, SO NO, I DON'T.

Q DID YOU PREVIEW THE ADS BEFORE THEY WERE RUN?

A I SAW THE ADS--THE AD OR THE ADS, AND I CAN'T REMEMBER. I SAW IT BEFORE IT DID RUN, YES, I DID.

Q WHERE WOULD THAT HAVE BEEN?

A AT DEMOCRATIC HEADQUARTERS.

Q CAN YOU RECALL WHO ELSE WAS THERE?

A I BELIEVE THE PRESS WAS THERE.

Q WAS MARY ANN JOHNSON THERE?

A WAS SHE IN THE ROOM? I DON'T KNOW. I DON'T KNOW THAT SHE WAS IN THE ROOM.

Q WAS ANYONE FROM THE SLOANE CAMPAIGN THERE?

A YEAH, JIM CUNNINGHAM.

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Q DO YOU KNOW WHO APPROVED THOSE ADS BEFORE THEY WERE ACTUALLY RUN?

A IT WAS NOT ME.

Q BUT YOU DON'T KNOW WHO?

A NO, I DON'T KNOW.

Q DO YOU KNOW IF ROB BINGHAM WAS THERE WHEN YOU SAW THE ADS?

A I'M GOING TO SAY NO, HE WAS NOT.

Q DO YOU KNOW IF HARVEY SLOANE WAS THERE?

A NO, HE WAS NOT.

Q WERE YOU AWARE THAT THE GREER FIRM PROVIDED THE SLOANE CAMPAIGN WITH INFORMATION ABOUT THE KENTUCKY DEMOCRATIC ADS, THE PARTY'S ADS?

A NO.

Q DID THE GREER FIRM EVER APPRISE ANYONE AT THE KENTUCKY DEMOCRATIC PARTY OF THE PLACEMENT OF THE SLOANE ADS?

A I WAS NOT APPRISED OF THE PLACEMENT OF THE ADS.

Q OF EITHER THE KENTUCKY PARTY'S ADS OR THE SLOANE ADS?

A ANY OF THEM, THAT'S CORRECT.

Q DO YOU KNOW IF THE KENTUCKY DEMOCRATIC PARTY RECEIVED ANY COPIES OF TAPES OR SCRIPTS OF THE SLOANE ADS?

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A I CAN'T RECALL. I CAN'T RECALL.

Q YOU SAID YOU SAW THE SLOANE ADS?

A THAT'S CORRECT. I SAW SOME TV. I'M SORRY I CAN'T -- YOU KNOW, I'M GETTING OLD. I CAN'T REMEMBER THIS STUFF. BUT I CAN'T RECALL IF THERE WAS A COPY LEFT AND SCRIPT LEFT. I DON'T KNOW THAT I HAD IT. I KNOW I DIDN'T HAVE IT. LET ME CLEAR THAT UP. I KNOW I DID NOT HAVE IT, SO BUT I DON'T KNOW IF ANYBODY ELSE HAD A COPY OR NOT.

Q CAN YOU TELL ME WHAT JAMES CUNNINGHAM'S ROLE WAS IN ALL THIS?

A CAMPAIGN MANAGER OF THE SLOANE CAMPAIGN.

Q I'M SORRY, AS FAR AS THE ADS THEMSELVES.

A NO, I CANNOT. THE ROLE OF JIM CUNNINGHAM WITH THE ADS, THAT'S THE QUESTION?

Q UH-HUH.

A NO, I CAN'T SPEAK TO HIS ROLE WITH THOSE ADS.

Q CAN YOU TELL ME WHO WITHIN THE KENTUCKY DEMOCRATIC PARTY OR THE COORDINATED CAMPAIGN WAS PRIMARILY RESPONSIBLE FOR THE ADS?

A I'M GOING TO HAVE TO SAY IT'S MARY ANN JOHNSON BECAUSE THERE WAS VERY LITTLE DISCUSSION WITH ME

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ABOUT THE ADS, THE MONEY TO PLACE TO PUT THEM ON, WHO'S DOING THEM, WHO'S PLACING THE TIME. NO ONE CAME TO ME. NOW I CAN ONLY ASSUME IT WAS MARY ANN JOHNSON.

Q SO AS FAR AS YOU KNOW THERE WAS NO ONE SPECIFICALLY IN CHARGE OF MEDIA OR ADS?

A THERE WAS NOT A SPECIFIC PERSON FOR MEDIA AND I HAD NOTHING TO DO WITH THE DISCUSSION ABOUT THE BUY OR ANYTHING ELSE DEALING WITH THE MEDIA.

Q WERE YOU AWARE OF A CONTRIBUTION MADE BY THE -- RATHER A TRANSFER OF FUNDS FROM THE DEMOCRATIC NATIONAL COMMITTEE TO THE STATE PARTY?

A ONLY BECAUSE OF THE NEWSPAPER ACCOUNTS.

Q AND WHAT DO YOU RECALL FROM THAT?

A I RECALL THE ARTICLES IN THE NEWSPAPER TALKING ABOUT MONEY BEING GIVEN TO ONE FUND MOVING TO ANOTHER FUND AND THEN MOVING INTO THE PARTY. I'M TRYING TO REMEMBER WHAT WAS ONLY IN A NEWSPAPER STORY.

Q BUT YOU HAD NO KNOWLEDGE OUTSIDE OF THAT NEWSPAPER STORY?

A NO FACTUAL KNOWLEDGE, NO.

Q DID YOU HEAR ANYTHING WITHIN THE COMMITTEE ABOUT THAT PARTICULAR TRANSFER?

A ARE WE GOING TO GET TO WHAT I HERE NOW?

MR. WETTERER: IF YOU CAN RECALL AND IF YOU KNOW OF ANYTHING SPECIFIC YOU CAN ANSWER.

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A THERE WAS HEARSAY THAT THE MONEY -- THERE WOULD BE MONEY COMING OF A LARGE AMOUNT. THERE WAS DISCUSSIONS IN GENERAL. RUMORS. I HATE TO BE DISCUSSING RUMORS HERE, BUT FACTUALLY NO, THERE -- I'M NOT AWARE OF ANYTHING FACTUALLY BUT THERE WERE RUMORS.

Q THAT WAS BEFORE THE MONEY ACTUALLY ARRIVED?

A I'D HAVE TO SAY -- WHEN DID THE RUMORS HAPPEN? I'M GOING TO -- HELL, I DON'T KNOW WHEN THE RUMORS HAPPENED. EITHER BEFORE OR AFTER. THAT'S HARD FOR ME TO PINPOINT WHEN THE DISCUSSION OF RUMORS.

Q I UNDERSTAND.

A BUT THERE WERE RUMORS.

Q WERE YOU AWARE OF ANY PARTICULAR PURPOSE THAT THIS TRANSFER WAS MADE?

A NOT KNOWING OF THE TRANSFER FACTUALLY, I CAN'T SAY THAT I WOULD KNOW OF ANY PURPOSE.

Q DID YOU HEAR OF ANY PURPOSE THAT THEY WERE MADE FOR?

A NO. THE GENERAL RUMORS WERE JUST THAT THERE WAS MONEY COMING -- THAT LARGE CONTRIBUTIONS WOULD BE MADE. NOW, THAT WAS THE GENERAL -- RUMOR IN GENERAL, JUST GENERAL RUMOR.

Q DID YOU KNOW OF ANY RESTRICTION THAT THIS MONEY COULD NOT BE USED FOR?

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A PROBABLY DID AND WHEN YOU SAY THIS MONEY, I KNEW OF SOME RESTRICTIONS BASED UPON FUNDING LIMITS TO CAMPAIGNS AND I WAS KNOWLEDGEABLE ON SOME AREAS OF FEDERAL FUNDING AND FEDERAL RESTRICTIONS, SO I KNEW -- I HAD KNOWLEDGE OF CERTAIN RESTRICTIONS. WHETHER IT WAS ALL RESTRICTIONS, I CAN'T SAY. NO, I DIDN'T KNOW OF ALL RESTRICTIONS, NO.

Q BUT THE MONEY THAT WAS TRANSFERRED FROM THE DEMOCRATIC NATIONAL COMMITTEE TO THE STATE PARTY, DID YOU KNOW OF ANY RESTRICTIONS THAT WERE PLACED ON THOSE PARTICULAR FUNDS?

A NO, I HAD NO NEED TO KNOW THAT. THAT'S A LITTLE BIT OVER THE LEVEL THAT I HAD REASON TO BE KNOWLEDGEABLE OF VIOLATIONS.

Q JUST CURIOUS, WHAT WAS YOUR KNOWLEDGE OF THE --

A WELL, I KNEW THE INDIVIDUAL CAMPAIGN LIMIT AND I KNEW THAT IF SOMEBODY HAD GIVEN A CANDIDATE $1,000 THAT HE COULDN'T GIVE THE CANDIDATE ANYMORE. I KNEW THINGS LIKE THE SPOUSE COULD GIVE IT AND I KNEW THAT YOU GIVE TO THE COORDINATED CAMPAIGN MORE FUNDS. I FORGET THE EXACT LIMIT NOW, BUT THERE WERE LIMITS THAT YOU COULD GIVE TO THE COORDINATED CAMPAIGN THOUGH YOU HAD GIVEN TO THE CANDIDATE YOU GIVE TO THE COORDINATED CAMPAIGN OR GIVE TO THE PARTY. SO THOSE WERE THE KIND OF THINGS THAT I

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WOULD BE KNOWLEDGEABLE ABOUT.

Q AND DID ANYONE EVER ASK YOU ABOUT THOSE?

A THE LABOR UNIONS OBVIOUSLY HAD GREAT CONFUSION ON WE'VE MAXED OUT. WELL, YOU HAVE MAXED OUT BUT YOU HAVEN'T MAXED OUT. LET ME EXPLAIN TO YOU HOW YOU HAVE NOT MAXED OUT. SO THOSE WOULD BE THE GENERAL DISCUSSIONS AT THE LEVEL WHICH I WAS DEALING.

Q DID MR. CUNINGHAM EVER ASK YOU ABOUT THOSE PARTICULAR LIMITS?

A NO.

Q MR. SLOANE?

A NO. THOSE PARTICULAR LIMITS MEAING THE LEVEL I WAS DEALING?

Q THE LIMITS OF THE $1,000 VERSUS THE --

A NO. BECAUSE THEY WERE RAISING FOR THE CANDIDATE AND I WAS RAISING FOR THE COORDINATED CAMPAIGN OF THE PARTY, SO THERE WOULD BE NO DISCUSSION. I WOULDN'T HAVE ANY NEED TO DISCUSS THAT WITH THEM.

Q DID ROB BINGHAM EVER ASK YOU ABOUT THAT?

A NO. I HAD ALMOST NO COMMUNICATION WITH ROB BINGHAM. I MAY HAVE SHAKEN HIS HAND TWICE, MAY HAVE SEEN HIM TWICE. MAY HAVE LOOKED IN ADMIRATION AT HIM ONCE OR TWICE AND THAT WAS THE EXTENT OF ROB BINGHAM. AND

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TODAY I HAD FORGOT ROB BINGHAM EXISTED IN THIS SITUATION.

Q DO YOU KNOW INTO WHAT ACCOUNT THE DEMOCRATIC NATIONAL --

A NO. I WAS NOT ALLOWED TO SEE THE BOOKS. NEVER SAW THE BOOKS.

Q THERE WERE TWO CONTRIBUTIONS GIVEN BY THE ASSOCIATION OF TRIAL LAWYERS OF AMERICA IN OCTOBER. WHAT CAN YOU TELL ME ABOUT THOSE PARTICULAR CONTRIBUTIONS?

A THEY CAME IN BECAUSE THEY WERE LARGE. I CAN'T REMEMBER HOW LARGE AND SINCE THE NEWSPAPER STORIES I KNOW IT'S CONTROVERSIAL, BUT THEY CAME IN AND AGAIN I NEVER SAW THE CHECK OR DEPOSITED IT OR SAW THE BOOKS, BUT I KNOW THAT IT CAME AND I KNOW THE TRIAL LAWYERS PEOPLE IN KENTUCKY AND I KNOW THAT THAT'S ABOUT ALL I DO KNOW.

Q DO YOU KNOW IF THOSE WERE SOLICITED CONTRIBUTIONS?

A NOT FACTUALLY. I WOULD PRESUME THAT SOMEBODY ASKED FOR THEM.

Q BUT YOU DON'T KNOW WHO THAT WOULD HAVE BEEN?

A NO.

Q DO YOU KNOW IF THERE WERE ANY -- IF THOSE WERE GIVEN FOR ANY PARTICULAR PURPOSE?

A NO, I WOULD NOT KNOW THAT THEY WERE FOR A PURPOSE. AND I DO KNOW THAT YOU DON'T GIVE THAT STUFF

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FOR A PURPOSE, SO I'D SAY THAT THEY DIDN'T GIVE IT FOR A PURPOSE.

Q DO YOU KNOW IF THERE WERE ANY RESTRICTIONS PLACED ON THOSE CONTRIBUTIONS?

A NO.

MS. MOTT: WE ARE GOING TO TAKE A BREAK.

(THERE WAS A SHORT BREAK TAKEN.)

MS. MOTT: WE'RE BACK ON THE RECORD.

BY MS. MOTT:

Q I'M JUST GOING TO GO BACK AND PICK UP A COUPLE OF THINGS THAT WE MAY HAVE NOT FLUSHED OUT ENTIRELY, SO THIS PROBABLY IS NOT GOING TO BE REAL COHERENT. YOU HAD SAID THAT YOU HAD HEARD THAT LARGE CONTRIBUTIONS WERE GOING TO BE MADE. DO YOU RECALL WHETHER YOU HEARD WHERE THESE CONTRIBUTIONS WERE GOING TO BE COMING FROM?

A NO. NO. JUST THAT THERE WOULD BE CONTRIBUTIONS COMING.

Q DO YOU KNOW WHO YOU HEARD THAT FROM?

A THERE WAS A GENERAL DISCUSSION GOING ON AMONGST A NUMBER OF PEOPLE, SO IT WASN'T ANY SPECIFIC. IT WAS JUST SORT OF A GENERAL KNOWLEDGE THAT IT MIGHT BE COMING. AND I PROBABLY OUGHT TO SAY MIGHT BE COMING, NOT THAT IT WOULD BE. BUT THERE WAS JUST GENERAL DISCUSSION

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BECAUSE BEHIND IN MONEY AND THERE WAS JUST GENERAL DISCUSSION THERE NEEDED TO BE MORE FUNDS COMING IN.

Q IN 1990, THE KENTUCKY DEMOCRATIC PARTY HEADQUARTERS, WHERE WERE THEY LOCATED?

A FRANKFORT. SAME PLACE IT IS TODAY.

Q AND WAS THE COORDINATED CAMPAIGN LOCATED WITHIN THE SAME OFFICE SPACE?

A THAT'S CORRECT. SAME BUILDING.

Q CAN YOU EXPLAIN TO ME WHAT ROLE THE NCEC HAD IN THE COORDINATED CAMPAIGN?

A WELL, ONLY FROM THE STANDPOINT THAT WE NEEDED THE TARGETING AND THAT WAS TO BE SHARED WITH ALL OF THE CANDIDATES, LEGISLATIVE CANDIDATES. THAT WAS THE ONLY ROLE THAT THEY HAD WAS TARGETING AND SHARING DATA.

Q WHAT TYPE OF INFORMATION?

A TARGETING DATA. FROM OUR STANDPOINT AND I THINK ONLY WAS JUST THE TARGETING DATA, WHICH IS TARGETING IS WHERE YOUR RESOURCES ARE, VOTEWISE RESOURCES, AND WHERE TO SPEND YOUR TIME ALLOCATIONS AND THE IMPORTANCE OF VARIOUS PRECINCTS AND VARIOUS COUNTIES FOR THE CAMPAIGN.

Q WAS THAT INFORMATION THAT THE STATE PARTY PAID FOR OR WAS THAT --

A I CAN'T RECALL.

Q IN THE STRUCTURE OF THE KENTUCKY

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DEMOCRATIC PARTY AND THE COORDINATED CAMPAIGN, WHO BESIDES MARY ANN JOHNSON MADE THE PRINCIPAL DECISIONS ABOUT WHAT THE PARTY WAS GOING TO DO?

A WELL, PRINCIPAL DECISIONS ABOUT WHAT THE PARTY WAS GOING TO DO. I CAN ONLY SPEAK TO MY AREA AND THAT WAS THE COORDINATION OF WHAT I'VE SAID BEFORE AND IN REGARDS TO VARIOUS DECISIONS, I HAD NO -- THERE WAS NO DECISION THERE FOR CHECKWRITING OR ANYTHING OF A FINANCIAL NATURE, SO I CAN'T SPEAK TO THAT. I JUST CAN'T SPEAK TO THAT. I CAN TALK TO YOU ABOUT THE COORDINATED CAMPAIGN THAT I FELT THAT I WAS RESPONSIBLE FOR WHICH HAD NOTHING TO DO WITH THE MONEY EXCEPT FOR THE FUNDRAISING ACTIVITIES THAT I MENTIONED BEFORE. BUT I JUST CAN'T REALLY ANSWER THAT.

Q DO YOU KNOW WHY IT WAS THAT YOU WERE EXCLUDED FROM --

A THERE WAS A LOT OF JEALOUSY. THE GOVERNOR, THE EXISTING GOVERNOR, DIDN'T THINK MUCH OF HARVEY SLOANE AND YET I WAS OUT THERE AND THAT HAD A LOT TO DO WITH IT. NOT THE EXISTING TODAY, THE GOVERNOR THEN, GOVERNOR WILKINSON, WAS NOT A BIG FAN OF THE CANDIDATE AND WHATEVER OTHER HUMAN JEALOUSIES THEY EXISTED.

Q SO IT WAS FOR PERSONAL REASONS THAT YOU WERE EXCLUDED FROM THAT TYPE OF INFORMATION?

A IT WAS PERSONAL AND MAYBE THEY HAD

OTHER BUSINESS REASONS. THEY DIDN'T THINK I NEEDED TO SEE THE BOOKS BECAUSE THE BOOKS WOULD HAVE OPENED UP THE ENTIRE PARTY BOOKS TO ME AND I'M SURE THEY DIDN'T WANT ME TO SEE THE ENTIRE PARTY BOOKS.

Q WERE THERE ANY OFFICERS OF THE KENTUCKY DEMOCRATIC PARTY?

A THERE IS A BOARD -- NOT A BOARD OF DIRECTORS, THERE IS A STATE CENTRAL COMMITTEE OF THE PARTY.

Q AND DO YOU KNOW IF THEY HAD ANY KIND OF ROLE IN DECISIONMAKING?

A NO, NOT AT ALL. NO.

Q WHO DO YOU THINK THAT MARY ANN LOOKED TO FOR ADVICE IN MAKING THESE KINDS OF DECISIONS?

A WELL, I'M SURE I WAS A PART OF IT BUT I CAN'T SPEAK TO WHO ELSE SHE ASKED. I'M SURE FOR VARIOUS THINGS SHE AND I TALKED MANY TIMES ABOUT VARIOUS ASPECTS OF THE CAMPAIGN, BUT I'M SURE SHE HAD MANY OTHER PEOPLE THAT SHE DEALT WITH BESIDES JUST SKIPPER MARTIN.

Q DID THE TWO OF YOU EVER TALK ABOUT THE ADS THAT THE PARTY WAS GOING TO RUN?

A NOT MUCH. I CAN'T RECALL GETTING INTO A DISCUSSION ABOUT IT.

Q DO YOU KNOW IF SHE'S THE ONE WHO ACTUALLY MADE THE DECISIONS ABOUT THE ADS?

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A IF YOU MEAN DECISION IN MEANING WE WILL RUN THESE ADS TOMORROW OR SOME POINT IN TIME, I JUST REALLY DON'T KNOW. I KNOW I WAS NOT THE ONE THAT THEY SAID WHEN DO YOU WANT TO START THEM. WHEN CAN WE START THEM. IT WAS NOT ME. SO SOMEBODY ELSE HAD TO OF AND IT WASN'T ME.

Q DO YOU KNOW IF JAMES CUNNINGHAM HAD A ROLE IN THAT?

A A ROLE I CAN'T SPEAK TO. SOME INVOLVEMENT POSSIBLY, BUT A ROLE, I DON'T KNOW.

Q DID YOU HAVE A REGULAR LIKE STAFF MEETING?

A HAD SOME STAFF MEETINGS. THEY WEREN'T -- THEY WERE PERIODIC, BUT MARY ANN WOULD CALL SOME OF US IN. IT WAS JUST A FEW TIMES BECAUSE WE ON A SHORT CAMPAIGN, BUT THERE WERE A COUPLE OF STAFF MEETINGS IN MARY ANN'S OFFICE TO BRIEF HER ON WHAT WAS GOING ON.

Q AND IN ANY OF THE STAFF MEETINGS DID THE ADS EVER COME UP IN ANY OF THOSE?

A NO, THEY WERE NEVER DISCUSSED. THERE WAS NEVER ANY DISCUSSION ABOUT THAT AND THE MEETINGS WERE MORE AT THE FRONT PART OF THE CAMPAIGN AND TO ME THAT MEANS IN A JUNE, JULY FRAME THEN THEY WERE AT THE LATTER PART.

Q WHO WOULD HAVE BEEN AT THESE STAFF

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MEETINGS?

A THE PEOPLE THAT HAVE BEEN MENTIONED HERE THAT I MENTIONED IN MY INTERROGATORIES.

Q WITHIN THE COORDINATED --

A EXCEPT KEVIN GETTINGS. KEVIN GETTINGS WAS NOT AND I THINK I MENTIONED KEVIN IN HERE. BUT OTHER THAN IT WOULD HAVE BEEN THOSE PEOPLE THAT I MENTIONED IN THE INTERROGATORIES.

Q JAMES CUNNINGHAM, WAS HE EVER PRESENT?

A NO, HE WAS NOT. HE WAS NEVER PRESENT.

Q OKAY. YOU HAVE THE OPPORTUNITY TO READ THE TRANSCRIPT IF YOU WOULD LIKE, MAKE ANY CORRECTIONS THAT YOU THINK DO NOT ACCURATELY REFLECT WHAT HAD GONE ON TODAY. IF WOULD YOU LIKE TO DO THAT, YOU NEED TO ARRANGE WITH THE COURT REPORTERS TO VIEW THAT AND MAKE YOUR CORRECTIONS AND THEN RETURN A SIGNED COPY, GIVE YOUR SIGNED COPY TO THEM AND THEN THEY WILL SEND IT ON TO US. YOU MIGHT WANT TO TALK WITH HER BEFORE YOU LEAVE.

MR. WETTERER: LET'S DO THIS. GIVE HER A CARD

THE WITNESS: I DON'T HAVE ONE. CAN YOU GIVE HER ONE OF YOURS OR SOMETHING?

MR. WETTERER: I DON'T THINK I HAVE ONE EITHER, BUT WE'LL GIVE HER THE INFORMATION.

Q PURSUANT TO THE ACT YOU WILL RECEIVE A

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CHECK FOR A WITNESS FEE OF $40. EVERYONE IS ALWAYS SO SURPRISED WHEN I SAY THAT, AND ALSO REIMBURSEMENT FOR TRAVEL.

A DOES PEROT KNOW THIS?

Q I'M NOT SURE. HOW FAR DO YOU ESTIMATE THAT YOU TRAVELED?

A ABOUT 10,000 MILES.

Q I REMIND YOU YOU'RE UNDER OATH, MR. MARTIN.

A OH, WELL, I OVERESTIMATED THAT CONSIDERABLY. I DON'T KNOW. I MEAN FROM FRANKFORT TO HERE, SAY 45 MILES.

Q WHERE WOULD YOU LIKE THAT CHECK SENT?

A I OVERESTIMATED MY 10,000 CONSIDERABLY.

Q WHERE WOULD YOU LIKE THE --

A AT THE ADDRESS SENT ON THE DOCUMENTS. THAT WOULD BE FINE.

Q ONE MORE PROCEDURAL MATTER, ALTHOUGH I DON'T FORESEE THE NEED TO HAVE TO TALK TO YOU AGAIN --

A I'M AROUND.

Q -- WE USUALLY ROUTINELY CONTINUE DEPOSITIONS RATHER THAN ADJOURN THEM. SO FOR TODAY WE WILL GO AHEAD AND CONTINUE THIS, CLOSE IT FOR TODAY, BUT CONTINUE IT ON. I JUST WANT TO REMIND YOU ONE MORE TIME THAT WHILE THE INVESTIGATION IS STILL UNDERWAY THIS IS TO

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REMAIN CONFIDENTIAL?

A THAT'S FINE WITH ME.

Q DOES ANYONE HAVE ANYTHING THEY WOULD LIKE TO ADD TO THE RECORD?

A NO.

MS. MOTT: I WANT TO THANK YOU FOR COMING AND THAT'S IT.

(WITNESS EXCUSED)

*** *** ***

2504336544405

STATE OF KENTUCKY)
) SS.
COUNTY OF JEFFERSON)

I, MICHELE P. KEOWN, A NOTARY PUBLIC, WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING DEPOSITION OF

ANDREW SKIPPER MARTIN

WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH; THAT THE DEPOSITION WAS REDUCED TO SHORTHAND WRITING BY ME IN THE PRESENCE OF THE WITNESS; THAT THE FOREGOING IS A FULL, TRUE AND CORRECT TRANSCRIPT OF THE SAID DEPOSITION SO GIVEN; THAT THERE WAS A REQUEST THAT THE WITNESS READ AND SIGN THE DEPOSITION; THAT THE APPEARANCES WERE AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR OF KIN TO THE PARTIES TO THIS ACTION, AND AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID ACTION.

WITNESS MY SIGNATURE THIS 29TH DAY OF OCTOBER, 1992.

MY COMMISSION EXPIRES THE 14TH DAY OF AUGUST, 1995.

Michele P Keown

MICHELE P. KEOWN
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY

9504366 4406

RECEIVED
FEDERAL ELECTION COMMISSION
92 NOV -4 A 11:04

IN RE: FEDERAL ELECTION COMMISSION

MUR 3182

* * * * * * * * * * *

DEPONENT: MARY C. BINGHAM

DATE: OCTOBER 23, 1992

* * * * * * * * * * *

ORIGINAL

MICHELE P. KEOWN
COURT REPORTER

AFFILIATED REPORTERS
644 S. THIRD STREET, SUITE 214
CRESENT CENTRE
LOUISVILLE, KENTUCKY 40202
(502) 585-2800

9504365404407

THE DEPOSITION OF MARY C. BINGHAM, WAS TAKEN AT THE WYATT, TARRANT & COMBS, 27TH FLOOR, CITIZENS PLAZA, LOUISVILLE, JEFFERSON COUNTY, KENTUCKY, ON OCTOBER 23, 1992 AT APPROXIMATELY 10:00 A.M., UPON ORAL EXAMINATION.

APPEARANCES

FOR MRS. BINGHAM

JOSEPH A. RIESER, JR. ESQ.
REED, SMITH, SHAW & MCCLAY
1200 18TH STREET, N.W.
WASHINGTON, D.C. 20036

KENNETH A. GROSS, ESQ.
SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005

VIRGINIA SNELL, ESQ.
WYATT, TARRANT & COMBS
27TH FLOOR
CITIZENS PLAZA
LOUISVILLE, KY 40202

FOR THE FEDERAL ELECTION COMMISSION:

TONDA M. MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFF LONG
FEDERAL ELECTION COMMISSION
999 E STREET, N.W.
WASHINGTON, DC 20463

* * * * * * * * *

MARY C. BINGHAM, CALLED ON BEHALF OF THE FEDERAL ELECTION COMMISSION, AFTER BEING FIRST DULY SWORN, WAS EXAMINED AND DEPOSED AS FOLLOWS:

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2

DIRECT EXAMINATION

BY MS. MOTT:

Q COULD YOU PLEASE STATE YOUR NAME FOR THE RECORD, MRS. BINGHAM, YOUR FULL NAME.

A MARY C. BINGHAM.

Q AND WHERE DO YOU RESIDE, MRS. BINGHAM?

A IN GLENVIEW, KENTUCKY.

Q AND YOU HAVE COUNSEL HERE TODAY?

A YES, THESE GENTLEMEN.

Q MR. RIESER.

MR. RIESER: DO YOU WANT ME TO IDENTIFY MYSELF?

MS. MOTT: JUST FOR THE RECORD, PLEASE.

MR. RIESER: I AM JOSEPH A. RIESER, JR. AND I'M HERE AS COUNSEL FOR MRS. BINGHAM TODAY. WITH ME ARE KEN GROSS FROM WASHINGTON, D.C. AND VIRGINIA SNELL FROM LOUISVILLE, KENTUCKY.

Q MRS. BINGHAM, HAS ANYONE ELSE EVER REPRESENTED YOU IN THIS PARTICULAR MATTER?

A HAS ANYONE ELSE?

Q BESIDES MR. RIESER.

A WELL, MY REGULAR COUNSEL HAS DISCUSSED IT WITH ME, MR. GORDON DAVIDSON.

Q FOR THE RECORD TOO, COULD YOU, IF YOU KNOW IT OFF THE TOP OF YOUR HEAD, COULD YOU PLEASE STATE

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YOUR SOCIAL SECURITY NUMBER?

A I'M SORRY, I NEVER HAVE MEMORIZED, BUT I'LL GIVE IT TO YOU.

Q OKAY.

MR. RIESER: WOULD YOU LIKE HER TO READ IT?

MS. MOTT: SURE.

A SHALL I READ IT?

Q PLEASE.

A IT'S [redacted]

Q OKAY. MY NAME, FOR THE RECORD, IS TONDA MOTT AND I REPRESENT THE OFFICE OF THE GENERAL COUNSEL OF THE FEDERAL ELECTION COMMISSION. TODAY WITH ME HERE IS ANNE WEISSENBORN AND JEFF LONG ALSO OF THE OFFICE OF THE GENERAL COUNSEL. THIS DEPOSITION IS BEING TAKEN PURSUANT TO A FEDERAL ELECTION COMMISSION SUBPOENA ISSUED IN CONNECTION WITH THE INVESTIGATION UNDER SECTION 437G OF TITLE II OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AS AMENDED. THE STATUTE PROVIDES THAT THE CONFIDENTIALITY OF THIS INVESTIGATION MUST BE MAINTAINED UNTIL THE COMMISSION CLOSES THE FILE ON THIS MATTER. FOR THE RECORD THIS INVESTIGATION IS DESIGNATED AS MATTER UNDER REVIEW OR MUR 3182. HAVE YOU EVER HAD YOUR DEPOSITION TAKEN BEFORE, MRS. BINGHAM?

A YES.

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Q AND EVEN THOUGH YOU HAVE HAD ONE TAKEN BEFORE I'M JUST GOING TO GO THROUGH A COUPLE OF INSTRUCTIONS WITH YOU. OKAY?

I'M JUST GOING TO ASK YOU SOME QUESTIONS TODAY SEEKING SOME INFORMATION REGARDING THIS PARTICULAR MATTER UNDER REVIEW AND THE QUESTIONS I'LL BE ASKING YOU WILL NOT NECESSARILY BE JUST YOUR INVOLVEMENT BUT WILL BE QUESTIONS PERTAINING TO OTHER PEOPLE AS WELL. PLEASE MAKE SURE THAT YOU VERBALLY ANSWER ALL THE QUESTIONS SO THAT THE COURT REPORTER CAN GET IT DOWN. IF YOU DON'T UNDERSTAND A QUESTION, PLEASE LET ME KNOW AND I CAN REPHRASE IT OR REPEAT IT FOR YOU. IF AT any TIME YOU REALIZE THAT YOU HAVE GIVEN AN INCORRECT OR AN INCOMPLETE ANSWER AND YOU WANT TO GO BACK TO IT, JUST FEEL FREE TO LET ME KNOW AND WE CAN GO BACK AND PICK IT UP. OKAY? AND IF YOU WOULD LIKE TO TAKE A BREAK AT ANY TIME, JUST LET ME KNOW TOO AND WE CAN DO THAT.

MRS. BINGHAM, CAN YOU TELL ME WHAT DOCUMENTS THAT YOU REVIEWED IN PREPARATION FOR YOUR DEPOSITION TODAY?

A I REVIEWED THE DEPOSITION I MADE EARLIER AND I TRIED TO LOOK BACK AND TRIED TO REMEMBER EXACTLY THE CIRCUMSTANCES UNDER WHICH THIS DONATION WAS MADE.

Q AND YOU SAID THE DEPOSITION YOU GAVE

9504365 4411

EARLIER, ARE YOU REFERRING TO THE AFFIDAVIT THAT WAS SENT BY YOUR COUNSEL; IS THAT CORRECT?

A YES.

Q AND THOSE DOCUMENTS WERE ALL PROVIDED TO OUR OFFICE; IS THAT CORRECT?

A YES.

Q MRS. BINGHAM, CAN YOU PLEASE TELL ME HOW IT IS THAT YOU KNOW HARVEY SLOANE?

A WELL, HARVEY SLOANE IS A FRIEND OF MY SON, WITT BINGHAM, AND HE WAS WORKING I THINK AS A VISITOR VOLUNTEER IN A MEDICAL CLINIC IN WEST VIRGINIA WHEN THEY MET. I THINK MY SON WAS DOING THAT AT THAT TIME AND MET HIM THAT WAY. AND HE THEN AFTER THAT CAME TO LOUISVILLE WHEN HE HAD FINISHED HIS WORK THERE AND HE WAS INTERESTED IN SETTING UP A MEDICAL CLINIC IN THE WEST END OF TOWN WHICH HAD NO MEDICAL FACILITIES AND THAT'S HOW WE MET HIM.

Q DID YOU HELP HIM WITH SETTING UP THAT CLINIC?

A WITH WHAT?

Q WITH SETTING UP THE CLINIC.

A I DON'T THINK SO.

Q MRS. BINGHAM, DID YOU SUPPORT THE 1990 CAMPAIGN OF DR. HARVEY SLOANE?

A YES.

Q AND HOW WAS IT THAT YOU SUPPORTED THAT

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CAMPAIGN?

A I CONTRIBUTED WHAT I COULD -- THAT WAS LEGAL TO HIS CAMPAIGN.

Q AND HOW MUCH WAS THAT?

MR. RIESER: IF YOU KNOW, IF YOU REMEMBER.

A IS IT $1,000?

Q DID YOU ONLY MAKE THE ONE CONTRIBUTION TO HIS CAMPAIGN?

A I REALLY DON'T REMEMBER WHETHER I BROKE UP WHAT I COULD DO IN DIFFERENT PARTS OR WHETHER I GAVE IT IN ONE CHECK.

Q AND DID ANYONE ELSE IN YOUR FAMILY SUPPORT THAT CAMPAIGN AT THAT TIME?

A ARE YOU TALKING ABOUT -- WHICH CAMPAIGN BECAUSE THERE WERE MANY?

Q I'M SORRY, THE 1990 SENATE CAMPAIGN OF MR. SLOANE.

A THE SENATE CAMPAIGN, YES. DID OTHER MEMBERS OF MY FAMILY CONTRIBUTE?

Q YES, MA'AM.

A I SUPPOSE THEY DID, BUT I HAVEN'T GOT ANY PROOF OF IT.

Q DID ANY MEMBER OF YOUR FAMILY ACTUALLY WORK FOR THE CAMPAIGN?

9504365 4413

A YES, MY GRANDSON, ROB BINGHAM, WORKED IN THE CAMPAIGN.

Q AND DO YOU KNOW WHAT HIS CAPACITY WAS WITH THE CAMPAIGN?

A WELL, HE WAS WRITING SPEECHES AND HE TRAVELED WITH HARVEY AROUND A GOOD DEAL AND I THINK WAS JUST SORT OF A MAID OF ALL WORK.

Q NOW HAD YOU PREVIOUSLY CONTRIBUTED TO ANY OF MR. SLOANE'S EARLIER CAMPAIGNS?

A YES, I'M SURE I CONTRIBUTED TO ALL OF THEM.

Q DID YOU CONTRIBUTE TO HIS NON-FEDERAL CAMPAIGNS AS WELL AS HIS FEDERAL CAMPAIGNS? DO YOU UNDERSTAND WHAT I MEAN BY THAT?

A WHEN HE WAS RUNNING FOR COUNTY JUDGE AND SO FORTH?

Q YES, MA'AM.

A YES.

Q IN YOUR RESPONSE, MRS. BINGHAM, COUNSEL SENT A CHECK THAT YOU HAD GIVEN TO THE SLOANE CAMPAIGN IN 1988. DO YOU RECALL THAT CONTRIBUTION?

A NO.

Q I BELIEVE THE CHECK HAD INDICATED THAT IT WAS FOR AN EXPLORATORY COMMITTEE OF DR. SLOANE'S?

A WHAT RACE WOULD THAT HAVE BEEN?

95043654414

MS. MOTT: CAN WE HAVE THIS -- GO AHEAD AND HAVE THIS MARKED EXHIBIT ONE SO SHE CAN TAKE A LOOK AT THAT?

(WHEREUPON, DEPOSITION EXHIBIT NUMBER ONE WAS DULY RECEIVED, MARKED AND MADE A PART OF THE RECORD.)

A YOU KNOW, I DON'T REMEMBER WHAT THE EXPLORATORY COMMITTEE WAS. I'M 87 YEARS OLD AND MY RECOLLECTION IS NOT ALWAYS VERY EASY.

Q YES, MA'AM. I UNDERSTAND. DO YOU RECALL GIVING THIS PARTICULAR CONTRIBUTION AT ALL?

A WELL, OBVIOUSLY I DID, THAT'S MY SIGNATURE.

Q DO YOU RECALL THE CIRCUMSTANCES AT ALL SURROUNDING THIS CONTRIBUTION? WHO MIGHT HAVE ASKED YOU TO GIVE A CONTRIBUTION?

A JULY '88. NO. I GAVE AWAY A GREAT DEAL OF MONEY.

Q MRS. BINGHAM, LET'S TALK ABOUT A CONTRIBUTION THAT YOU MADE TO THE DEMOCRATIC NATIONAL COMMITTEE IN 1990. HOW WAS IT THAT YOU CAME TO GIVE THAT PARTICULAR CONTRIBUTION?

A WELL, THE CAMPAIGN WAS A TYPICAL MITCH MCCONNELL CAMPAIGN, FULL OF MUD SLINGING AND NO DISCUSSION OF THE ISSUES, AND IT SEEMED TO ME THAT IF I COULD HELP

9504365 4415

WITH THE PARTY'S SUPPORT OF THIS CAMPAIGN THAT I MIGHT -- IT MIGHT BE A GOOD THING TO DO THAT. I WAS INTERESTED IN VARIOUS KENTUCKY STATE RACES OF PEOPLE WHO SUPPORTED MEASURES THAT I APPROVED OF. AND SO I THOUGHT THAT -- I GAVE IT WITH THE HOPE THAT IT MIGHT POSSIBLY, SOME OF IT MIGHT COME BACK TO KENTUCKY TO THE KENTUCKY DEMOCRATIC PARTY AND THAT THEY WOULD -- AND THAT IT MIGHT POSSIBLY HELP HARVEY. BUT ANYTHING THAT -- ACTUALLY DEMOCRATIC REGISTRATION IN KENTUCKY IS TWO TO ONE SO ANY EFFORT OF THE PARTY TO GET OUT THE VOTE WOULD HELP ALL DEMOCRATIC CANDIDATES.

Q DID YOU EVER SPEAK WITH ANYONE AT THE SLOANE CAMPAIGN ABOUT GIVING THIS PARTICULAR CONTRIBUTION TO THE DEMOCRATIC NATIONAL COMMITTEE?

A SPEAK TO WHOM?

Q TO ANYONE AT THE SLOANE CAMPAIGN.

A I SPOKE TO HARVEY.

Q AND WHAT WAS THAT CONVERSATION ABOUT?

A I ASKED HARVEY WHAT WERE THE RULES ABOUT NON-FEDERAL CONTRIBUTIONS AND HE SAID WELL, WHAT THEY DO THEY LOOK AROUND THE COUNTRY AND THEY SEE WHAT CANDIDATES ARE IN GOOD SHAPE, HOW MUCH THEIR POOLS ARE AND THEY ONLY GIVE MONEY TO WHERE THEY THINK IT WOULD BE MOST EFFECTIVE, AND AT THAT POINT HARVEY DIDN'T REALLY THINK THAT HE WAS QUALIFIED VERY WELL. BUT THAT THERE COULD BE

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ABSOLUTELY NO EXPECTATION THAT THE MONEY WOULD COME TO KENTUCKY, THAT IT MIGHT GO ANYWHERE ELSE.

Q I BELIEVE YOU HAD STATED IN YOUR AFFIDAVIT THAT YOU SENT EARLIER THAT YOU HAD HAD A CONVERSATION WITH YOUR GRANDSON, ROB, ABOUT THE CONTRIBUTION.

A YES, I DID.

Q COULD YOU TELL US ABOUT THAT, PLEASE?

A WELL, WE WERE TALKING ABOUT THE REALLY QUITE NASTY CAMPAIGN. HE WAS STAYING WITH ME WHILE HE WAS WORKING HERE,

Q EXCUSE ME, WHEN WAS THIS?

A WHAT?

Q WHEN?

A THIS WOULD HAVE BEEN IN SEPTEMBER. I GO AWAY IN THE SUMMER AND I DIDN'T GET BACK UNTIL EARLY SEPTEMBER, SO IT WOULD HAVE BEEN SOMETIME DURING MAYBE THE SECOND WEEK OF SEPTEMBER. AND WE WERE DEPLORING THE QUALITY OF THE CAMPAIGN AND SAYING THAT REALLY ISSUES ARE NOT BEING DISCUSSED AND THAT IT WAS REALLY TOO BAD ALTOGETHER AND I THINK THEN THAT -- I DON'T THINK ROB SUGGESTED IT. I SAID I THOUGHT THAT I MIGHT HELP WITH THE STATE SUPPORT, HOPE THAT I COULD HELP WITH STATE SUPPORT ALTHOUGH I REALIZED THAT I COULDN'T REALLY DEPEND UPON IT AND THAT I HAD SOME MONEY AND I THOUGHT I WOULD CONTRIBUTE

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TO THE DNC.

Q AND HAD YOU ALREADY CONTRIBUTED MONEY TO THE STATE PARTY AT THAT POINT?

A NO.

Q DID YOU EVER SPEAK WITH A JAMES CUNNINGHAM ABOUT THIS PARTICULAR CONTRIBUTION?

A HE WAS THE MANAGER OF HARVEY'S CAMPAIGN?

Q YES, MA'AM.

A NO.

Q DID YOU EVER TALK WITH ANY OTHER MEMBERS OF SLOANE'S STAFF?

A UH-UH. NO.

Q DID YOU DISCUSS THE CONTRIBUTION WITH ANYONE AT THE KENTUCKY DEMOCRATIC PARTY?

A NO.

Q MARY ANN JOHNSON?

A NO.

Q ANDREW MARTIN?

A NO.

Q THE CONVERSATION THAT YOU HAD WITH ROB, WAS THAT BEFORE OR AFTER THE CONVERSATION THAT YOU HAD WITH DR. SLOANE?

A OH, THAT WAS BEFORE.

Q YOU SPOKE WITH ROB PRIOR TO SPEAKING

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WITH DR. SLOANE; IS THAT CORRECT?

A UH-HUH.

Q I'M SORRY, ONCE AGAIN COULD YOU TELL ME DID YOU CONTACT DR. SLOANE OR DID HE CALL YOU?

A I CALLED HIM TO ASK HIM WHAT THE RULE WAS ABOUT CONTRIBUTIONS.

Q AND DID YOU SPEAK WITH ANYONE AT THE DEMOCRATIC NATIONAL COMMITTEE ABOUT THE CONTRIBUTIONS?

A NO.

Q CAN YOU DESCRIBE FOR ME MECHANICALLY HOW YOU WENT ABOUT ACTUALLY MAKING THE CONTRIBUTION, WRITING OUT THE CHECK AND THAT KIND OF THING?

A WELL, I WAS AT HOME. I GO TO MY OFFICE TWO OR THREE TIMES A WEEK AND THAT DAY I HAD THINGS TO DO AT HOME AND SO I CALLED MY OFFICE AND ASKED MY FINANCIAL MAN TO MAKE OUT THESE CHECKS.

Q AND WHAT IS HIS NAME?

A LEON TALLICHET.

Q AND DID HE MAKE OUT THE CHECKS?

A YES.

Q AND DID YOU ACTUALLY EVER SIGN THOSE CHECKS?

A NO.

Q AND WHO ACTUALLY SENT THOSE CHECKS TO THE DNC?

9504365 4419

A I THINK LEON CALLED THE -- I DON'T THINK HE KNEW EXACTLY WHERE TO SEND THEM. I THINK HE PROBABLY--I DON'T KNOW THIS--I THINK HE PROBABLY CALLED HARVEY'S HEADQUARTERS TO FIND OUT WHERE TO SEND THE CHECKS AND THEY SAID -- I THINK THEY SAID THAT THEY WERE HAVING -- SOMEONE WAS GOING TO WASHINGTON THE NEXT DAY AND WOULD TAKE THEM.

Q SO THEY WERE HAND-DELIVERED THEN?

A UH-HUH.

Q DO YOU KNOW IF THERE WAS ANY KIND OF COVER LETTER ACCOMPANYING THOSE CHECKS?

A NO. NO COVER LETTER.

Q DO YOU KNOW IF ANYONE CONTACTED -- IF LEON OR ANYONE ELSE CONTACTED THE DNC PRIOR TO TELL THEM THE CHECKS WERE COMING?

A NO.

Q MRS. BINGHAM, I BELIEVE YOU STATED THAT YOU HAD THOUGHT THAT IT WOULD BE NICE IF SOME OF THE MONEY CAME BACK TO KENTUCKY; IS THAT CORRECT?

A I THOUGHT THAT. I NEVER SAID THAT TO ANYBODY EXCEPT AS TO ROB.

Q CAN YOU JUST TELL ME WHY THEN THAT YOU GAVE THE MONEY TO THE DEMOCRATIC NATIONAL COMMITTEE INSTEAD OF GIVING IT DIRECTLY TO THE STATE COMMITTEE, THE STATE PARTY COMMITTEE?

9504365 4420

A WELL, I THINK THAT THERE'S A LIMIT ON NON-FEDERAL CONTRIBUTIONS, ISN'T THERE?

Q AND HAD YOU GIVEN THAT TO THE STATE PARTY?

A I DON'T REMEMBER.

MR. RIESER: IF YOU REMEMBER.

A NO, I THINK NOT.

Q AND AS FAR AS YOU KNOW NO ONE NOTIFIED THE DEMOCRATIC NATIONAL COMMITTEE AHEAD OF TIME THAT YOU WERE GOING TO BE GIVING THIS CONTRIBUTION?

A AS FAR AS I KNOW THEY DID NOT.

Q MRS. BINGHAM, THIS IS QUITE A SIZABLE CONTRIBUTION. HAVE YOU BEFORE GIVEN CONTRIBUTIONS OF THIS SIZE WITHOUT LETTING THE ORGANIZATION KNOW AHEAD OF TIME THAT YOU WERE GOING TO GIVE THAT CONTRIBUTION?

A WELL, YOU KNOW, WHEN WE SOLD THE PAPERS THERE WAS A TREMENDOUS A LOT OF MONEY AND BARRY AND I DECIDED THAT WE COULD DISPERSE THIS MONEY TO THINGS THAT WE WANTED TO SUPPORT. I GAVE A MILLION DOLLARS TO THE ORCHESTRA, A MILLION DOLLARS TO THE CENTER FOR THE ARTS, $500 TO THE ORCHESTRA -- I MEAN TO THE OPERA, $500 TO THE BALLET.

MR. RIESER: 500 OR 500,000?

A 500,000. THREE MILLION TO TRANSYLVANIA UNIVERSITY, ABOUT THREE MILLION TO THE UNIVERSITY OF

9504365 4421

KENTUCKY TO BUILD THEIR FACULTY CENTER. SO I MEAN I DON'T LIKE TO SOUND SO STUCK-UP, BUT THIS IS NOT AN UNUSUAL SUM OF MONEY FOR ME TO GIVE AWAY.

Q AND THOSE OTHER CONTRIBUTIONS THAT YOU MADE, THERE WAS NO LETTER ACCOMPANYING THOSE?

A WELL, I EXPECT THERE WAS IN THAT CASE, IN THOSE CASES BECAUSE I WANTED TO SAY WHY I WAS GIVING THE MONEY. I MEAN I WANTED TO GIVE TO TRANSYLVANIA FOR THEIR TEACHER ENHANCEMENT PROGRAM AND THAT SORT OF THING.

Q WERE THERE ANY INSTANCES IN THOSE OTHER CONTRIBUTIONS WHERE YOU DID NOT ATTACH A LETTER EXPLAINING WHY YOU WERE GIVING THE CONTRIBUTION?

A WELL, I DON'T THINK YOU EVER GIVE THAT SORT OF THING TO A UNIVERSITY OR AN ARTS GROUP WITHOUT AT LEAST SIGNIFYING WHERE IT COMES FROM. BUT I DON'T EVEN KNOW THE ADDRESS OF THE NATIONAL COMMITTEE. I MEAN I HAD NO INTENTION OF WRITING THEM.

Q MRS. BINGHAM, CAN YOU TELL ME WHAT YOU HAD HOPED THE MONEY WOULD BE USED FOR?

A WELL, I REALIZE THAT I GAVE THE MONEY WITH NO STRINGS. I DIDN'T COMMUNICATE WITH THE DNC OR WITH THE KENTUCKY PARTY. I HOPED THAT IT WOULD COME -- SOME OF IT MIGHT COME BACK TO KENTUCKY AND BE USED BY THE KENTUCKY DEMOCRATIC PARTY TO RAISE THE LEVEL OF THE CAMPAIGN AND TO HELP ALL THE DEMOCRATIC CANDIDATES. BUT I

9504365 4422

HAD ABSOLUTELY NO ASSURANCE OF THAT. IN FACT I WAS TOLD BY HARVEY THAT, AS I SAID BEFORE, THAT THEY DID WHAT THEY PLEASED WITH IT, WHAT THEY THOUGHT -- WHAT THE COMMITTEE THOUGHT WAS MOST THE PROFITABLE THING FOR THE COMMITTEE.

Q SO YOU NEVER EXPRESSED A WISH TO ANYONE THAT THIS MONEY BE USED FOR THE SLOANE CAMPAIGN?

A NO.

Q MRS. BINGHAM, DO YOU KNOW WHO IT WAS THAT DELIVERED THE CHECK TO DNC?

A NO.

Q DO YOU KNOW WHO ACCEPTED THE CHECK?

A NO.

Q TELL ME WHEN YOU BECAME AWARE THAT MONEYS HAD BEEN TRANSFERRED FROM THE DEMOCRATIC NATIONAL COMMITTEE TO THE KENTUCKY PARTY?

A WHEN DID I KNOW THAT?

Q YES, MA'AM.

A I DON'T REMEMBER.

Q CAN YOU TELL ME WHEN IT WAS THAT YOU BECAME AWARE THAT THERE MIGHT BE A PROBLEM WITH THE CONTRIBUTION THAT YOU HAD MADE?

A I DON'T REMEMBER.

Q DID YOU TAKE ANY ACTION AFTER YOU HAD HEARD THAT THERE MIGHT BE A PROBLEM?

A YES. I CALLED GORDON DAVIDSON, MY

9504365 4423

LAWYER --

MR. RIESER: I'M GOING TO HAVE TO OBJECT BECAUSE THAT'S GETTING INTO PRIVILEGED CONVERSATIONS BETWEEN HER AND HER LAWYER.

MS. MOTT: YES, I UNDERSTAND.

BY MS. MOTT:

Q LET'S EXCLUDE WHAT YOU SPOKE TO YOUR LAWYER ABOUT IN THAT REGARDS. BUT WAS THERE ANYTHING THAT WAS ACTUALLY DONE BY YOU TO TRY TO CORRECT ANY PROBLEM THERE MIGHT HAVE BEEN?

MR. RIESER: COULD WE GO OFF THE RECORD FOR A MINUTE?

MS. MOTT: YES.

(OFF-THE-RECORD DISCUSSION)

MS. MOTT: BACK ON THE RECORD.

BY MS. MOTT:

Q HOPEFULLY THIS WILL TAKE CARE OF THE PROBLEM AND TAKE IT OUT OF ANY KIND OF A PRIVILEGE PROBLEM.

MRS. BINGHAM, DID YOU ASK THAT THAT MONEY, THAT PART OF THAT MONEY BE REDESIGNATED OR RETURNED TO YOU?

A YES.

Q AND WAS THAT IN FACT DONE?

A IT WAS NOT RETURNED.

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Q IT WAS NOT. MRS. BINGHAM, WERE YOU A TRUSTEE OF THE DEMOCRATIC NATIONAL COMMITTEE?

A NO.

Q DO YOU KNOW WHAT THAT -- DO YOU KNOW WHAT A TRUSTEE WOULD HAVE --

A NO. TELL ME WHAT IT IS.

Q I'M REALLY NOT SURE. I'M WAS HOPING YOU WOULD KNOW.

A I'VE BEEN ASKED TO ALL KINDS OF LUNCHES AND THINGS BECAUSE I'VE CONTRIBUTED TO DEMOCRATIC CAUSES, BUT I THINK PERHAPS I'VE BEEN IN SOME CATEGORY OR OTHER, BUT I'M NOT A TRUSTEE.

Q DID THEY EVER ASK YOU TO HELP THEM RAISE MONEY?

A NO.

MS. MOTT: CAN WE HAVE THIS DOCUMENT MARKED EXHIBIT TWO, PLEASE.

(WHEREUPON, DEPOSITION EXHIBIT NUMBER TWO WAS DULY RECEIVED, MARKED AND MADE A PART OF THE RECORD.)

MR. RIESER: YOU WANT HER TO REVIEW IT?

MS. MOTT: YES, IF YOU COULD, PLEASE.

BY MS. MOTT:

Q MRS. BINGHAM, CAN YOU JUST EXPLAIN FOR ME WHAT -- I'M SORRY, HAVE YOU PREVIOUSLY SEEN THIS LETTER

9504365 4425

BEFORE?

A WELL, I MUST HAVE SEEN IT. I DON'T REMEMBER IT.

Q COULD YOU EXPLAIN FOR ME WHAT IT IS THEY WERE SPEAKING OF THERE BECAUSE IT APPEARS THEY WERE SPEAKING OF YOU AS A TRUSTEE OF SOME SORT?

A OBVIOUSLY THEY THINK I'M A TRUSTEE, BUT I'VE NEVER BEEN TO ANY MEETINGS AND I DON'T REMEMBER THAT I WAS TRUSTEE.

Q DID YOU EVER RECALL HAVING A CONVERSATION WITH ROBERT FARMER ABOUT YOUR BEING A TRUSTEE?

A I DON'T REMEMBER.

Q DID YOU EVER RECALL HAVING A CONVERSATION WITH ROBERT FARMER ABOUT THE CONTRIBUTION THAT YOU MADE?

A NO.

Q BESIDES THE CONTRIBUTION THAT YOU MADE IN OCTOBER OF 1990, DID YOU GIVE ANY OTHER CONTRIBUTIONS TO THE DEMOCRATIC NATIONAL PARTY IN 1990?

MR. RIESER: EXCUSE ME, TONDA, THE DEMOCRATIC PARTY CAN BE ANY --

Q I'M SORRY, THE DEMOCRATIC NATIONAL COMMITTEE ITSELF, THE DNC?

A I DON'T REMEMBER.

9504365 4426

MR. RIESER: DO YOU REMEMBER THE QUESTION? WOULD YOU LIKE THE QUESTION RESTATED?

Q WOULD YOU LIKE ME TO REPEAT IT?

A THE QUESTION -- REPEAT THE QUESTION.

Q IN 1990 WE'VE ALREADY TALKED ABOUT THE CONTRIBUTIONS THAT YOU MADE IN OCTOBER OF 1990. DID YOU MAKE ANY OTHER CONTRIBUTION IN 1990 BESIDES THE 230,000 AND 20,000 THAT WERE SENT IN OCTOBER?

A THE 20,000 WAS THE FEDERAL CONTRIBUTION AND THE OTHER WAS THE NON-FEDERAL AND I DON'T THINK I MADE ANY OTHER CONTRIBUTION.

MR. RIESER: TO THE DNC?

Q TO THE DNC?

A TO THE DNC.

MS. MOTT: CAN I HAVE THIS MARKED EXHIBIT THREE?

(WHEREUPON, DEPOSITION EXHIBIT NUMBER THREE WAS DULY RECEIVED, MARKED AND MADE A PART OF THE RECORD.)

Q DO YOU RECALL SEEING THAT LETTER BEFORE, MRS. BINGHAM?

A NO. I'VE NEVER BEEN TO A TRUSTEE'S MEETING. I'M A TRUSTEE OF MANY THINGS BUT I DON'T REMEMBER THIS.

Q DO YOU RECALL MAKING A CONTRIBUTION

9504365 4427

EARLIER IN 1990 TO THE DEMOCRATIC NATIONAL COMMITTEE?

A NO.

Q IN 1990 DID YOU ALSO MAKE CONTRIBUTIONS TO THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE?

MR. RIESER: TONDA, BEFORE SHE ANSWERS THAT, YOUR DEPOSITION NOTICE WAS LIMITED TO CONTRIBUTIONS TO THE DEMOCRATIC NATIONAL COMMITTEE AND CONVERSATIONS WITH THE SLOANE CAMPAIGN. THERE WAS NOTHING IN YOUR NOTICE REGARDING CONTRIBUTIONS TO THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE, SO I DON'T THINK IT'S WITHIN THE SCOPE OF THE SUBPOENA OF THE NOTICE THAT YOU SENT.

MS. MOTT: THE REASON I BROUGHT IT UP IS BECAUSE THERE SEEMED TO BE SOME CONFUSION ON YOUR PART BETWEEN WHAT NATIONAL COMMITTEE THE CONTRIBUTIONS WERE MADE TO AND I WAS JUST WANTING TO CLEAR UP THAT THERE WERE SEPARATE CONTRIBUTIONS MADE TO SEPARATE ORGANIZATIONS.

MR. RIESER: IF THAT'S WHAT YOU'RE TRYING TO DO, THAT'S FINE.

MS. MOTT: THAT'S ALL I'M TRYING TO DO.

A I'M SURE I DID MAKE ONE, MAKE A CONTRIBUTION TO THAT COMMITTEE.

Q BUT YOU DON'T RECALL SPECIFICALLY?

A NO.

Q MRS. BINGHAM, LET'S TALK ABOUT THE ADS,

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THE TELEVISION AND RADIO ADS THAT THE STATE PARTY RAN FOR DR. SLOANE DURING THAT CAMPAIGN.

A I NEVER SAW ANY --

MR. RIESER: WAIT UNTIL SHE ASKS YOU A QUESTION.

THE WITNESS: ALL RIGHT.

MR. RIESER: SHE'S TELLING YOU SHE'S NOW SWITCHING THE SUBJECT.

THE WITNESS: SORRY.

BY MS. MOTT:

Q AT WHAT POINT DID YOU BECOME AWARE OF THOSE PARTICULAR ADS?

A BUT I NEVER SAW ANY OF THEM.

Q YOU NEVER SAW THEM ON TELEVISION OR HEARD THEM ON THE RADIO?

A NO.

Q DID YOU EVER HAVE ANY KNOWLEDGE OF THEM INDEPENDENT OF ACTUALLY SEEING THEM?

A NO. I DIDN'T -- I REALLY DIDN'T.

Q DID YOU EVER DISCUSS THEM WITH ROB BINGHAM?

A NO.

Q DID YOU EVER DISCUSS THEM WITH HARVEY SLOANE?

A NO.

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Q DID YOU EVER DISCUSS THEM WITH ANYONE AT THE STATE PARTY?

A NO.

Q OR AT THE DEMOCRATIC NATIONAL COMMITTEE?

A NO. I DON'T LOOK AT TELEVISION MUCH.

Q DID ANYONE AT THE KENTUCKY DEMOCRATIC PARTY EVER ASK YOU TO GIVE A CONTRIBUTION?

A I DON'T REMEMBER.

Q DID YOU KNOW MARY ANN JOHNSON?

A NO.

Q DID YOU KNOW ANDREW, OR HE WAS SOMETIMES CALLED SKIPPER MARTIN?

MR. RIESER: YOU'VE ALREADY ASKED BOTH OF THOSE QUESTIONS.

Q COULD YOU JUST PLEASE ANSWER THEM?

A NO.

Q THANK YOU. MRS. BINGHAM, AT THAT TIME DID LEON -- I'M SORRY WHAT --

A TALLICHET.

Q COULD YOU SPELL THAT, PLEASE?

A T-A-L-L-I-C-H-E-T.

Q WAS HE THE ONLY PERSON HANDLING YOUR CONTRIBUTIONS, FINANCIAL MATTERS AT THAT POINT?

A YES.

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MS. MOTT: WHY DON'T WE TAKE A QUICK BREAK HERE?

MR. RIESER: SURE.

(THERE WAS A SHORT BREAK TAKEN.)

MS. MOTT: BACK ON THE RECORD.

BY MS. MOTT:

Q WE DON'T HAVE MUCH MORE TO GO THROUGH. I JUST WANT TO GO BACK AND CLARIFY A COUPLE OF THINGS AND MAKE SURE THAT WE UNDERSTAND EXACTLY WHAT IT WAS.

WHEN YOU HAD THE CONVERSATION WITH ROB, DID YOU INDICATE TO HIM AT THAT TIME THAT YOU WOULD BE GIVING A CONTRIBUTION TO THE DEMOCRATIC NATIONAL COMMITTEE?

A YES. I SAID I HAD SOME MONEY AND I FELT IT WOULD BE A HELPFUL THING TO DO.

Q AND WHEN YOU SPOKE WITH DR. SLOANE AFTERWARDS WHEN YOU DISCUSSED WITH HIM THE LIMITS, DID YOU INDICATE TO HIM THAT YOU WERE GOING TO BE GIVING THE CONTRIBUTION TO THE NATIONAL PARTY?

A WELL, I CALLED HIM TO ASK HIM TO EXPLAIN WHAT THE LIMITS WERE.

Q AND DURING THAT CONVERSATION DID YOU TELL HIM THAT YOU WERE PLANNING ON GIVING THAT CONTRIBUTION?

A YES, BECAUSE THAT WAS WHY I CALLED HIM.

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Q DID YOU EXPRESS YOUR WISHES THAT SOME OF THIS MONEY COME BACK AND BE USED FOR THE KENTUCKY DEMOCRATIC CAMPAIGN?

A NO.

Q DID YOU EVER EXPRESS THAT TO ROB?

A I THINK I SAID I HOPED THAT IT MIGHT BE HELPFUL BUT THERE WAS NO -- IT WAS NOT LIKELY.

Q AND DID YOU EVER EXPRESS THAT TO DR. SLOANE?

A HE EXPLAINED TO ME, AS I SAID BEFORE, THAT IT WAS REALLY RATHER UNLIKELY THAT IT WOULD COME TO KENTUCKY BECAUSE HIS POSITION AT THAT POINT IN THE CAMPAIGN WAS PROBABLY LESS PROMISING THAN OTHER CANDIDATES.

Q NOW, REGARDING THE DELIVERY OF THE CHECK FROM -- IS IT MR. TALLICHET?

A TALLICHET.

Q FROM HIM TO THE NATIONAL PARTY, DO YOU KNOW IF ROB TOOK THAT CHECK TO WASHINGTON?

A NO, HE DID NOT.

Q HE DID NOT. DO YOU KNOW IF JAMES CUNNINGHAM TOOK THAT CHECK TO THE NATIONAL PARTY?

A NO. I DON'T KNOW WHO TOOK THE CHECK.

Q DID MR. TALLICHET REPORT BACK TO YOU IN ANYWAY THAT THE CONTRIBUTION HAD BEEN MADE?

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A NO. I JUST ASSUMED THAT HE WOULD MAKE IT.

Q SO THERE WAS NEVER ANY CONFIRMATION OF THE CONTRIBUTION TO YOU?

A NO. THAT WAS NOT HIS STYLE.

Q DID YOU EVER RECEIVE ANY INFORMATION AFTER YOU HAD MADE THE CONTRIBUTION AS TO HOW THAT MONEY WAS GOING TO BE USED?

A NO. I HAD NO COMMUNICATION WITH THE DNC.

Q DID YOU RECEIVE ANY INFORMATION ABOUT HOW IT WAS GOING TO BE USED FROM THE STATE PARTY?

A NO.

Q OR THE SLOANE COMMITTEE?

A NO.

MS. MOTT: I DON'T HAVE ANYTHING. IF THERE'S ANYTHING THAT YOU WOULD LIKE TO PUT ON THE RECORD, MR. RIESER.

MR. RIESER: CAN YOU GIVE US A FEW MINUTES?

MS. MOTT: SURE. ABSOLUTELY.

(THERE WAS A SHORT BREAK TAKEN.)

MR. RIESER: WE WILL NOT WAIVE SIGNATURE, SO WE WILL WANT TO REVIEW THE DEPOSITION.

MS. MOTT: WHAT WE'LL DO IS YOU CAN

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MAKE ARRANGEMENTS WITH THE COURT REPORTER TO REVIEW THE TRANSCRIPT AND MAKE ANY CORRECTIONS?

MR. RIESER: OKAY. YOU WILL SEND IT TO ME?

REPORTER: UH-HUH.

MS. MOTT: AND MRS. BINGHAM CAN SIGN IT. THE ONLY OTHER THING THAT I WOULD HAVE IS ALTHOUGH WE REALLY DO NOT ANTICIPATE HAVING TO COME AND SPEAK WITH YOU AGAIN, IT'S A MATTER OF PROCEDURE THAT WE CONTINUE DEPOSITIONS RATHER THAN CLOSING THEM OUT JUST BECAUSE IT IS AN ONGOING INVESTIGATION. OTHER THAN THAT DO YOU HAVE ANYTHING ELSE TO ADD TO THE RECORD?

MR. RIESER: NO.

MS. MOTT: WELL, THAT WILL CLOSE THE DEPOSITION FOR TODAY THEN. I WANT TO THANK YOU VERY MUCH FOR COMING AND TALKING WITH US.

(WITNESS EXCUSED)

*** *** ***

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STATE OF KENTUCKY)
) SS.
COUNTY OF JEFFERSON)

I, MICHELE P. KEOWN, A NOTARY PUBLIC, WITHIN AND FOR THE STATE AT LARGE, DO HEREBY CERTIFY THAT THE FOREGOING DEPOSITION OF

MARY C. BINGHAM

WAS TAKEN BEFORE ME AT THE TIME AND PLACE AND FOR THE PURPOSE IN THE CAPTION STATED; THAT THE WITNESS WAS FIRST DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH; THAT THE DEPOSITION WAS REDUCED TO SHORTHAND WRITING BY ME IN THE PRESENCE OF THE WITNESS; THAT THE FOREGOING IS A FULL, TRUE AND CORRECT TRANSCRIPT OF THE SAID DEPOSITION SO GIVEN; THAT THERE WAS A REQUEST THAT THE WITNESS READ AND SIGN THE DEPOSITION; THAT THE APPEARANCES WERE AS STATED IN THE CAPTION.

I FURTHER CERTIFY THAT I AM NEITHER OF COUNSEL NOR OF KIN TO THE PARTIES TO THIS ACTION, AND AM IN NO WAY INTERESTED IN THE OUTCOME OF SAID ACTION.

WITNESS MY SIGNATURE THIS 29TH DAY OF OCTOBER, 1992.

MY COMMISSION EXPIRES THE 14TH DAY OF AUGUST, 1995.

Michele P Keown

MICHELE P. KEOWN
NOTARY PUBLIC
STATE AT LARGE, KENTUCKY

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21-13/830

10761

MARY C. BINGHAM 07-88

[redacted]

July 8 19 88

Pay to the order of The Harvey Sloane Exploratory Committee for Senate 2,000

Two Thousand 00/100 Dollars

Liberty National Bank
And Trust Company of Louisville, Kentucky

Mary C. Bingham

[redacted]

CLARKS CHECKS

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110023569

JY '88 21

TO THE ORDER OF
REPUBLIC
BANK & TRUST COMPANY
LOUISVILLE, KY
FOR DEPOSIT ONLY
THE HARVEY SLOANE FOR SENATE
EXPLORATORY COMMITTEE
⑆083004344⑆
20-57⑈0⑈

00 07-22-88 1924 511700237

DEPOSITION
EXHIBIT

EXHIBIT 1

DEPOSITION EXHIBIT 2

Democratic National Committee

Robert A. Farmer
Treasurer

March 13, 1990

Ms. Mary C. Bingham
2320 Meidinger Tower
Louisville, Kentucky 40202

Dear Mary:

I want to thank you once again for your generous 1989 contribution of $25,000 and for your active participation as a Democratic National Committee Trustee. I sincerely appreciate your support.

By now you know that Democrats enjoyed extraordinary electorial successes in 1989. These victories are something in which we all share great pride. The Democratic National Committee was able to contribute to these success stories because we had the critical resources to invest in key races. In New Jersey and Virginia the DNC assumed a leadership role because we had both the skills and funds to bring the coordinated campaigns in those states to life.

These victories of November 7th were yours. Your contribution allowed us to level the playing field, be actively involved and to ultimately make the difference.

The elections of 1990 bring incredible challenges to the DNC. We face the task of reapportionment and redistricting, as well as assisting in 36 Gubernatorial races, 34 U.S. Senate races, and elections for all members of the U.S. House of Representatives. We anticipate taking an active role in these challenges and we plan, with your help, to elect more Democrats.

As you know, each Trustee has committed to contribute or raise $100,000 between now and November 1992 with this sum spread throughout the next three years. We need your continued financial support. To enable us to plan properly for 1990 and beyond, I am asking you, as an active Trustee, to make your 1990 contribution to the DNC before June 30, 1990.

430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
Paid for by the Democratic National Committee. Contributions to the Democratic National Committee are not tax deductible as charitable contributions for Federal income tax purposes.

Attachment G (page 29 of 31)

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Together we will make the 1990 elections an historical turning point for our Party as we look toward regaining of the White House in 1992.

Again, many thanks for your support. I look forward to talking with you soon.

Warmest personal regards,

Robert A. Farmer
Treasurer

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Attachment 6
(page 30 of 31)

EXHIBIT 2

Democratic National Committee

Ronald H. Brown
Chairman

April 12, 1990

Ms. Mary C. Bingham
4309 Glenview
Glenview, Kentucky 40025

Dear Mary:

I cannot thank you enough for your generous contribution to the Democratic National Committee. Your commitment to remain an active Trustee is vital to our continued growth and success, and I am truly grateful.

As we approach the important elections of 1990 and the Presidential race in 1992, your input and financial support are critical and I am fortunate to have you on my team.

Again, Mary, many, many thanks for your friendship and efforts. I hope to see you in New York in May for the Trustees meeting.

Sincerely,

Ronald H. Brown

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DEPOSITION EXHIBIT 3

Attachment 4 (page 31 of 31)

430 South Capitol Street, S.E. Washington, D.C. 20003 (202) 863-8000
Paid for by the Democratic National Committee. Contributions to the Democratic National Committee are not deductible as charitable contributions for Federal income tax purposes.

FEDERAL ELECTION COMMISSION

IN RE: MUR 3182 - JIM CUNNINGHAM

A P P E A R A N C E S

Hon. Tonda M. Mott
Attorney at Law
Federal Election Commission
999 E. Street, N.W.
Washington, D. C. 20463

November 9, 1992

JUANITA M. TOOLE
COURT REPORTER - PUBLIC STENOGRAPHER
109 SPRUCE DRIVE, FRANKFORT, KENTUCKY 40601
PHONE 1-502-227-4955
FAX 1-502-227-7130

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FEDERAL ELECTION COMMISSION

IN RE: MUR 3182 - JIM CUNNINGHAM

The testimony of James Cunningham was taken on November 9, 1990 at 1:00 P. M. at the Capitol Annex, Conference Room, Frankfort, Kentucky.

JUANITA M. TOOLE
COURT REPORTER · PUBLIC STENOGRAPHER
109 SPRUCE DRIVE. FRANKFORT. KENTUCKY 40601
PHONE 1-502-227-4955
FAX 1-502-227-7130

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The witness, JAMES CUNNINGHAM, after having been duly sworn, states and testifies as follows:

DIRECT EXAMINATION

BY MS. MOTT:

Q 1 Mr. Cunningham, could you just state your full name for the record?

A James William Cunningham.

Q 2 And, has anyone represented you at all in this matter, any attorneys?

A No.

Q 3 Okay. My name is Tonda Mott and I represent the office of the General Counsel of the Federal Election Commission. The deposition today is being taken pursuant to a Federal Election Commission subpoena issued in connection with an investigation under Section 437G of Title 2 of the United States Code. The Commission has jurisdiction of the Federal Election Campaign Act of 1971 as amended. The statute provides for the confidentiality of this investigation and that that confidentiality must be maintained until the Commission closes its file in the matter. Let me explain that for you. The Commission considers you a witness, not a respondent in the matter, but the provision of the

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Act still applies to you. So, it should remain confidential until the entire case is closed on this.

A So, that means, if anybody asks me about it--

Q 4 You just tell them it has to remain confidential.

A Tell them I am going hunting.

Q 5 That's right.

A Okay.

Q 6 Okay. This investigation is designated as matter under review or MUR 3182. You said you had never had your deposition taken before?

A No.

Q 7 Okay. Well, let me go through a couple of instructions for you. I am just going to ask a series of questions seeking information in this regard. And, the questions I ask won't necessarily be limited to your involvement, but may involve other people. Just please make sure that you verbally answer all of the questions so the court reporter can get it down, 'cause she can't get a nod of the head.

A Okay.

Q 8 If I ask a question and you don't understand it, just let me know and I can rephrase it or try to

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repeat it or rephrase it.

A Okay.

Q 9 And, if at any time you realize that you have given an incomplete or inaccurate answer, just let me know and we can go back and work through it. Okay. I just--let me ask you if you reviewed any documents in preparing for this deposition today?

A Just the letter that you sent me, I have got it in the truck.

Q 10 Okay. And, you still live at 754 Colonial Trace--

A That's correct.

Q 11 --Frankfort. And, is there a phone number where you can be reached?

A 502-227-2379.

Q 12 Okay. And, for the record, do you happen to know off the top of your head your social security number?

A [redacted]

Q 13 Okay. If you can just start off by giving me just a brief description of your educational background.

A High school graduate. Ninety some assorted college hours and a little bit of everything. And, now I am a political hack.

Q 14 Okay. And, are you presently employed?

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A No.

Q 15 You are recouping?

A I am thrilled to death not to be employed.

Q 16 And, where were you previously employed?

A With the North Carolina Democratic Party.

Q 17 And, that was for how long?

A Five and a half weeks.

Q 18 And, by whom were you employed in 1990?

A The Sloane for Senate race.

Q 19 And, that was here in Kentucky?

A Yes.

Q 20 Okay. Let's talk about your duties with the Sloane Committee, what your title was, what you did, that kind of thing.

A It was General Consultant but it was mainly Campaign Manager, handling the day to day operations of the entire campaign.

Q 21 Were there any other key people that you worked with in that campaign?

A Well, you worked with, of course, the media folks, the polling folks, the candidate and we had a staff of maybe twelve, fifteen.

Q 22 Were you involved in the media aspect of the campaign?

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A Only in the sense of approving scripts, looking over the buys, making sure we raised the money.

Q 23 And, what media firm did you use?

A Greer, Margolis, and Mitchell.

Q 24 And, were you involved at all in the actual creation of the ads?

A No. It was--we would get scripts and if we had a problem with, if they weren't--we didn't feel like they were Kentucky specific or if we didn't like the wording or didn't agree with the script versus the polling information, but not in really the creativity portion of it--

Q 25 And, the scripts you got were--

A --the creative portion.

Q 26 --from Greer?

A Greer.

Q 27 Okay. Did anyone of the Kentucky Democratic Party actually work with you on those ads?

A No.

Q 28 Who made the financial decisions about those ads?

A On what to spend or--

MS. MOTT: Yes.

A Mainly the candidate, but it was all based upon, you would get a recommended budget, you know, from

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the media folks, and it depended upon how much money you had, how much of it you funded. We got outspent so bad, we didn't have trouble making a lot of decisions on where to spend.

Q 29 Let's talk about the funding for the ads. Were you involved in any fund raising for those ads?

A The--we had a--they had a Finance Director that had been on board for about probably eighteen months and they pretty much had the fund raising piece set when I got there. I didn't come on until it was either June or July after the primary.

Q 30 And, who was the Financial--

A Jim Smith. And, he had, again, he had been with them like eighteen months.

Q 31 How much involvement did you have with the Kentucky Democratic Party?

A Well, other than--when you have a coordinated campaign, all of the campaigns either buy in or don't buy into what the program is for the coordinated. So, representing the Sloane campaign I had quite a bit of contact with them.

Q 32 Okay. And, who was your primary contact then?

A Let me think of her name. She was the Democratic Chair at the time, Mary Ann Johnson.

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Q 33 Okay. Did the Sloane campaign receive any voter lists or voter print outs from the Kentucky Democratic Party?

A I don't believe--see, I don't believe they still had the computer system then, because we didn't do a lot of direct mail. I am not sure whether we ended up getting some through--there was a vendor there who was Rick Ritter and I don't know if we ended up ordering some lists through him or not, but the Party didn't have the files any more.

Q 34 Okay. What was your understanding of what the coordinated campaign--what they were about and what they were supposed to be doing for the Sloane Committee?

A Well, the way it was set up is. They basically coordinated with all of the races, however many races there were, whether it was local reps, senate race, I can't remember what else was on the ballot, but it's basically bringing all of the different campaigns together and running a coordinated effort on behalf of the Democratic ticket.

Q 35 And, I am sorry, you may have already answered this, but who did you say that you primarily were in contact with the coordinated--

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A Mary Ann Johnson.

OFF THE RECORD

Q 36 Are you familiar with the written plan that the coordinated campaign has?

A Yes.

Q 37 And, did you--were you--

A I helped developed it, yes.

Q 38 Oh, you helped develop it?

A Yes.

Q 39 Well, why don't you just tell me what you can--

A What was in it?

Q 40 Yes. What you can recall that was in it.

A There was--well it changed so much, because the original plan that was taken up--taken to D. C. for approval, within that plan there was voter contact and pay phones and some direct mail, staff--

Q 41 Can I ask approval by whom in D. C., who would have--

A Well, it was the DNC looked at, so did the DSCC, so did, you know, some of the committees that you went up there to meet with to try to raise money. They all liked to go over it and see what they can change.

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Q 42 And, as far as the--as far as media is concerned, was there a part of that plan involving media?

A Eventually there was.

Q 43 And, what was the general content of that?

A Well, there was a feeling that if we, through generic media could get Democrats in the state to think Democratic and to think about the problems that Republicans, that we felt the Republicans had caused, that when they go to the polls then they are more likely to pull--you know, this a Democratic state, so if you get people thinking Democratic--so, there was some ads developed that was generic, you know, vote Democratic, you know, the Republicans have had their chance and there was--but that was pretty much what was in them.

Q 44 And, who paid for those ads?

A Democratic Party. I remember there was John F. Kennedy, Harry Truman and Roosevelt was the Democratic examples.

Q 45 And, did the Sloane Committee look to this written plan for any kind of guidance in its media?

A No. All of our paid media came off of the polling information and we had our own program. Jeff Garran, Garran Hart were the posters.

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Q 46 Did you ever have any meetings or discussions with Mary Ann Johnson or anyone at the Kentucky Democratic Party in regards to media?

A I am sure we did, because we were there, you know, in and out of the place all of the time, just about on every piece of the coordinated campaign you would--for individuals to be a part of it, you know, you would sit down and discuss here is what the plan is going to do, here is what--argue back and forth on what you wanted it to do under the guidelines, you know, that each campaign felt that it should do. Like the local candidates state reps were looking for--they were looking more for lists, you know, for labels for mailings, that type of stuff and that all came through the vendor. And, we were looking at regional staff and, you know, what was in the plan to help us. So, yes, there was a lot of meetings on it.

Q 47 And, would there have been on those--who else would have been there besides yourself, people from the Kentucky Democratic Party?

A Well, probably any--at different times probably just about everybody. Anybody that was running either state reps, I can't remember what else was

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up that year. I know there were state reps and there were state senates and there was even training sessions done with state, you know, state reps, representatives that type of stuff and say here is what's available through the different parts of the project. 'Cause you are basically trying to get everybody to commit X number of dollars for the coordinated campaign.

Q 48 And, did the Sloane Committee commit any blanket amount for the committee?

A I don't know if we ever, 'cause the money was so bad off. I don't know that we ever wrote a check to it. I couldn't say for sure.

Q 49 Do you know who was the Treasurer or who would have written the checks?

A Of the--

Q 50 Of the Sloane Committee?

A I can't remember the name. You never seen the Treasurer, at least I don't remember ever meeting one hardly. They were usually counting beans.

Q 51 I am going to go through a list of some names and ask you a series of questions about them. We have talked a little bit about Mary Ann Johnson. Do you know if she had any specific duties to the Sloane

Committee?

A No, she didn't.

Q 52 Steve Bahar?

A Steve worked at the coordinated campaign.

Q 53 Do you know if Steve had any duties with the Sloane Committee?

A No.

Q 54 Do you know if he was paid by the Sloane Committee at all?

A He was paid through the coordinated, 'cause I have known--as a matter of fact, I got Steve his job there and he worked directly for the coordinated. I don't think--I am ninety-nine percent sure there was no payment through the Sloane.

Q 55 Did he ever work for the Sloane Committee before he went to work--

A Not that I know of. He had basically been an advance person I had met in a presidential.

Q 56 Did you ever have any conversations with him about the Sloane ads?

A No.

Q 57 What about the Kentucky Democratic Party ads?

A Not that I remember, 'cause he is--being an advance person and then doing just coordinated work there,

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it's not somebody I would have sat down and discussed our ads with.

Q 58 Did the Kentucky Democratic Party have someone who was in charge of media besides Mary Ann Johnson?

A I don't know. Probably Skipper Martin was working over there then, he probably had quite a bit of input on the piece they was doing. He was the--I don't know if they called him Director or Coordinator.

Q 59 Of the coordinated campaign?

A Now, the difference is this. We never discussed our ads with--what we put up on the air is completely different than what they put up on the air. I mean, you don't go into a coordinated campaign meeting and discuss your candidate's specific media.

Q 60 So, the only way that that conversation probably would have been would be just for you guys to discuss their media?

A Yes. If at the time they was getting ready to run it, there probably was conversations on it. Or they would--another example would be, you know, Skipper had worked with Harvey before. So, he could have said, what are you all going up on the

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air with and, you know, of course, we would have said whatever we were going upon the air with.

Q 61 Do you ever remember having any specific conversations with Skipper about the ads?

A I probably talked to Skipper, I don't know, seven or eight times a week, so it's very possible. But, I don't remember any specific conversations with him, but I very well could have discussed them with him, once the decision was made that they were going to run generic media.

Q 62 But, you don't recall specifically anything that--

A No. That's--no, I don't.

Q 63 Okay. After Skipper Martin left the Sloane campaign do you know if he was still paid by the Sloane campaign at all?

A I don't know if he got paid for a period of time or not. I know he went over full time to the coordinated, but I don't think he drew anything that I know of after he went to work, unless it was, you know, a check they owed him before he left.

Q 64 Did he work at the Sloane Committee at any point in time that you did?

A No. He moved over to the coordinator probably two

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or three weeks before I came in.

Q 65 And, you came in, when was that?

A I remember being on Lake Erie the first two weeks in June, so it was somewhere after that. It was either--it was like, toward the 18th or the end of June, I believe.

Q 66 Nevil Blakemore, does that name ring a bell?

A Yes.

Q 67 And, what--did Nevil work for the campaign--at the Sloane campaign?

A Coordinator.

Q 68 Coordinator?

A Now, I don't--if any of these people worked for the campaign before I got there, I know Skipper did, I don't think Nevil did. Nevil was more of a gofer, young kid full of energy. I don't know if he ever even got paid by the coordinator, to tell you the truth, I am not sure.

Q 69 Okay. But, as far as you know, he never worked for the Sloane campaign?

A Not while I was there that I remember.

Q 70 Meg Connley?

A Yeah. Meg was doing research. Now, I don't know, she may have worked for the Sloane campaign for

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a while. There was a bit of resentment between the candidate's wife and Meg. I think they, it was just like putting a match next to gasoline. So, I don't think--I don't know that she ever drew a check from them, I don't think she did.

Q 71 Do you know what her involvement was in the written plan?

A She did a lot of research, plus worked with Matthew Dowel, who was a consultant for the DSCC and worked developing the plan, pulling figures and getting it, you know, put together.

Q 72 Did you ever have any conversations with her about the ads?

A I am sure I did, I mean, I don't remember anything specific. But, again, we talked, you know, you talked with the coordinated campaign all the time. So, did anyone else that was, you know, had races, whoever was a part of that plan.

Q 73 When you would talk with someone about the plan, what generally would you talk about?

A Well, the entire thing, was there, you know, money for mail, was there phones--who was going to be the regional people, you know, what schedules they had coming up. They did some training sessions,

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you know, should you have your candidate at this training session, is it a big enough crowd.

Q 74 When you talk about media, specifically what do you recall having discussed?

A Again, I, you know, I don't know how to answer that, 'cause we would--if we were getting ready to run an ad or if they would ask us what we had up on T. V. or what we was doing, I am sure we discussed it. And, when they were getting ready to do these ads, I am sure we had discussions on, you know, generic--what type of stuff they were looking at doing.

Q 75 Jim Colley?

A Jim was--he was a regional, I don't know if they called them regional coordinators. And, I think, I can't remember, I think he worked up in the east. I know he is from Pikeville.

Q 76 But, with the coordinated campaign?

A Yes.

Q 77 And, did he work at all for the Sloane Committee?

A Not that I know of.

Q 78 Pat Goins?

A Pat was the big bean counter. She was the one that made sure that there was the right mixes of money

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and, you know, federal, non-federal, she did that for like a hundred years.

Q 79 Danny Ross?

A Labor coordinator.

Q 80 Do you--let me back up for a second. Do you know if Pat had any involvement with the Sloane Committee?

A What do you mean involvement?

Q 81 Was she ever paid by the Sloane Committee?

A No.

Q 82 Did she ever work for the Sloane Committee?

A Not that--not while I was there. Not that I am aware of. I think she has been with the Democratic Party, I believe, twelve or sixteen years.

Q 83 Jackie Hollar?

A Receptionist.

Q 84 Doris Saunders?

A Doris was Assistant or--I don't know what her title--Executive Assistant to the Chairman. She sat right outside the chairman's door. So, I am not sure what her title was.

Q 85 And, by Chairman, are you referring to Mary Ann?

A Mary Ann Johnson.

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Q 86 Okay. Do you know when the Sloane Committee decided to retain Greer, Margolis?

A I got there in June and I think they had been on for a year and I am not even sure, but it was, I don't know, six, eight, ten months prior to June of that year, 'cause Greer had done the Lieutenant Governor here who is now Governor, so he worked in the state.

Q 87 Who was your contact at Greer, Margolis?

A It just depended on what we was doing. I mean, I would talk to Frank, if I needed to, I talked to Kevin Gaddings, if I needed to. I knew them from a race, from Malcom Wallip, John Vennage race out in Wyoming. David Mitchell who was, I don't think David was doing politics then, but I knew all of those guys for quite awhile. Pick up the phone, whichever one was in, you would get whatever you needed.

Q 88 Now, was there any specific person at Greer that was assigned to the Sloane Committee during the Sloane campaign?

A If you were looking for an account rep, somebody that was--if Frank wasn't there, then it would have been Kevin Gaddings.

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Q 89 Did you ever have any conversations with Kevin Gaddings about the Kentucky Party ads?

A I couldn't say whether I did or didn't. I am sure after they, you know, the decision was made they was going to run them, I may have asked. But, I don't know of any specifics. It seems like twenty years ago.

Q 90 Did you ever have any conversation with Frank Greer or anyone else at the firm about the Kentucky ads?

A Probably after they started, you know, if they made the decision to run them again, I am sure that in our conversations I would probably ask what was in the ads or what the, you know, what they were, the scripts or that type of stuff, sure.

Q 91 What would have been the purpose for finding out that particular stuff?

A Well, if, you know, we are involved with trying to raise money for the Party also. And, anybody that was part of the coordinated campaign, I mean, I asked a lot of questions. I asked questions about anywhere that money is going to be spent. Just like I do when I manage a race. So, it wouldn't have been unusual for me to ask about

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direct mail, phones, media, radio, yard signs, staff, whatever they were doing.

Q 92 Do you know if Harvey Sloane ever had any contact with the Greer firm in relation to the Kentucky ads?

A I couldn't answer that. Harvey and I were, I don't think you could call us close or--I don't know. I don't know much about him.

Q 93 When did you first become aware that the Democratic Party was planning on doing ads?

A I don't know whether it was September, October. I mean, it would be a--all I could do is make a guess.

Q 94 And, do you recall how you found out about that?

A Yes. We are--in a lot of the meetings, where you were talking about the coordinated campaigns, people would discuss, you know, what's the coordinated campaign going to do. So, there was everything discussed from hiring, you know, twenty-five staff and putting them all over the state to phones, to mail, to radio, to media, every single piece of it.

Q 95 The Greer firm at one point provided you with some information about the ads. Do you recall that at

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all, I mean, let's be fair, let me show you the first memo which is dated October 15, 1990.

MS. MOTT: Can I have this marked as Exhibit 1, please?

A That is the buy that they were going to place. I don't remember the memo, but I am sure they gave us, you know, a copy of what, you know, what markets and how much they was going to buy.

Q 96 Do you recall any--whether they gave you that or whether you asked for it or--

A I don't remember. Knowing me I probably asked for it.

Q 97 Is there any particular reason why you would have requested it?

A Yes. Then in a coordinated campaign, if somebody said they were going to do $1500.000.00 worth of phones and it was under the coordinated effort, I would want to know who they were calling, 'cause again all of the candidates were expected to raise money, you know, and try to fund as they do all coordinated campaigns and I wouldn't be in favor of funding anything I didn't know what was going on.

Q 98 Do you know if the Greer firm also kept the Kentucky Democratic Party apprised of what the

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Sloane Committee was doing?

A Of course not. They wouldn't have been working for us very long, if they would have been putting out our buys or our, you know, our scripts or anything.

Q 99 And, did you actually see the scripts or the story boards for the Kentucky ads before they were shown?

A I don't know if I seen the scripts before they were shown, or if I seen a copy of the ads at the Democratic Party. I believe I seen, I either seen the ads or the scripts prior to them running them. As a matter of fact I think they probably showed them at the Democratic headquarters.

Q 100 Do you know who else was there when they showed those?

A No. I am sure Skipper was and--I don't know. It could have been--probably the coordinated staff, but I don't know who--I don't know if there was any people beyond that.

Q 101 Was there anyone besides yourself from the Sloane Committee that would have been there?

A I don't think so, but I am not for sure.

Q 102 Harvey Sloane?

A I don't remember Harvey and I ever going anywhere to look at anything.

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Q 103 I am just going to show you another memo.

MS. MOTT: Could you mark that as Exhibit 2?

Q 104 This is just a second memo, which is dated October 20th.

A October 20th.

Q 105 Do you recall getting that particular memo?

A No. But, I am sure I did, my name is on it. When you are three weeks out from an election, you don't remember how many memos come across. That's just the regular T. V. buy, cable buy.

Q 106 And, would you say that you probably asked for this information as well?

A I would say I did probably.

Q 107 Okay. Do you know if anyone else in the Sloane Committee would have gotten this particular information?

A I don't know. I don't remember ever discussing that with anybody else in the Sloane campaign. So, I am not sure whether it would have or not.

Q 108 Do you ever remember discussing, requesting or getting this information--discussing it with Skipper Martin?

A It's very possible we did. But, I don't remember

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having a specific conversation.

Q 109 Let's talk about the Sloane ads in relation to the Kentucky Party ads. Were there ever any discussions about placement of those ads and one having an influence on the placement of the other one?

A No. The Democratic Party ads were generic. And, all of our ads were issues specific about what the poll numbers showed us. So, there wouldn't have been any coordination of ads, because it's a Democratic state. So, no, there wasn't.

Q 110 Would the issues that were being forwarded by the Kentucky Party ads, were some of those similar to the ones that the Sloane Committee was targeting?

A No. The best I--and I have got a copy of the tape somewhere, I should have looked at it. But, to the best of my recollection it was basically just generic, you know, the Republicans had did this for X number of years, it's time for Democrats. And, ours had a lot of specific issues on jobs, health care was a big issue. So, I mean, it was--I mean, they are a completely different set of ads, 'cause ours were targeted specific by the polling and as you know they couldn't do that. And, we tend to

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mention Mitch McConnell a few times in ours, just not enough.

Q 111 Can you tell me what role the Sloane Committee and their use of the Greer firm had in the Kentucky Democratic Party's decision to use the Greer firm as well?

A I don't know that it had any. I mean, I am sure if the subject came up to me, you know, at any time on who they was going to use, I would have recommended Greer, because again, he did the Lieutenant Governor's race here for Brereton Jones, when he won and they was on board with the Governor to do his race. So, if the question was asked of me, what media firm should they use or if anybody asked my counsel, I would have said Greer without a doubt, because I think she's the best in the country too.

Q 112 And, do you recall anyone having asked you, anyone from the Party?

A Specifically, no. But, they, you know, somebody could have asked me. I recommend media firms, polling firms, staff, you know, all of the time.

Q 113 I am going to throw a name out here and you may or may not know who this person is, but Rob Bingham?

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A Yes.

Q 114 Can you tell me what his role was in the campaign?

A This is a confidential interview?

Q 115 Yes. Absolutely.

A He was somewhere between little and no help. He was basically a college kid that came from a rich family that you never knew where he was or what he was doing. Nice kid. But, he would run into my office every once in awhile and say something that made no sense and leave. So, I mean, he's--I don't know that he--if he made a single decision anywhere, I missed it.

Q 116 But, he worked for the Sloane Committee?

A See, I don't know if he was ever paid or he was a volunteer or where he volunteered. I mean he showed up different places. I don't think we ever paid him.

Q 117 Did you ever see him at the coordinated campaign headquarters?

A I am not sure, I may have. I just don't remember.

Q 118 Let's talk about the funding of the Sloane Party ads. When Sloane ran his ads, do you know what the financial status--

A Now, wait a minute.

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MS. MOTT: Okay.

A Ask that question--the Sloane Party ads?

Q 119 The ones that the Sloane Committee purchased?

A Okay. The Sloane Committee ads?

MS. MOTT: Right.

A Okay.

Q 120 Do you know what the financial status of the campaign was at the time that those were purchased?

A No. I don't remember. We spent every day raising money. So, we weren't sitting around with excesses of money. But, I couldn't tell you on a day to day what the spindown was.

Q 121 Do you know what it was in relation to when--the time period when the state ads were run?

A Do I know what his financial status was?

Q 122 What the Sloane Committee's, yes?

A I would have to go back and look. I mean, I don't remember.

Q 123 And, you said you were involved in the fund raising for both the Sloane Committee and the coordinated Party?

A Sure.

Q 124 Typically what kind of fund raising was done for either or both of those campaigns?

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A Well, Harvey was, again, had a Finance Director and he was calling the same people everybody calls. Everybody from, you know, from PACS to individuals, people who had a history of giving. And, then what the coordinator would try to do, if you had a maxed out contributor, then they would try to go to the people that are maxed out or just regular contributors and raise money. They raised money through PACS, contributors, you know, labor PACS. It's the same universal.

Q 125 Now, were you personally involved in any of that fund raising?

A On which side?

Q 126 Well, on the Sloane side first, on the Sloane Committee?

A Not near as much as I have been in other races, 'cause they had a, again, had a Finance Director for eighteen months and Harvey was a bit hard to get focused, a little more hard to focus than I had patience for. So, he had a staff of about seven or eight fund raisers, six fund raisers.

Q 127 What about with the coordinated campaign, were you personally involved in any of that fund raising?

A Now, everybody that was under the coordinated

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campaign had an obligation to try to raise money. So, I am sure I talked to labor PACS, you know, UAW, different folks trying to raise money for the coordinated. I don't know if we ever did--I don't think we did any mail. I know we did, you know, one on one contacts.

Q 128 So, it was an oral solicitation?

A Yes.

MS. MOTT: Okay.

A The question you asked earlier, I don't think they ever wrote a check to the coordinated, I don't believe.

Q 129 They being the Sloane Committee?

A Yes.

MS. MOTT: Okay.

A Each candidate was asked to, you know, fund, I forget what it was. The first time I looked at the plan it was like, you know tens of thousands of dollars. But, I don't think that ever happened.

Q 130 There was a sizable transfer that was made from the Democratic National Committee to the State Party Committee in late October.

A I read about it in the paper.

Q 131 Were you at the Sloane Committee aware that this

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money was coming down at the time?

A We had been asked to raise money, you know, like you always do, raise money all over the place, as much as you can raise. But, I didn't know any specifics about, you know, how much money was going to be--we was going to get through the DSCC, DNC or some of the other groups.

Q 132 Did you know about Ms. Bingham making a contribution to the DNC at that particular time?

A Yes.

Q 133 You knew about it when it was made?

A I had, and I tried to think the other day, I don't know who first mentioned it to me, but I was aware that she had been--had made a donation to the DNC. I mean somebody in a state this size makes that kind of donation, probably everybody in the political arena knew it within a short period of time after that.

Q 134 Did you think that that would have any impact on the Sloane campaign though?

A Well, there has always been a big back and forth on, if you raise money for the DSCC, DNC, DCCC, will they come into your state and help. But, as far as, did anybody ever say to me, if there is X

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number of dollars raised, you will get X number of dollars, no. But, I think the whole reason they have those committees is, you know, if you help the committees, the committees help you. There is no guarantees. But, that's sort of common sense that this state raises two dollars for DNC is not going to put money in here.

Q 135 So, do you know if the State Party actually solicited that contribution?

A I don't know that. There is money that came into the coordinated campaign from trial lawyers and labor groups and individuals. I don't remember how much the total was spent there. But, it was quite a bit of money for this state.

Q 136 And, were you involved in any of that fund raising of the trial lawyers?

A Not in the trial lawyers. In the labor PACS. I used to work for the Secretary of Labor here. So, I don't remember ever having a conversation about trial lawyers that I talked to--I talked to the UAW, there is about twenty internationals that give money, so I am sure we hit--we tried to raise money from every single one of them and then we tried to raise money from all of them for the coordinated

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too.

Q 137 So, you were soliciting separating for the Sloane Campaign and for the coordinated?

A Yes. Everybody that was under the coordinated plan was supposed to try to help raise money for--

Q 138 For the coordinated Party?

A Yes. I wish I could remember who all was running that year. But, I know all of the state reps were asked to give, the state Senators, our contributors, the Party Chairman was raising money I know they did mail to the--what they called a thousand dollars giver, five hundred dollar givers. Everybody that ever had a history of giving money.

Q 139 Let's go back to the contribution that was made by Ms. Bingham. Do you know who actually delivered that check?

A I don't remember.

Q 140 Do you know if it was someone from the Sloane Campaign?

A I honestly don't remember. I don't have any idea.

Q 141 Do you remember when you first became aware of the fact that Ms. Bingham was going to make the contribution to the DNC?

A As far as the date?

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Q 142 Well, just--not necessarily the date. But, what you had heard about it?

A I don't--specifics, I don't remember. I know that I had heard that she had made the donation. I don't know if I heard it in the office or, you know, where I heard of it first.

Q 143 Did you know it before it was made or was that after it was made?

A That I am not sure of either.

Q 144 Okay. Do you know if anyone at the Sloane Committee asked her to make that--asked Ms. Bingham to make that contribution?

A I know I didn't. I don't even know her. I don't know if anybody else talked to her or not.

Q 145 What about the trial lawyers contribution? Do you know who specifically solicited that contribution?

A I think that was one hundred--close to $100,000.00. I don't remember if Harvey or who directly asked for it. It would have been somebody that was, you know, quite a bit up. But, I don't remember who exactly brought it in.

Q 146 When you say that you would be soliciting at the same time for both the Sloane campaign and the coordinated campaign, do you know if Harvey Sloane

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actually was out there soliciting for the coordinated campaign as well?

A Specifically, no. But, I would imagine he was, 'cause I mean, that's, again, that's part of the obligation of all of the candidates under the coordinated, that they are supposed to help raise money to fund the program. I mean, it wouldn't be unusual, say you went to a labor meeting and there was five internationals there and you said, you know, the coordinated budget is, I don't know, $600,000.00 and you would ask them to go back to the international and try to help raise money for it. So, I have never heard him do that. But, it would not surprise me at all, I mean, I would expect it if he would be doing that.

Q 147 But, that would be done at the same time that he was also soliciting for his campaign?

A Well, what you do, you have given $2,000.00 to the Sloane campaign, right--

MS. MOTT: Yes.

A --you have maxed out. Then I don't know whether--who would ask, but you would look and see how many people is maxed out and you would say we would also, you know, would you help through the

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coordinated campaign, could you help fund the coordinated campaign. And, the same way with PACS or anybody else. So, specifically who asked who to give what, I am sure it's a mish mash, 'cause they were involved with a lot of fund raising there at the coordinated campaign theirself. And, you take the labor coordinated, for example, and say, you know, here is twenty PACS, go to the local people, get them to call the international and see if they will give to the coordinated. And, you did the same thing for the candidate. That's just normal.

Q 148 What's the benefit of the candidate soliciting the money for the coordinated campaign?

A What was what?

Q 149 What would the candidate get out of soliciting money directly for the coordinated campaign?

A Do you--are you serious?

Q 150 I am being serious.

A You know what a coordinated campaign is?

MS. MOTT: Yes.

A Okay. Well, a coordinated campaign is, the way I understand them, it's--you take all of the candidates and they help fund generic, it may be get out to vote calls, it may be staff, it could be

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yard signs, I mean, it could be anything. So, under the system everybody supposedly that's running for office that helped fund it, you benefit from it. The more democrats that turn out and vote for democrats the better chance you get. It doesn't always work that way.

Q 151 That's the way it's set up to work?

A Yes.

Q 152 Do you know if the contribution that was made by the Trial Lawyers Association had any restrictions placed on it when it was made?

A I don't have any idea.

Q 153 Okay. What about the transfer from the DNC, do you know if that had any restrictions?

A Now, Pat--Pat was--Pat Goins understood all of the federal, non-federal and what it could be spent for and that type of stuff. That's the reason they had her, an attorney, because I don't understand all of that, not do I want to.

Q 154 Do you know who the attorney was at that time?

A I can't remember. I have talked to him before but I can't remember his name.

Q 155 Michael McKinney?

A That's it. That's the first time I had ever met

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him, was over at Democratic Headquarters during that race.

Q 156 Okay. I have--were you actually ever paid by the Kentucky Democratic Party?

A There was some expenses and I believe I got one check from them and I am not even--I don't even remember when that was, but there was some expenses I had that wasn't, you know, it was on the overall effort. It may have been, when we went up to D. C. to take the coordinated campaign plan, they had asked me to go with them and I believe they took care of the flight, they paid some expenses, but I don't remember specifics.

Q 157 But, other than that reimbursement, were you ever paid for consulting fees or anything like that?

A I don't believe I was.

MS. MOTT: Let's take a quick break. I think I am pretty much done, but I just want to go over my notes.

A Okay.

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Q 158 Okay. We have pretty much gotten everything. I just want to pick up on a couple of things that we may have glazed over. So, this may not be real

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coherent. You said that the Sloane Committee or yourself, rather, you said that you actually received a copy of the Kentucky Democratic Party ads at some point?

A Yes. I think they showed--I feel very--I remember, and I don't remember when it was, but I know that they showed the ads at Democratic Headquarters, you know, I guess, previewed them or whatever, the ads that was getting ready to go up.

Q 159 And, do you know if the Sloane ads were ever previewed by the Kentucky Democratic Party?

A No. Never.

Q 160 Let's talk about Kevin Gaddings' role in this and what kind of, for lack of a better word, control the Greer firm had with placing the ads and making decisions about the ads?

A Which ads?

Q 161 Well, let's start with the Sloane ads.

A Well, basically you run a poll, you find out that John Doe is worried about health care. So, you go through that, you usually have a conference call or you have a meeting, depending on where everybody is and you sit down and say, okay, this is our best chance to win, is to run on health care. So, then

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the creative minds start drafting scripts and a lot of times you will fax scripts back and forth, I don't know, sometimes once, sometimes eight or ten times and say, here is specifically what we think should be in the ad or what we don't think should be in it. Then--

Q 162 I am sorry. That would be the candidate committee who is saying, this is what we think should be in it or the marketing firm--the advertising firm?

A Well, Greer and them start the process. You sit down and you look at the polls and it says health care, jobs and the environment. So, you basically then start getting scripts on whatever you want to lead off with. You may lead off with a bio, you know, Johnny was a good boy and went to school every day. So, they faxed the scripts back and forth to you within the campaign, feel comfortable that that's what you want to spend your money on making. And, then you finalize the scripts, then they do the shoot and then they send the ad copies back for you to either make changes on or tell them to edit this or that's not good or whatever you don't like about it. And, then as far as the placement, they place, you know, all of the media.

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Basically, all I ever do is look at the point levels by markets, you know, see if there is enough Wheel of Fortune for seeing your--and if you look at the demographics within the poll and you see there is an age group or, you know, male-female high school, you try to figure out which shows they watch and it all comes from the ratings.

Q 163 So, does Greer--does the firm make those kind of decisions about when they are going to be placed or does the campaign make that decision?

A Well, it's basically--you mean when they start or where they buy or--

Q 164 What time--I guess, time of year, what frame time period that they are going to be placed in?

A Well, money usually dictates when you start. You usually start, I mean, it varies. If you have got a guy with a low name I. D., you may start running commercials ten weeks out. If you have got a guy that's got fairly high name I. D. and you are going up against an incumbent that's got a ton of money, you may not start till later. I mean, it just strategically depends on the amount of dollars you have got and the message you have to get out and what you're up against.

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Q 165 Okay. Now, let's talk about the state Party ads, the Kentucky Democratic Party's ads. How much control--I hate using that word, how much involvement, I guess, does the Greer firm have in deciding when those were going to be placed?

A Well, I would say they work with their client through the Democratic Party. And, of course, if you have got X number of dollars in a pool and it costs, you know, if you have got $500,000.00 and it costs 100,000 a week, then they would just work back from election day. But, they work directly with them to decide, you know, when the ads are going up. You don't want to run an ad up without enough gross rating points.

Q 166 Would there ever be an incident in which you recall if you were working on a state's campaign, state party ad rather and you would call up individual candidates and say, it's going to be a problem to run this at this particular time?

A No. I mean, if they have only got X number of dollars and it's a generic ad, you know, I wouldn't care if they would run them for a year. It wouldn't make any difference to us.

Q 167 And, you said the Sloane Committee actually

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received a copy of the written plan?

A The coordinated campaign plan?

MS. MOTT: Yes.

A Oh, yes. Every coordinated campaign usually, it's a series of meetings and arguing back and forth, just like, how are we going to do this interview. They sit down and you decide, somebody wants pay phones, somebody don't want pay phones, somebody wants fingernail files or balloons or whistles. Basically you hammer out, and I work with them hammering out the final plan, just like the people representing the State Senator or State Reps. And, then once you have finalized the plan, then you send a copy to the DSCC, the DNC. I would say the marginal committee, with labor got one, and I don't know, whoever else wanted one.

Q 168 Would Greer, Margolis have gotten a copy of that?

A I doubt they would have. He usually doesn't go to posters and media folks. It goes to whoever you are going to be going through to try to get funding and then the DNC basically signs off--now when I say they sign off, I don't--they may sign off on it, but I don't think they--if they don't like your plan, then they are just not going to help you try

to fund it. They don't have control over--if you want to go out and buy $100,000.00 worth of emery boards, they are not going to stop you, at least I have never run into that.

Q 169 Well, I would just like to thank you for coming and talking with me. The way this is typically done is you have the option, if you would like to, of reading over the transcript and make any corrections that you don't feel accurately reflects what we have talked about today. And, to do that, you would make arrangements through the court reporter, they can have you look at a copy and make any corrections.

A Can that be done after--it's going to be about three weeks before I get back. Okay. I may or may not do it. But, I can't think of anything that--

Q 170 As soon as they act, we get to send you a check. You will receive a check for a witness fee of $40.00, plus reimbursement for mileage, if you can tell me approximately how far you traveled?

A Probably seven miles.

MS. MOTT: Okay.

A Why do they pay people--

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OFF THE RECORD

Q 171 Do you want the check sent to your home address?

A Yes.

Q 172 I don't foresee having to talk with you again. But, the way we typically do these is, we continue the deposition, the matter isn't actually closed yet. So, we won't be actually adjourning the deposition, just ending it for the day. Again, I would just like to remind you that it is supposed to remain confidential until the record is closed. If you have anything you want to add to the record, now is the time to do it.

A No.

MS. MOTT: Okay.

A I think I answered every thing the best I could remember to this. It seems like a long time ago. It's about three campaigns ago.

Q 173 I know.

MS. MOTT: That's it for today. The deposition is closed. Thank you very much for coming.

FURTHER THIS DEPONENT SAITH NOT

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STATE OF KENTUCKY)

COUNTY OF FRANKLIN)

I, Melody Curtis, a Notary Public in and for the state and county aforesaid, do hereby certify that the foregoing testimony was taken by me at the time and place and for the purpose stated in the caption; that the witness was duly sworn by me before giving her testimony; that said testimony was taken down in shorthand writing by me and later reduced to typewriting under my direction; and the foregoing is a true record of the testimony given by said witness.

I further certify that no written request has been made before the officer by any party to the action requesting that the foregoing transcript of testimony be submitted to the witness and, therefore, such deposition is not signed by the witness.

Witness my hand and notarial seal this 24th day of November, 1992.

Melody Curtis

Notary Public
State of Kentucky at Large

My commission expires: 7/21/96

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IN RE: MUR 3182

* * * * *

DEPONENT: PATRICIA GOINS

DATE: November 11, 1992

REPORTER: MARCIA KUCHENBROD HIEATT

* * * * *

ORIGINAL

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Burlington, KY 41005

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The deposition of PATRICIA GOINS was taken on behalf of the Federal Election Commission before Marcia Kuchenbrod Hieatt, Notary Public for the State of Kentucky at Large, at the U.S. Attorneys Office, Bank of Louisville Building, 510 West Broadway, Louisville, Kentucky, on November 11, 1992. Said deposition was taken pursuant to notice for purposes of discovery and as provided by the Kentucky Rules of Civil Procedure.

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I N D E X

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2504360 44490

MARCIA KUCHENBROD HIEATT
AFFILIATED REPORTERS
Crescent Center
644 S. 3rd Street, Suite 214
Louisville, Kentucky 40202
(502) 585-2800

PATRICIA GOINS,

called upon oral examination by counsel for the Federal Election Commission, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. MOTT:

Q. Would you for the record state your full name, please?

A. Patricia Goins.

Q. And could you spell your last name?

A. G-o-i-n-s.

Q. Okay. And counsel with you today?

MR. MCKINNEY: Michael McKinney from Burlington, Kentucky.

Q. My name is Tonda Mott, and I represent the Office of the General Counsel of the Federal Election Committee.

This deposition is being taken pursuant to a Federal Election Commission investigation under Section 437G of Title 2 of the United States Code. The commission has jurisdiction over the Federal Election Campaign Act as amended.

The statute provides that the

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confidentiality of this investigation must be maintained until the commission closes its file in this matter.

Now, we don't consider you a respondent, Mrs. Goins. You are merely here as a witness, but the confidentiality provision applies to you as well, so you must keep it -- remain confidential with us.

A. Okay.

Q. The investigation is designated as Matter Under Review or MUR 3182.

Have you ever had a deposition taken before?

A. No.

Q. Okay. Well, let me give you a couple of instructions.

I'm going to ask you a series of questions seeking information which pertain to individuals besides yourself.

If you don't understand a question that I have asked you, please let me know, and we can rephrase it or repeat it.

If at any time you realize that you have given an incorrect or incomplete answer, let me know, and we can go back and pick that up.

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Also, you need to make sure that you verbally answer all of the questions so that the court reporter can get it down.

A. Okay.

Q. Okay. Mrs. Goins, can you tell me what documents that you reviewed in preparation for this deposition today?

A. None.

Q. Okay. And you have brought with you today the -- is there a title to this?

MR. MCKINNEY: That's the Coordinated Campaign plan which was requested by Jeff Long.

MS. MOTT: Okay.

MR. MCKINNEY: For the 1990 campaign.

MS. MOTT: Okay. Thank you.

Q. And for the record could you state your address?

A. 3880 Harrodswood Drive, Frankfort. That's one word, Harrodswood.

Q. And is there a telephone number, either work or home where you can be reached?

A. Area code 502-695-4828.

Q. Is that home or work?

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A. Work.

Q. Okay. And do you happen to know your Social Security number?

A. [redacted]

Q. Okay. And where are you currently employed?

A. Kentucky Democratic Party.

Q. And what is your title today?

A. Executive assistant to the chairman.

Q. And where were you employed in 1990?

A. Kentucky Democratic Party.

Q. And what was your title at that time?

A. Executive assistant to the chairman.

Q. Okay. Now, the questions that I am going to be asking you all are going to pertain, unless I otherwise tell you, to 1990 and your duties and activities in that time frame, okay?

A. Okay.

Q. Can you just explain for me what your duties were with the party at that time?

A. During 1990 when the campaigns

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were going on?

Q. Yes.

A. I assisted with the bookkeeping, filling out the FEC reports. People calling in during the campaign, there are a lot of people, lot of activity going on, questions about campaign and candidates, the Magistrates' races. I mean, you just have -- I can't recall exactly how many number of races that we had at that time. There are a lot of people coming and going, just trying to direct them to the right section and --.

Q. Okay. Now, did you do all of the bookkeeping for the party?

A. Most of it, yes.

Q. Okay. Was there any particular area that you did not deal with?

A. Well, our CPA would do like some taxes and --

Q. Okay. If you could just explain for me what the Coordinated Campaign was?

A. Well, basically the part that I knew about was just -- like I said, you have got so many races going on at the same time, and you are in preparation for the November general election where you are electing all of your Democratic candidates at

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this time, and later on you will get involved with your gubernatorial race, so it all just comes about at one time.

I mostly was concerned with any of the questions on how do we fill out a campaign report, who do you call -- when the county people would call in wanting to know what's the rules on the state, you know, I would send them to the Registry Election Finance, just sort of guiding them along like that. I didn't want to answer any questions on candidates' contributions because that is not in my area.

Q. Okay. And did the party maintain separate Federal and nonFederal accounts?

A. Yes.

Q. And were those accounts in the same bank or in --

A. Same bank.

Q. Okay. Was there a separate account for the Coordinated Campaign?

A. No.

Q. So were you involved in allocating expenditures between the Federal and the nonFederal accounts?

A. Yes.

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Q. And who supplied the information to you so that you could make those determinations?

A. The FEC gave me a lot of guidance.

Q. Within the campaign itself, within the Coordinated Campaign itself was there any person who gave you an idea of what should go into what account, or did you make those decisions?

A. Mostly Dick Rankin, the CPA or the treasurer.

Q. Okay. And was he the treasurer at the time of the --

A. Uh-huh.

Q. Okay. I mean, I will obviously see this when I read through the plan, but did the plan give you any kind of guidance as to allocating between Federal and nonFederal accounts?

MR. MCKINNEY: Ms. Mott, let me just interpose an objection here.

MS. MOTT: Sure.

MR. MCKINNEY: I think it's probably the commission's position that the television ads that are the subject of this matter under review are a Coordinated Campaign expenditure, and that's not our position. Our position is that it was not a

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Coordinated expenditure, and I think it would be erroneous for you to start with that premise because I think our position, and I guess our subsequent testimony would be that since it was not a Coordinated expenditure, then it may not be -- there may be a lot of information that is not contained in the Coordinated Campaign plan.

Q. Okay.

MR. MCKINNEY: Now, she might need to reask the question, but you answer her if you know.

A. Okay.

Q. Was there anything written, let's say the plan or otherwise, which indicated to you how activities and expenditures should be allocated between the Federal and the nonFederal accounts?

A. The FEC had a form letter -- I can't recall what the percentages were -- so I went by what -- the FEC had a booklet that they gave out. You are probably familiar with it. If I had any questions, then I called the FEC office.

Q. Okay. And where did you get the information from -- about the actual expenditures that were taking place? Would those be fed to you by

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someone within the campaign or --

A. Well, invoices would come in, and I just, you know, paid the bills.

Q. Okay. And did you ever have to consult with anyone within the campaign to determine whether that was --

A. No. Just mostly Dick Rankin.

Q. Okay. I'm going to go through a list of people and ask you a couple of questions about each person.

A. Okay.

Q. Marianne Johnson, what were her duties with the party?

A. She was the party chairwoman.

Q. And do you know what her role was in the Kentucky Democratic Party's ads that were purchased and -- produced and purchased?

A. Are you talking about the T.V. ads?

Q. Yes.

A. I don't think she had a role. I don't know.

Q. Do you know who within the campaign would have been primarily responsible for the ads?

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A. No. Probably whoever the -- campaign director. I don't know.

Q. Skipper Martin?

A. I think his name is on the front of the --

Q. Skipper Martin, campaign manager?

A. (Affirmative nod.)

Q. Okay. So Andrew Martin or Skipper Martin was primarily responsible for the media of the Party; is that correct?

A. Well, I can't say that, but he would be the one I would ask because he was director of the Coordinated Campaign.

Q. Okay.

A. I was not in a decision making position, so I -- I'm trying to tell you, you know, what little bit I know without -- but I don't know who made the decisions because I wasn't in on them.

Q. Okay. Did you ever have any conversations with Jim Cunningham about the ads that the Party placed?

A. Not that I can recall.

Q. Did you ever have any conversations with Jim Cunningham about the ads that

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the Sloane party produced?

A. I didn't know about the Sloane party.

Q. And when you say that, you mean the ads that they --

A. I don't know.

Q. -- produced or --

A. I didn't know they ran any ads.

Q. Okay. But you did know that the Sloane party -- let me back up, and let me ask it differently.

A. Okay.

Q. Was the Sloane party a part of the Coordinated Campaign?

A. Well, not in my mind.

Q. Okay.

A. I mean, when you have got, say, 200 other races going on, he was a very small part of the overall picture of getting the Democrats out to vote. That was our main objective.

Q. Okay. But he was running for a Democratic position at that time?

A. Who, Cunningham?

Q. Sloane?

A. Right, Sloane was, yes.

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Q. And you know who Jim Cunningham is?

A. Uh-huh.

Q. Okay. Do you know if Jim Cunningham had any duties to the Party itself?

A. Not that I'm aware of.

Q. Can you tell me what, if any, role Jim Smith of the Sloane committee played in the Coordinated Campaign?

A. I don't know him.

Q. Okay. Let me back up just a second here and ask you -- can I have this marked Exhibit 1, please?

(Whereupon, Exhibit 1 was marked for identification.)

MS. MOTT: Counsel.

MR. MCKINNEY: Thank you.

MS. MOTT: And I'm going to be referring to that last one.

MR. MCKINNEY: She's going to particularly ask you about this last thing.

A. Okay.

Q. Now, Mrs. Goins, this is a report which was filed with the State Election Registry, and it shows for the nonFederal account

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funds -- a disbursement to Jim Cunningham on 9-26 of 1990.

A. Uh-huh.

Q. And for reimbursement of expenses. Can you tell me what those expenses were?

A. No. I'm sure we have a receipt, but I can't recall offhand what it would be for.

Q. Okay. Can you tell me when the party first decided to do the television ads?

A. No.

Q. Do you have any knowledge about the decision of the party to retain Greer, Margolis, Mitchell & Associates as their media counsel?

A. No.

Q. Did you ever have any conversations with Kevin Gettings of Greer, Margolis about the television ads?

A. No.

Q. Can you just explain for me what your role was in fund raising for the ads?

A. I had nothing to do with fund raising. Marianne did the fund raising.

Q. Okay.

A. And there might have been other people. I just -- in fact, I'm sure there were.

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Everybody was trying to raise money at the time, all the Democrats.

Q. Now when you say all of the Democrats, were the candidates themselves raising money for the Coordinated Campaign?

A. That I don't know.

Q. Okay.

A. When I talk about other Democrats, rallies, functions where people get together and sell hot dogs and, you know.

Q. So you personally never made any solicitations for fund raising?

A. Not that I recall.

Q. Okay. In early 19 -- in early October of 1990 can you tell me what the status of the funds for campaign ads -- what was the status of the funds for campaign ads?

A. No. I can't recall that right off.

Q. Do you know if it was sufficient to run the ads that were run in October?

A. I have no idea without reviewing the records.

Q. Okay.

MR. MCKINNEY: Ms. Mott, are you

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asking generally about account balances at that time?

MS. MOTT: Yes.

MR. MCKINNEY: Okay.

A. Like definite figures?

MR. MCKINNEY: Right.

A. I couldn't tell you.

Q. Not even definite figures, but to your recollection was there sufficient funding in existence when the decision was made to purchase and place the ads?

A. Well, I don't know when they decided to purchase the ads because I wasn't in on any of the decision making process. I would hope that somebody wouldn't think that I would know what was a good advertisement or something because I wouldn't.

Q. Okay. Do you know offhand if those ads were paid for out of the Federal or nonFederal account?

A. NonFederal.

Q. So you have no knowledge of any decision making or approval of the ads; is that correct?

A. Exactly.

Q. The State Party received a large transfer of funds from the DNC. Do you recall that

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particular transfer?

A. No.

MR. MCKINNEY: I'm going to object. You have indicated a singular large transfer of funds, and I don't think there is any basis established that there has been a singular large transfer of funds. I think there were a series of transfers and generally are more than one transfer from DNC.

Q. Let me narrow it down a little bit. In early to mid October the DNC transferred a large amount of money to the State Party. Do you recall that transfer?

A. Well, not as Mike says in one large transfer. I mean, what do you consider a large amount? Are we talking about $5,000 or 20,000? I mean, you see what I am saying?

Q. Yes. We are talking in excess of $200,000?

A. No.

Q. All right.

A. Not in one transfer.

Q. In early October a Mrs. Mary Bingham contributed a large sum of money to the Democratic National Committee. Can you tell me if you

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were aware of that particular --

A. I read it in the paper.

Q. And that was after it had been done?

A. Yes. The Courier-Journal, and I didn't know anything about it.

Q. So did you hear any talk around the office about any large sums of money that were coming towards the State Party?

A. No.

Q. When you receive -- well, if you remember receiving the transfer from the DNC, do you recall there being any restrictions on those funds?

A. Well, we have different transfers, and the DNC always sends a letter, you know, saying be sure and under the guidelines of 441 -- I forgot -- there is a code that you have -- that's it.

Q. And so any transfers that you received from the DNC would have some kind of cover letter explaining what the funds were and where they were to go; is that correct?

A. Yes.

Q. And were those funds always transferred into the account that the DNC requested

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that it be transferred into?

A. Yes, because our financial reports -- if the DNC gives you Federal dollars, then you need to make sure it's in the Federal account so you can report it on the FEC report.

Q. Do you have any knowledge of the delivery of the check from Mrs. Bingham to the DNC?

A. No. I just read all of that in the paper, and I didn't believe it.

Q. The American Trial Lawyers Association contributed on October 9th and October 14th two -- made two different contributions to the State Party. Do you recall those?

A. Uh-huh, yes.

Q. And were there any indications on those as to what the funds were to be used for?

A. To be used for? Just as --

Q. As to how they were to be handled?

A. To be -- well, it would have to go into our nonFederal account. I mean, I knew that. I don't think they -- I can't recall if there was a letter, but it was to be used to help the Democratic Party win elections in November.

Q. Can you tell me if -- and I may

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have previously asked this, but I am drawing a blank on it -- if the other candidates solicited contributions for the Coordinated Campaign?

A. I don't recall. You asked me that before, and I can't remember.

Q. Okay.

MS. MOTT: Let's take a quick break here.

MR. MCKINNEY: Okay. Sure.

(Off the record discussion.)

Q. I wanted to talk about Meg Conley -- Conlon? I never have gotten that straight.

MR. MCKINNEY: C-o-n-l-o-n.

Q. Okay. What were her duties with the Party?

A. I really don't know. She I think worked for the Coordinated Campaign.

Q. Okay.

A. But as for the Party staff she was not --.

Q. Let's talk about the way the Coordinated Campaign is set up a little more. You say it does not have a separate account from the State Party; is that correct, from the State Party's account?

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A. If you are asking me if there was an account just for the Coordinated Campaign?

Q. Right.

A. There is not.

Q. There is not, okay. Does the Coordinated Campaign pay to the State Party its own expenditures, or how does that work?

A. I'd have to go back and review, and I will tell you why. The FEC has changed the laws since -- which I am sure you are aware of -- since the last Coordinated Campaign.

I have been studying this new law, this new FEC, and it just doesn't come to the top of my head what it was before exactly.

Q. Okay.

A. Now, I am not being vague. I just can't recall all of it the way it used to be.

Q. Well, in 1990 did -- do you recall whether the Coordinated Campaign actually reimbursed the State Party for any expenditures that were made on its behalf?

A. I'd have to look at the records.

Q. Okay.

A. You had your nonFederal account, which is the general fund, and then you had a Federal

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fund, and the guidelines between those Federal funds -- you have to go by the FEC guidelines and you have to go by the state guidelines.

Q. Okay.

A. It's like talking about a law that's not into effect any more, and I have just sort of put it out of my mind.

Q. But any expenditures that were made for the Coordinated Campaign were made from the State Party accounts, whether it be Federal or nonFederal; is that correct?

A. It would depend on what the expenditure was.

Q. So did they have a separate account?

A. There was a state account, the nonFederal account and the Federal account.

Q. Okay. I'm not sure if I'm making myself clear what I am after here.

A. We did not have one checking account set up for Coordinated Campaign.

Q. Okay. So if the Coordinated Campaign made an expenditure, let's say, for example, that expenditure would come out of either the Federal or the nonFederal account of the State Party; is that

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correct?

A. Correct.

Q. Okay. And did the State Party have fund raising separate from the Coordinated Campaign, or was that all done through the Coordinated Campaign?

A. Marianne was mostly over the fund raising. Like I said, she was gone all of the time. And I don't know -- you know, it wouldn't be based on -- I just wouldn't be aware of how it was done.

Q. Okay.

A. I didn't go out to much of those. I went to seminars, workshops that she had to get out the vote, those sorts of things.

Q. Now, the candidate campaigns themselves utilized the Coordinated Campaign for some things that they did; is that correct?

A. Say that again.

Q. The -- for instance, the Sloane committee would use the Coordinated Campaign for some of the activities that they were doing; is that correct?

A. You would have to ask the Coordinated Campaign.

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Q. Okay. As far as the paperwork that you would have to do with the finances, would the Sloane committee be reimbursing the Coordinated Campaign for anything?

A. Not that I can think of.

Q. Okay. Including the rooms that the candidates used?

A. Well, the candidates are -- I think it's called -- it's sort of like the in kind contribution on some of the space.

Q. Okay.

A. And you put that on your report. And in Sloane's case he would be a Federal candidate, so you would have to put that on a Federal report.

Q. So that was reported as an in kind contribution rather than being reimbursed by the candidate in any way; is that right?

A. I can't testify to that for sure, but if I go back and look at the financial records --

Q. Okay.

A. I mean, you all have got them and --

Q. That's fine. As far as the payment for the ads can you just talk to me about how

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that came about? Say you received an invoice or whatever, how that works?

A. I received an invoice, and I paid it out of the nonFederal account because it was for all Democrats, to get them out to vote on election day.

Q. So all of the ads that the State Party produced were paid from the nonFederal account?

A. I would say it would depend on the ad.

Q. Okay.

A. You know, what kind of an ad it was.

Q. And what type of ads would not be paid out of the nonFederal account?

A. I would say get out the vote where you vote for everybody. Maybe if you mentiond names -- you know, if you mentioned your senator and your congressman and your governor and your state representative, you are covering a part of the Federal and the state there.

Q. Okay. And would that have been allocated between the two accounts or --

A. I can't remember.

Q. Okay.

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A. You have to understand that right now I just came out of an election for like -- all of the laws are different, and I've been talking to FEC every day and just trying to figure out -- and then I'm stopping and going back to 1990, which is almost three years, and a lot of it I -- you know, I didn't know about the Coordinated Campaign, a whole lot of that anyway. I wasn't in a decision making part.

And I'm trying to answer you and recall, and I can't. The one I am working on right now is going through my mind.

Q. Okay. Now, you said you had no knowledge or decision making pertaining to the television and radio ads; is that correct?

A. Correct.

Q. So your only role in that was receiving the invoices and paying them?

A. Uh-huh.

Q. Okay.

MS. MOTT: Okay. I think that's going to cover us for today. I just want to make sure that we get a copy of the invoices for the expenses for Jim Cunningham.

MR. MCKINNEY: I will provide

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that.

I may have just a couple of questions just for clarity sake.

MS. MOTT: Sure.

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EXAMINATION

BY MR. MCKINNEY:

Q. Pat, you indicated there was no separate bank account for the Coordinated Campaign I believe?

A. Correct.

Q. Now, when Coordinated Campaign expenditures came in, do you recall if your role was to -- with the guidance and assistance of the treasurer and the FEC to allocate those expenses to the Federal or nonFederal accounts?

A. (Affirmative nod.)

Q. And that is, in fact, what you did to the best of your knowledge?

A. Yes.

Q. Okay. And you also were asked earlier with regards to the television commercials as to whether or not there were sufficient funds on hand at the time those commercials were bought or the ads were placed, and you indicated you didn't know if

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funds were on hand.

A. Because I didn't know when they ran an ad.

Q. Right. And you probably also would not know the status of fund raising efforts by Chairman Johnson at that time and pledges that she may have had for funds, would you?

A. No.

Q. So even if your books would have indicated to you that there may not have been sufficient funds at that exact moment, would you have had knowledge as to any pledges she may have had from any other sources?

A. No.

Q. Was fund raising kind of an ongoing --

A. Constant.

Q. Okay. In fact, that's one of the large functions of the Kentucky chairperson, is it not?

A. Yes, it is.

Q. Though the Sloane committee may have maintained some offices at Kentucky Democratic Headquarters, was it a complete and separate function from the Kentucky Democratic Party functions?

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A. Yes. I don't recall them having any offices there.

Q. Did they just have workers from time to time in contact with the headquarters as far as you know?

A. Maybe with the Coordinated Campaign. I had no contact with them that I can recall.

Q. Right. And that's my point. They were a separate entity from the Kentucky Democratic Party, were they not?

A. Yes.

Q. And the two never mixed and mingled, did they?

A. No. I would see them out in the parking lot every once in a while, and that was it.

Q. And importantly Sloane money never co-mingled with the Kentucky Democratic Party money, did it?

A. No.

Q. They had their own campaign treasurer to the best of your knowledge?

A. All of the campaigns did.

Q. And would it be an accurate statement to make that all of the funds which you

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handled on behalf of the Kentucky Democratic Party were handled for the sole benefit of the Kentucky Democratic Party being allocated to either Federal or nonFederal expenses?

A. Yes.

MR. MCKINNEY: Okay. I have no other questions.

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EXAMINATION

BY MS. MOTT:

Q. I have just one other question. Was 1990 the first year that they had -- that the State Party had the Coordinated Campaign?

A. I don't know.

MR. MCKINNEY: I can tell you I don't know.

A. I don't.

MR. MCKINNEY: And I know I'm not under oath, but --

A. I think it's a new term.

MR. MCKINNEY: I think the first one I recall was when Dukakis --

A. And I wasn't there then.

MR. MCKINNEY: That's right.

Q. Okay.

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MR. MCKINNEY: And -- but I don't think either one of us could tell you if that was the first year or not.

Q. Okay.

MS. MOTT: Okay. You know the routine. If you want to read over the transcript, you need to make arrangements with the court reporter and make any corrections that you think --

MR. MCKINNEY: I think we can waive signature. That would be if, Pat, if she felt like -- or if you felt like any of the answers that were ultimately transcribed were wrong, in other words, it wasn't the same answer that you gave. They would give you a sheet to correct errors on. But that's never seemed to have been a problem, so we will waive signature.

MS. MOTT: Okay. And also pursuant to the Act you will be receiving a check for a witness fee and also reimbursement for your mileage. Can you tell me approximately how far it was for you to come here today?

A. Frankfort to Louisville is an hour and a half, hour and 15 minutes.

MR. MCKINNEY: I don't know how many miles it is.

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A. I don't either.

MR. MCKINNEY: Is it 75 miles?

MS. MOTT: From Frankfort, though?

MR. MCKINNEY: Yes.

Q. Well, we can look that up. And to what address would you like that check sent?

A. My home address.

MS. MOTT: Okay. I truly don't foresee having to talk with you again, but as usual we continue the depositions just in case because it is an ongoing investigation.

MR. MCKINNEY: Not a problem. And, Pat, while we are on the record, if you would, just get together copies if you can of the invoices that relate to that expense check for Jim Cunningham.

A. Okay. I'd be glad to.

MR. MCKINNEY: And is there anything else that we --

MS. MOTT: I believe that's all right now. And that concludes us.

(Witness excused.)

* * * * *

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STATE OF KENTUCKY)
COUNTY OF OLDHAM)

I, MARCIA KUCHENBROD HIEATT, a notary public within and for the State at Large aforesaid, do hereby certify that the foregoing is a true, correct and complete transcript of the deposition of PATRICIA GOINS, taken at the time and place and for the purpose set out in the caption hereof; that the said deposition was taken down by me in stenotypy and afterwards transcribed on a computer under my direction; that the appearances were as set out in the caption hereof; and that no request was made by counsel for any party that the deposition be submitted to the witness for reading and signature.

Given under my hand as notary aforesaid, this the 12th day of November, 1992.

My commission expires March 14, 1993.

Marcia Hieatt

MARCIA KUCHENBROD HIEATT, C.P.,
Court Reporter and Notary Public
State of Kentucky at Large

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Kentucky Registry of Election Finance
[illegible] Louisville Road
Frankfort, Kentucky [illegible]
[illegible]

DISBURSEMENTS
SCHEDULE 2

1. Name of Candidate	2. Committee Name	3. This Statement Covers
	Kentucky Democratic Party P.O. Box 694 Frankfort, Kentucky 40602	From 6 1 90 To 11 30 90

4. Name and Address of person to whom paid (if over $25.00, disbursement must be made by check. Persons transporting voters to the polls must be paid by check).	5. Purpose (be specific, $25.00 or less show purpose, date and amount only).	6. Date	7. Amount Disbursed
Churchill Downs 700 Central Ave., Louisville, Ky. 40208	Century [illegible]b function	6-8-90 6-12-90	5,271.26
Clato Ice Company 812 Clifton Drive Frankfort, Ky. 40601	Ice	10-11-90	79.59
Collins Lane Food Mart Collins Lane Frankfort, Ky. 40601	Car Expenses	7-6-90 10-9-90	335.29
Computerland Fontain Place Frankfort, Kentucky 40601	Supplies	6-27-90	54.56
Margaret Conlon 414 West Sixth St. Lexington, Ky. 40508	Wages Expenses	7-31-90 11-2-90 9-21-90 11-2-90	4,700.00 849.00
David Courtney 199 Meadowview Frankfort, Kentucky 40601	Framing	8-23-90	72.00
Curtis Trophy & Engraving 935 Devils Hollow Road Frankfort, Kentucky 40601	Name Badge	10-9-90	5.30
Jim Cunningham 754 Colonial Trace Frankfort, Ky. 40601	Reimburse Expenses	9-26-90	999.19
		Subtotal This Page	12,366.19

Exhibit 1.

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FEDERAL ELECTION COMMISSION

IN RE: MUR 3182

* * * * *

DEPONENT: DR. HARVEY SLOANE

DATE: November 11, 1992

REPORTER: MARCIA KUCHENBROD HIEATT

* * * * *

ORIGINAL

MARCIA KUCHENBROD HIEATT
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APPEARANCES:

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Federal Election Commission
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Washington, DC 20463

Donald L. Cox
Attorney for Dr. Sloane
Meidinger Tower
P.O. Box 688
Burlington, KY 41005

* * * * *

The deposition of DR. HARVEY SLOANE was taken on behalf of the Federal Election Commission before Marcia Kuchenbrod Hieatt, Notary Public for the State of Kentucky at Large, at the U.S. Attorneys Office, Bank of Louisville Building, 510 West Broadway, Louisville, Kentucky, on November 11, 1992. Said deposition was taken pursuant to notice for purposes of discovery and as provided by the Kentucky Rules of Civil Procedure.

* * * * *

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DR. HARVEY SLOANE,

called upon oral examination by counsel for the Federal Election Commission, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. MOTT:

Q. Could you please state your full name for the record?

A. Harvey Sloane.

Q. Okay. And you have counsel with you here today?

A. Don Cox.

Q. Has anyone else ever represented you in this particular matter?

A. No.

MR. COX: I don't think that's accurate. He also had -- he talked to someone.

A. That's right.

MR. COX: I don't know whether he entered an appearance, but there have been other representations in this case.

Q. And who was that?

MR. COX: Well, I don't know if he's entered an appearance is the problem. If he hasn't entered an appearance -- oh, it's on the --

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well, now, I know. The question is -- oh, yeah, he's co-counsel, Joe Sandler.

A. Sorry. I forgot about him.

Q. My name is Tonda Mott, and I represent the Office of the General Counsel of the Federal Election Commission.

This deposition is being taken pursuant to a subpoena which was issued in connection with an investigation under Section 437G of the Federal Election Campaign Act, Title II of the Act.

The commission has jurisdiction over the Federal Election Campaign Act of 1971 as it's amended.

The statute provides that the confidentiality of this investigation must be maintained until the commission closes its file on the matter.

Do you understand what I mean by that?

A. Uh-huh.

Q. Okay.

MR. COX: Well, I'm not sure he understands all of that, but what is it you want him to agree to do?

MS. MOTT: It just has to remain

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confidential until the case has been closed, at which point it will go on to public record.

MR. COX: Okay. And what does that mean?

MS. MOTT: It cannot be discussed with press, with people not involved in the matter.

A. Okay.

MR. COX: Well, okay. I understand the request, and we certainly aren't going to discuss it with the press. And what do you mean people not involved in the matter? You mean other people who aren't respondents in 3182?

MS. MOTT: That's correct.

MR. COX: Okay. Well, yeah, that's okay.

Q. As has been indicated, this investigation is designated Matter Under Review, or MUR 3182.

Have you ever had your deposition taken before?

A. Uh-huh, yeah, I have.

Q. In this matter?

A. No.

Q. Even though you have had a

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deposition taken before, I'm going to run through some instructions with you.

The questions that I am going to be asking you today are not necessarily limited to your involvement, but may be requests for information about other individuals.

A. Uh-huh.

Q. Please make sure that you verbally answer all of the questions so that the court reporter can get it down accurately.

If you don't understand one of my questions, please let me know, and I can rephrase it or repeat it.

A. Okay.

Q. And if at any time you realize that you have given an incomplete or an inaccurate answer, let me know that, too, and we can go back and straighten it out.

A. Okay.

Q. Can you tell me what documents you have reviewed in preparation for this deposition today?

MR. COX: Don't go through any documents that I gave you.

A. Okay.

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Q. Outside of attorney/client privileged documents?

A. None.

Q. Did you review any documents that were actually sent to our office?

A. I don't know. You have all of the documents that I have sent you.

MR. COX: Well, I'm not going to go into what I reviewed and discussed with Dr. Sloane.

MS. MOTT: I'm not asking him to do that. I'm asking the witness to tell me whether he reviewed documents which are already in the possession of our office.

MR. COX: Do you know what documents are in their possession?

A. No.

Q. Did you review the affidavit which was sent to us?

MR. COX: Don't go into --

MS. MOTT: Are you instructing the witness not to answer?

MR. COX: I have instructed the witness not to go into things that I went over with him.

MS. MOTT: I am excluding things

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that would come under attorney/client privilege, sir, and I just wanted to get some information about the documents that are in existence that we would want to have a look at.

MR. COX: Well, if you have got the documents in your file, then look at them. I mean, do you want to go over his affidavit? I'm not going to let you cross examine him about the preparation that I went through with --

MS. MOTT: That is not what I am asking, sir.

MR. COX: Let me finish my objection.

I am not going to let you examine him about what we went over today. Now, if you want to talk about other than today, that's fine, but I'm not going to allow you to go in and find out what he and I talked about. Now, if you want to ask him whether he's --

(Off the record discussion.)

MS. MOTT: Back on the record.

MR. COX: If you want to ask him about his affidavit, just get it out. It was given to you.

MS. MOTT: I am not asking him

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to disclose anything that would be attorney/client privilege. I am asking him, however, to tell me what documents he viewed in preparation for the deposition.

MR. COX: And I'm not going to let you go through things that we went through in our preparation, so go on to something else.

Q. Are you refusing to answer the question?

A. I will refer to my attorney on that.

MR. COX: He can answer -- he can talk about anything he went through prior to his meeting with me today, but anything that he went through in the meeting with me today is off limits. That's my position.

MS. MOTT: Okay.

Q. Would you please state your address for the record?

A. My address is 1601 28th Street Northwest, Washington, D.C., 20007.

Q. And is there a phone number there where you could be reached?

A. 202-625-6393.

Q. And for the record if you know it off of the top of your head, could you also state

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your Social Security number?

A. [redacted]

Q. Dr. Sloane, where are you currently employed?

A. In Washington.

Q. And are you employed -- with whom are you employed?

A. Health Care For America.

Q. And how long have you been with them?

A. Since February of 1991.

Q. And what was your employment in 1990?

A. I was not employed in 1990.

Q. Were you at that time running for any Federal office?

A. Yes, I was.

Q. And that was?

A. U.S. Senate.

Q. And that was here in Kentucky?

A. Uh-huh.

Q. Dr. Sloane, who was your immediate consultant in that campaign?

A. Frank Greer.

Q. And how was it that the Greer

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firm was obtained for that?

MR. COX: Don't answer that.

Q. Are you refusing to answer the question?

MR. COX: On my advice.

MS. MOTT: Can you give me a basis of that objection, please?

MR. COX: Sure. I'm here, and we are prepared to answer inquiries concerning the Mary Bingham contribution which was, as I understand it, one -- as I understand, one of the areas that you were going to get into.

As I told on you the phone previously, we don't believe that it's appropriate for the FEC to investigate the second issue, which they appear to be investigating, which is the television ads broadcast by the Kentucky Democratic Party in 1990.

We believe that on the face -- and I'm not going to make this long, I'm just going to state it -- on the face of the document, which is dated -- maybe undated -- it's this 15 page finding here, whenever it came out -- that any inquiry into the matters related to those television advertisements is beyond the scope of the jurisdiction of the Federal

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Election Commission and constitutes an invasion of Dr. Sloane's and his other associates and his campaign's rights under the first amendment, and we are not going to get into those.

And I have raised that issue previously with the commission in objections to discovery requests from the commission, so I will incorporate that. So I'm not going to let you get into that.

MS. MOTT: Okay. And you do understand that under 437G of the Act the commission does have authorization and jurisdiction to investigate all complaints filed against individuals in the Federal Election Law, within the Act?

MR. COX: Yeah, I understand you have the authority to conduct -- I'm not going to get into a fight with you. I understand what the Act says.

MS. MOTT: Okay. Well, I'm going to go through the questions, and you can state your objections to them then.

Can you read back the previous question?

(The reporter read the record.)

MS. MOTT: I will just repeat

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the question, and you can deal with the objection as you would like.

Q. How was the Greer firm obtained for that?

MR. COX: Don't answer that. Same objection.

MS. MOTT: Can I get the counsel to allow the witness to refuse to answer and state the grounds?

MR. COX: Well, no, the witness doesn't have to state the grounds. I've stated the grounds already on the record. I am instructing him not to answer, and you can ask the witness, if you would like, on every one of these if he's going to go along with my instructions. But I'm not going to repeat everything, and I'm not going to have him repeat the reasons.

Q. Are you refusing to answer the question?

A. On advice -- I will follow my advice -- the advice of the counsel. I will follow my counsel's advice. I guess that's the proper English.

Q. Did you ever speak with anyone in the Greer firm about the Kentucky Democratic Party

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ads?

MR. COX: Same objection, same instruction.

Q. Are you refusing to answer the question?

A. Same.

Q. Were you aware that the Kentucky Democratic Party was also using the Greer firm?

MR. COX: Same objection, same instruction.

Q. Dr. Sloane, when did you first become aware of the ads of the Kentucky Democratic Party?

MR. COX: Same objection, same instruction.

Q. Are you --

A. Yes, I go along with counsel.

MR. COX: Thanks.

MS. MOTT: So if I understand you correctly, you are going to object to any question involving the ads that were run by both the Sloane committee and the Kentucky Democratic Party; is that correct?

MR. COX: Right. What I am -- the reason I have produced him here today is to

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respond to the Mary Bingham stuff, and I don't think that -- as I have made clear before, I don't think discovery on the other issue is warranted because I don't think you have the authority to investigate something that is not in violation, and I also think that the scope of your investigation impedes his First Amendment rights.

MS. MOTT: Thank you.

Q. Did you ever receive a copy of tapes or scripts of the Kentucky Democratic ads?

MR. COX: Same objection, same instruction.

A. I concur with counsel.

Q. Who in the Sloane campaign was the primary person involved in the media of the campaign?

MR. COX: Same instruction, same objection.

Q. Are you refusing to answer the question?

A. I go along with counsel.

Q. Did the Sloane committee ever solicit contributions for the Coordinated Campaign of the Kentucky Democratic Party?

MR. COX: Who in the Sloane

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campaign?

Q. First, did you, sir, ever solicit any contributions for the Coordinated Campaign of the Kentucky Democratic Party?

MR. COX: I will let you answer that.

A. Yes, I did.

Q. And to whom did you solicit those contributions?

MR. COX: You mean from whom?

Q. From whom did you solicit?

A. To the best of my memory -- and we are talking about two years ago now -- the labor community, the trial attorneys, and that's all I can think of directly soliciting for the Coordinated Campaign. And there may have been some individuals, but I just don't recall.

Q. And those were contributions specifically to the Coordinated Campaign?

A. As opposed to what?

Q. As opposed to the Sloane committee itself?

A. Yeah.

Q. Okay. And did you also solicit contributions to the Sloane committee from these

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individuals --

A. Yes, I did.

Q. -- or organizations? Was Jim Cunningham a part of the Sloane campaign?

MR. COX: You can answer that.

A. Yes, he was.

Q. And what was his title?

A. He was campaign manager.

Q. And did his duties including soliciting contributions?

A. Yes, it did.

Q. Did his duties include any media aspects of the campaign?

A. Yes, they did.

Q. Was there anyone else in the Sloane campaign involved in the media aspects of the campaign?

MR. COX: Don't get into that. Don't answer that. Same objection, same instruction.

Q. Was anyone else in the campaign involved in fund raising for the Sloane campaign?

MR. COX: You can answer that one.

A. Yes. Jim Smith was.

Q. And what was his title?

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A. He was finance -- I think we called him finance chairman, or he was in charge of the general solicitation.

Q. And was he also in charge of solicitation for the Coordinated Campaign?

A. No.

Q. Was he involved in the solicitation for the Coordinated Campaign?

A. I can't answer that. I don't know.

Q. You --

A. I don't know if he was or not.

Q. And other than Jim Cunningham and Jim Smith were there any others in the Sloane campaign that were involved in soliciting contributions?

A. My wife solicited some contributions.

Q. Anyone else?

MR. COX: Well, I'm sure he had a fund raising committee.

A. Yeah, I had -- I mean, there were a lot of people involved. I mean, you have to be a little more specific. Are you talking about someone who was officially on the campaign staff, or someone

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who was a volunteer, or someone who gave a function and solicited from other people? I mean, we are talking about an awful lot of people if you are going to get into that definition of --

Q. Okay. Let's start off by talking about the people on the campaign who were actually involved in organizing the contributions.

MR. COX: Wait a minute. On the campaign staff?

MS. MOTT: Yes, I'm sorry.

A. Okay. Jim Smith and to a lessor -- much lessor extent Jim Cunningham and myself. My daughter was with me for a summer, and she helped solicit. There were aides in the office that organized the solicitation.

Q. Were there any volunteers with the campaign who solicited contributions?

A. How do you define that?

Q. Someone who was volunteering -- not being paid by the Sloane committee, but volunteering their time and efforts to the Sloane committee?

A. Yeah, there were. I can't -- there were a number of people that were volunteering, and I -- I would have to go back to the records, but I

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can't give you the individuals.

Q. Can those records be provided to us?

MR. COX: Why? What's the relevance?

MS. MOTT: It's not a matter of -- first of all, I don't -- can we go off the record just a second?

(Off the record discussion.)

MR. COX: If you have some demonstrable relevance about that, then I will consider producing the documents if we have them. It's not clear to me what documents you want. But if what you are seeking is the documents -- am I correct that you are seeking documents about everybody who raised money for the Sloane campaign?

MS. MOTT: That's correct.

MR. COX: Well, all right. If you -- you know, I will take that under consideration. I'm not going to agree to produce that right now.

I mean, do you have any idea what the scope of your request is? I mean, there were probably hundreds of events that were given all over the state. There were probably hundreds and hundreds of people who in one way or another helped with fund

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raising.

A. And this campaign went on for 2-1/2 years.

MR. COX: I mean, it's a -- okay. Why don't you go on to your next area? And I still would like to know what the relevance to that is to the matter under review.

MS. MOTT: The relevance is the investigation of contributions made to the committee.

MR. COX: That's not what -- there is no matter under review about contributions made to the committee.

MS. MOTT: I'm not going to go into it with you the scope of this investigation.

MR. COX: I've got the scope. I've got the subpoena, and I have got your decision here. Neither one of those are -- that's not mentioned in any of those documents.

MS. MOTT: Okay.

Q. Did Rob Bingham ever solicit contributions for the Sloane campaign?

A. He may well have talked to his grandmother about a contribution.

Q. And what do you know --

MR. COX: Now, the question was

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for the Sloane campaign.

A. No, I -- I don't know if he did or not.

Q. Okay. What about contributions to the State Party?

MR. COX: What about it? Did Rob Bingham do it?

Q. That's correct, did Rob Bingham ever solicit contributions to the State Party?

MR. COX: If you know.

A. I don't know.

Q. Did Rob Bingham ever solicit contributions to the Democratic national committee?

A. If -- the one area that he would have done it would have been from his grandmother if he did it.

Q. Are you saying that you don't know for a fact that he did it?

A. I'm not certain that he did. I think he did, but I can't say for sure.

Q. And what makes you think that he did?

A. Well, that he had mentioned to me that he had had contributions -- or that he had had conversations with his grandmother about the NC. I

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don't know if he directly solicited.

Q. What did he tell you about those conversations?

A. That's about all I can relate on that.

Q. Because you don't recall or because --

A. Because I don't recall.

Q. What was your relationship with Mrs. Mary Bingham?

MR. COX: What do you mean his relationship?

Q. How did you know Mrs. Bingham?

A. I have known the Binghams since I came to Louisville, or Kentucky in 1964.

Q. And did you know her professionally, personally?

A. Personally.

Q. And had Mrs. Bingham ever supported any previous campaign of yours?

A. Yes, she had.

Q. And what was that?

A. When you say support, what do you mean by that?

Q. Contribute funds to it?

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A. I think prior to the selling of the Courier-Journal I don't recall that there were contributions. In my race for county judge executive in 1985 I think she contributed to that.

Q. And were there any other contributions to any other -- to that or any other campaign?

A. Well, she gave to the Sloane committee in 1990.

Q. Do you -- was there more than one contribution to the Sloane committee?

A. You would have to look at the record on that. I gather you have all of the records in terms of the financial contributions of the campaign. It would be listed there.

Q. How did you first become aware of the contribution that Mrs. Bingham made to the Democratic National Party in 1990?

A. She had contacted me that she wanted to give a significant contribution, and she wanted to know how that should be done.

Q. Do you know why she contacted you specifically?

A. Well, I guess because we are on a personal speaking terms, very close, and it would

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seem logical.

Q. And what did you discuss in that conversation? I'm sorry, wait a minute. Let me back up there.

Was that a telephone conversation, or did she speak to you personally?

A. As I recall, she spoke to me personally on that.

Q. Okay.

A. What was your next question?

Q. And what was discussed?

A. Well, she wanted to know how she could make the checks out, or the check.

Q. And what did you tell her?

A. Well, I told her I needed to talk to -- I talked to Jim Cunningham about the specifics of it, and then I got back to her.

Q. So you had a separate conversation afterwards?

A. That's to my recollection.

Q. And what --

A. Because I wouldn't be carrying that information around in my head.

Q. And what did you tell her when you got back to her?

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A. How to make the checks out.

Q. And how did you tell her to make them out?

A. Well, I don't recall.

Q. Do you recall what advice or information that Jim Cunningham gave you?

A. That there should be two checks.

Q. Two checks to whom?

A. To the DNC.

Q. Why two checks?

A. As I remember it, one is for so-called hard money and one is for so-called soft money.

Q. Do you understand what -- what was your understanding of what that meant in terms of --

A. Well, there were two different accounts that they needed to go to.

Q. Did you ever speak with Mrs. Bingham's -- I'm not sure what his title is -- accountant, Leon Tallichet?

A. Leon Tallichet, no.

MR. COX: About this subject?

Q. About this particular --

A. Not to my knowledge.

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Q. Okay.

A. I may have, but I just don't recall it.

Q. Did you notify the Democratic National Committee that Mrs. Bingham would be making a contribution?

A. I called -- because of the fact that she was going to make a major contribution, I called Paul Tully to find out the rules of those contributions and to make sure that Mrs. Bingham had accurate information.

Q. And do you recall what he told you about that?

A. He said that the DNC could not make any commitment that that money would be coming back to Kentucky. She could make those contributions if she wished.

Q. Did you ever express any interest to Mr. Tully -- I'm sorry -- did you ever express to Mr. Tully any wish of Mrs. Bingham for the funds to come back to Kentucky?

A. No, I didn't, because she never expressed that to me.

Q. What was your understanding of the purpose of the contribution?

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A. To promote the Democratic Party.

Q. Generally or within Kentucky or --

MR. COX: Well, I think this -- are you asking him what Mary Bingham told him?

Q. Do you understand the question?

A. Well, I --

MR. COX: If you are asking him to speculate about what her purpose was, I object to that.

MS. MOTT: That's not what I am asking.

MR. COX: If you are asking him what Mary Bingham said the purpose of it was, then I think he can answer that.

Q. Did you understand the question?

A. No. Could you rephrase it please?

Q. What was your understanding of the purpose of the contribution?

MR. COX: Same objection. I don't want him to speculate about what was in Mary Bingham's mind unless she told him.

MS. MOTT: Mr. Cox, if the witness does not understand the question, then he is

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free to ask me to rephrase it.

Q. Now, what I am asking you is what your understanding of the contribution was, the purpose of the contribution?

MR. COX: Well, now, that's a different question.

A. As I told you, I think to promote the interests of the Democratic Party.

Q. And how did you see it promoting the interests of the Democratic Party?

A. Well, I -- I mean, I didn't see a specific way it was going to do it except we were in a Democratic campaign, and, you know, I didn't have any specific idea that -- you know, in a general election you are looking for support from whatever corner is in the Democratic Party, state or Federal government.

Q. Okay.

A. The DSCC was supporting me, the Democratic Senate Campaign Committee, a lot of labor, a lot of different entities oriented towards the Democratic Party.

Q. Did Mrs. Bingham ever express to you a wish that the funds would come back to the Kentucky Democratic --

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A. No, she didn't.

Q. What did you think -- what was your understanding of what the DNC would do with the funds?

A. I didn't have an understanding because I didn't know what they would do with it.

Q. When did you become aware that a transfer of funds was made from the Democratic National Committee to the State Party?

A. What date?

Q. If you remember a specific date?

A. I don't, I don't remember.

Q. Do you remember a general time frame in the campaign?

A. I think in October.

Q. Early October, mid October?

A. I really can't say because I just don't remember.

Q. Did you know about the transfer of funds from the DNC to the State Party prior to it happening?

A. No, I didn't.

Q. Did you ever discuss that transfer of funds with anyone at the Kentucky Democratic Party?

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A. No, I didn't.

Q. Let me back up. Do you know how the check that Mrs. Bingham issued to the DNC was delivered?

MR. COX: To whom?

Q. To the DNC?

A. I think it was delivered by Mr. Cunningham. I'm not sure, but I think that's the right -- whether he did it personally or whether he did it by Fed Ex, or I don't know how it -- so I don't really know how it was delivered.

Q. Do you know if there were any -- first of all, let me -- did you ever actually see the checks?

A. Yes, I did.

Q. And when was that?

A. I can't tell you.

Q. Do you remember the circumstances under which you saw the checks?

A. I really can't. I was in the midst of heavy campaigning, and I just don't remember the specifics of when it was. I assume I was in Louisville and I wasn't in Cadiz, but that's about all I can tell you.

Q. Did you ever see any cover

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letters or anything accompanying those checks that went to --

A. No, I didn't.

Q. So to your knowledge Mr. Cunningham is the one who actually delivered the checks to the DNC?

MR. COX: Or had them delivered.

MS. MOTT: I'm sorry.

A. Or had them -- I -- as I recollect it, I transferred the checks to Mr. Cunningham. That is how I recollect it. And what he did with it, I'm not sure because I was in and out of Louisville and campaigning, and it was pretty hectic.

Q. So how was it that you had the checks?

A. I can't -- logistically I was in the place to get them. I just don't recall the specific transfer.

Q. Who gave you the checks?

A. My wife gave them to me.

Q. And do you know who gave them to her?

MR. COX: Don't go into anything your wife told you. It's privileged.

A. Okay. I concur with that.

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Q. Do you have any independent knowledge aside from what your wife may have told you about where she got the checks?

A. No, I don't.

Q. Did Leon Tallichet give the checks to your wife?

A. Well, I don't have independent knowledge of that.

MR. COX: That's the answer.

Q. Okay. Did you ever discuss the contribution that was being made by Mrs. Bingham with Marianne Johnson of the Kentucky Democratic Party?

A. Not to my knowledge. As I say, I don't have a recollection of it.

Q. Did you ever discuss Mrs. Bingham's contribution with Andrew Martin or as he's -- Skipper Martin.

MR. COX: A/K/A Skipper?

A. I have -- I don't recall that we discussed it specifically, but he was involved in the campaign, and he could well have known about it.

Q. Did you ever discuss the contribution that Mrs. Bingham was making with Pat Goins of the Democratic Party?

A. Who is Pat Goins?

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Q. I guess that would be no. So that answer would be no?

A. Yeah, right, no, I didn't.

MR. COX: Well, not to his knowledge.

A. Not to my knowledge.

MR. COX: And I assume -- you are asking in advance of the contribution coming in -- I mean, of the money coming back? That's the time frame?

MS. MOTT: Yes.

MR. COX: Okay.

Q. After the funds were made -- I mean, I'm sorry -- after the transfer was made from the DNC to the Kentucky Democratic Party, do you recall having any conversations with Marianne Johnson about that transfer?

A. No, I really don't.

Q. What about with Skipper Martin?

A. I mean, I just don't have any specific recollection on it. You know, it all was going fast and furious two years ago, and I really don't. I don't have any specific recollection of it.

Q. What about any conversation about the transfer of funds with Jim Cunningham?

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MR. COX: Again, the transfer --

Q. From the DNC to the State Party?

A. Repeat the question.

Q. Did you ever have a conversation with Jim Cunningham about the transfer of funds from the DNC to the State Party?

A. Now, when you say about the transfer of funds, what do you mean?

Q. The DNC transferred a large amount of money to the Kentucky Democratic Party. Did you ever have a conversation with Jim Cunningham about that transfer of funds?

A. About whether or not it had been transferred or if there was any action that occurred or --

Q. Any conversation relating to the transfer?

A. I assume I did, but I don't remember a specific -- you know, because I was talking to him about how is the Coordinated Campaign going, how -- in terms of general progress with the various efforts for the election. I mean, I don't -- I don't have a specific conversation that I could relate to you.

Q. Okay. What about -- did you

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ever have any conversations with Jim Cunningham about the contribution which Mrs. Bingham made?

A. Yes, I did, and obviously because I gave him the check, so he must have known.

MR. COX: Well, I think he previously indicated that he talked to Jim about how to divide up the -- or how the checks would be made out. I believe he testified to that.

A. Yeah.

Q. Oh, I'm sorry, I thought that conversation was to Mrs. Bingham?

A. No, I didn't have that information. I needed to get it from --

Q. Let's clear this up. After you received the checks from Mrs. Bingham --

MR. COX: No, this was before. This is before he got the checks in his hand he --

MS. MOTT: I understand that. I'm asking a different question now.

MR. COX: Right. So we're talking about after he got the checks?

MS. MOTT: That's correct.

MR. COX: Okay.

Q. After you had the checks and when you gave them to Mr. Cunningham, what was your

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conversation at that point?

A. I don't recall the specific conversation.

Q. You just handed him checks?

A. "Here are the checks."

MR. COX: No, he said he doesn't recall the specific conversation. He's not saying that one didn't occur.

Q. But you --

A. I just don't recall that we had -- we may well have, but I don't recall what that conversation was.

Q. Did you solicit the contribution made by the Trial Lawyers Association to the State Party?

A. I can't recall that. I talked to the trial lawyers about contributions to the Sloane committee, about support to the campaign. I don't recall that specific solicitation. It may well have happened. I don't recall it.

Q. Did the Trial Lawyers endorse your campaign?

A. They did.

Q. Were you aware that they made a contribution to the State Party?

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A. I was.

Q. And were you aware of that before a contribution was made?

A. I don't -- I don't recall being involved in the solicitation of that contribution.

Q. Okay. But were you actually aware that the contribution was going to be made before it was made?

A. I don't think I was.

Q. And how was it that you heard about that contribution?

A. I mean, I just heard about it in the normal course of events of talking about the campaign. I assume Jim Cunningham.

Q. Do you know if there were any restrictions on those funds?

A. I really don't know.

Q. Do you know if Mrs. Bingham made any restrictions on her contribution?

A. Not to my knowledge.

Q. Do you know if Mrs. Bingham made any indications as to where the funds should go?

A. Not to my knowledge.

MR. COX: You mean other than the DNC?

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Q. Yes, other than to the DNC?

A. She did not certainly to me nor anybody that I know of.

MS. MOTT: Why don't we take a quick break?

(Off the record discussion.)

Q. The solicitations that you personally made for the Coordinated Campaign of the State Party, were those written or oral?

A. Those were oral to my memory.

Q. Do you know if anyone in the Sloane campaign made any written solicitations for the Coordinated Campaign?

A. Not to my knowledge.

Q. Okay.

MS. MOTT: Okay. Let's just back up and go through a couple of these areas.

MR. COX: All right.

MS. MOTT: Any questions pertaining to the ads made by the Sloane committee, are you refusing to answer those questions?

MR. COX: Yes, on the grounds that I gave before.

MS. MOTT: Being?

MR. COX: It's the two bases.

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One is that it's the First Amendment, and two, that the investigation under 3182 as it relates to matters other than Mary Bingham is not a proper subject matter of the investigation, and anything else that I can come up with if we get into a real fight about it, but those are the things I can think of right now.

MS. MOTT: Any questions regarding to the Kentucky Democratic Party's ads during that campaign, are you also --

MR. COX: Same, same.

MS. MOTT: Any questions related to communications between the Sloane campaign or yours and the Greer firm?

MR. COX: Same.

MS. MOTT: Any communications other than what we have already gone through between the Sloane campaign and the Kentucky Democratic Party in relation to the way the campaigns were being run?

MR. COX: Same, definitely the same.

MS. MOTT: Okay.

MR. COX: Thank you. And we would like to read.

MS. MOTT: I will go through that, yeah.

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MS. MOTT: You can make arrangements with the court reporter to review the transcript, make any corrections that you feel do not accurately reflect what we have talked about today.

You also will be receiving pursuant to the Act a witness -- a check for a witness fee including mileage, reimbursement for mileage. Can you give me an estimate of how far you traveled from?

A. Washington.

Q. Okay. And to what address would you like that check sent?

A. 1601 28th Street Northwest, 20007.

MS. MOTT: Although I don't foresee having to ask you further questions about the topics that we have managed to ask questions about, because there is the issue of the objections to certain areas and because it is an ongoing investigation, what I'm going to do is continue the deposition, and we will close it for today, but it will not be adjourned.

MR. COX: Well, I'm not agreeing to that, but, anyway, we will see each other again somewhere down the road.

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MS. MOTT: I'm sure we will. Do you have anything you want to add to the record?

MR. COX: Oh, no.

MS. MOTT: As far as your not agreeing to the closure of that, that's the way we always do depositions, regardless of whether there are objections or not, so --.

MR. COX: Well, that -- we'll have to -- we will see.

(Witness excused.)

* * * * *

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STATE OF KENTUCKY)
COUNTY OF OLDHAM)

I, MARCIA KUCHENBROD HIEATT, a notary public within and for the State at Large aforesaid, do hereby certify that the foregoing is a true, correct and complete transcript of the deposition of DR. HARVEY SLOANE, taken at the time and place and for the purpose set out in the caption hereof; that the said deposition was taken down by me in stenotypy and afterwards transcribed on a computer under my direction; that the appearances were as set out in the caption hereof; and that it was requeste by counsel for the witness that the deposition be submitted to the witness for reading and signature.

Given under my hand as notary aforesaid, this the 12th day of November, 1992.

My commission expires March 14, 1993.

Marcia Hieatt

MARCIA KUCHENBROD HIEATT, C.P.,
Court Reporter and Notary Public
State of Kentucky at Large

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I, the undersigned, DR. HARVEY SLOANE, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate (with the exception of the following corrections listed below):

Harvey Sloane

DR. HARVEY SLOANE

MARCIA KUCHENBROD HIEATT
COURT REPORTER
(502) 585-2800

) 504 336 4567

STATE OF Washington

COUNTY OF District of Columbia

Before me, the undersigned Notary Public within and for the above-named county and state, on the 3 day of December, 1992, personally appeared DR. HARVEY SLOANE and acknowledged the execution of the foregoing document.

My commission expires: My Commission Expires January 1, 1993.

Wendy L Noerr

Notary Public

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

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IN RE:

M U R 3182

DEPOSITION OF WILLIAM J. ROBINSON

Washington, D. C.

Thursday, November 12, 1992

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x

IN RE:

M U R 3182

- -x

DEPOSITION OF WILLIAM J. ROBINSON

Washington, D. C.

Thursday, November 12, 1992

Deposition of WILLIAM J. ROBINSON, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Sixth Floor, at 11:00 a.m. before MARLENE KNOWLES, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

TONDA MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFFREY LONG, ESQ.
Federal Election Commission
999 E Street, N.W.
Washington, D. C.
On behalf of the Commission.

JOHN C. KEENEY, JR., ESQ.
Hogan & Hartson
555 Thirteenth Street, N.W.
Washington, D. C. 20004
On behalf of the Deponent.

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P R O C E E D I N G S

Whereupon,

WILLIAM J. ROBINSON

was called as a witness and, having first been duly affirmed, was examined and testified as follows:

EXAMINATION

BY MS. MOTT:

Q Could you just, please, state your full name for the record.

A William J. Robinson.

Q And counsel is --

MR. KEENEY: My name is John C. Keeney, Jr., from Hogan & Hartson, representing the Democratic National Committee and Mr. Robinson.

MS. MOTT: Mr. Keeney, has anyone else represented the Democratic National Party in this matter?

MR. KEENEY: Yes, a notice of appearance was also filed at the same time I filed mine by Christine Varney of Hogan & Hartson. In addition, Christine, when she signed that appearance, was both a member of Hogan & Hartson as well as the general counsel of the Democratic Party pursuant to the usual round of political changes.

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The current general counsel of the Democratic Party is Carol Darr. And I am here authorized by everyone.

MS. MOTT: All right.

BY MS. MOTT:

Q And Mr. Robinson, you, sir, has anyone else ever represented you in this particular matter?

A No.

Q My name is Tonda Mott, and I represent the office of the general counsel, the Federal Election Commission. With me here today is Anne Weissenborn, and Jeff Long, also of the office of the general counsel.

This deposition is being taken pursuant to the federal election subpoena issued in connection with an investigation under section 437(g) of Title II of the United States Code.

The Commission has jurisdiction of the Federal Election Campaign Act of 1971 as amended. Now, that statute provides that the confidentiality of this investigation must be maintained until it is complete and the file has been closed on. This investigation is designated matter under review, or MUR 3182.

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Mr. Robinson, have you ever had your deposition taken before?

A No.

Q Let me run through a couple of instructions for you. I'm going to be asking a series of questions regarding this matter under review. The questions that I ask you may not necessarily be limited to your involvement; they may also include information about other individuals.

Please make sure that you verbally answer all the questions so the court reporter can get it down. If you don't understand one of my questions, please let me know and I can repeat it or rephrase it.

If at any time you realize that you have given an inaccurate or an incomplete answer, let me know that, too, and we can go back and fix that for the record.

A All right.

Q Could you please tell me what documents you reviewed in preparation for today?

A The complaint and the DNC response.

Q Could you state for the record your address, please.

A 510 A Street, like apple, Northeast, Washington,

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D.C. 20002.

Q And do you have a phone number there where you can be reached as well?

A 202-543-6020.

Q And also for the record, could you state your social security number?

A [redacted]

Q Mr. Robinson, can you tell me, are you presently employed?

A Yes, I am.

Q Where are you employed?

A Joe Slade White & Company, offices in Washington and New York.

Q And you are employed here in Washington?

A Yes.

Q What does that firm do?

A It is a political consultant firm.

Q How long have you been working with them?

A Since August of 1991.

Q What is it that you -- what are your duties in the firm?

A I'm a political consultant. I work with

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political campaigns, party committees and that sort of thing, campaign plans and campaign strategy.

Q Where were you employed in 1990?

A 1990, I was employed at the Democratic National Committee.

Q What was your title?

A Coordinating campaign director within the political division.

Q And what were your duties as the coordinating campaign director?

A My duties were to oversee the establishment and execution of coordinating campaigns in the states. And I had some oversight responsibility in the political division for the political desks.

Q I'm sorry, what were the dates that you worked at the DNC?

A January 1990 through August 1991.

Q Were you responsible for any DNC activities regarding the Kentucky Democratic Party?

A As part of my overall responsibilities for the establishment of coordinating campaigns, I had involvement within Kentucky, as far as the construction, of

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coordinating a campaign in Kentucky.

I also, as part of some training responsibilities, did some training in Kentucky.

Q And that would have been training of whom?

A Local party activists, some elected officials, some state party staff.

Q Were you responsible for any fundraising efforts with the Kentucky Democratic Party?

A I had general fundraising responsibility, like every political staff person has. I assisted the Kentucky coordinating campaign in raising some money as part of their coordinating campaign plan, mostly through labor and other contributors to the party and -- to the national party -- the Democratic National Committee and the state party. But I had no line responsibilities as far as raising money directly for the state party.

Q Were you involved in the development of the Kentucky Democratic Party's coordinated campaign plan, their written plan?

A We had involvement as far as approval -- "approval" is not the right word -- kind of review of the Kentucky coordinating campaign plan, but the

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plan was written within the state. The southern regional desk also had day-to-day contact with the state party as far as the construction of the plan.

Q And who would have been on the southern regional --

A Phillip Jones.

Q Mr. Robinson, can you tell me, did the Democratic National Committee have activities directly related to the Sloane campaign?

A We did not, in 1990 nor the 1992 cycle, make direct contributions or have direct involvement with Senate or congressional campaigns.

Our involvement with Senate campaigns, Congressional campaigns and most gubernatorial campaigns, most selective offices, was through the establishment of a coordinating campaign where they participated with the other races going on in the state with the coordinating campaign.

Q So you had no direct contact with the Sloane campaign at all --

A I had direct contact, not as far as strategy or fundraising or anything, that would be construed as a

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consulting relationship with them.

Q So what contact did you have with them?

A I had contact with them as far as seeing them, talking to them when I was in Kentucky doing training, and also as it regarded the coordinating campaign in Kentucky.

Q Was the plan that the Kentucky Democratic Party had at that time, the coordinating campaign plan, similar to plans in other states that you are aware of?

A Our strategy in the United States was to develop coordinating campaigns on a state-by-state basis. These coordinating campaigns were not something that were imposed from Washington, but were something that were developed at the local level.

Kentucky had a plan which was similar to other southern plans, similar to some of midwestern plans, but I couldn't emphatically state that it exactly resembled any other particular plan.

There were elements of the Kentucky plan that matched elements of other coordinating campaigns throughout the country. But it wasn't like there was a boilerplate plan that we would stamp out state by state.

Our philosophy was that we worked with them to

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develop what they wanted, helped develop it, helped as far as selling the plan, but we weren't in a situation of saying you do this or you do that. That was not the philosophy of the DNC at the time.

Q And by "selling the plan," what exactly do you mean by that? To whom would you be selling it?

A We would have meetings with people in Washington, mostly within the labor community. The coordinating campaign would come up. I make a presentation as far as what was going -- what was in the plan, what the objectives of the plan were, and we would then help them raise money. There were -- I don't remember the exact number, 34 or 35 or 36, somewhere in that range, coordinating campaigns. And I would say about two-thirds of them got to the stage where they came up and attempted to raise money for the coordinating campaign.

Q Can you tell me who Paul Tully is within the -- or was in 1990 within the Democratic National Committee?

A Paul Tully was the political director of the DNC.

Q And what were his duties?

A He was responsible for the day-to-day execution of the political operation of the Democratic National

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Party.

Q What was his involvement in the coordinating campaign?

A He was the ultimate person responsible for coordinating campaigns within the Democratic Party. He had a day-to-day involvement and oversight of myself, the desks, the entire political operations of the DNC.

THE WITNESS: They are aware he passed --

MR. KEENEY: You are aware that Paul Tully just died?

MS. MOTT: No, I was not aware.

MR. KEENEY: Because this is a sensitive subject. I mean he was very young, and he --

THE WITNESS: He was a very close friend of mine.

MS. MOTT: Oh, I'm sorry.

MR. KEENEY: He passed away in Little Rock. There was a memorial service less than a month ago at the National Cathedral, and it was jam-packed. So you know -- again, we don't mean to restrain your questioning.

MS. MOTT: I understand.

THE WITNESS: I'm still fairly emotional --

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MR. KEENEY: He's one of Paul Tully's absolute best friends ever. And if there is some emotion that is shown on our side, it is the passing of someone who was so young and so brilliant.

MS. MOTT: I understand. You --

THE WITNESS: So I just wanted -- I didn't think you knew that, so I --

MS. MOTT: No, I did not and my sympathies to you. I'm sorry.

BY MS. MOTT:

Q Let's talk about a contribution that was made by Mary Bingham to the DNC in October of 1990.

Are you aware of that contribution?

A Yes.

Q Do you know how that contribution came about?

A Yes.

Q Could you tell me that?

A Well, I'll take a step back for one second. I think there is something that has to be talked about as far as what the situation was at the Democratic National Committee at that time versus what it is right now coming off of a successful presidential victory.

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Chairman Brown was elected in 1989; we were not exactly in the greatest political shape. At that point in time, we were having tremendous financial difficulties. In August, September, our budgets had all been cut down to bare minimum. And a request was made by the finance people and by the Chairman of everyone in the building to assist in raising money for the DNC.

Gary Baron, who was deputy treasurer of the party at the time, had given me her name along with other names and said that in the course of your activities, if you can solicit funds from these individuals, it would be very helpful to us.

I had known from my participation at the DNC in 1988 and my involvement in 1989 that she was a substantial party giver. She was a trustee -- she may have been a managing trustee of the Democratic Party. And she was a substantial donor to the DNC during the 1989 cycle.

When I traveled to Kentucky in September, the second or third week of September at the invitation of the state party, to do a campaign training for the state party in eastern Kentucky, I met with the coordinating campaign director of the Kentucky party, Steve Bahar, met with

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Maryann Johnson, the state chair, a number of political operatives at a state park in eastern Kentucky, Jenny Wade State Park. Steve Bahar and Jim Cunningham, who was with the Sloane campaign, drove me to the state park.

We reviewed the coordinating campaign situation, and I told them that we were in pretty tough financial straits, the DNC, and my instructions was to try to raise money. And I talked about a number of ways that they might help me raise some money at the DNC. I honestly don't remember whether I brought her name up or whether Steve brought her name up or Jim brought her name up. But because she was a substantial donor, her name did come up.

And I asked them that, if there was anything they could do to help solicit her to give money to the DNC, it would be appreciated.

The next day we did the training, Harvey Sloane was there, Congressman Perkins was there, a number of sheriffs were there, and other people. We talked about it, and Harvey said that he would get someone to solicit her for the Democratic National Committee.

About a week later, I got a call back from Jim Cunningham, who said that the solicitation was in fact

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being made. I said that was terrific. Upon conversation with some people in the finance division, I called him back and said that if she could give a contribution of any amount of federal money that she had not used at that point, that would be appreciated. And he said he would check on that.

And I cautioned him at that time to make sure that she hadn't gone up against her limit or whatever, and he said he would do that.

And I would say probably a week later, maybe not that long, the check arrived at the DNC to the political division and I gave it to the comptroller and it was deposited.

Q Now when you say it "arrived," did it arrive by mail, did someone deliver it?

A It was Fed Ex'd to the political division.

Q Do you know who had sent that in?

A To be honest with you, I don't remember who had Fed Ex'd it. I don't remember.

Q Would there be records of that?

A I honestly don't know. I mean it was Federal Express'd. I'm sure the Fed Ex envelope was just opened

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and the check was put on my desk or Paul's desk.

Q But those are not logged in or anything like that?

A No.

Q Was there any cover letter with the check?

A I don't know.

Q Do you know what the return address was on the Fed Ex envelope?

A I think it was -- I don't remember. I don't know.

Q Now, this meeting that you were talking about, that was in September of 1990; is that correct?

A Right.

Q Now, you mentioned a trustee of DNC. What exactly did it mean to be a trustee of the DNC?

A It depended upon what year that was. And before Chairman Brown was chairman and before 1988, I don't know what the dollar amount was.

During the 1988 campaign cycle, a trustee was someone who gave over $100,000. And it was my understanding that she -- well, who gave $100,000 -- she was someone who was in fact a trustee. That's what Gary

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Baron told me.

There was a limit of $100,000 in the 1988 cycle for the maximum amount of non-federal money or federal money or a combination of the two that we were to receive. We had no limit during Chairman Brown's tenure as far as the maximum amount of money we would put in.

During Chairman Kirk's jurisdiction, there was also no limit. We received contributions up to a million dollars from individuals.

I believe that we kept the same 100 or $150,000 level of contribution to be a trustee during the 1990 cycle.

Q And as a trustee, did the contributor have any particular duties or rights as a trustee?

A They got a really nice letter; I think they got a pen. And I'm sure they were asking for more money. I'm sure they said they got an ID card or maybe a decoder ring or something. But, no, I don't -- yes, it was a tremendous honor and they got a lot of really neat stuff.

Q Did you ever have any discussions directly with Mrs. Bingham about that contribution?

A No, I never talked to her.

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Q Did you ever have any discussions with Rob Bingham about the contribution?

A No.

Q Did you ever have any discussions with Leon Tallichet about the contribution?

A I don't know who that is.

Q Did you ever have any discussions directly with Harvey Sloane about Mrs. Bingham's contribution?

A I had a conversation with him at the state park about making a solicitation. I believe that was the last direct conversation that I had with Dr. Sloane about the contribution.

Q Did you ever have a conversation about the contribution with Jim Cunningham?

A Yes. I had a conversation with Jim Cunningham that day. I had a subsequent conversation with him about trying to get Mrs. Bingham to write federal, in addition to non-federal. I had a conversation with him when the check was being sent, that he was saying the check was in fact being sent.

Q Mr. Cunningham told you the check was being sent?

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A Yes.

(Deposition Exhibit 1 identified.)

MS. MOTT: We've been saying "check," but in actuality, I guess there were two checks. And I would like to show you these. But first, I would like to show counsel.

MR. KEENEY: Thanks. I've seen it.

BY MS. MOTT:

Q This is what has been marked as Exhibit 1. It is a check on the account of Mary Bingham in the amount of $230,000 to the Democratic National Committee.

Can you tell me what the numbers that are handwritten above -- I'm sorry, below the payee line, what those indicate?

A I can't, because I don't know. I would if I knew.

Q Fair enough.

A But I don't know.

Q Do you know if those numbers were on the check when it was received?

A I don't know.

Q Do you know if it was indicated "non-federal

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funds" when the check was received?

A I can't say for sure, but that -- I do remember a check being made out to the non-federal fund and a check being made out to the federal fund.

MR. KEENEY: And I would note that it says on the face of the check "non-federal fund."

MS. MOTT: Yes, I'm sorry, that is typewritten, not handwritten, yes.

BY MS. MOTT:

Q Do you know who might have knowledge about the handwritten series of numbers and letters on this check?

A No, I don't know.

Q We're probably going to get the same answers but --

A Let's go through it.

Q -- let's do it anyway.

(Deposition Exhibit 2 identified.)

BY MS. MOTT:

Q I'm showing you what's been marked Deposition Exhibit 2. This, again, is a check of the account of Mary C. Bingham in the amount of $20,000 made out to the Democratic National Committee.

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Do you have any knowledge regarding the handwritten series of numbers and letters on this check?

A No.

Q Do you know if they were on there when the check was --

A I don't know.

Q And again, you don't know who might know that information?

A No.

Q Now, you said you had a conversation with Mr. Cunningham prior to the checks arriving; is that correct?

A Yes.

Q And do you recall when exactly that was?

A I know it was within a time frame of being at the state park at the Democratic Party training session until the time it came there. I don't know exactly when that conversation took place.

Q And you spoke with him on the phone or in person?

A I spoke with him in person at the state park. I spoke with him on the phone in between then and the time

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the check arrived.

Q And what did that conversation consist of?

A Two things. One was that I wanted him to see if the check could be written in two pieces, a federal and non-federal.

Second was going through the standard spiel we had as far as appreciating the contribution, could not guarantee that it would come back, that we wanted to spend it on coordinating campaigns, but we had overhead, we have expenses, we have a fairly aggressive fundraising operation, and that I couldn't give him a timetable nor an amount of money from -- I did, when I got back from the training send some money from the DNC to the state party to, I think, begin some voter identification programs, I don't know what it was. And I told him that was on its way before we had gotten the check.

He said that Dr. Sloane wanted to talk to Tully about it. And Dr. Sloane had a conversation with Paul Tully after I had a conversation with Cunningham.

Q And do you know anything about that conversation?

A I heard on one of them, Paul Tully's side of it, where Paul reiterated the exact same thing. It is fairly

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standard spiel we have of we appreciate the contribution, no, we cannot tell you how much is going to go or whatever. We're going to have --

I did not hear Dr. Sloane's side of it and I do not know if any other conversations took place.

Q When you had your conversation with Jim Cunningham, did he request that some of those funds come back to the states?

A I mean, he knew that we were in a situation where I couldn't tell him exactly what, both for allocation reasons and just that our financial situation is that I asked -- we were in the process of raising money about coordinating campaign contributions that week, and the controller told me that no money was going to move that week because we needed the money to make payroll.

So I told him that I didn't know what the situation would be. He obviously made an a impassioned plea for money to come to the state as soon as possible. And after I told him that we had moved some money immediately after I got back from the training, he made another a impassioned plea.

And I don't think there was a conversation that

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took place where he didn't ask for us to try to move money to Kentucky.

Q Did you ever have a conversation with MaryAnn Johnson in which she requested that some of those funds come back to the --

A Not directly. She obviously, when we were at the state party, asked for us to help the coordinating campaign. I had a conversation with Steve Bahar where he made a request to try to get money in. And he and I talked about the status of the coordinating campaign.

Q Did you ever have a conversation with Dr. Sloane when he requested the funds --

A After the initial conversation I had with Dr. Sloane at the state party training session, I do not believe I had another conversation with Dr. Sloane about this directly.

Q Do you know, when Dr. Sloane spoke with Paul Tully, do you know if he requested that some of the funds be returned to the state?

A I don't know.

Q Can you tell me when the DNC became aware that there might be a problem with the funds?

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A I don't know specifically when. It probably was in October, middle or late October.

Q And how did you determine that there was a problem?

A I had -- someone showed me a newspaper column which talked about problems with the money.

Q Did Mrs. Bingham ever make a request of the DNC that the funds be refunded or redesignated in any way?

A From what I understand this was not made to me, is that she made a request that the federal funds be redeposited as non-federal funds. Besides that -- that's the only knowledge I have.

Q Who did she make that request to?

A I honestly don't know.

Q Did you ever have any contact with Andrew Martin, or Skipper Martin, who worked with the coordinating campaign?

A I had a conversation with him at some point in early spring which was just pleasantries. I honestly don't recollect an extended or substantial conversation with him during that time.

I met him again in 1991 during the gubernatorial

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campaign down there. But those are the only conversations I had with him.

Q Do you know what his job was within the state party?

A He was one of the people on the coordinating campaign staff. I don't know what his specific job title was.

Q In relation to Steve Bahar, do you know what Mr. Martin's duties were?

A I don't know how it was on the organizational chart. I knew that most of the day-to-day contact we had with the coordinating campaign was with Steve Bahar. I don't know how they had worked it out on the organizational chart.

Q Let's talk about the transfer of funds that was made from the DNC to the state party. Can you just tell me about the actual mechanics of that transfer?

A Early on in the year, Paul Tully put together a kind of priority list of states where we wanted to become politically involved. That priority list was developed by a whole series of factors which included 1988 presidential performance, redistricting considerations, state

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legislative races, other local races, federal races, and there is also a series of kind of nontangible factors. In the south at the time, the Republican party had an ongoing program of trying to recruit Democratic state legislators and Democratic governors. Governor Roemer of Louisiana was in the process of switching over.

We also had a series of targeting considerations that were developed in NC&C as far as Democratic performance, presidential dropoff, surge voting and those sorts of factors.

We put together an initial target list of states of which Kentucky, Texas, Florida -- there is a number -- Louisiana, and a number of other states. We then attempted to set up a priority order of states that we wanted to target for all those factors. We had a process where the political division would then meet with other division heads and the chairman to make decisions on allocation of funds.

Those meetings took place once a week, twice a week, and then toward the end of the campaign they took place daily, and in some instances, twice a day.

The people in attendance at that meeting were

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myself and Paul Tully sporadically, Ursula Culver, who was the comptroller of the party, Brian Foucart, who was the assistant controller and then became assistant chief of staff, Alexis Herman, who was the chief of staff, Cross -- what was his name?

MR. KEENEY: Bill Cross.

THE WITNESS: Bill Cross, and then Tina Flournoy, who were the attorneys. I'm trying to think of who else would be there. Mario Cooper, who was one of the assistant staff people. Sometimes the various political desks.

We would present once a week, twice a month or whatever it was, our wish list of where we would want to move funds at that point.

As I said before, funds were cut back tremendously during the summer. And we basically had a situation we were dribbing and drabbing money out to states before August.

When the fundraising situation began to improve, we would then make a request for sending out a specific amount of federal and non-federal money for each state. We would then go through that meeting, figure out what the political situation was. In the state, what our internal

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financial situation was, the lawyers would then tell us what type of funds we could use, and then we would try to then get approval to move the money.

Once the approval was made, a formal check request was filled out, and then went to chief of staff for signature, to the comptroller for signature and to cut the check, and then any check over $5000 was signed by the chairman or the treasurer and then countersigned by the comptroller or someone in the comptroller's office. That was the procedure for the movement of funds.

BY MS. MOTT:

Q And you use the same procedure in the transfer of funds to the Kentucky Democratic Party basically?

A Every state used that. No state did not have a coordinating campaign plan. We give funds for the coordinating campaign, unless they had a plan. That was all -- that's how direct money was, in fact, sent by the DNC to the state party.

Q Did the Kentucky Democratic Party specifically request these funds at that time?

A I mean, there was an ongoing standing request for funds and that in conversations with the desks, and they

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just like, we need money. They -- the coordinating campaign plan was short money, and we attempted to raise money both indirectly through the COPE meeting with the labor people and also the AFL-CIO.

Q When that transfer of funds was made from the DNC to the Democratic party in October 1990, were there any restrictions put on those funds?

A We -- well, there were a number of transmittals. And that -- we sent out probably, in the course of the campaign, over 500 separate transmittals of funds to various coordinating campaigns. And I honestly don't remember the number of transmittals that we made to Kentucky.

We would have a conversation with each state party and we would send the money, that the check was on the way or the wire transfer was on the way. And then, accompanying each check was a cover letter that was a standard cover letter which we sent with each check on the final -- the allowable use of the funds. And that was a standard letter that was sent out all the time. I think it was either sent out over the chairman's signature or sent out over the comptroller's signature.

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Q Was there any indication in that cover letter about what the DNC preferred that the funds be used for?

A There was more of a restriction of what they could not use the funds for. As I said before, we were in a financial situation where we weren't dictating to states how they should or should not put funds. We were also in a delicate political situation where there was a great deal of bad feelings coming off the 1988 cycle where Washington dictated to states how they must spend the funds.

So while we would send the money, we didn't say you must spend this on a voter file or you must spend this on voter contact. I expressed a preference to Steve Bahar, a preference to Cunningham, to Maryann Johnson or whoever I could express a preference to, that we really wanted to build a voter file in Kentucky. That was a major concern of ours. And the AFL-CIO and other people who were dealing with the Kentucky party also expressed that desire to build that.

Q Do you know if they actually used any of the funds to build a voter file?

A Some, but it was still a disaster. It was a disaster in '91 and had been spending a great deal more

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money trying to fix it in '91.

Q Do you know what the funds were actually used for?

A The funds were spent on two things. One was funding the coordinated campaign activities at the state party, which were the ticketwide activities through the state party for voter contact, voter registration and get out the vote. The coordinating campaign also made a decision to spend the money on generic media.

MS. MOTT: Could we take a quick break here?

MR. KEENEY: Sure.

(Recess.)

BY MS. MOTT:

Q Mr. Robinson, can you tell me when the DNC became aware that Kentucky Democratic Party was planning to do the media runs?

A I believe it was after the check was sent, and it may have been after we had sent one of the first disbursements to them.

Q And did you ever discuss these ads with Maryann Johnson?

A No. I had one discussion with Jim Cunningham

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where I told him -- and Steve may have been on the phone, I don't know for sure, but that I thought it was a stupid idea from a political perspective, that I didn't think it was going to work, or it would take money away from things we needed to do as far as party building for the long run.

Q Did you ever speak with anyone at the -- well, Jim Cunningham was with the Sloane campaign -- anyone else with the Sloane campaign about the ads?

A No. And I never had a discussion with them as far as the content or the strategy surrounding the media. I did not have any discussion with the state party people about the content or strategy around the media.

Q Did you ever speak with anyone at the Greer firm about the ads?

A No, I did not have any discussion with anyone at the Greer firm about the content or the strategy surrounding the generic media.

Q Do you know anything about the Kentucky Democratic Party's decision to retain the Greer firm?

A No.

Q Let's go back to the transfer of funds. And I'm speaking primarily to the transfers that occurred in

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October, the 16th, 23rd, and 25th of October, from the DNC to the state party.

Can you tell me what the basis of the decision was to make those transfers?

A We were in a situation where we were trying to reach our targets we had set for various states while keeping in account what the political situations were as far as the 1990 cycle in those various states. We were basically trying to figure out what the political situation was, what our financial situation was and what the timing was.

There were about 35 kind of coordinating campaign states, probably 15 that we were actively trying to move funds to at that point. And we were, during that October time period, sending funds as we had them to the various states and also continuing to raise money for the coordinating campaigns in those various states.

We were trying to make decisions as far as Kentucky, Texas, California, Florida, I'm trying to think what other -- southern states as far as timing, when we send that money out as compared to some of the other midwestern and western states. There were not a lot of

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coordinating campaigns active in the east at all in 1990.

Q And the particular transfers that were made to the Kentucky Democratic Party at that time, what were the factors in making that decision?

A As far as fulfilling what our budget -- our internal budget item was for that party at the time, and what resources we had internally at that point. And that we had had a very successful fundraising time in October. And I'd say that's probably where we moved substantial percentage of the coordinating campaign funds at that time.

Q We may have already covered this, but who made the ultimate decision on the transfers of funds?

A It was done by a committee, and that -- the ultimate decision was made by the chairman of the party, as far as when the money would go.

Q I don't want to be putting words in your mouth, but I think you have indicated that the Democratic National Committee wasn't necessarily happy with the way that the Kentucky Democratic Party intended on spending funds.

Can you tell me why you would go ahead and transfer those funds, then?

MR. KEENEY: Objection as to chronology. I think

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you switched the chronology of your question. I'll let the witness straighten that out.

MS. MOTT: Certainly.

THE WITNESS: Now I'm confused.

MS. MOTT: So am I, to be perfectly honest.

MR. KEENEY: I believe the testimony was from the witness that he didn't know about the use of the money until after he believes they received the first transfer or two. And because of that, your question has the wrong sequence. Again, I don't mean to confuse things, I was actually trying to be helpful without suggesting answers.

BY MS. MOTT:

Q Let's back up and try this one more time.

A All right, there was two factors there. One is that -- and I don't want to get myself in political trouble here, but we obviously had a situation where we had a chairman who was a minority, Yankee, laborer lawyer from the east dealing with a series of states that weren't particularly enthralled with his chairmanship at that time.

Second factor was that we were keeping an eye on that state for the governorship that was coming up, the

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primary less than six months away and because of its importance as far as party building, redistricting in the presidential campaign.

The third is that the biggest complaint we got from the local elected officials, including 45 mayors screaming at me for three hours in 1988, was that we were dictating how funds would be spent in states, and that -- it became very apparent to us is that we would not push staff members down people's throats, especially brilliant 24-year-olds from Boston or New York or whatever, to Kentucky, nor would we dictate how funds would be spent.

There were a number of coordinating campaign plans, including some that were very successful, like Texas, where they spent a great deal of funds on things I disagreed with. The Florida coordinating campaign spent almost $60,000 on a survey which I thought was a total waste of money.

I was not in a position to dictate to these states how we would spend the funds. The chairman made it very clear to me, Paul Tully made it very clear to me and the state made it very clear to me that that would not be accepted. So we didn't attempt to do that.

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Q At the time that the DNC made the transfers to the state party, did you know at that time that the Greer firm had been retained by the state party?

A I did not know that the Greer firm had been retained until I think I read it in the paper.

Q At the time of the transfer, did you know that they intended on purchasing media?

A I believe the first or second, no. I did not know that. There was a time period when we were still sending money to Kentucky and we knew it was going for generic media. But as I said, I didn't have any control over that. That was a decision made by the coordinating campaign state party.

Q The DNC received Mrs. Bingham's checks on the 10th of October.

A Is that a question or a statement or --

Q I'm sorry, it is a statement.

A All right.

Q And the DNC made a transfer -- a series of transfers to the state party shortly after that on the 16th, 23rd and the 25th. At the time that those transfers were made, had you spoken with anyone at the coordinating

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campaign or the Sloane committee about the funds received from Mrs. Bingham?

A Well, let me make one thing clear right off the bat, was that we had made transfers to the state party before I went to Kentucky and before she was solicited. So the transfers to the coordinating campaign had already been made.

And what was your question -- I'm not sure what you are trying to --

Q I was wanting to know if you had had any conversations with either anyone within the Sloane committee, namely Dr. Sloane or Jim Cunningham, or anyone within the state Democratic Party about the Bingham contribution at the time that you made the transfers in mid-October.

A We had conversations about the Bingham check when the check was being solicited and when it first got there. I had no conversations with them as far as the Bingham money when the transfers were being made. The Bingham money went into a pool of money that we then tried to allocate. I had conversations internally with the DNC as far as what money was coming in and trying to get it out.

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As I said before, I met a surge of roadblocks, including attempting to make payroll.

Q Do you have anything else that you would like to add to the record?

A No.

MS. MOTT: Mr. Keeney, anything you would like to add?

MR. KEENEY: No.

MS. MOTT: All right. Well, I would like to thank you for coming. Can you make arrangements with the court reporter to review the transcript?

MR. KEENEY: We'll make arrangements.

MS. MOTT: You would need to read over the transcript and sign it and return it to us.

Pursuant to the Act, you will receive a check in the amount of $40 as a witness fee and also mileage reimbursement, which from 10th Street, Northeast is not going to be a great deal of money.

But where would you like that check sent to?

THE WITNESS: My home address.

MS. MOTT: All right.

Finally, I don't foresee us having to speak with

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Marlene Knowles

Notary Public in and for the
Commonwealth of Virginia

My Commission Expires NOVEMBER 30, 1995

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you again, but what we normally do is continue the deposition in case, because it is an ongoing investigation, in case we need to talk with you again.

Thank you very much for coming.

(Whereupon, at 12:10 p.m., the deposition was concluded.)

subject to three pages of ~~hand~~ written changes on the attached errata sheet:

WILLIAM J. ROBINSON

December 22, 1992.

5043651612

ERRATA SHEET

P.	l.	Correction	Reason
7	7	Coordinatory should be coordinated	Typo
		" " "	" "
	12	" "	" "
	21		
8	1	coordinatory a should be coordinated	Typo
	11	coordinatory should be coordinated	Typo
		" "	" "
	12	" "	" "
	22		
9	16	" "	Typo
		" "	" "
10	5	" "	" "
	7	" "	" "
	10	" "	" "
	11	" "	" "
	19		
11	8	" "	" "
	9	add "to D.C." after one up	clarity
	13	coordinatory should be coordinated	Typo
		" "	" "
	16		
12	2	" [redacted] "	Typo "
	5	" "	"
14	21	" "	Typo "
15	5	" "	"

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P	I		
15	7	was should be were	Typo
18	9	individuals should be one individual	Typo
	10	100 should be $100,000	Clarity
	16	asking should be asked	Typo
23	9	coordinating should be coordinated	Typo
	12	front should be that would be sent to the state.	Clarity: completes thought
24	3	Whatever. We're should be whatever we're	Typo
	3	— — should be "	Typo
	13	coordinating should be coordinated	Typo
	21	delete a	Typo
25	7,10	coordinating should be coordinated	" "
27	5,11	" "	" "
28	8	NC+C should be NCEC	" "
29	10	staff people should be chief of staff	Clarity
30	14	add after no state "get funds that"	Typo
	15	add after we "would not"	Typo

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30	15	add "to a state party" after funds	clarity
	15, 16	coordinating should be coordinated	Typo
	22	add at end of line "would say something"	clarity
31	1	coordinating should be coordinated	Typo
	2	delete plan	Typo
	15	and should be "at the time"	Typo
	15	add "and tell them" after money	clarity
32	6	add "to use" after funds	clarity
	22	had been spending should be they had to spend a	Typo + clarity
37	17	laborer should be labor	Typo
38	12	coordinating should be coordinated	Typo
39	12, 22	" "	" "

William J Robinson
December 22, 1992.

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DOC 7818

TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

ORIGINAL

- -x

IN RE:

M U R 3182

- -x

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DEPOSITION OF ALAN A. PARKER

Washington, D. C.

Monday, November 16, 1992

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

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IN RE: :
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M U R 3182 :
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- -X

DEPOSITION OF ALAN A. PARKER

Washington, D. C.

Monday, November 16, 1992

Deposition of ALAN A. PARKER, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Sixth Floor, at 2:00 p.m. before JANE W. BEACH, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

TONDA M. MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFFREY LONG, ESQ.
Federal Election Commission
999 E Street, N.W.
Washington, D. C.
On behalf of the Commission.

LYN UTRECHT, ESQ.
Manatt, Phelps, Phllips
& Kantor
1200 New Hampshire Avenue, N.W.
Washington, D. C. 20036-6889
On behalf of the Deponent.

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by Ms. Mott	3

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PROCEEDINGS

(2:00 p.m.)

MS. MOTT: On the record.

Whereupon,

ALAN A. PARKER

was called for deposition in the above-entitled matter and, having been first duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION

BY MS. MOTT: (Resuming)

Q Mr. Parker, could you please state your full name for the record?

A Alan, A-L-A-N A. Parker, P-A-R-K-E-R.

Q And representing you today is Ms. Lyn Utrecht?

MS. UTRECHT: Yes.

BY MS. MOTT: (Resuming)

Q Has anyone else represented you in this matter before?

A No.

Q Does anyone else represent you now?

A No.

Q My name is Tonda Mott and I represent the Office

of the General Counsel. With me here today also with the Office of the General Counsel of the Federal Election Commission is Anne Weissenborn.

This deposition is being taken pursuant to a Federal Election Commission subpoena issued in connection with an investigation under Section 437(g) of Title 2 of the United States Code.

The Commission has jurisdiction over the Federal Election Campaign Act of 1971 as Amended. This statute provides that the confidentiality of this investigation must be maintained until the Commission has closed its entire file on that.

Do you understand?

A I do.

Q The investigation has been designated as "Matter Under Review" or "MUR" 3182.

Mr. Parker, have you ever had your deposition taken before?

A I don't think so.

Q Okay.

Well, I am just going to run through a couple of instructions then for you.

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I am going to be asking you a series of questions seeking information regarding this particular matter. The questions which I ask you will not necessarily be limited to your involvement, but may include other persons as well.

Please make sure that you verbally answer all the questions so that the Court Reporter can get it down.

If I ask a question you and you don't understand the question, please let me know and I can either rephrase it or repeat it for you.

Also, if at any time you realize you have given an incomplete or an inaccurate answer to a previous question, let me know and we can go back and fix that as well.

Mr. Parker, can you tell me what documents you reviewed in preparation for the deposition today?

A I re-read the Federal Election Commission's factual and legal analysis. I guess it doesn't have a date. It is MUR-3182.

That is all.

Q Could you for the record state your address, please?

A Business or home?

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Q Either one is fine.

A 1050 - 31st Street, Northwest, Washington, D.C., and I forget the Zip Code--20007. That's business; the Association of Trial Lawyers of America's office.

Q And that is where you are currently employed?

A It is.

Q And how long have you been employed there?

A Since 1984.

Q We are going to be talking today about some contributions that were made in 1990 in the State of Kentucky.

In 1990 there were contributions made by ATLAPAC on September 14th and October 9th.

Are you aware of those contributions?

A I am.

Q And what was your involvement in those contributions?

A Well, I guess I am responsible for making recommendations as to where a lot of our PAC contributions go.

Q And what is your--

A And where our money is spent.

Q What is your specific title?

A I am the Deputy Executive Director for Public Affairs for the Association.

Q And can you tell me generally what your duties include?

A I am in charge of both the Federal and the State Relations Divisions, as well as the PAC, as well as ATLAPAC for the Association.

Q Regarding the structure of the PAC, does ATLAPAC have both federal and non-federal accounts?

A I'm not sure I understand--No. We have one federal PAC, which is ATLAPAC. All 50 of our state affiliate, our 50 State Trial Lawyer organizations have State PACs. I'm not sure if that answers your question.

Q Did the national organization have one PAC account?

A One PAC account, to my knowledge.

Q So the contributions that were made to the Kentucky Democratic Party in 1990 were made from the ATLAPAC?

A Correct.

Q Can you tell me who solicited those particular

contributions?

A I don't know that anybody solicited them.

Q They were given by ATLAPAC unsolicited to--

A Well, when I say nobody solicited them, I mean nobody outside asked us to do it.

I may have heard from State Trial Lawyer members, Kentucky State Trial Lawyer Members. It is possible that the president, some member of the board, contacted me and asked us to consider giving money to the Kentucky State Party.

I have no absolute recollection of that, but...

Q So did you ever have a conversation with anyone at the State Party about ATLAPAC?

A Never.

Q What about any conversation with anyone at the Sloan Committee about the contributions?

A Not to the best of my recollection, no.

Q Did you ever have a conversation with anyone at the Democratic National Committee about the contributions?

A No.

Q When the contribution was made, what was your understanding of the purpose of the contribution?

A My understanding was that the money would go to the State Democratic Party's State Account for the purposes of registration and get-out-the-vote only.

Q And were you aware at that time of media ads which the State Party was going to do?

A Not at all.

Q Were there any restrictions placed on the contributions?

A The restrictions that the law places on it, I thought. I mean, the restrictions in my mind, and in the mind of the PAC were, that it would be used only for registration and get-out-the-vote activities for the State Party.

Q And was that conveyed to the State Party?

A At that time I don't believe--We used to send a letter. We now send a letter with every contribution that explicitly says, and I think it was as a result actually of being named in this, that they may only use this money for those purposes, period.

Q So at the time that this contribution was sent, was there any cover letter included in that?

A I don't believe so.

I think we started the practice after when we were caught up short and found that the money was used in a way that we did not intend for it to be used, and would have screamed about if we had known about it at the time.

Q Did ATLA--and by that, I mean the national organization--endorse the Sloan campaign?

A We don't endorse candidates. We do give money. I mean the PAC will give federal contributions, but we actually never endorse candidates.

Q Do you know if the local association in Kentucky--

A States never do, no. I take it back. They may endorse at the state level. I don't really know the answer to that, but I don't think so. We try to discourage them from endorsing candidates.

Q Who would have been your counterpart in the state organization at that time?

A I don't know. I'm not sure.

I believe--Let's see. This is 1990. I believe it is a young woman by the name of Penny Gold. I'm not sure I've got the name right. I think she is now the Executive Director.

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Whoever it was is now the Executive Director for the State.

Q And do you recall ever having a conversation with her?

A No.

Well, I take that back. Either I or somebody probably would have advised them after the fact that we had made the contribution. I mean, we always notify all of our states of our contributions that are made in their states to either candidates or parties.

Q But that would have been after?

A I think after, yes.

It could have been contemporaneous, but I don't recall.

Did anyone in the Sloan Campaign ever contact yourself or anyone in ATLA that you are aware of regarding the contribution?

A These contributions you're talking about?

Q Yes.

A No.

They did contact me about contributions, but not about this.

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Q At the Sloan campaign, did they solicit contributions to their own Committee?

A Yes.

Q And did ATLA contribute?

A Or I take it--I'm not sure whether we had already given that, or they solicited it. I'm not sure. But they would call asking about a PAC contribution to his campaign. Sure.

Q And did ATLA actually contribute to the Sloan campaign.

A We did contribute to the Sloan campaign.

As I recall, we maxed out in both the primary and the general.

Q Were you or anyone at ATLA to your knowledge aware of the Kentucky Democratic Party ads at the time that they were being run?

A No. Absolutely not.

The first I even heard about them was when I read--this wasn't the first document that I saw, though, I don't believe--or is it?

No, I don't think so. But the first I knew of it was when we were named as respondents in this complaint.

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And then I was angry.

Q These particular contributions when they were reported to the Federal Election Commission were reported as "other disbursements."

Do you know why they were reported as such?

A I have no idea.

I don't do that. Joan Pollitt handles all of the reporting requirements and has for many years, and I just assumed she knows what she is doing and is reporting them correctly.

My only admonition to everyone is, it has got to be legal. It has got to be reported properly both at the federal and the state level.

Other than this, I had assumed that it always had been.

I assume that may just be a general category, that it does not fit anywhere else. But I don't know the answer to that.

Q Can you tell me why Kentucky was chosen as an unsolicited contribution?

A Well, I suspect I did hear from somebody in Kentucky who said we've got legislative races going on down

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here, and we've got a major get-out-the-vote effort, and it would be helpful to our state races and the Party.

(Pause.)

Q I am going to list a list of people and ask you whether you have ever had any conversation with any of these people about the contribution itself, and then secondarily about the Kentucky Democratic Party ads.

Mary Ann Johnson?

A No. I don't know who that is.

Q Andrew or Skipper Martin?

A Don't know who that is.

Q Jim smith?

A No.

Q Harvey Sloan?

A I know who Harvey Sloan is, but I've never had any conversations with him with regard to these contributions to the Kentucky Democratic Party.

Q Or to the ads?

A Or to the ads. Certainly not to the ads.

Q Jim Cunningham?

A I don't know Jim Cunningham.

Q Kevin Gettings?

A I don't know Kevin Gettings.

Q Frank Greer?

A I know the name, but I do not know Frank Greer.

Q And you've never had any conversations with any of these individuals about the Kentucky Democratic Party ads?

A Absolutely not.

Q At the time that the contribution was made, did you have any idea what the funds would be actually used for?

A My assumption was the funds would be used for registration and get-out-the-vote; that there would be some type of coordinating campaign in Kentucky that the Kentucky State Democratic Party was in charge of, involved in, and that they had an ongoing program, and these funds would be used only for that purpose.

Q And did anyone at the Kentucky Democratic Party actually confirm that?

A No, I just assumed they knew the law as well as we did.

Q Why don't we take a really quick break right here?

MS. UTRECHT: Sure.

(Whereupon, a brief recess was taken.)

BY MS. MOTT: (Resuming)

Q I just have a couple of more questions.

Now you stated that you had spoken with someone from the State about Kentucky needing the money. Was that someone with the State Party, or with the State Trial--

A No, no. With the State Trial Lawyers Association.

Q And do you recall who that was?

A I have no idea. It could have been anybody.

Q Do you know if there was any particular reason for the timing of the contributions when they were made?

A Probably our own cash flow. I mean, what we normally do is, after we have made our PAC contributions for a cycle, if we have money left in the bank account, we give it to states for state get-out-the-vote.

That is where we raise the money, is from the States. So we try to give it back to them.

Q You said the contributions were made through the Kentucky Democratic Party.

A The State Account.

Q The State Account.

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Do you understand what the--What is your understanding of what the Kentucky Democratic Party's "Coordinated Campaign" was?

A I didn't have a detailed understanding.

My understanding was that they would use the money in some coordinated way to register people and get them to the polls.

Q And did ATLA give to other states that had coordinated campaigns in 1990?

A We have.

MS. MOTT: Well, I am going to thank you for coming. You can make arrangements, Lyn, with the Court Reporter if you want to review the transcript.

MS. UTRECHT: Okay.

MS. MOTT: Pursuant to the Act, we will be sending you a check for a witness fee. Everyone always looks so surprised when I say that.

THE WITNESS: That is silly. Isn't that silly? You're not supposed to use federal funds like that.

(Laughter.)

MS. UTRECHT: Are you looking a gift horse in the mouth? You can turn around and contribute it to your

favorite charity.

THE WITNESS: Somebody ought to amend the Act.

MS. MOTT: Can you tell me where you would like that sent to?

THE WITNESS: The same address, 1050 31st Street.

MS. MOTT: I don't foresee having to speak with you again, but it is an ongoing investigation. So we leave the deposition open. We don't actually adjourn it.

Thank you very much for coming.

THE WITNESS: Thank you.

MS. MOTT: You're welcome.

(Whereupon, at 2:20 p.m., the deposition in the above-entitled matter was recessed, subject to further notice.)

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JANE W. BEACH, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

My Commission Expires NOVEMBER 14, 1996

- 5043635

TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x
:
IN RE: :
:
M U R 3182 :
:
- -x

DEPOSITION OF KEVIN L. GEDDINGS

Washington, D. C.

Monday, November 23, 1992

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x

IN RE:

M U R 3182

- -x

DEPOSITION OF KEVIN L. GEDDINGS

Washington, D. C.

Monday, November 23, 1992

Deposition of KEVIN L. GEDDINGS, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Sixth Floor, at 10:00 a.m. before MARLENE KNOWLES, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

-- continued --

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APPEARANCES:

TONDA MOTT, ESQ.
ANNE WEISSENBORN, ESQ.
JEFFREY LONG, ESQ.
Federal Election Commission
999 E Street, N.W.
Washington, D. C.
On behalf of the Commission.

EDGAR N. JAMES, ESQ.
BARBARA KRAMER, ESQ.
Guerrieri, Edmond & James, P.C.
1331 F Street, N.W.
Washington, D. C. 20004
On behalf of the Deponent.

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PROCEEDINGS

Whereupon,

KEVIN L. GEDDINGS

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. MOTT:

Q Mr. Geddings, could you please state your full name for the record.

A Kevin Leslie Geddings.

Q Representing you today here is Mr. James?

MR. JAMES: Edgar James. I have given the court reporter my card so she has the name of the firm and address.

MS. MOTT: And also present today is Barbara Kramer?

MR. JAMES: Correct.

BY MS. MOTT:

Q Has anyone else ever represented you in this particular matter, Mr. Geddings?

A No.

Q My name is Tonda Mott, and I represent the

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office of the general counsel, the Federal Election Commission.

With me here today is Anne Weissenborn and Jeff Long also at the office of general counsel.

The Commission has jurisdiction over the Federal Election Campaign Act of 1971 as amended.

This deposition is being taken pursuant to a subpoena issued in an investigation under 437(g) of Title II of the U.S. Code.

This investigation has been designated as the matter under review, or MUR 3182.

The statute provides that the confidentiality of this investigation must be maintained until the investigation is completely closed. And even though we consider you merely a witness in this matter, that confidentiality provision applies to you as well.

Have you ever had your deposition taken before?

A No, I haven't.

Q I'm going to run through a couple of instructions for you, then.

I'm going to be asking you a series of questions about information regarding this particular matter under

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review. The questions that I'm going to ask you will not necessarily be restricted to your involvement, but may also include requests for information about others.

Please make sure that you verbally answer all the questions so that the court reporter can get it down. If you don't understand a question or don't hear me, just let me know and I can repeat it or rephrase it for you.

Also, if at any time you realize that you have given an incomplete or inaccurate answer, just let me know and we can go back and clear that up as well.

A Okay.

Q Mr. Geddings, can you tell me what documents you reviewed in preparation for the deposition today?

A The forms I guess that we had submitted in response to your earlier interrogatories. And just some memos that we still have on file dealing with the account from back in 1990.

Q Memos that were not previously provided to this office; is that correct?

A No, they were memos that were provided with the broadcast of invoices and forms and things like that.

MR. JAMES: They were attached to the

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interrogatory responses.

THE WITNESS: Okay.

MS. MOTT: So those were the memos that were provided to us?

MR. JAMES: Yes.

MS. MOTT: Okay.

BY MS. MOTT:

Q Mr. Geddings, can you please state for the record your address.

A 14 East Maple Street, Alexandria, Virginia.

Q That's home address?

A Right.

Q Mr. Geddings, where are you presently employed?

A With Greer, Margolis, Mitchell, Grunwald & Associates.

Q And how long have you been with them?

A Since July of 1989.

Q What is your title there?

A Senior associate.

Q And what do your duties include as senior associate?

A Basically account management. We have a

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particular client, whether it is political or nonpolitical, I manage the account in terms of bringing to bear the production elements or art elements or basic writing I would probably do, but it is just bringing together all the different elements of an ad agency together for that one client.

Q And what was your title in 1990?

A Senior associate.

Q And the duties were similar at that time?

A Right.

Q Mr. Geddings, can you tell me how it was that the Sloane committee came about to retain the Greer firm in 1990?

A Sure. Probably typical of any key political or major political candidate at the time, probably placed an original phone call to us, I can't recall exactly who, but I would guess it was either Harvey or some member of his office. He was county judge executive in Louisville at the time. And from there I would imagine it was an early meeting. I can't recall exactly how the meeting was set, but there was an initial meeting between ourselves and Harvey Sloane and I believe his wife as well. And that

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was -- it was sort of a pitch meeting, where you sort of promote the firm and what the firm can do for the client, and show them what our products have been in the past and what we're capable of doing. And from there the relationship was formed.

I can't exactly remember the length of time between that meeting and when a contract was actually put together.

Q Do you have an approximate time frame that this took place?

A I would guess that -- no, probably need to look at the actual -- I mean we have his contract, I'm sure it is still on file. I could give you the exact date.

Q Do you recall whether this was for his primary or his general election?

A Well, our relationship would always be assuming that we would be there throughout, through the general election.

Q But the Greer firm did work in --

A Yes.

Q -- its primary election as well?

A Yes.

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Q Had you previously done any work for the Sloane committee?

A Prior to that?

Q Yes.

A No.

Q Had you done any work with Harvey Sloane in other campaigns that he had been involved with?

A No.

Q Who within the Sloane committee was your principal contact?

A It changed. For the primary election it was Andrew -- Skipper, we call him Skipper -- Martin. He then moved over to the coordinating campaign after the primary, and then Jim Cunningham became a campaign manager from that point through the general election.

Q Had you ever worked with Jim Cunningham before?

A No, I had not.

Q Do you know if the Greer firm had ever worked with -- anyone else in the Greer firm had ever worked with Jim Cunningham before?

A I believe that he was the campaign manager for Don Mica, who was a client of ours in Florida previously.

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But I am not even sure who within the firm worked with him.

Q Can you tell me how the Greer firm was paid by the Sloane committee for the ads produced for the Sloane committee?

A Primarily we're paid by commission off of media time placed.

And I believe, once again I would have to review the contract, but it was either a 10 or 15 percent commission off of all media that was placed. And there was also a creative fee; once again I would have to look at the contract to see whether or not it was 10,000 or 15,000. But there was some sort of fee arrangement for just creative services that would be provided the year prior to media being placed.

Q And what did that creative fee include?

A We were to draft campaign plans; we would sort of be there on an ongoing basis ever other day to consult with them on various issues that might arise, that he may want to comment on, that he may want to use us as a sounding board based upon our previous experience. And there is a particular problem or crisis in government how

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should you react, you know, how should it be framed for the media, since that was our specialty. So that's what we were paid for.

Q As far as the mechanical aspect of the Sloane committee paying the Greer firm, can you tell me how that was done?

A Well, in terms of the fee for creative services, once again that varies from client to client. It was probably broken off in quarterly payments. Typically that fee is completely collected prior to the primary election. And then in terms of the commission money received from media placed, that is sort of standard with advertising agencies too, and that you bill your client a gross amount for media placed, and then you pay the media outlet a net amount. And there is a 15 percent difference between the two.

Q And was that done by invoice to the Sloane campaign?

A Right. We would invoice the Sloane campaign for a particular flight of media, usually one week at a time, and that would be in a gross amount. And then we would pay the station for that amount.

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Q And these payments that the Sloane committee made, was that made by check?

A It varied, either check or wire.

Q Let me back up and talk about the creative fee and what that entailed. Now, you say that this was for work that was done approximately a year before the campaign; is that correct?

A Approximately. Once again I would have to look back in our files to see the exact date that we were retained. I know that we were there at least the summer before 1990.

Q And so did these creative fees also include the actual production of the ads in any way?

A I'm not sure how it is worded in the contract, but it is a creative fee for services to be rendered. And normally in that period of time it would be drafting a campaign plan, you know, helping them do, you know, structure their field organization, instructing the campaign as to what they might look for when looking for a press secretary, letting them know they should have files on opposition research and all those sorts of inside political campaign issues that would slowly dribble out

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prior to the election.

Q I would like to move now to the Kentucky Democratic Party and how it was that they went about retaining the Greer firm for the ads that you did for them.

Can you tell me how they came about to retain the Greer firm?

A Basically I had spent a lot of time there because this was a campaign -- every campaign was different, but this was a campaign that had some staffing problems and so forth. So I ended up being on the ground doing a lot of the sorts of functions that a campaign staff person would normally do. And in the context of that and going to a variety of political events and so forth, I met people that were affiliated with the state party organization, Maryann Johnson in particular, who was not a Harvey Sloane sort of person.

She was appointed by the current -- well, at that time the governor of Kentucky, who was Wallace Wilkenson, and she knew of course how to -- our firm had a reputation of working there. We had also a lieutenant governor's race prior to that for Brereton Jones, and you know, would

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call me periodically just to get a sense of how the campaign was going overall. And, you know, she just became somebody that I knew by way of telephone, and also other people that were over at the state party as well.

Q Now, when you said there were some problems with the campaign, were you referring to the Sloane campaign or the Kentucky Democratic Party?

A I was referring to the Sloane campaign as a sort of a reason why I was there a lot, because typically I would not be on the ground. In my role at Greer I wouldn't be actually spending, you know, periods of time on the ground.

Q Can you tell me what role Jim Cunningham had in Kentucky Democratic Party's decision to retain your firm?

A I don't think he had any role. I mean he was the Sloane campaign manager, but his relationship was separate from my relationship with Maryann Johnson.

Q So did Ms. Johnson contact you then?

A Yes.

Q And had you previously done any work with the Kentucky Democratic Party?

A No. This is the first time in our history that

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they had placed television ads and decided they wanted to do that.

Q Do you know if the Greer firm has done this type of work with other states' coordinating campaigns?

A Let me think about the federal level. "This kind of work" being television ads?

Q Yes.

A No.

Q Who was your contact person with -- directly on a day-to-day basis with the Kentucky Democratic Party?

A It was pretty much Maryann Johnson. But also Meg Conlon, who was the issues director for the state party.

Q Now, you had stated earlier that part of the -- what goes into the creative fee was the planning, the campaign planning. Was that also involved in the coordinating campaign?

A The work with the Kentucky Democratic Party?

Q Yes.

A No.

Q And why was that?

A It varies from campaign or client to client. I

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mean with Harvey Sloane we knew -- when you were signing a contract in probably July of '89, the election wasn't until November 1990 -- that there was going to be a lot of detailed work, and that we were going to help structure his campaign or certainly give him advice.

With the state Democratic Party it was more of a straight advertising relationship or ad account, where they knew they wanted to do something very specific; they were not looking to us or me for advice on how they should comment on issues or how they should structure their fundraising operation or things like that.

Q You stated in the response that you sent to us that you had informed Jim Cunningham that the Kentucky Democratic Party had retained the Greer firm?

A Yes.

Q Can you tell me why that information was passed on to Jim Cunningham?

A Well, it would just be very hard to -- you know, this fellow was doing a statewide race in Kentucky. He was our client -- my client in particular -- and I was being retained by someone else who was in the same state to do work of a political nature. So I think that was the --

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that just came out in natural conversation. I didn't even think not to disclose of it.

Q Now let's go back for a moment to the Sloane ads themselves. Who decided the content of the ads that Greer produced for the Sloane committee?

A For Harvey Sloane?

Q Yes.

A Typical process, okay, I would probably write the original script. Frank Greer, who was president of our firm, you know, review and react to that script. Once we had some sense of what we thought the spot should be, in terms of our particular agency, we would send a script along, probably to Skipper Martin, assuming that he would share it -- this is -- I'm speaking during the primary -- that he would share it with Harvey Sloane. Typically in that campaign there was very little reaction to what we would provide. And from there we would begin to produce the spot, in terms of we have our own on-line, off-line capability in our own agency, our own offices, so that we can start piecing together a spot there. And then we would move forward from that point.

Q Would the Sloane ads be previewed by the Sloane

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committee before they were actually aired?

A I don't think there was a set rule. I mean that would be a good set rule for just about every campaign. But in this particular situation sometimes a final spot would be Federal Express'd to them the day before we would actually send it out to TV stations. But I don't think I could say that would be a hard and fast rule. On occasion -- I think I can recall at least one occasion where the spots were actually sent to the stations, based only upon an airing over the telephone or the description of or a script, you know, the final script that was being faxed to the campaign.

Q So the Sloane campaign, to a large extent, left the creative decisions up to the Greer firm?

A Yes.

Q Were there instances where you actually were present at a showing or a previewing of any of the Sloane ads?

A No. Because we would always send them to Louisville.

Q Did you ever have any conversations with Maryann Johnson about the content of the ads?

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A Of the Harvey Sloane ads?

Q Yes.

A No.

Q What about the Skipper Martin and -- when I say this I mean during the general election?

A About the specific contents of the ads?

Q The Sloane ads.

A No.

Q Did you have any conversations with anyone at Kentucky Democratic Party regarding the content of the Sloane ads?

A Not about specific -- not about the script. I'm sure I had contact with Meg Conlon or Skipper about the overall sense of the campaign or the Senate race or, you know, we would call and ask them how do things feel, what are you hearing, that sort of thing. But never, you know, do you think this particular spot is right or do you not like this particular wording, no, I did not have any of those conversations. I wouldn't have any reason to.

Q What about conversations with individuals of the Kentucky Democratic Party about the general content of the Sloane ads?

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A No.

Q Did you ever have any conversations with Jim Cunningham about the Kentucky Democratic party ads, the ads that were produced by the Greer firm for the Kentucky Democratic Party?

A Once again, not in specific detail. I mean it really was the tradition of dealing with just about everybody in Kentucky, that we just didn't have an active interchange about, you know, what these spots were like and how they were structured, which is very different than most campaigns and states that I have worked in. I mean usually that's -- there is sort of an active debate between parties, between, you know, what's eventually going to go on the air. But that really was not the case in Kentucky with either client.

Q Did you ever have any discussions with Harvey Sloane about the ads, about the Kentucky Democratic Party ads?

A No.

Q How about anyone at the DNC?

A About the ads, no.

Q Anyone at the American Trial Lawyers

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Association?

A No.

Q Did you ever discuss the Kentucky Democratic Party ads with Mary Bingham?

A No.

Q Rob Bingham?

A Rob was on staff with Harvey Sloane's campaign at the time, and I did not. I don't recall having any direct conversations with him about those. But he was certainly around the area at that time.

Q Did you ever have a conversation about the Kentucky Democratic Party ads with Leon Tallichet?

A No.

Q And the response that you provided the commission, you stated that -- well, actually you sent copies of memos that were provided to Jim Cunningham regarding the Kentucky Democratic Party ads.

A Regarding the buy?

Q Yes. Did Mr. Cunningham state to you why he was requesting these?

A Probably an interest in what was going to be all over television this close to the election, I would

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assume. I mean he knew once again that we were engaged by this other client, that we were going to be on television with an ad, and he wanted to know to what extent -- I mean what were we doing and what was going on. So that's what we -- we felt that memo would answer his questions.

Q Did you ever discuss with him the actual content of the ads?

A I don't recall going through, once again, by the details of the script, you know, whether we said in general terms on a telephone conversation that I think, you know, there is going to be images of -- or, you know, we're going to try to call to mind the sense of Democrats by showing pictures of FDR, you know, what do you think of that. I mean that could have happened, I don't recall. But once again we never did go down specific line items in a script where he would get feedback. That just would not be the case whenever you would deal with Jim Cunningham. He's not a micromanager.

Q I'm sorry?

A He's not a micromanager.

Q Is it unusual if he requested this particular information?

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A No. I mean if you were a campaign manager you would probably want to know -- even if it were a client, you know, even if it were a totally different -- I'm sure he probably requested this information for other people that were running in other parts of the state. You would want to get a sense of what's on television; I mean, television drives political campaigns.

Q Does the Greer firm usually provide this type of information if it's requested?

A Well, once again we have not been in a situation where we were placing television, you know, for a state party that was the same state party as the other client that we were working with.

Q Would the Greer firm have provided this information without Jim Cunningham's request?

A No, we wouldn't have just applied it as a matter of practice, no.

Q Let's talk about the Kentucky Democratic Party ads themselves. Who decided the content of those particular ads?

A It is fairly typical, once again, our firm, you know, or I originally drafted the first script, and in

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working with Frank Greer, you know, we made some revisions or whatever, and probably some back and forth. And then when we felt confident that we had a, you know -- actually it was two scripts that conveyed the message that we thought needed to be conveyed, it was faxed to Maryann Johnson. And I think I also separately faxed to Mike McKinney who was in a separate office, who was the I guess counsel for the state party in Richmond.

Q And were the Kentucky Democratic Party ads previewed by them prior to their airing?

A I can't recall. I would imagine that we did Fed Ex a copy of the final tape to them before they were sent to the television stations, but I can't specifically recall doing that.

Q You had stated earlier that when the Kentucky Democratic Party retained the Greer firm that they knew what they wanted at that time. So was there any input by them as far as the content of the ads?

A There was a sense, if I recall, for both Maryann and Mike and Meg Conlon and Skipper that they needed to convey a message for all the Democrats out in the state that, you know, this was the Kentucky -- you know, this was

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the party -- this was the reason why 60 percent of Kentuckians basically identify themselves as Democrats and trying to sort of strum their heartstrings a little bit that they are Democrats and they should vote that way.

So how do -- I think the question was posed to us, you know, what's the best way to convey that, what's the best way to motivate them on television. And that was sort of their only guiding direction.

Q Was the Kentucky Democratic Party aware of similar themes that might have run between the ads that were produced for the Kentucky Democratic Party and those that had been previously produced for the Sloane committee?

A I don't think so, no.

Q Was the same announcer used for both of those, both the ads for the Kentucky Democratic Party and for the Sloane committee?

A I would have to hear the ads. Probably so.

Q If in fact it was the same announcer, was the Kentucky Democratic Party aware of that fact?

A No. I mean that wouldn't be the sort of detail that they would ask us about.

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Q Did you ever have any conversations with anyone in either the Sloane campaign or the Kentucky Democratic Party regarding any similarities between the ads?

A No.

Q I would like to talk about the particular time frames of the airings of both ads. Can you tell me generally -- I know you probably don't recall specific dates -- but generally when the Sloane ads were aired?

A Postprimary?

Q Yes.

A Generally, two weeks in late September there were two ads that were aired for Harvey Sloane, one featuring Senator Wendell Ford endorsing him, and the other featuring Mayor Jerry Abramson of Louisville endorsing him. Then there was a down period. And then I believe by mid-October Harvey was back up with a television ad that basically attacked Mitch McConnell's vote for giving loans to Egypt that he cast.

And then after that there was an ad that used a little puppet to make fun of Mitch McConnell being associated with the lobbyists and so forth. And then at the very end there was a closing ad of Harvey to camera,

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just talking about how it was a rough campaign and we had made some mistakes, that sort of thing. And that was it for the Harvey Sloane media campaign.

Q And what was the time frame of the Kentucky Democratic Party ads when they were aired?

A Let's go back and look at the numbers, but I would believe the last two weeks of the election, the final two weeks leading in, maybe 2-1/2 weeks. I don't think we have full flight at the very beginning, but certainly it was the final -- approximately the final 15 days of the election.

Q And who made the decisions of when to air those particular ads?

A In terms of the Kentucky Democratic Party it was Maryann Johnson deciding to go forward detailing for us what -- you know, letting us know what the budget would be. And it wasn't very hard to figure out that with that amount of money how many days out from the election did they run television advertising.

Q As far as the Sloane ads, who made the decision about when those would be aired?

A From our perspective it was Jim Cunningham that

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made those decisions. I'm sure Harvey had something to do with it. But I wasn't on the phone getting an okay from Harvey.

Q Can you tell me what factors are usually used to decide when a political ad would be run?

A Ideally you would like to be on after Labor Day and stay on through the election. That's the only way to convey a message, especially since our opponent was spending millions of dollars more than we were, and, you know, basically sending out a negative message against us. You would want to respond to that negative message, but if you don't have the resources you can't do that. And in terms of what the Kentucky Democratic Party, as a client, what they were trying to do, there was more of a get-out-to-vote effort to try to motivate Democrats, especially in the counties and in rural areas primarily, for a high voter turnout of Democrats.

And that's the sort of thing that they were going to target, to wait just a few weeks before the election to start reminding people why they should get out to vote and why they should vote Democratic.

Q Now, the last Sloane campaign ads were run -- I'm

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sorry, when were those run?

A Basically there were two weeks in late September. Then I think there was a two-week break. And then two more weeks leading up to election day.

Q And how close to election day were the Sloane ads run?

A Well, if you were to go back 14 days from election day, the -- Harvey Sloane was on the air.

Q 14 days from election day?

A Right. Approximately I would assume by October 17th or 18th, he was on television and he remained on TV through election day.

Q So the Sloane ads ran all the way up to election day?

A Right, from October 17th through election day, or right around that time.

Q Now, were there any other factors in this particular incident that went into deciding about when to air ads?

A I don't quite follow you.

Q Well, I think that I had asked you earlier, kind of in a general sense, of how you made decisions about

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when to air ads. Were there any factors that were unique to this situation in your decision to air ads at any particular time?

A For which client?

Q Let's start with the Kentucky Democratic Party first.

A Well, once again, Maryann Johnson presented us with a budget we felt you had to be on, you know, days leading to the election. So you would basically just back it out; you know, you have approximately 280 or 270 to spend -- $280,000 to spend. That's going to enable you to have 2-1/2 or two weeks of television. And we would recommend -- I'm sure we recommended to her that you should do it as close to the election and leading up to the election as possible.

Q What about the Sloane ads, was there any unusual circumstances in the Sloane campaign that were considered in deciding when to run the ads?

A We were conducting polling, ongoing during September anyway, and then learned that Mitch McConnell constantly attacking Harvey Sloane was raising what is called negative numbers, and it became sort of a strategic

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decision that the only way that we could win was to raise Mitch McConnell's negative numbers, and to do that as quickly as possible. And we, you know, decided to do that on whatever day that we started in mid-October with the ad attacking him for his bank forgiveness vote, or his Egypt forgiveness, loan forgiveness, whatever.

Q I just want to ask a few questions about the Greer firm and their use of film library footage.

A Sure.

Q This footage that you have in stock, is that stuff that is usually shot during other campaigns, or is that stuff that is shot aside from any campaign?

A We will go out and do a film shoot for a particular candidate, and when we are on that film shoot we will probably capture this candidate on film talking about the issues of the day. We will probably also go out and film other things, you know, people that are in working environments, people that are in coal mines, teachers teaching class or whatever. Because we maintain that; whatever we film on a film shoot becomes the property of our firm, becomes part of our film library. And it is all catalogued so that in future years if we

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need a particular shot of a school teacher teaching in front of a class of third-graders, we will know that it was shot for the Paul Hubbert for Governor campaign, and we can use it for tomorrow's Bill Clinton ad, or what have you. So that's sort of the -- you know, if that answers your question.

Q Do the clients that you happen to be shooting for at the time sign any kind of releases for that unused footage?

A Well, they sign a statement indicating that that footage becomes our property. And then we have each of the people -- anybody that could possibly be in the film shot signs a disclaimer form indicating that it becomes our property and so forth.

Q So those clients don't retain any kind of control over the use of that particular --

A They do not.

Q -- library film footage?

A They do not.

Q Can they request use of that footage?

A Can they say "you should use this particular" -- I don't quite follow your question.

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Q Can they request that that footage be used for any other particular purpose?

A I guess they could, but they haven't. I mean we never heard someone say -- we haven't had a client from 10 years back say I really think you should use this particular coal mine shot for Gaston Caperton's commercial. I mean that's never happened.

Q Did the Sloane committee request that any footage be used for the Kentucky Democratic party ads?

A No.

Q Was there any footage that was shot during the Sloane -- during the shooting for the Sloane ads, was any of that footage used anywhere else?

A It continues to be used. It was used in this last election cycle, film footage of when Harvey Sloane was in the nursing home in Louisville where we filmed older people talking about Medicare issues and long-term care, and that continues to be used.

Q What about the footage that was shot during the Kentucky Democratic Party ads, has any of that footage been used anywhere else?

A There was not a film shoot for the Kentucky

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Democratic Party.

Q So all the film for that Kentucky Democratic Party ads were from library footage?

A Correct.

Q Is it any cheaper to do an ad strictly from library footage as opposed to having it reshot?

A Yes, it's cheaper. You don't have to go out and have a film shoot.

Q Was that a consideration with the Kentucky Democratic Party when they had the ads done in 1990?

A Well, because they were basically conveying get out to vote, motivate the Democrats message, and we do a lot of issue advertising for clients who are not candidates as well, it is usually not necessary because you don't have a particular candidate that needs to be with people or speaking to camera. You can usually convey your point with an announcer and with film footage of other things.

Q I would like to ask a few questions about the payment for the ads, both of the ads.

A Sure.

Q From whom did Greer receive payment for the

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Kentucky Democratic Party ads?

A From the Kentucky Democratic Party.

Q And it was by check or wire?

A By check. I think those checks are -- we had copies of them and they were attached to whatever we submitted to you all before.

Q And were payments -- how were the payment arrangements made for the Kentucky Democratic Party ads?

A Typically we would come up with our one-week flight of television, what we think it was going to cost. It would be a form very similar to that one that you have a copy of this (indicating). And we would send that on to Maryann Johnson and also Mike McKinney, and there would be a bottom line total that this is what we proposed to spend. And if I recall, they signed off on that amount, and then they would Fed Ex back to us a check for that amount.

Q Were there any arrangements made prior to the ads being produced that said that we -- that stated certain times within which they would make payments?

A Unfortunately, I don't believe we did sign a letter of agreement or a contract with them. I think it

was probably just over the telephone that we would come up with a media proposal for you and we will need a check for that amount. And also there will be production costs. I can't recall, but I believe there was one check for, you know, 6- or $7000; I think that was the cost for producing those ads. We told them up front that that would probably be in the range of what it would cost to produce an ad like that -- or two ads like that.

Q But other than that there were no payment arrangements made ahead of time?

A No.

Q You had stated that you saw a -- that the Greer firm saw a budget of the Kentucky Democratic party. At what point did you see that, at what point was that made available to you?

A Maybe I misspoke. I didn't see a budget from them. We provided them with a budget for what we think -- you know, they mentioned that they would probably have in the range of $270,000 to spend on a get out to vote, motivate Democratic TV message. And then we would provide -- we probably provided one form that had 2-1/2 weeks of television detailed saying that this is what it

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would cost for these particular point levels and these particular markets. And then when you -- from that point you then do a one-page memo that typically says this is what your first-week flight would cost. And basically they probably view that as an invoice.

Q Maybe I misunderstood you. I --

A I didn't see a budget document. It was just over the phone or, you know, some mention of an amount of money that would be spent for this purpose.

Q And at what point was that provided?

A Probably the initial phone call for Maryann Johnson to me saying that we are interested in retaining you.

Q Did you ever have any conversations with anyone from the Sloane campaign regarding funding for the Kentucky Democratic Party ads?

A In terms of the amount of money? I mean I think probably at some point there was a conversation between Jim Cunningham and I saying -- where he probably said, you know, what would be the size of this account? Or you all know how much money you are basically going to be spending? But I can't recall specifically what day that

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conversation took place. But that wouldn't surprise me if it happened.

Q Would that have been because he was inquiring into it?

A Probably would have been just during the general course of conversation. Probably would have included in the conversation something about a lieutenant governor's race that was also spending money on television, if I had heard, you know, through calling television station representatives and others, you know, what is the size of, you know, that particular buy or what have you.

Q Why does the size of an advertising buy for another campaign have an impact on -- why would that have had an impact on the Sloane campaign?

A Because other campaigns are promoting different messages and other things. And you may, if you have somebody who is running for a state senate seat or what have you in a particular county and he may be on cable television or something, or just on radio typically, and he's talking about crime, it may be worthwhile for you to schedule your client, even though he is a federal client, to go and talk about crime. You know, it is a playoff of

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the message that is sort of dominant out there.

I mean a lot of what we do is keep up with what messages are being transmitted publicly, broadcast certainly counts.

Q Were you ever -- did you ever have a conversation when you were made aware of where the funding was coming from the -- for the Kentucky Democratic Party ads?

A I don't recall having that.

Q You --

A Since that time I have read newspaper stories and so forth. So I know about it now.

Q But you don't recall any particular --

A I don't recall being a party of a conversation like that, no.

Q Did the Kentucky Democratic Party ever request information from Greer about the Sloane ads and the time they wrote those ads?

A No, they did not.

MS. MOTT: Why don't we take a quick break here.

THE WITNESS: Okay.

(Recess.)

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BY MS. MOTT:

Q I just have a couple more questions and a couple of clarifications.

A Okay.

Q If you can just tell me what the time frame was from the time that the Kentucky Democratic Party requested the ads until production until they were actually aired?

A Approximately I think they would have contacted us in early October, I think. I would have to go back and look at my calendar for specific dates, but approximately early October. I don't think it took more than three or four days to write and produce these ads. I think they are fairly straightforward. And of course, I think they were on the air by middle of October, certainly two weeks out.

Q Now, what about the time frame for media buys, how long does that typically take to come up with a buy?

A Not very long. It is all computerized now in terms of just put in what particular demographics you want and it spews out a buy, literally do a buy in 20 minutes.

Q Now, in this initial conversation that you had

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with Maryann Johnson, did she give you a particular bottom line dollar figure that they had available for production and airing of these ads?

A I can't recall specifically if she said, you know, I will have $301,000. I know that I came away from that conversation with a general sense of what sort of budget we needed to put together. So it must have been an approximate number, 280 to 300 or something.

Q When was that conversation with her?

A It would have been sometime in early October.

Q Would you have any kind of documentation of when that took place, phone logs, or would that be noted on a personal calendar or anything?

A I can go back and check. It wouldn't be in a phone log or anything, because we don't keep phone logs of that. But I can check to see if I may have made some notations somewhere.

MS. MOTT: Can we have that if that's available?

MR. JAMES: Absolutely.

MS. MOTT: Thanks.

BY MS. MOTT:

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Q How much time did you actually spend in Kentucky during that campaign?

A Most of the month of June, which is the period after the primary, and probably on average one or two days a week from Labor Day through the election.

Q And were you ever present when any of the ads were viewed by the Kentucky Democratic Party prior to their airing?

A No.

Q Were you ever present when any of the Sloane ads were viewed prior to their airing?

A With the candidate or --

Q With the campaign, the people of the campaign.

A I don't recall if I would have been -- if there would have been any time it would have been in September when we had the one with Ford and Mayor Abramson ads, but I can't recall specifically being there for that. It is a very informal thing if it was. It was pop the tape in the TV and show you the ad.

Q Were you or the Greer firm made aware of the written plan that the coordinating campaign had in existence?

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A I don't recall having seen it or knowing about it.

MR. JAMES: You mean the coordinating campaign, you mean the KDP folks?

MS. MOTT: Yes.

THE WITNESS: The coordinating campaign plan, I take it?

BY MS. MOTT:

Q Yes.

A No.

Q Were you ever present when the Kentucky Democratic Party had discussions about their plan --

A No.

Q -- their coordinating campaign plan?

A No.

Q Were you ever present at any meetings between Maryann Johnson and people from the Sloane campaign?

A I did attend one meeting, I believe it was during the summer, where it was myself and Jim Cunningham and Maryann Johnson in her offices in Frankfort.

Q And what was discussed at that meeting?

A I think it was an overall sense of the

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campaign. Specifically I believe it was getting ready for Fancy Farm, which is this big political event in early August. And, you know, what would be the basic message of that political event, that kind of thing, you know, what was going on.

Q Was that a fundraising event?

A No. It's just this big sort of stump meeting where everybody gets up and makes speeches, and there are thousands of people out there yelling and screaming.

MR. JAMES: Fancy Farm?

THE WITNESS: Fancy Farm. It is this big cornfield out in the middle of nowhere. We can get into it later. It is quite an event.

BY MS. MOTT:

Q And that's the only meeting that you recall being at?

A Yes.

MS. MOTT: I think that's it. I just want to thank you for coming.

You can make arrangements with the court reporter if you would like to review this and sign it.

MR. JAMES: Sure. Do I have any right to ask

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questions?

MS. MOTT: Oh, absolutely. I'm going to give you a chance to do that before we go off the record.

I don't know if you are aware of this also, because this is an ongoing investigation, you can't actually buy a copy of the transcript to you, but you are free to read it and make any corrections prior to signing it and having it sent over here.

MR. JAMES: Do I get notified by the court reporter of that?

MS. MOTT: Yes, you guys can make arrangements.

MR. JAMES: Okay, great.

MS. MOTT: Also pursuant to the act you will be receiving a check for a witness fee in the amount of $40 plus reimbursement for mileage.

Can you tell me about how far you traveled?

MR. JAMES: We can waive that.

MS. MOTT: Do you want to waive that?

MR. JAMES: Yes, waive it.

MS. MOTT: Also, I don't foresee having to further depose you on this matter, but we typically leave

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them open rather than closing out the deposition, so that's what we'll do today.

Do you have anything you would like to add to the record, Mr. Geddings?

THE WITNESS: Well, do you want to ask a few questions?

MR. JAMES: I just have a few questions for the record.

MS. MOTT: Sure.

EXAMINATION

BY MR. JAMES:

Q In terms of a media buy that you did for the KDP, the Kentucky Democratic Party, did you coordinate markets with the Sloane campaign?

A No.

Q Did you coordinate the time buys, the time slots that you bought?

A No, absolutely not.

Q There was the implication earlier that Harvey Sloane, I believe, had to do more GOTV in rural areas. Did you weight the KDP as toward those areas or assist Harvey Sloane?

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A No.

Q What dictated the timing -- what dictated your media buy?

A It is really just a straight numbers function, you know, certain dollar amount assigned to a certain point level for each city and area. And that's how it was formulated.

Q Is it fair to say it is mathematically driven?

A Yes.

Q Pure mathematically driven?

A Yes.

Q Is it accurate to say you did not look at any polling data or considering polling data for Harvey Sloane in constructing the media buy?

A Correct -- for the Democratic Party?

Q Yes.

A Right.

MR. JAMES: That's it.

MS. MOTT: We're done. Thank you very much.

MR. JAMES: Thank you.

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(Whereupon, at 11:10 a.m., the deposition was adjourned.)

KEVIN L. GEDDINGS

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Marlene Knowles

Notary Public in and for the
Commonwealth of Virginia

My Commission Expires NOVEMBER 30, 1995

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OGC 8079

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*ALSO ADMITTED IN MARYLAND
**NOT ADMITTED IN D.C.

OF COUNSEL
MARTHA WALFOORT
SAMUEL ISBACHAROFF

FEDERAL ELECTION COMMISSION
SECRETARIAT
92 DEC 23 AM 11:53

December 21, 1992

Mr. Edwin Crowley
Ace Federal Court Reporters
1120 G Street, N.W.
Suite 500
Washington, D.C. 20005

Dear Mr. Crowley:

Pursuant to my review of Kevin Geddings' deposition and our discussion this morning, I am waiving Mr. Geddings' signature. Contingent on the making of the single correction which I identified on the errata sheet, you are authorized to provide the deposition to the Federal Election Commission.

Thank you for your assistance in this matter.

Sincerely,

Barbara H. Kramer

BHK/bjw

Page 17, line 4: Change "detailed" to "detail".

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TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

ORIGINAL

- -x

IN RE:

M U R 3182

- -x

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DEPOSITION OF ROBERT WORTH BINGHAM

Washington, D. C.

Friday, December 4, 1992

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x
:
IN RE: :
:
M U R 3182 :
:
- -X

DEPOSITION OF ROBERT WORTH BINGHAM

Washington, D. C.

Friday, December 4, 1992

Deposition of ROBERT WORTH BINGHAM, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Sixth Floor, at 10:09 a.m. before JOE W. STRICKLAND, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

-- continued --

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APPEARANCES:

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ANNE WEISSENBORN, ESQ.
MARY ANN BAUMGARNER, ESQ.
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On behalf of the Commission.

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On behalf of the Deponent.

KENNETH A. GROSS, ESQ.
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Meagher & Flom
1440 New York Avenue, N.W.
Washington, D. C. 20005-2107
On behalf of the Deponent.

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CONTENTS

WITNESS | EXAMINATION

Robert Worth Bingham

by Ms. Mott | 4

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PROCEEDINGS

Whereupon,

ROBERT WORTH BINGHAM

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. MOTT:

Q Mr. Bingham, would you please state your full name for the record.

A Robert Worth Bingham.

Q And you have counsel representing you here today?

A Yes, I do.

Q Mr. Rieser?

MR. RIESER: Mr. Rieser and Mr. Ken Gross.

BY MS. MOTT:

Q And both attorneys are representing you personally; is that correct?

A That's correct.

Q My name is Tonda Mott. I represent the Office of the General Counsel of the Federal Election Commission. With me is Anne Weissenborn and Mary Ann Baumgarner, also with the Office of the General Counsel. The Commission has

jurisdiction over the Federal Election Campaign Act of 1971 as amended. This deposition is being taken pursuant to a subpoena for an investigation under section 4437G of Title II of the U.S. Code.

This investigation has been designated matter under review of MUR 3182. The statute provides that the confidentiality of this investigation must be maintained until the Commission closes its file on the matter. Although we don't consider you a respondent in this matter, you are here merely as a witness that that provision of the statute applies to you; do you understand that?

A I understand that.

Q Have you ever had your deposition taken before?

A No, I have not.

Q I'm going to run through a couple of instructions.

A Okay.

Q I'm going to be asking you a series of questions seeking information in this investigation. The questions that I ask you will not necessarily be limited to your involvement, but may also involve other people as well. Make sure that you verbally answer all the questions so

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that the court reporter can get it down. If you don't understand one of my questions, will you be sure and let me know and we can go back and fix it?

A Okay.

Q And also, if at any time you realize you have given me an incomplete answer or an inaccurate answer, let me know and we can go back and adjust that as well.

A Okay.

Q Mr. Bingham, can you tell me what documents that you reviewed in preparation for your deposition today?

A I've seen the complaints filed to the Federal Election Committee concerning this case and some of my grandmother's responses to those allegations through her attorneys.

Q Okay. For the record, could you please state your current address?

A It's 143 Avenue B, Apartment 2B, New York City, New York.

Q And a telephone where you can be reached?

A 212-777-1833.

Q And for the record, could you also state your social security number?

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A [redacted] My driver's license, also.

Q Could you just give us a brief background, educational background.

A I graduated from Brown University in 1988 majoring in comparative literature and modern European history, and I'm currently attending Columbia University for the master's of fine arts program for the fiction writing department.

Q And are you currently employed?

A No, I'm not. I'm a student.

Q Were you employed in 1990?

A No, I was not.

Q I'm going to be asking you some questions about Dr. Harvey Sloane and his 1990 campaign for the Senate in the state of Kentucky. Can you tell me how it is that you know Harvey Sloane?

A Harvey has been a family friend of my family's for, I'd say, over 20 years. And I came to know him through my mother and my grandfather, who is now deceased, and my grandmother.

Q Did you support Mr. Sloane in his 1990 campaign?

A Yes, I did.

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Q And how did you support him?

A I was a speech writer and a traveling aide with Harvey throughout the state.

Q And was that throughout both the primary and general elections?

A No, no, I began sometime in early September. Later on, during the general.

Q And did you make any contributions to the campaign?

A Not that I can recall. I didn't personally make any contributions.

Q Had you previously supported Dr. Sloane in any of his other federal or nonfederal candidacies?

A No.

MR. RIESER: By "support," you mean financial contributions?

BY MS. MOTT:

Q Financial contributions?

A No.

Q How about any work that was done for him or the committee?

A No, the only contact I had with Harvey Sloane

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was, previous to this election, was social in nature and not -- supportive to his career, but socially. I never, I never helped him out specifically.

Q In the 1990 campaign, were you being paid by the Sloane committee?

A No, I was a volunteer.

Q And were you doing that full time?

A Yes.

Q In the 1990 campaign, did anyone else in your family support the Sloane campaign?

A What do you mean by "support"? I mean --

Q First, let's go to actual contributions, monetary contributions.

A Well, my grandmother supported the party, the Democratic Party, and gave to the Sloane campaign in the primary, I know. And as I recall, my mother contributed to his campaign.

Q And do you know if any of your family members had supported Harvey Sloane in previous campaigns?

A I know that they supported him in previous campaigns, but the exact nature of their support, I can't really recall. But they did support him, yes.

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Q Let's talk about your volunteer activities with the Sloane campaign. What exactly were your duties to the Sloane campaign during 1990?

A Well, I helped Harvey verbally, really. I was his -- I helped write speeches with him. We sat down together and discussed, you know, what he was going to say to whatever group he would be speaking to. And I was a traveling aide. I kept him on schedule. I moved him from event to event and helped him with some of the talking points that he would want to stress while campaigning.

Q And had you done previous speech writing?

A No, this was my first.

Q Who did you work most directly with in the campaign?

A I'd have to say Kevin Geddings with the Greer-Margolis firm. He and I really collaborated on Harvey Sloane's speech, but I also worked directly with the candidate. I was, you know, just involved in the day-to-day traveling around the state with the candidate.

Q Were you involved in the media aspect as well of the campaign?

A Yes, I was involved in getting -- trying to get

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media access to him. In other words, press, trying to get press, taking him to television stations, helping schedule press conferences.

Q What about the Sloane campaign ads that were produced at that time? What was your involvement with that?

A I had no direct involvement with any advertising, television advertising.

Q Do you know who was in charge of the media within the Sloane campaign?

MR. RIESER: Excuse me, Tonda. By "media," are you referring to advertising as opposed to press?

MS. MOTT: Yes, advertising as opposed to press.

THE WITNESS: Frank Greer and the Greer-Margolis firm were handling his advertising.

BY MS. MOTT:

Q Was there anyone who was actually working for the Sloane campaign who was in charge of advertising?

A Not that I know of.

Q Were you involved with the Sloane campaign's decision to retain the Greer firm?

A No, absolutely not.

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Q Now, you said earlier that you had spoken -- that you worked with Kevin Geddings. In your work with Kevin Geddings, did that also include creations of advertising policies or general goals in your advertising in the media?

A No, it did not.

Q What exactly did Kevin Geddings and yourself collaborate on?

A Kevin was sort of a -- he was a field person for the Greer-Margolis firm. His job was sort of to help Harvey out with strategy, not related to advertising. That was left to another part of the firm that I had no direct connection with. Kevin and I collaborated on speeches together and, on occasion, traveled with the candidate. Whenever he was free, he would come up to Kentucky and we would coach Harvey on the road and tailor our message as to what part of the state we were in and what was the issue of the day. Kevin was the strategist in all that was involved in that.

Q So Kevin Geddings actually spent time in Kentucky?

A Yes, he did.

Q Do you have an idea about how much time in the

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general election season he spent in Kentucky?

A It was two years ago and the campaign was so disjunctured and moving so quickly. I don't want to speculate on exactly how long Kevin -- how many days Kevin spent in Kentucky. It was more than four and less than 12 days. That's the best I can give you.

Q Okay. Did you ever discuss the ads with Kevin Geddings?

MR. RIESER: Tonda, I'm going to object in the sense that you say the ads with no sense of what ads you're talking about.

BY MS. MOTT:

Q Let me clarify that -- the ads that were produced by the Greer firm for the Sloane committee. Did you ever discuss within the general election, did you ever discuss those ads with Kevin Geddings?

A No.

Q Did you ever discuss those ads with Jim Cunningham?

A No.

Q Did you ever discuss the ads with anyone at the Kentucky Democratic Party?

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A No, I did not. I have very little connection with the Kentucky Democratic Party. I was working directly with the candidate.

Q Did you ever discuss the ads with anyone at the Democratic National Committee?

A No.

Q Did you discuss the ads with your grandmother?

A I don't recall any specific conversations I had with my grandmother concerning the ads, but we talked generally about politics and specifically about the race in Kentucky, and I'm fairly certain that the effects the ads were having once they were on the television came up in those conversations, but I can't remember specifically, you know, what the nature of those conversations were.

Q Do you recall whether the conversations took place prior to the ads or after the ads?

MR. RIESER: Tonda, again, I think I'm going to have to object here because your question talked about ads by Greer and Margolis for the Sloane committee.

MS. MOTT: Yes.

MR. RIESER: I don't know what the broadcast schedule was like. I think your question presumes that

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there were some particular ads you're asking about, but I don't think it's clear from your question what ads you're talking about. And particularly as I recall your question before, it talked about ads prepared for the Sloane committee, and I don't think that's what you're trying to ask questions about.

MS. MOTT: Let me clarify, then, for the record.

BY MS. MOTT:

Q What we're discussing right now were adds that were produced by the Greer firm during the general election that were produced specifically for the Sloane committee and paid for by the Sloane committee.

A Okay. Well, there were many such ads. So, I mean, Frank Greer made several ads. Is there any one in particular?

Q Do you recall discussing any of those ads that were in the general campaign with your grandmother prior to their being aired?

A No. Because I never saw any ads until they were aired. I wasn't a part of the making of the ads.

Q Do you know who was involved in the actual content of the ads?

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A No. I'm sorry, again, I just wasn't part of the advertising, the making of ads, so -- that wasn't my role in the campaign.

Q In your volunteer activities with the Sloane committee, were you involved in any fundraising for -- again, we're talking about the specific Harvey Sloane ads that were run during the general election. Were you involved in any fundraising for those ads?

A As a traveling aide, I attended fundraisers with Harvey Sloane. I remember one specific fundraiser, I went out to San Francisco with him as a traveling aide. On one occasion, I knew that my grandmother was concerned with what she saw at the time as a real discrepancy in the playing field between, what she saw as a discrepancy in the playing field between the Republicans and Democrats, and I did ask her to see what she could do to help the party.

Q And do you know if, at that time, she gave any money to the Sloane committee itself?

A I don't know exactly to what organization she gave money to.

Q What time frame are you talking about here when you say that you talked with her about her concerns about

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the party?

A I can't really -- we talked about issues and about politics in general a lot, so I can't really help you out with the exact time frame.

Q Would that have been during the general election?

A Well, that's when my involvement was.

Q Again, I'm speaking to fundraising for the ads that were produced by Greer-Margolis or the Sloane committee itself.

A Okay, you're gonna have -- I'm a little confused, I'm not sure what those ads are.

Q In September, October of 1990, the Sloane committee was working with the Greer firm on advertising.

A Right.

Q And the Greer firm produced a number of ads during that particular time period for the Sloane committee which were paid for by the Sloane committee involving Dr. Sloane giving speeches and showing --

A Correct, I remember seeing those ads on television.

Q Those ads are the ones which I'm speaking about.

A Okay.

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Q Do you recall ever soliciting contributions for those particular ads?

A No.

Q Now, you said that you had very little involvement with the Kentucky Democratic Party. Was the Sloane campaign working at all out of the Kentucky Democratic Party facilities?

A Not that I know of.

Q Okay. Where were the Sloane committee headquarters at the time?

A Well, I worked out of an office in downtown Louisville, and whether that was a state party office or not, I can't recall. I mean, I remember where it was, I remember what it looked like, but who it was affiliated with wasn't really a concern of mine at the time. I was trying to, you know, help Harvey out with speeches, et cetera.

Q Do you recall if the Kentucky Democratic Party had offices within that building as well?

A I don't recall. There was only one office in that building. I know that. That was associated with the campaign.

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Q With the Sloane campaign?

A Yes, with the Sloane campaign. I'm sorry; correction, there were two offices, but on the same floor. One was a field office and one was -- there were two separate offices.

Q But they were both with the Sloane campaign?

A Yeah, they were both with the Sloane campaign.

Q Okay. During the general election, were you aware that the Greer firm was also being -- I'm sorry -- the Kentucky Democratic Party was also using the Greer firm for advertising?

A No, I was not.

Q Did you ever have any conversations with anyone at the Kentucky Democratic Party about -- first of all, let me preface this because we are changing the scope here. Now I'd like to talk about the ads that the Kentucky Democratic Party produced, that the Greer firm produced for the Kentucky Democratic Party in the 1990 election.

A Okay.

Q Did you ever have any conversations with anyone at the Kentucky Democratic Party about the ads that were produced for the Kentucky Democratic Party?

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A No, I didn't.

Q Did you ever discuss the Kentucky Democratic Party ads with anyone at the Democratic National Committee?

A No, I did not.

Q Did you ever discuss those ads with Jim Cunningham?

A No. Advertising was not one of the hats I wore on this campaign. It just really wasn't.

Q So that you understand exactly what I'm asking, when I ask if you ever had a discussion about these, I'm not specifically referring to you in an official capacity but whether you just discussed them as they related to what you were doing or whatever, so in that sense, would that change the answer?

MR. RIESER: Are you talking about before the ads were run.

MS. MOTT: That's correct. Before the ads were run.

THE WITNESS: When ads appeared on television, I saw them.

BY MS. MOTT:

Q Yes.

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A I cannot recall a specific conversation I had with anyone who was associated with the campaign about them.

Q And by "the campaign," do you mean the Sloane campaign itself?

A That's correct.

Q Okay. And you don't recall any with the Kentucky Democratic Party as well?

A No.

Q Did you ever discuss these ads, again prior to their being aired, with your grandmother, Ms. Bingham?

A I first became aware of the ads when they started showing up on television. I can't remember a specific conversation I had with my grandmother concerning the ads prior to or after they came on.

Q So, you stated that the first time that you saw the ads was when they were actually aired on television; is that correct?

A That's correct.

Q So you never previewed the ads at all, the Kentucky Democratic Party ads?

A No.

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Q Were you ever involved in any fundraising for the Kentucky Democratic Party ads?

A No. I mean, I was involved in fundraising as a traveling aide, but I didn't -- for what specifically, I did not know. That wasn't my role in the campaign. It just wasn't what I did.

Q In the fundraising activities that you were involved in, did those also include fundraising for the Kentucky Democratic Party's coordinated campaign?

A I wasn't concerned with what organization exactly I was fundraising for, so no. I mean, I didn't know -- I didn't know, I was going out trying to raise money for the party, for whomever. I knew I was attending fundraisers with the candidate as part of an effort that would help his chances at winning. You know, I wasn't really concerned with whether it was through the state party or what other branch. I was concerned with helping the candidate, but that was really where it stopped.

Q So to your knowledge, you don't know whether the fundraising was done specifically for the Sloane committee or whether it was done for the state party?

A That's what I'm trying to tell you.

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Q Okay. I'd like to talk about the contribution that your grandmother made in 1990 to the Democratic National Committee.

A Okay.

Q Can you just tell me what your involvement was in that particular contribution.

A Sure. I had -- as I said before, I had a lot of discussions with my grandmother about many of the races that were going on at that time in 1990. She was very concerned about two things, the lack of issues that were being discussed and what she saw as a discrepancy in the playing fields between Republicans and Democrats. I asked her if there was anything she could do to help the party and she subsequently made a donation.

Q Did you ever discuss the -- first of all -- let me back up. Do you recall when that conversation took place with your grandmother specifically about contributing to the party?

A Sometime in October.

Q And do you recall ever discussing that with Dr. Sloane, the conversation you had with your grandmother?

A No.

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Q When you had this conversation with your grandmother, what exactly did you tell her that she needed to do to contribute to the party?

MR. RIESER: If you told her anything.

THE WITNESS: I can't recall what organization, if any, that I asked her to give to. I asked her to help the -- to help out the party financially. And that's all I can really say. I mean, that's all I remember.

BY MS. MOTT:

Q Did you give her any -- did you tell her how she could go about helping the party at all?

A Not that I can recall.

Q Did you know that your grandmother was going to contribute to the Democratic National Committee?

A I didn't know that she was specifically going to give her donation to the Democratic National Committee. She did inform me at one point that she was making a donation to the party. And I was pleased with that.

Q Did she ever discuss with you the mechanics of making such a contribution?

A Not that I can recall, no.

Q Do you know if she ever discussed that with

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anyone else?

A I do not know.

Q Do you know if she ever discussed it with Harvey Sloane?

MR. RIESER: The mechanics of making the contribution?

MS. MOTT: Yes.

THE WITNESS: Not that I know of.

BY MS. MOTT:

Q When the contribution was actually made, how was that delivered to the Democratic National Committee?

MR. RIESER: If he knows.

BY MS. MOTT:

Q If you know.

A I don't have any recollection of how it was -- how the money was transferred. I'm sorry; I don't.

Q Do you know if the Democratic National Committee was notified ahead of time that the contribution was being made?

A I don't know.

Q Do you know if individuals within the Sloane committee knew ahead of time that the contribution was

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being made?

A I don't know. I'm sorry; let me back up on that question, now that I think about it.

Q Okay.

A Once -- my grandmother did tell me that she was planning to make a donation to the party, and I did relay that information to Jim Cunningham, the campaign manager.

Q Okay.

A And I guess she -- so I guess that would be prior to when the donation was made, so I just want to answer your question, I mean physically made.

Q Did your grandmother ever express to you that she wished the money to be used for the Sloane committee itself?

A No, she did not.

Q Did you ever express a wish to anyone that the funds be used for the Sloane committee?

A No, I didn't. I didn't really feel it was, you know, my place or business to tell anyone, you know, how the funds were being allocated because I was, again, primarily working on the road, writing speeches and being the candidate's aide. That wasn't my role.

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Q Do you know if your grandmother placed any restrictions on those particular funds?

A Not that I know of, no.

(Discussion off the record.)

BY MS. MOTT:

Q You said that you knew that your grandmother was going to give to the party. By "the party," what did you think that that meant?

A At the time, I was very confused between the DNC, the ~~DSEC~~ DSSC, you know, whatever Ron Brown was working on. So RWB I didn't know exactly to what body she was going to be giving her donation, but I did know that it wasn't going to be, you know, directly into Harvey Sloane's campaign.

Q So you didn't know at that time that it was going to be to the Democratic National Committee?

A That's correct. I knew it was going to Washington, but I didn't know where.

Q Can you tell me if you knew anything about contributions that were made from the Association of Trial Lawyers of America to the Kentucky Democratic Party?

A I don't know anything about that.

Q So as far as you know, you never solicited

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contributions from the Association of Trial Lawyers of America?

A I did not.

Q Why don't we take a quick break here?

MR. RIESER: Okay.

(Recess.)

BY MS. MOTT:

Q Mr. Bingham, can you tell me what your work with Jim Cunningham involved in the campaign?

A Jim Cunningham was the campaign manager, but he did not travel with the candidate. He rarely traveled with the candidate. My job was to talk with Cunningham. He would relay his concerns about themes that we wanted to stress and I would -- and I would emphasize that to the candidate while we were traveling throughout the state.

Q Did you ever discuss financial matters with Jim Cunningham as far as the committee and financial matters were concerned?

A I'm sorry; what committee?

Q The Sloane committee.

A The Sloane committee. No.

Q Did you ever discuss advertising with Jim

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Cunningham?

A We discussed the need for advertising, but I never discussed the nature of those advertisements or anything, you know, substantial about advertising, no. We never discussed advertising strategy, you know.

Q Did you ever have a discussion with Jim Cunningham about the Kentucky Democratic Party's advertising?

A No.

Q Did you ever discuss the Kentucky Democratic Party ads with Kevin Geddings?

A No.

Q What about the financing of advertising? Did you ever discuss that with Kevin Geddings?

A No, I didn't talk to Kevin about that.

Q In the discussions that you had with your grandmother, you had stated that she had concerns about the level playing field and the race in general. Was that specific to her concerns about what was going on in Kentucky?

A No, it was -- Kentucky was part and parcel of a national concern. My grandmother's involvement with the

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Democratic Party, her history with it, you know, stretches back quite some time and involves, you know, many states. But Kentucky was part and parcel of her concern, overall concern.

Q Do you know if your grandmother supported any Democratic candidates outside of Kentucky in the 1990 campaigns?

A Not that I can recall. I know she -- when you talk about support, I know she was -- she certainly would like to see -- and rooted for Democrats everywhere, and she may have given. I wouldn't be surprised, she may have given financially to other races. I'm speculating there. I don't know. I can't tell you.

Q Do you know if your grandmother ever discussed the contribution that she made with Will Robinson of the Democratic National Committee?

A I've never heard his name come up, I'm sorry.

Q Do you know if she ever discussed the contribution personally with Ron Brown?

A No. I would have known if she had talked personally with Ron Brown, and she didn't.

Q You say you would have known. Why would you have

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known?

A It would have been of interest to her. We talked about politics usually over dinner, and if she'd talked to Ron Brown, it would have come up, I would have remembered it.

Q And do you know if she had discussed the contribution with Dr. Sloane?

A I don't know.

Q I just want to thank you for coming. If you would like to --

MR. RIESER: Can we take a few minutes.

MS. MOTT: Sure.

MR. RIESER: I don't think we have anything. But if we could have a few minutes.

MS. MOTT: Absolutely. Let's go off the record.

(Recess.)

MS. MOTT: Back on the record.

Did you have any questions?

MR. RIESER: I didn't have any questions.

MS. MOTT: Again, you can make arrangements with the court reporter.

MR. RIESER: We do not waive signature, so we'd

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like to see the transcript before it's sent out.

MS. MOTT: What that involves is that you will look over it and see that it accurately reflects what we have talked about today. Pursuant to the Act, you will be receiving a check for the witness fee and also reimbursement for mileage. Do you have an estimate about how far it was.

MR. RIESER: Tonda, we had agreed that we would produce him here in town at our expense, otherwise you had subpoenaed him in Kentucky and as an accommodation for your accommodation, we scheduled him here. You want to reimburse me for cab fare? Don't worry about mileage.

MS. MOTT: But we don't need to send the witness fee.

Would you like that sent to your home address.

THE WITNESS: Yes.

MS. MOTT: I truly don't foresee having to speak with you again, but what we customarily do is not close the deposition and continue it in case we need to talk with you again. So I guess we'll do that now, and thank you very much for coming.

THE WITNESS: Thank you.

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(Whereupon, at 11:02 a.m., the deposition was adjourned.)

ROBERT WORTH BINGHAM

Subscribed and sworn to before me
this 14 day of January, 1993.

Notary Public

My Commission Expires

HENRY REININGER
Notary Public, State of New York
No. 31-4601026
Qualified in New York County
Commission Expires March 30, 19 94

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JOE W. STRICKLAND, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Joe W. Strickland

Notary Public in and for the
Commonwealth of Virginia

My Commission Expires APRIL 30, 1995

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18 January 1993

Ms. Tonda Mott
Federal Election Commission
999 E Street, Northwest
Washington, DC 20004

Re: Deposition of ROBERT WORTH BINGHAM,
Washington DC, 4 December 1992.

Dear Ms. Mott:

Enclosed is the Original copy of the above-entitled deposition, which has been read and signed by the Deponent. Changes in this transcript are noted on the list of corrections enclosed.

Sincerely,

Edwin G. Crowley
Deposition Supervisor

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Deposition of ROBERT WORTH BINGHAM, 4 December 1992.

CORRECTIONS TO DEPOSITION

Page	Line	Correction:
27	10	change DSEC to DSSC

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WASHINGTON, D.C 20463

THIS IS THE END OF MUR # 3182 merged w/ 3145

DATE FILMED 6/29/95 CAMERA NO. 2

CAMERAMAN EES

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