



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3234

DATE FILMED 5/25/93 CAMERA NO. 3

CAMERAMAN E.E.S.

930409335322

THE MOYNIHAN COMMITTEE, INC.
P.O. Box 1988
Grand Central Station
New York, New York 10163-1988

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 MAR -9 AM 2:08

MUR 3234

March 7, 1991

91 MAR -8 PM 3:31

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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

Re: Complaint Against the New York
State Conservative Party

Dear Mr. Noble:

On March 6, 1991, the New York State Conservative Party ("Conservative Party") placed the enclosed full-page advertisement in The New York Times. The message contained in the advertisement seeks to influence a federal election by attacking Senator Moynihan, a federal candidate, and to raise political contributions in support of that effort. The language in the advertisement attempts to disparage Senator Moynihan's representation in Washington and, with an eye towards a future election, urges voters in the Senator's state not to forget how he voted on a particular issue. Consequently, the Conservative Party has violated several provisions of the Federal Election Campaign Act:

1. The Conservative Party has spent well in excess of \$1,000 for the purpose of influencing a federal election (a full page ad in The New York Times costs approximately \$42,000) and has failed to register as a federal political committee in violation of 2 U.S.C. § 433.

2. The Conservative Party has failed to state who paid for and authorized the advertisement and solicitation in violation in 2 U.S.C. § 441d.*

* The Moynihan Committee, Inc., is filing a separate complaint with the Internal Revenue Service regarding the Conservative Party's failure to display a disclaimer required under the Internal Revenue Code.

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Lawrence M. Noble, Esq.

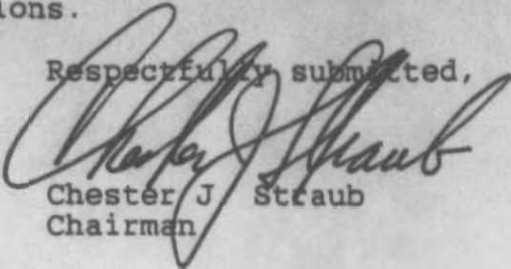
March 7, 1991

-2-

3. The Conservative Party is registered as a political committee with the New York State Board of Elections. According to the Conservative Party's most recent report filed with the New York State Board of Elections, it has accepted corporate contributions which may not be used in connection with federal elections. In addition, the individual limits allowed under New York election law far exceed the allowable limits under federal law. Thus, it appears that the Conservative Party paid for The New York Times advertisement with funds that violate 2 U.S.C. § 44ab (prohibited corporate contributions) and may have also used funds that violate 2 U.S.C. § 441a (excessive contributions).

Accordingly, we request that the Federal Election Commission fully investigate this matter and assess appropriate penalties to redress the violations.

Respectfully submitted,


Chester J. Straub
Chairman

Sworn to and subscribed before me
this 7th day of March, 1991.


MARY A. WICZOREK
Notary Public, State of New York
No. 24-4281000
Qualified in Kings County
Commission Expires February 28, 1992

Enclosure

cc: Kenneth A. Gross, Esq.
Counsel
The Moynihan Committee, Inc.

FEDERAL EXPRESS

93040935324

Where Was Pat Moynihan When America Needed Him?

Pat Moynihan said George Bush and our military leaders bordered "on the edge of the disturbed" because the President asked for authorization to use the force necessary to defeat Saddam Hussein and liberate Kuwait. We in the Conservative Party are outraged.

Pat Moynihan shamefully voted against our President. If Pat Moynihan had his way, our soldiers would still be sitting in the Persian Gulf waiting for economic sanctions to *fail*.

Time and again, Pat Moynihan voted **against** a strong America. Pat Moynihan opposed many of the defense weapons that brought the Allied coalition this historic victory. We should never forget.

New Yorkers are proud to be Americans. We should be represented in Washington by men and women who support our values — not oppose them. Representatives who speak out in favor of our national interest — not spokesmen for appeasement.

The New York State Conservative Party stands up for New York... and America. Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice — please join us.



TO: Mike Long
Conservative Party Chairman

Yes, I want Pat Moynihan and the other liberals to know that we remember how they voted against backing our President — we won't forget. Here's my contribution.

Keep up the good work.

Make checks payable to: The New York State Conservative Party
486 78th Street
Fort Hamilton Station, N.Y. 11209
(718) 921 - 2158

☐ \$20 ☐ \$50 ☐ \$100 ☐ \$250 ☐ \$500 ☐ Other

Name: _____

Address: _____

Phone #: _____

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 15, 1991

Chester J. Struab, Chairman
The Moynihan Committee, Inc.
P.O. Box 1988; Grand Central Station
New York, NY 10163-1988

RE: MUR 3234

Dear Mr. Struab:

This letter acknowledges receipt on March 8, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by The New York State Conservative Party. The respondents will be notified of this complaint within five days.

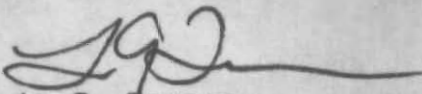
You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3234. 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. Berner
Associate General Counsel

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 15, 1991

Mike Long, Chairman
The New York State Conservative Party
486 78th Street
Fort Hamilton Station, NY 11209

RE: MUR 3234

Dear Mr. Long:

The Federal Election Commission received a complaint which alleges that The New York State Conservative Party (the "Committee") 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 3234. 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 Committee 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 Noriega E. James, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


Lois G. Lerner
Associate General Counsel

Enclosures

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

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FEDERAL ELECTION COMMISSION
MAIL ROOM

HERGE, SPARKS, CHRISTOPHER & BIONDI
ATTORNEYS AT LAW

91 APR -2 AM 11:22

SUITE 200
8201 GREENSBORO DRIVE
MCLEAN, VIRGINIA 22102
(703) 848-4700

April 1, 1991

TELECOPIER NUMBER
(703) 893-7371

J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER
GEORGE V. BIONDI
DIANE H. MAHSHIE
MATTHEW SCOTT McCONNELL

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

Attention: Noriega E. James
Office of General Counsel

Re: MUR 3234

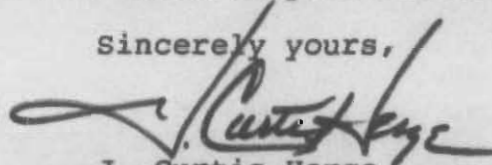
Dear Ms. Lerner:

This will serve to acknowledge the receipt of your letter to the Chairman of the New York State Conservative Party, dated March 15, 1991, with which you enclosed for comment a complaint filed by The Moynihan Committee, Inc. This matter has been numbered MUR 3234.

Enclosed, for your records, is a Statement of Designation of Counsel, executed by the New York State Conservative Party, designating the undersigned as its counsel in this matter.

Our client wishes to respond and demonstrate that no action should be taken against it in this matter. Having just been selected as its counsel, however, we respectfully request an extension until April 19, 1991 within which to submit our response. Such an extension is required to enable us to consult with our client and to analyze the complaint, the acts complained of and the relevant law. As our client received your letter on March 22, 1991, the extension requested is for fourteen days beyond the submission date set forth in your letter.

Sincerely yours,



J. Curtis Herge
Counsel to New York State
Conservative Party

:sbl
Enclosure
cc: Mr. Michael R. Long

91 APR -2 PM 3:00

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3234

NAME OF COUNSEL: J. Curtis Herge, Esq.

ADDRESS: Herge, Sparks, Christopher & Biondi
8201 Greensboro Drive, Suite 200
McLean, Virginia 22102

TELEPHONE: (703) 848-4700

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.

March 27, 1991
Date

New York State Conservative Party

By: 
Signature Michael R. Long
State Chairman

RESPONDENT'S NAME: New York State Conservative Party

ADDRESS: 486 78th Street
Fort Hamilton Station,
New York 11209

HOME PHONE: _____

BUSINESS PHONE: (718) 921-2158

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 5, 1991

J. Curtis Herge, Esquire
Herge, Sparks, Christopher & Biondi
8201 Greensboro Drive, Suite 200
McLean, Virginia 22102

RE: MUR 3234
The New York State
Conservative Party and
Mike Long, as Chairman

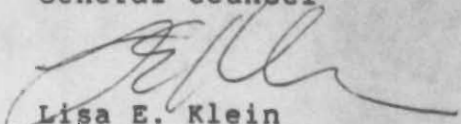
Dear Mr. Herge:

This is in response to your letter dated April 1, 1991, which we received on April 2, 1991, requesting, on behalf of your clients, an extension until April 19, 1991, to respond to MUR 3234. 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 April 19, 1991.

If you have any questions, please contact Noriega E. James, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lisa E. Klein
Assistant General Counsel

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06C 0783

HERGE, SPARKS, CHRISTOPHER & BIONDI

ATTORNEYS AT LAW

SUITE 200

8201 GREENSBORO DRIVE

MCLEAN, VIRGINIA 22102

(703) 848-4700

J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER
GEORGE V. BIONDI
DIANE N. MAHSHIE
MATTHEW SCOTT MCCONNELL

April 17, 1991

TELECOPIER NUMBER
(703) 893-7371

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

Attention: Noriega E. James
Office of General Counsel

Re: MUR 3234

Dear Ms. Lerner:

By letter dated March 7, 1991, The Moynihan Committee, Inc. filed a complaint with the Federal Election Commission, alleging that an advertisement published in The New York Times on March 6, 1991 by the New York State Conservative Party sought to influence the 1994 re-election campaign of Mr. Moynihan. Because the New York State Conservative Party is not a political committee under 2 U.S.C. § 431(4), The Moynihan Committee, Inc. alleges that various provisions of the Federal Election Campaign Act were violated. By this letter, the New York State Conservative Party will demonstrate that the advertisement was not subject to the Federal Election Campaign Act and that no action should be taken against it in this matter.

By letter dated April 1, 1991, we submitted to you the executed Statement of Designation of Counsel of the New York State Conservative Party, designating the undersigned as its counsel in this matter, and we requested an extension until April 19, 1991 within which to submit this response. By letter dated April 5, 1991, you confirmed the receipt of our letter and granted the requested extension.

We will demonstrate in this letter that the advertisement published in The New York Times on March 6, 1991 by the New York State Conservative Party is not subject to the provisions of the Federal Election Campaign Act. By applying the tests set forth in numerous decisions by Federal courts, including the

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OFFICE OF GENERAL COUNSEL

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United State Supreme Court, we will, in fact, demonstrate that the message of the New York State Conservative Party is broadly protected by the First Amendment. Because it could not reasonably be interpreted to be an exhortation to vote for or against a clearly identified Federal candidate, and because it is not susceptible of a conclusion that it influenced any Federal election, the advertisement is not covered by the Federal Election Campaign Act. Therefore, the file in this matter should be closed and no further action should be taken in this matter.

The Advertisement

On March 6, 1991, the New York State Conservative Party placed an advertisement in The New York Times captioned, "Where Was Pat Moynihan When America Needed Him?" The text of the advertisement, a copy of which is appended hereto, addressed the prominent issues in the topical national debate over the authority granted to the President by Congress to use all necessary force in the Persian Gulf. The advertisement was critical of a statement made by Mr. Moynihan in the context of that debate and of Mr. Moynihan's refusal to vote for the authority requested by the President. The advertisement was also critical of Mr. Moynihan's opposition to many of the weapon systems used in the Gulf. Stating that the New York State Conservative Party "stands up for New York ... and America," the advertisement concluded with a request for financial support to enable the Party "to continue to be your voice."

In reviewing the advertisement, it is of critical importance that one note what it did not say. There was no reference to any Federal election. There was no reference anywhere in the advertisement to any candidate, candidacy or campaign for Federal office, to the existence of any election or to the act of voting in any election. Mr. Moynihan was not identified as being a member of any political party. In fact, Mr. Moynihan was not even identified as being a United States Senator. In the final analysis, it was Mr. Moynihan's statements and votes on issues which were taken to task. As the Court stated in Federal Election Commission v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1989), discussion of government affairs by its nature includes discussions of the people who conduct those affairs. Strong sentiments, and dramatic statements, but this only reflects our "profound national commitment to the principle that debate on public issues should be

Lois G. Lerner, Esq.
April 17, 1991
Page 3

uninhibited, robust and wide-open." New York Times v. Sullivan,
376 U. S. 254, 270 (1964).

The Complaint

Piqued over a message whose animating purpose was decidedly unfriendly to positions championed by Mr. Moynihan, The Moynihan Committee, Inc. reacted to the advertisement by promptly filing the complaint which precipitated this matter. In its complaint, the Committee asserted that the advertisement "seeks to influence a federal election by attacking Senator Moynihan, a federal candidate, and to raise political contributions in support of that effort." The Committee's rush to judgment, perhaps driven by a desire to obfuscate and inhibit the debate, is simply not supportable in fact or in law.

The New York State Conservative Party

The New York State Conservative Party (hereinafter referred to as "NYSCP") is a political organization as described in Section 527 of the Internal Revenue Code, which is registered as a political committee with the New York State Board of Elections and is subject to the provisions of the New York State Election Law. It receives contributions in support of its activities from individuals and corporations as permitted by the New York State Election Law. The NYSCP does not make "contributions" or "expenditures," as those terms are defined in 2 U.S.C. §§ 431(8)(A) and 431(9)(A). Therefore, it is not a "political committee" as defined in 2 U.S.C. § 431(4). As a result of the foregoing, the communication here at issue must be measured against the same tests as those applied to the communications of the National Organization for Women, Central Long Island Tax Reform Immediately, the Maine Right to Life Committee and San Joaquin Valley Republican Associates as discussed below.

Communications Containing Only
Issue Advocacy, Not Electoral Advocacy,
Are Not Subject to the Act

To be subject to the requirements and limitations of
the Federal Election Campaign Act, the advertisement of the NYSCP

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Lois G. Lerner, Esq.
April 17, 1991
Page 4

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must be found to have been "unambiguously related to the campaign of a particular federal candidate." Buckley v. Valeo, 424 U.S. 1,80 (1976). "[I]f any reasonable alternative reading ... can be suggested," the communication is not regulated by the Act. Federal Election Commission v. Harvey Furgatch, 807 F. 2d 857, 864 (9th Cir. 1987). The fact that the advertisement emanated from an organization that supports, endorses or opposes candidates does not change the analysis. Both the National Organization for Women and the Maine Right to Life Committee were found by the courts to be organizations that support, endorse or oppose candidates. The Federal Election Commission acknowledged this principle in Advisory Opinion 1988-22, which addressed the question whether newsletters produced by San Joaquin Valley Republican Associates would constitute expenditures made for the purpose of influencing a Federal election under 2 U.S.C. §431 (9)(A). Like the NYSCP, San Joaquin Valley Republican Associates is a political organization as described in Section 527 of the Internal Revenue Code. Stating there is a presumption that communications from a political organization that discusses or mentions a candidate in an election-related context is for the purpose of influencing a Federal candidate, the Commission nevertheless conceded:

" ... differing legal consequences will result under the Act and regulations for candidate-related statements and references appearing in proposed newsletters, depending on the nature of the statement ... "

The Commission concluded that the newsletters of San Joaquin Valley Republican Associates contained statements, comments or references regarding "clearly identified candidates" in an "election-related context" and were subject to the Act. Clearly, the nature of the NYSCP advertisement was issue-related; it did not clearly identify a Federal candidate and it was not published in an election-related context. The protection given to issue-related statements, like that of the NYSCP, is exemplified by the analysis and holding in Federal Election Commission v. National Organization for Women, supra.

At issue in National Organization for Women, were three communications issued by the National Organization for Women ("NOW") which were critical of public officials. The Federal Election Commission alleged that these communications, sent to

the general public during the 1984 election cycle, contained "electioneering messages" and should have been paid for by NOW's Federal political committee. The Court disagreed and held that "NOW's use of corporate funds to finance letters criticizing certain politicians who do not share NOW's political opinions does not fall within the prohibition of the federal election campaign laws."

The first disputed mailing issued by NOW, referred to as the "59¢ letter," criticized political leaders for their adverse position or lack of attention to certain issues. Passages included:

"And now the Reagan Administration is threatening to make a dangerous situation even worse ...

"A bad economy, coupled with an antagonistic Administration in Washington, poses an immediate and real threat to the economic rights of women everywhere ...

"The New Right, the Reagan Administration, and the Republican Party all thought the 'ladies' would go away after the ERA deadline expires. Were they ever wrong!" (Emphasis in the original.)*

The letter also discussed voting for or against politicians as one method of fighting unequal treatment of women; it discussed NOW's political action committee's capacity to raise money "to defend our friends and defeat those who oppose women's rights." The Federal Election Commission argued that the letter as a whole contained "blatant electioneering" messages in connection with the 1984 election and highlighted as particularly offensive: "Politicians listen when they think an organized group of citizens can help elect or defeat them."

* The message here is the same as that contained in the advertisement of the NYSCP, to wit: "We should never forget."

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April 17, 1991
Page 6

The second disputed mailing, the so-called "Abortion Letter," was critical of two United States Senators, Jesse Helms and Strom Thurmond, who were up for re-election in 1984. The letter stated:

"If Jesse Helms, Orrin Hatch, Strom Thurmond, and other New Right Senators in control of key committees attempt to force their anti-abortion legislation through Congress, our side must be prepared to let Congress know - particularly newly elected representatives - that we are well-organized and prepared to defend the right to a safe, legal abortion."
(Emphasis in the original.)

The Federal Election Commission contended that NOW's reference to a "renewed effort now being launched by New Right reactionary groups in preparation for the 1984 elections" violated the Federal Election Campaign Act. The Commission also objected to the letter's appeal to "begin right now to take the steps necessary to defend our right to abortion in the new Congress ... in the states ... and at the ballot box."

The third NOW mailing found objectionable by the Commission was the "ERA letter," which urged recipients to petition their Senators to support the Equal Rights Amendment. Mailed in the midst of the 1984 campaign, the letter stated:

"Jesse Helms, Strom Thurmond and the 17 other Republican Senators up for re-election in 1984 must be made to understand that failure to pass the ERA will result in powerful campaigns to defeat them.

"If the Senate and the Republican Party fail to heed the message of 1982 and reject the ERA, they will face a gender gap in the 1984 elections that will have turned into a 'gender gulf.' We will see to that.

"Politicians listen best when they know that an organized force has the numbers and the clout to defeat or elect them."

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Lois G. Lerner, Esq.
April 17, 1991
Page 7

In considering whether these letters were subject to the prohibitions of the Federal Election Campaign Act, the Chief Justice of the United States District Court for the District of Columbia said it "is a question of law for this Court to determine by analyzing the federal election laws and the cases that have applied them." The Court's analysis of the law, and its decision in National Organization for Women are applicable to and dispositive of this matter.

The Court commenced its analysis in National Organization for Women by noting that the United States Supreme Court, in Federal Election Commission v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 249 (1986), specifically stated that "an expenditure must constitute 'express advocacy' in order to be subject to the prohibition of [2 U.S.C.] § 441b;" and, that the Supreme Court adopted the "express advocacy" requirement to distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons. Id. The Court concluded that:

"Judicial authority clearly supports the interpretation that only communications which contain explicit electoral messages can be prohibited by § 441b."

* * * *

In Buckley, the Court agreed that funds spent to propagate one's views without expressly calling for the election or defeat of a clearly identified candidate are not covered by FECA. 424 U.S. at 43-44."

The Court in National Organization for Women then proceeded to summarize the findings of the United States Court of Appeals in another case which involved a communication similar to that published in this matter by the NYSCP:

"When the FEC attempted to convince the Second Circuit that the Act prohibited both express and implied advocacy of the election or defeat of political candidates, the court flatly refused. In Federal Election Commission v. Central Long Island Tax Reform Immediately, 616 F.2d 45 (2d Cir. 1980), the Court of Appeals

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reviewed a leaflet which expounded the economic views of a tax reform group and criticized the voting record of a local member of Congress, whose picture was included. The leaflet did not refer to any federal election, nor to the member's political affiliation or opponent. The nearest the leaflet came to expressly calling for action was in its exhortation to 'let him [the congressman] know how you feel. And thank him when he votes for lower taxes and less government.' Id. at 53. The Second Circuit concluded that the pamphlet contained nothing which could rationally be termed express advocacy. 'There is no reference anywhere in the Bulletin to the congressman's party, to whether he is running for re-election, to the existence of an election or the act of voting in any election; nor is there ... an unambiguous statement in favor of or against the election of Congressman Ambro.' Id. The Court held that because the leaflet did not expressly advocate the defeat or election of the congressman, the Act did not apply to it."

The Court next focused on the question whether the funds NOW spent in producing its letters were "for the purpose of influencing" or "in connection with" a Federal election. In doing so, the Court looked to the standard for express advocacy enunciated by the Court of Appeals in Furgatch, supra, that speech, when read as a whole and with limited reference to external events, may only be interpreted as an exhortation to vote for or against a specific candidate; and, that "if any reasonable alternative reading of speech can be suggested, it cannot be express advocacy." In applying this standard to NOW's letters, the Court found:

"The letters call for action, but they fail to expressly tell the reader to go to the polls and vote against particular candidates in the 1984 election. Because the letters are suggestive of several plausible meanings, because there are numerous pleas for action, and because the types of action are varied and not entirely clear, NOW's letters fail the express advocacy test proposed by the Ninth Circuit in Furgatch.

"This Court holds that the '59¢ letter,' the 'abortion letter,' and the 'ERA letter' can all be regarded as discussions of public issues that by their nature invoke the names of certain politicians. They do not provide explicit directives to vote against these politicians....

"Because the letters do not go beyond issue discussion to express electoral advocacy, the use of corporate funds to finance them does not violate federal election laws. NOW was merely attempting to make its views known and gain some new dues-paying members."

In concluding its opinion, the Court stated: "By spending its corporate funds to advocate issues and criticize political opponents, NOW produced speech broadly protected by the First Amendment. NOW engaged in the discussion of governmental affairs which by its nature includes discussions of the people who conduct those affairs." The Court then entered summary judgment in favor of NOW.

Subsequently, in Sandra Faucher and Maine Right to Life Committee, Inc. v. Federal Election Commission, ___ F. Supp. ___ (D. Me. 1990), a different United States District Court found that Federal Election Commission regulations, relating to the publication of voter guides by corporations, were invalid because they did not draw a distinction between issue advocacy and express advocacy. Like NOW and the NYSCP, the Maine Right to Life Committee supports, endorses or opposes candidates or political parties and used corporate funds to publish its views. The Commission objected to the publication as being violative of 11 C.F.R. § 114.4(b)(5) in that the wording suggested or favored a position on the issues covered and expressed an editorial position concerning the issues presented. The Court stated:

"This approach ignores the clear language of FEC v. Massachusetts Citizens for Life that issue advocacy by a corporation cannot constitutionally be prohibited and that only express advocacy covering the election or defeat of an identifiable candidate or candidates is constitutionally within the statute's prohibition.

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"I conclude therefore that the regulation, as currently promulgated with its focus on issue advocacy, is contrary to the statute as the United States Supreme Court has interpreted it and, therefore, beyond the power of the FEC."

Finally, we must examine the message in the NYSCP advertisement to determine whether it constituted issue advocacy or express advocacy. In Furgatch, supra, the Court set forth a standard for determining whether a statement constitutes "express advocacy." The court stated:

"We conclude that speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. This standard can be broken into three main components. First, even if it is not presented in the clearest, most explicit language, speech is 'express' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed 'advocacy' if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be 'express advocacy of the election or defeat of a clearly identified candidate' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action.

"We emphasize that if any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to the Act's disclosure requirements. This is necessary and sufficient to prevent a chill on forms of speech other than the campaign advertising regulated by the Act. Under this standard, the court is not forced to ignore the

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plain meaning of campaign-related speech in a search for certain fixed indicators of 'express advocacy.'"

In applying this test to Mr. Furgatch's message captioned, "Don't let him do it," which was published less than one week before an election, the Court determined that reasonable minds could not dispute that Furgatch's advertisement urged readers to vote against Jimmy Carter. The Court said: "The ad directly attacks a candidate, not because of any stand on the issues of the election, but for his personal qualities and alleged improprieties in the handling of his campaign." Holding that the advertisement was of the type the Act was enacted to cover, the Court said:

"Our conclusion is reinforced by consideration of the timing of the ad. The ad is bold in calling for action, but fails to state expressly the precise action called for, leaving an obvious blank that the reader is compelled to fill in. It refers repeatedly to the election campaign and Carter's campaign tactics. Timing the appearance of the advertisement less than a week before the election left no doubt of the action proposed."

The application of the Furgatch standard to the NYSCP advertisement, a different conclusion is unavoidable. The advertisement addressed only issues - Moynihan's statement that George Bush and our military leaders bordered "on the edge of the disturbed"; Moynihan's vote against the authority to use force in the Persian Gulf; and, Moynihan's votes against a strong national defense. "Values" and "national interest" were the subject; not Moynihan's personal qualities, election campaign or campaign tactics. The NYSCP advertisement's plea for action was to "join us ... our pledge is to continue to be your voice." Readers are asked to act by joining the NYSCP because they "want Pat Moynihan and other liberals to know that we remember how they voted against backing our President." One is not left with "an obvious blank that the reader is compelled to fill in." In the Furgatch situation, the reader was left with but one action: to vote against candidate Carter one week after the advertisement appeared. In this case, there was no reference to elections, candidacies, candidates or voting. Mr. Moynihan will not even face the voters until 1994! Here the reader was left with but

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Lois G. Lerner, Esq.
April 17, 1991
Page 12

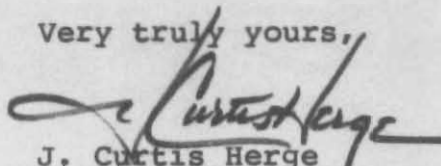
one action: to send in a contribution to register disapproval of Moynihan's statement about the President and his position on defense issues. Clearly, it cannot reasonably be concluded that contributions were solicited for any candidate or election-related purpose. The solicitation was: "Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice - please join us." Like NOW, the NYSCP "was merely attempting to make its views known and gain some new dues-paying members," such funds to be used to continue to be the contributor's "voice." The advertisement is susceptible of no other reasonable interpretation.

By spending its funds to advocate issues and criticize political opponents, the NYSCP produced speech broadly protected by the First Amendment. The NYSCP engaged in the discussion of governmental affairs which by its nature includes discussions of the people who conduct those affairs; and, it did so without clearly identifying any Federal candidate and not in an election-related context. As stated in National Organization for Women, "the organization's solicitation for support contained strong sentiments and dramatic statements but this only reflected our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open.'"

For these reasons, no further action should be taken on this matter and the file should be closed.

Respectfully submitted,

Very truly yours,



J. Curtis Herge
Counsel to New York State
Conservative Party

:sbl

Attachment

93040935343

Where Was Pat Moynihan When America Needed Him?

Pat Moynihan said George Bush and our military leaders bordered "on the edge of the disturbed" because the President asked for authorization to use the force necessary to defeat Saddam Hussein and liberate Kuwait. We in the Conservative Party are outraged.

Pat Moynihan shamefully voted against our President. If Pat Moynihan had his way, our soldiers would still be sitting in the Persian Gulf waiting for economic sanctions to *fail*.

Time and again, Pat Moynihan voted against a strong America. Pat Moynihan opposed many of the defense weapons that brought the Allied coalition this historic victory. We should never forget.

New Yorkers are proud to be Americans. We should be represented in Washington by men and women who support our values – not oppose them. Representatives who speak out in favor of our national interest – not spokesmen for appeasement.

The New York State Conservative Party stands up for New York... and America. Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice – please join us.



TO: Mike Long
Conservative Party Chairman

Yes, I want Pat Moynihan and the other liberals to know that we remember how they voted against backing our President – we won't forget. Here's my contribution.

Keep up the good work.

Make checks payable to: The New York State Conservative Party
486 78th Street
Fort Hamilton Station, N.Y. 11209
(718) 921 - 2158

☐ \$20 ☐ \$50 ☐ \$100 ☐ \$250 ☐ \$500 ☐ Other

Name: _____

Address: _____

Phone #: _____

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RECEIVED
F.E.C.
SECRETARIAT

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

92 FEB -7 AM 10:16

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR #3234
DATE COMPLAINT RECEIVED
BY OGC: March 8, 1991
DATE OF NOTIFICATION TO
RESPONDENTS: March 15, 1991
STAFF MEMBER: Xavier K. McDonnell

COMPLAINANTS: The Moynihan Committee, Inc.
Chester J. Straub, Chairman

RESPONDENTS: The New York State Conservative Party
and Mike Long, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(4)
2 U.S.C. § 431(8)(A)
2 U.S.C. § 433
2 U.S.C. § 434(a)
2 U.S.C. § 441b(a)
2 U.S.C. § 441d(a)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a complaint filed by the Moynihan Committee, and Chester J. Straub, as treasurer ("Complainants"). The complaint alleges that the New York State Conservative Party (the "NYSCP" or the "Respondent") has violated 2 U.S.C. §§ 433, 441a, 441b(a), and 441d with respect to an advertisement it published in the New York Times. See Attachment 1. The NYSCP has submitted a response to the complaint, denying the alleged violations occurred. See Attachment 2.

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II. FACTUAL AND LEGAL ANALYSIS

Summary Of Complaint and Response

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The Complainant is the authorized committee of Senator Patrick Moynihan, a United States Senator from New York. Senator Moynihan (the "Senator" or "the Candidate") faces election in 1994, and he filed a Statement of Candidacy on January 19, 1989. Attachment 3. The NYSCP is a "political organization" under Section 527 of the Internal Revenue Code and is registered with the New York State Board of Elections. Attachment 2 at page 3. The NYSCP is not a corporation, and the NYSCP is not presently registered with the Commission.

The allegations in the complaint are based upon an advertisement which the NYSCP had published in the New York Times on March 6, 1991. The advertisement, a copy of which is attached to the complaint and the response, is entitled "Where Was Pat Moynihan When America Needed Him?" The ad, which features a picture of Senator Moynihan, contains a discussion of the Senator's position on the use of force in response to the Persian Gulf War or "Crisis." Within the ad, the NYSCP criticizes Mr. Moynihan for his opposition to the use of force during the Persian Gulf War, and for the Candidate's alleged opposition to many of the defense weapons used during the War.¹ With respect to Senator Moynihan's votes against the use of force during the Gulf

1. In this ad, the NYSCP points out that Pat Moynihan said "George Bush and our military leaders bordered 'on the edge of the disturbed' because the President asked for authorization to use the force necessary to defeat Saddam Hussein and liberate Kuwait." The ad also states, among other things, that Moynihan "shamefully voted against our President" and against a strong America during the Persian Gulf Crisis and "opposed many of the defense weapons that brought the Allied coalition this historic victory."

Crisis, the NYSCP states in the ad: "We should never let him forget."

The final two paragraphs of the advertisement state:

"New Yorkers are proud to be Americans. We should be represented in Washington by men and women who support our values-not oppose them. Representatives who speak in favor of our national interest-not spokesmen for appeasement."

"The New York State Conservative Party stands up for New York ... and America. Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice-please join us."

Attachment 1 at page 3.

At the bottom of the full page ad is a coupon, which is self-addressed to Mike Long, the NYSCP's Chairman, and which states: "Yes I want Pat Moynihan and the other liberals to know that we remember how they voted against backing our President-we won't forget. Here's my contribution. Keep up the good work." Id.

The complaint alleges that through the ad the NYSCP seeks to influence a federal election by attacking Senator Moynihan, a Federal candidate, and to raise contributions in support of that effort. The complaint states that the language in the ad attempts to disparage Senator Moynihan's representation in Washington and, "with an eye towards a future election," urges voters in the Senator's state not to forget how he voted on a particular issue." Attachment 1 at page 1.

According to the complaint, a full page ad in the New York Times cost an estimated \$42,000 and, in any event, cost well in excess of \$1,000, and therefore the Respondents violated 2 U.S.C. § 433 by failing to register with the Federal Election Commission (the "Commission") as a political committee. The

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Complainants also allege that the Respondents violated 2 U.S.C. § 441d by failing to place a disclaimer on the ad. Finally, the Complainants allege that the NYSCP accepts corporate contributions and contributions deemed excessive under the Act, and that the payment for the ad in question with such funds violated 2 U.S.C. §§ 441b(a) and § 441a.²

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The NYSCP argues in its response that the advertisement does not contain references to any Federal election or political party and that within the ad Mr. Moynihan was not even identified as a United States Senator. Attachment 2 at page 2. According to the response, in the "final analysis" "it was Mr. Moynihan's statements and votes on issues which were taken to task" within the ad. Id. The Respondents also assert that the NYSCP is not a "political committee" within the meaning of the Act, but that it is registered as a political committee with the New York State Board of Elections. Id. at page 3. After tracing the development of the case law with respect to Sections 441b(a) and 441d(a), the NYSCP concludes that the ad in question contains only issue discussion, not express advocacy. Id. at pages 3-12. Therefore, the Respondents state "no further action should be taken on this matter and the file should be closed." Attachment 2 at page 12.

Analysis

We first address the complaint's allegation that the NYSCP is a "political committee," and was therefore required to register with the Commission and file disclosure reports, in accordance

2. The complaint mistakenly cites Section 441ab as the Section which prohibits contributions from corporations and labor unions. In fact, the Section of the Statute which prohibits such contributions is 441b(a).

with 2 U.S.C. §§ 433 and 434. The Federal Election Campaign Act of 1971, as amended (the "Act"), defines the term "political committee" as any committee, club, association, or other group of persons, including a corporation, which receives contributions aggregating in excess of \$1,000 or makes expenditures in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4). Pursuant to 2 U.S.C. § 433, a political committee must file a statement of organization within ten days after becoming a political committee within the meaning of 2 U.S.C. § 431(4).

The term "contribution" is defined in the Act to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). Similarly, the term "expenditure" includes 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 election for Federal office. 2 U.S.C. § 431(9)(A)(i). The treasurer of each political committee must file disclosure reports with the Commission in accordance with Section 434 of the Act.

As an initial matter, we note that the NYSCP is registered as a political party organization with the New York State Board of Elections, and describes itself as a "political organization"

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under Section 527 of the Internal Revenue Code.³ Moreover, in its ad, the NYSCP indicates that it is opposed to the representation of Senator Moynihan, and that it believes New Yorkers should be represented in Washington by men and women who support its values. The Committee explicitly states in its ad that it intends to use contributions received in response to the ad to continue to voice its opposition to the representation of Senator Moynihan and other liberals, and to voice its support for those representatives in Washington who share the values of New Yorkers. The ad also invites readers to join the NYSCP and to let the NYSCP be their voice. In short, the ad clearly solicits money to be used to influence Federal elections.⁴

Given the purpose of the full page ad in the New York Times and the fact that it appears to have cost well in excess of \$1,000, the NYSCP appears to fall within the statutory definition of a "political committee." As such, the NYSCP was required to

3. The NYSCP was also affiliated with Conservatives for Buckley, a committee which was registered with the Commission until 1977. In addition, as a "political organization" under Section 527 of the Internal Revenue Code, NYSCP is an organization "operated primarily for the purposes of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function." 26 U.S.C. § 527(e). Pursuant to Section 527(e)(2), exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office. 26 U.S.C. § 527(e). Thus, it appears that the NYSCP may be the type of organization whose "major purpose" is electioneering or campaign related activities. Buckley v. Valeo, 424 U.S. 1, 79 (1976); FEC v. Massachusetts Citizens for Life ("MCFL"), 479 U.S. 238, 252, 262 (1986).

4. Under Commission regulation 11 C.F.R. § 102.5(a)(3), any party committee solicitation which makes any reference to a federal candidate or federal election shall be presumed to be for the purpose of influencing a federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act.

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register with the Commission pursuant to Section 433(a), and to file regularly scheduled reports with the Commission pursuant to Section 434(a). Therefore, the Office of the General Counsel recommends that the Commission find reason to believe that the NYSCP and Mike Long, as Chairman, violated 2 U.S.C. §§ 433(a) and 434(a).

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The Act also provides that whenever any person makes an expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits contributions through a newspaper, such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. 2 U.S.C. § 441d(a). The Commission's regulations provide that communications for solicitations directed to the general public on behalf of a political committee which is not an authorized committee of a candidate shall state the full name of the person who paid for the communication. 11 C.F.R. § 110.11(a)(1)(iv)(A).

Within the ad in question, the Committee requests that the public "join" the NYSCP by filling out the attached reply card and by making a generous "contribution." The reply card includes check-off boxes for suggested amounts, ranging from \$20 to \$500. The NYSCP pledges it will use the contributions to continue to voice its opposition to Senator Moynihan and other "liberals" and to voice its support for those representatives who will support its values. Thus, the ad solicits contributions to be used to influence Federal elections and therefore should have included an

appropriate disclaimer as required under Section 441d(a).

As noted above, the Statute also requires disclaimers on communications that "expressly advocate" the election or defeat of a clearly identified candidate. In Buckley v. Valeo, 424 U.S. 1, 44, n.52 (1976) the Supreme Court listed several words and phrases that it considered to be examples of "express advocacy," such as "elect," "support," "vote for," "vote against" or "defeat." More recently, the Court made it clear that express advocacy can be "less direct" than the short list of examples listed in Buckley, so long as the "essential nature" of the message goes "beyond issue discussion to express electoral advocacy." FEC v. Massachusetts Citizens For Life ("MCFL"), 479 U.S. 238, 249 (1986). The Court also noted that while a communication which merely raises the names of certain politicians would not be subject to the requirements of the Act, a communication which "provides in effect an explicit directive" to vote for or against a particular candidate would constitute express advocacy. Id.

The Ninth Circuit has developed a test to determine whether speech expressly advocates the election or defeat of a candidate: the language of the communication must be "express" so that "its message is unmistakable and unambiguous, suggestive of only one plausible meaning;" the communication must be more than informative and must advocate "a clear plea for action," and "it must be clear what action is advocated." FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir.) cert. denied, 108 S. Ct. 151 (1987). The court also stated that speech cannot be express advocacy "when reasonable minds could differ as to whether it encourages a vote

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for or against a candidate or encourages the reader to take some other kind of action." Id. The court determined that the ad at issue in Furgatch, which did not contain the "magic words" of Buckley, and which did not explicitly mention any Federal election, political party or candidacy, nevertheless expressly advocated the defeat of former President Jimmy Carter. Id. at page 865.

Although the ad at issue should have had a disclaimer because it solicited contributions, it would also appear to require a disclaimer on the grounds that it "expressly advocated" the defeat of a "clearly identified candidate." At the time the ad was published, Senator Moynihan was already a candidate for re-election to the U.S. Senate for the State of New York. The ad also "clearly identifies" the candidate because it includes his photograph, and it was published in a newspaper widely circulated in Senator Moynihan's jurisdiction. See 2 U.S.C. § 431(18) and 11 C.F.R. § 100.17.

Moreover, contrary to Respondents' assertion, the ad does not merely take Senator Moynihan's statements and positions on the issues to task. Although the ad initially criticizes the Candidate for his position on the issues, it then focuses on the continued presence of Senator Moynihan in Washington, D.C.⁵ The ad claims that: "We should be represented in Washington by men and women who support our values-not oppose them" and then urges the reader to "never forget" Senator Moynihan voted against the values

5. In fact, unlike other communications which have come before the Commission, the instant ad does not contain any discussion of proposed or pending legislation. Cf. Matter Under Review ("MUR") 3090, 2580 and 1723.

of New Yorkers. The overall message of the ad is "express," and "unmistakable and unambiguous, suggestive of only one plausible meaning": the Committee is opposed to Senator Moynihan's representation of New Yorkers in Washington. Cf. Furgatch, 807 F.2d at 864. The ad also makes "a clear plea" for the reader to take very "specific action," namely to make a contribution to the NYSCP which it pledges to use to voice its opposition to Senator Moynihan's representation.

In sum, like the ad at issue in Furgatch, the NYSCP's ad advocates the defeat of a Federal Candidate without explicitly mentioning any election, candidacy or political party and without using the "magic words" of Buckley. Furgatch, 807 F.2d at 857. When read in its entirety, it is clear that the "essential nature" of the message of the ad "goes beyond issue discussion to express electoral advocacy." FEC v. MCFL, 238 U.S. at 249. For the foregoing reasons, the Office of the General Counsel recommends that the Commission find reason to believe that the NYSCP and Mike Long, as Chairman, violated 2 U.S.C. § 441d(a).⁶

Finally, it is alleged that the NYSCP accepts corporate contributions and contributions deemed to be excessive under the Act. The Act prohibits the use of corporate moneys to make expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). For purposes of this section, an "expenditure" includes any direct or indirect payment, distribution, loan,

6. As discussed above, this Office recommends that the Commission find that the NYSCP is a "political committee." In keeping with this recommendation, it would appear that the disclaimer should have clearly stated the full name of the person who paid for the communication. See 11 C.F.R. § 110.11(a)(1)(iv)(A).

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advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with any election to Federal office. Pursuant to 2 U.S.C. § 441a(a)(1)(C), no person shall make contributions to any political committee in any calendar year which, in the aggregate, exceed \$5,000.

New York election law permits the use of corporate moneys and contributions in excess of \$5,000. Thus it appears that the NYSCP used impermissible funds to pay for the ad in question. Accordingly, the Office of the General Counsel recommends that the Commission find reason to believe that the NYSCP and Mike Long, as Chairman, violated 2 U.S.C. §§ 441a(a) and 441b(a).

IV. RECOMMENDATIONS

1. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 433(a) and 434(a).

2. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. § 441d(a).

3. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 441b(a) and 441a(a).

4. Approve the attached Factual and Legal Analysis and appropriate letter.

Date

2/6/92

Lawrence M. Noble
General Counsel

Attachments

1. Complaint
2. Response
3. Statement of Candidacy
4. Factual and Legal Analysis

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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: FEBRUARY 11, 1992

SUBJECT: MUR 3234 - GENERAL COUNSEL'S REPORT
DATED FEBRUARY 6, 1992.

The above-captioned document was circulated to the
Commission on FRIDAY, FEBRUARY 7, 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	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u>XXX</u>
Commissioner Thomas	<u> </u>

This matter will be placed on the meeting agenda
for TUESDAY, FEBRUARY 25, 1992 .

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

93040935356

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

The New York State Conservative Party
and Mike Long, as treasurer

)
) MUR 3234
)
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on February 25,
1992, do hereby certify that the Commission took the
following actions in MUR 3234:

1. Failed in a vote of 3-3 to pass a motion to
 - a) Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 433(a) and 434(a).
 - b) Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. § 441d(a).
 - c) Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 441b(a) and 441a(a).
 - d) Approve the Factual and Legal Analysis and appropriate letter as recommended in the General Counsel's report dated February 6, 1992.

Commissioners McDonald, McGarry, and Thomas
voted affirmatively for the motion;
Commissioners Aikens, Elliott, and Potter
dissented.

(continued)

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2. Decided by a vote of 6-0 to return the
February 6, 1992 report on MUR 3234 to
the Office of General Counsel for
revision.

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

Attest:

2-29-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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March 6, 1992

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 3234

On February 6, 1992, the Office of the General Counsel submitted a First General Counsel's Report in the above-captioned matter which was considered by the Commission at the Executive Session of February 25, 1992. The Commission failed to approve the General Counsel's recommendations by a vote of 3 to 3, and then voted to remand the matter to the Office of the General Counsel for revision of the legal analysis pursuant to the discussion at the table.

On March 5, 1992, the Office of the General Counsel submitted a Memorandum to the Commission in which we recommended that the Commission approve an attached revised Factual and Legal Analysis and the appropriate letter. The Memorandum, however, did not incorporate the reason to believe recommendations from the initial First General Counsel's Report. Accordingly, this Office is withdrawing the March 5, 1992 Memorandum and circulating this document which contains all of the appropriate recommendations.

RECOMMENDATIONS

1. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 433(a) and 434(a).
2. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. § 441d(a).
3. Find reason to believe that the New York State Conservative Party and Mike Long, as Chairman, violated 2 U.S.C. §§ 441b(a) and 441a(a).
4. Approve the attached revised Factual and Legal Analysis and appropriate letter.

Attachment
Revised Factual and Legal Analysis

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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: MARCH 11, 1992

SUBJECT: MUR 3234 - WITHDRAWAL AND RESUBMISSION.
MEMORANDUM TO THE COMMISSION
DATED MARCH 6, 1992

The above-captioned document was circulated to the
Commission on MONDAY, MARCH 9, 1992 at 11:00 a.m.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	<u>XXX</u>
Commissioner Thomas	_____

This matter will be placed on the meeting agenda
for WEDNESDAY, MARCH 25, 1992.

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

93040935360

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 3234
The New York State Conservative)
Party and Mike Long, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on March 31,
1992, do hereby certify that the Commission decided by a
vote of 6-0 to take the following actions in MUR 3234:

1. Find reason to believe that the New York
State Conservative Party and Mike Long,
as Chairman, violated 2 U.S.C. §§ 433(a)
and 434(a).
2. Find reason to believe that the New York
State Conservative Party and Mike Long,
as Chairman, violated 2 U.S.C. § 441d(a).
3. Find reason to believe that the New York
State Conservative Party and Mike Long,
as Chairman, violated 2 U.S.C. §§ 441b(a)
and 441a(a).

(continued)

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4. Approve the revised Factual and Legal Analysis and appropriate letter as recommended in the General Counsel's report dated March 6, 1992, subject to amendment of the Factual and Legal Analysis as agreed during the meeting discussion.

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

Attest:

4-3-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 16, 1992

J. Curtis Herge, Esquire
Herge, Sparks, Christopher & Biondi
Suite 200
8201 Greensboro Drive
McLean, VA 22102

RE: MUR 3234
New York State Conservative Party
and Mike Long, as Chairman

Dear Mr. Herge:

On March 15, 1991, the Federal Election Commission notified the New York State Conservative Party, (the "NYSCP" or the "Committee") and Mike Long, as Chairman, ("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.

Upon further review of the allegations contained in the complaint, the Commission, on March 31, 1992, found that there is reason to believe your clients violated 2 U.S.C. §§ 433(a), 434(a), 441a(a), 441b(a) and 441d(a), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, 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 questions, within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against your clients, the 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

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J. Curtis Herge, Esquire
Page 2

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 respondents.

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 Xavier K. McDonnell, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Factual & Legal Analysis
Directions/Instructions
Questions

9304093364

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

MUR 3234

RESPONDENTS: The New York State Conservative Party
and Mike Long, as treasurer

I. GENERATION OF MATTER

This matter was generated by a complaint filed by the Moynihan Committee, and Chester J. Straub, as treasurer ("Complainants"). The complaint alleges that the New York State Conservative Party (the "NYSCP" or the "Respondent") has violated 2 U.S.C. §§ 433, 441a, 441b(a), and 441d with respect to an advertisement it published in the New York Times. The NYSCP submitted a response to the complaint, denying the alleged violations occurred.

II. ANALYSIS

Summary Of Complaint and Response

The Complainant is the authorized committee of Senator Patrick Moynihan, a United States Senator from New York. Senator Moynihan (the "Senator" or "the Candidate") faces election in 1994, and he filed a Statement of Candidacy on January 19, 1989. The NYSCP is a "political organization" under Section 527 of the Internal Revenue Code and is registered with the New York State Board of Elections. The NYSCP is not a corporation, and the NYSCP is not presently reporting to the Commission.

The allegations in the complaint are based upon an advertisement which the NYSCP had published in the New York Times on March 6, 1991. The advertisement, a copy of which is attached

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to the complaint and the response, is entitled "Where Was Pat Moynihan When America Needed Him?" The ad, which features a picture of Senator Moynihan, contains a discussion of the Senator's position on the use of force in response to the Persian Gulf War or "Crisis." Within the ad, the NYSCP criticizes Mr. Moynihan for his opposition to the use of force during the Persian Gulf War, and for the Candidate's alleged opposition to many of the defense weapons used during the War. With respect to Senator Moynihan's votes against the use of force during the Gulf Crisis, the NYSCP states in the ad: "We should never let him forget."

The final two paragraphs of the advertisement state:

New Yorkers are proud to be Americans. We should be represented in Washington by men and women who support our values-not oppose them. Representatives who speak in favor of our national interest-not spokesmen for appeasement.

The New York State Conservative Party stands up for New York ... and America. Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice-please join us.

At the bottom of the full page ad is a coupon, which is self-addressed to Mike Long, the NYSCP's Chairman, and which states: "Yes I want Pat Moynihan and the other liberals to know that we remember how they voted against backing our President-we won't forget. Here's my contribution. Keep up the good work."

The complaint alleges that through the ad the NYSCP seeks to influence a federal election by attacking Senator Moynihan, a Federal candidate, and to raise contributions in support of that effort. The complaint states that the language in the ad attempts

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to disparage Senator Moynihan's representation in Washington and, "with an eye towards a future election," urges voters in the Senator's state not to forget how he voted on a particular issue."

According to the complaint, a full page ad in the New York Times cost an estimated \$42,000 and, in any event, cost well in excess of \$1,000, and therefore the Respondents violated 2 U.S.C. § 433 by failing to register with the Federal Election Commission (the "Commission") as a political committee. The Complainants also allege that the Respondents violated 2 U.S.C. § 441d by failing to place a disclaimer on the ad. Finally, the Complainants allege that the NYSCP accepts corporate contributions and contributions deemed excessive under the Act, and that the payment for the ad in question with such funds violated 2 U.S.C. §§ 441b(a) and 441a.

The NYSCP argues in its response that the advertisement does not contain references to any Federal election or political party and that within the ad Mr. Moynihan was not even identified as a United States Senator. According to the response, in the "final analysis" "it was Mr. Moynihan's statements and votes on issues which were taken to task" within the ad. The Respondents also assert that the NYSCP is not a "political committee" within the meaning of the Act, but that it is registered as a political committee with the New York State Board of Elections. After tracing the development of the case law with respect to Sections 441b(a) and 441d(a), the NYSCP concludes that the ad in question contains only issue discussion, not express advocacy. Therefore, the Respondents state "no further action should be taken on this

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matter and the file should be closed."

Analysis

We first address the complaint's allegation that the NYSCP is a "political committee," and was therefore required to register with the Commission and thereafter to file disclosure reports, in accordance with 2 U.S.C. §§ 433 and 434. The Federal Election Campaign Act of 1971, as amended (the "Act"), defines the term "political committee" as any committee, club, association, or other group of persons, including a corporation, which receives contributions aggregating in excess of \$1,000 or makes expenditures in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4). Pursuant to 2 U.S.C. § 433, a political committee must file a statement of organization within ten days after becoming a political committee within the meaning of 2 U.S.C. § 431(4).

The term "contribution" is defined in the Act to include any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). Similarly, the term "expenditure" includes 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 election for Federal office. 2 U.S.C. § 431(9)(A)(i). The treasurer of each political committee must file disclosure reports with the Commission in accordance with Section 434 of the Act.

As an initial matter, we note that the NYSCP is registered as a political party organization with the New York State Board of Elections and that the organization appears to endorse and

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nominate candidates for Federal office. See 2 U.S.C. § 431(16). We note also that the NYSCP has, through two registered political committees, previously engaged in Federal election activities and that it describes itself as a "political organization" under Section 527 of the Internal Revenue Code.¹ Moreover, in its ad, the NYSCP indicates that it is opposed to the representation of Senator Moynihan, and that it believes New Yorkers should be represented in Washington by men and women who support its values. The Committee explicitly states in its ad that it intends to use contributions received in response to the ad to continue to voice its opposition to the representation of Senator Moynihan and other liberals, and to voice its support for those representatives in Washington who share the values of New Yorkers. The ad also

1. The Commission's disclosure reports indicate that the NYSCP was affiliated with Conservatives for Buckley, a committee which was registered with the Commission until 1977. In addition, disclosure reports indicate that the NYSCP is connected with the 1984 Victory Fund, which, although purportedly inactive, is still registered with the Commission. The 1984 Victory Fund and the NYSCP were respondents in prior MURs, and later defendants in a civil suit initiated by the Commission. One of the matters involved the making of excessive in-kind contributions by the NYSCP/Victory Fund to a Federal candidate committee in 1982, and the failure to report the contribution. The matters were settled by a consent decree.

As a "political organization" under Section 527 of the Internal Revenue Code, NYSCP is an organization "operated primarily for the purposes of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function." 26 U.S.C. § 527(e). Pursuant to Section 527(e)(2), exempt functions include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office. 26 U.S.C. § 527(e). Thus, it appears that the NYSCP may be the type of organization whose "major purpose" is electioneering or campaign related activities. Buckley v. Valeo, 424 U.S. 1, 79 (1976); FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 252, 262 (1986).

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invites readers to join the NYSCP and to let the NYSCP be their voice. In short, the ad clearly solicits money to be used to influence Federal elections.²

Given the purpose of the full page ad in the New York Times and the fact that it appears to have cost well in excess of \$1,000, the NYSCP appears to fall within the statutory definition of a "political committee." As such, the NYSCP was required to register with the Commission pursuant to Section 433(a), and to file regularly scheduled reports with the Commission pursuant to Section 434(a). Accordingly, there is reason to believe that the NYSCP and Mike Long, as Chairman, violated 2 U.S.C. §§ 433(a) and 434(a).

The Act also provides that whenever any person makes an expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits contributions through a newspaper, such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. 2 U.S.C. § 441d(a). The Commission's regulations provide that communications for solicitations directed to the general public on behalf of a political committee which is not an authorized

2. Moreover, under 11 C.F.R. § 102.5(a)(3), any party committee solicitation which makes any reference to a federal candidate or federal election shall be presumed to be for the purpose of influencing a federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act.

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committee of a candidate shall state the full name of the person who paid for the communication. 11 C.F.R. § 110.11(a)(1)(iv)(A).

Within the ad in question, the Committee requests that the public "join" the NYSCP by filling out the attached reply card and by making a generous "contribution." The reply card includes check-off boxes for suggested amounts, ranging from \$20 to \$500. The NYSCP pledges it will use the contributions to continue to voice its opposition to Senator Moynihan and other "liberals" and to voice its support for those representatives who will support its values. Thus, the ad solicits contributions to be used to influence Federal elections and therefore should have included an appropriate disclaimer as required under Section 441d(a). Accordingly, there is reason to believe that the NYSCP and Mike Long, as treasurer, violated 2 U.S.C. § 441d(a).

Finally, it is alleged that the NYSCP accepts corporate contributions and contributions deemed to be excessive under the Act. The Act prohibits the use of corporate moneys to make expenditures in connection with a Federal election. 2 U.S.C. § 441b(a). For purposes of this section, an "expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party or organization, in connection with any election to Federal office. 2 U.S.C. § 441b(b)(2). Pursuant to 2 U.S.C. § 441a(a)(1)(C), no person shall make contributions to any political committees in any calendar year which, in the aggregate, exceed \$5,000.

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New York election law permits the use of corporate moneys and contributions which aggregate over \$5,000. Thus it appears that the NYSCP used impermissible funds to pay for the ad in question. Accordingly, there is reason to believe that the NYSCP and Mike Long, as Chairman, violated 2 U.S.C. §§ 441a(a) and 441b(a).

93040935372

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
) MUR 3234
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: New York State Conservative Party and
Mike Long, as Chairman

c/o J. Curtis Herge, Esquire
Herge, Sparks, Christopher & Biondi
8201 Greensboro Drive, Suite 200
McLean, Virginia 22102

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In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that your clients submit answers in writing and under oath to the questions set forth below within 30 days of receipt of this request. In addition, the Commission hereby requests that your clients 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.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, your clients should furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to them, including documents and information appearing in their 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 the 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 your clients 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 their inability to answer the remainder, stating whatever information or knowledge they have concerning the unanswered portion and detailing what they did in attempting to secure the unknown information.

Should your clients 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 requests shall refer to the time period from January 1, 1991 until 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 respondents 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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MUR 3234
New York State Conservative Party
Mike Long, as Chairman
Page 4

QUESTIONS

1. State whether, from January 1, 1990 until the present, the NYSCP endorsed any candidate for Federal office. Identify all Federal candidates which the NYSCP has endorsed during this period.

2. State whether, from January 1, 1990 until the present, the NYSCP has nominated any candidate for Federal office whose name appeared or will appear on any New York State election ballot(s). Identify all Federal candidates which the NYSCP has nominated during this period.

3. With respect to the advertisement the NYSCP published in the New York Times on March 6, 1991, (the "Moynihan ad"):

a. Identify who paid for the Moynihan ad and indicate whether it was authorized by any candidate or candidate committee.

b. Identify the persons/vendors which produced and distributed the Moynihan ad.

c. State the cost of the Moynihan ad, identifying separately the amount the NYSCP paid or will pay for the ad's production, publication and distribution.

d. Identify the persons within the NYSCP who arranged for, or were otherwise involved in the production, publication and distribution of the Moynihan ad.

e. Provide each of the dates that the NYSCP's Moynihan ad was published in the New York Times and all other publications.

4. Indicate whether the NYSCP distributed the Moynihan ad or any variation of the ad in any newsletter, direct mailing, poster or other type of general public advertising.

5. Indicate whether the NYSCP published any additional advertisements, or purchased, produced or distributed any campaign materials which contained references to any Federal candidates. If so:

a. Identify all such advertisements or communications.

b. Provide the name of each of the persons/vendors which produced and/or distributed such communications.

c. State separately the costs of each of the advertisements/communications.

6. Indicate the number of coupons from the Moynihan ad which were received by the NYSCP. Provide the amount of funds/contributions which the NYSCP received in response to the Moynihan ad.

7. State whether the NYSCP has expended any of the funds received in response to the Moynihan ad. If so, state what payments or expenditures were made with the funds received in response to the ad.

8. Identify and produce all documents referred to or used in responding to these questions, including but not limited to: documents relating to the NYSCP's endorsement and nomination of Federal candidates, copies of checks, invoices or any other documents relating to the Moynihan ad or any other ads or materials produced or distributed by the NYSCP which contained any reference to any Federal candidate, and copies of all ads or materials which were purchased with funds received pursuant to the solicitation/coupon contained at the bottom of the Moynihan ad.

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MAY 18 9 43 AM '92

HERGE, SPARKS, CHRISTOPHER & BIONDI

ATTORNEYS AT LAW

SUITE 200

8201 GREENSBORO DRIVE

MCLEAN, VIRGINIA 22102

(703) 848-4700

J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER
GEORGE V. BIONDI
MATTHEW SCOTT McCONNELL

TELECOPIER NUMBER
(703) 893-7371

May 14, 1992

Office of General Counsel
Federal Election Commission
Room 659
999 E Street, N.W.
Washington, D. C. 20463

Attention of Xavier K. McDonnell, Esq.

Re: MUR 3234; New York State
Conservative Party and Michael
R. Long, its Chairman

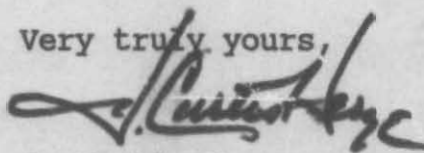
Dear Sir or Madam:

This is written in reply to the letter from Chairman Aikens to me, dated April 16, 1992, in connection with the above-captioned matter, which letter was received by me on April 20, 1992. Enclosed with that letter was a document entitled, Interrogatories and Request for Production of Documents. Enclosed herewith are answers to those interrogatories and copies of the requested documents.

In accordance with the provisions of 11 C.F.R. §111.18(d), we hereby advise you that respondents desire to enter into negotiations directed toward reaching a conciliation agreement prior to a Commission finding of probable cause. The expression of respondents' desire in this regard is not, and should not be construed to be, an admission that any provision of the Federal Election Campaign Act of 1971, as amended, has been violated. To the contrary, for the reasons set forth in our letter of April 17, 1991, it is the position of respondents that no violation occurred. However, because this matter has dragged on for more than a year, respondents want to conclude this process on mutually acceptable terms without further delay and expense.

We look forward to hearing from you.

Very truly yours,



J. Curtis Herge

:sbl
Enclosures

92 MAY 18 PM 3:39

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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RESPONSES OF MIKE LONG
TO FEC INTERROGATORIES

1. The New York State Conservative Party (NYSCP) does not "endorse" candidates for any public office. From time to time the NYSCP will praise or criticize public officeholders or candidates as part of its party-building and issue advocacy efforts, but no endorsements are made. In fact, New York State election law specifically prohibits a state political party from campaigning for or against candidates for public office.

2. As part of New York State's election law regulating access to the ballot, the NYSCP does "authorize the designation" of individuals as candidates for nomination by the Conservative Party for election to public office. These actions are detailed in an individually notarized "certificates of authorization" for each candidate.

In the period of this inquiry, no candidate for statewide federal office was nominated by the NYSCP.

As to Congressional campaigns, New York and the NYSCP operate under a two part system. For those Congressional districts that lie entirely within one county, the local County Party executes authorizations completely free from action or overview from the NYSCP. Thus the NYSCP has not nominated any Congressional candidates in those single-county districts.

In cases where Congressional districts cross county lines, the Executive Committee of the NYSCP does file authorizations. In 1990, the NYSCP filed authorizations for the following Congressional candidates:

Hamilton Fish, Jr.
Amory Houghton, Jr.
Kenneth J. Kowalski
Seymour Krieger
David O'B. Martin
Michael R. McNulty
Bill Paxon
Robert Previdi
John M. Regan, Jr.
Gustave Reifenkugel
Gerald B. Solomon
James T. Walsh

3A. The New York State Conservative Party, check number 1775. This ad was not authorized by any candidate or candidate committee.

3B. Multi-Media Services Corporation
801 North Fairfax Street
Suite 312
Alexandria, VA 22314
(703) 739-2160

92 MAY 18 PM 3:40

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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FEC INTERROGATORIES
PAGE TWO

The New York Times
New York, New York
(212) 556-1234

3C. \$42,412.00 paid to Multi Media, \$36,050.20 net to the New York Times

3D. Michael R. Long, Chairman of the New York State Conservative Party

3E. March 6, 1992

4. As a part of its ongoing direct mail effort, the NYSCP reproduced the Gulf War ad as part of a direct mail appeal to its small file of in-house donors. No general solicitation was made.

5. None.

6. A total of 516 responses were received. In all, 113 responses included contributions totaling \$4,198.00.

7. In keeping with New York State election law, all funds received in response to the Gulf War ad were deposited in the NYSCP's "housekeeping" account. The funds have been expended on a wide variety of ordinary Party expenses ranging from Party registration efforts to issue advocacy to office overhead and more.

None of these expenditures were used to directly influence the outcome of any election.

In addition, full public disclosure has been made of all receipts and expenditures in accordance with New York State Election law. This includes a voluntary itemization by the NYSCP of individual; contributions below the State-mandated \$100 threshold.

8. Documents:

Certificates of Authorization fro Congressional Candidates

NYSCP check in payment for ad

Multi Media invoice for ad

New York Times invoice for ad

Gulf War direct mail solicitation

Invoice for direct mail package

NYSCP check in payment for direct mail package

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STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Hamilton Fish, Jr., residing at North Tower Hill Road, P.O. Box 320, Millbrook NY 12545, County of Dutchess, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 21st Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

ANTHONY M. RUDEMANN
Notary Public, State of New York
Qualified in Albany County
8888490
My Commission Expires March 22, 1992

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Hamilton Fish, Jr., and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

ANTHONY M. RUDEMANN
Notary Public
Notary Public, State of New York
Qualified in Albany County
8888490

92 MAY 12 PM 3:40

5/8/92

93040935381

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Amory Houghton, Jr., residing at 33 East Third Street, Corning NY 14830, County of Steuben, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 34th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Amory Houghton, Jr., and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935382

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Kenneth J. Kowalski, residing at 6601 Parkwood Drive, Lockport, New York 14094, County of Niagara, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 32nd Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Michael R. Long
Presiding Officer

John J. Flynn
Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

Anthony M. Rudmann
NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County
8899490
My Commission Expires March 28, 1992

5/31/92

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Kenneth J. Kowalski, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Michael R. Long
Presiding Officer

John J. Flynn
Secretary

Sworn to before me this 11th day of July, 1990.

Anthony M. Rudmann
Notary Public

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County

ALBANY, NEW YORK
JUL 11 1990

93040935383

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Seymour Krieger, residing at Box 456, Novogrodsky Road, Woodridge NY 12789, County of Sullivan, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 28th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Seymour Krieger, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935384

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

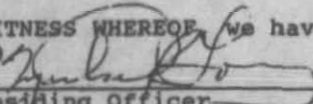
We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned:

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of David O'B. Martin, residing at River Road, Rocky Edge Point, P.O. Box 126, Morristown NY 13664, County of St. Lawrence, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 26th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

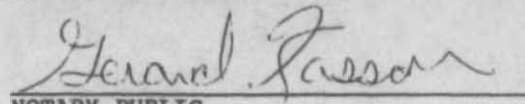

Presiding Officer


Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991


NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of David O'B. Martin, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

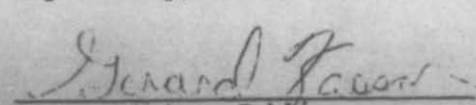
That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.


Presiding Officer


Secretary

Sworn to before me this 11th day of July, 1990.


Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935385

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Michael R. McNulty, residing at 86 West Street, Green Island NY 12183, County of Albany, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 23rd Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

NOTARY PUBLIC

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County
8899490

My Commission Expires Month 08-92 5/31/92

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Michael R. McNulty, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Bill Paxon, residing at 251 Wedgewood Drive, Town of Amherst, P.O. Williamsville NY 14221, County of Erie, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 31st Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Bill Paxon, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above-Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935387

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Robert Previdi, residing at 20 La Farge Lane, Manhasset NY 11030, County of Nassau, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 3rd Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County
809430
My Commission Expires November 13, 1992

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Robert Previdi, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County

93040935388

CONSERVATIVE PARTY AUTHORIZATION

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

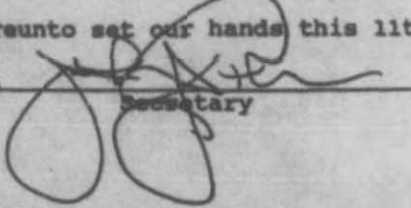
DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of John M. Regan, Jr., residing at 60 Meadowlark Drive, Penfield NY 14526, County of Monroe, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 30th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

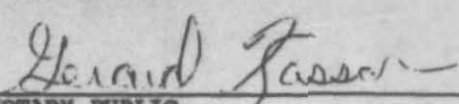

Presiding Officer


Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4780390
Qualified in Kings County
Commission Expires Aug. 31, 1991


NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of John M. Regan, Jr., and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

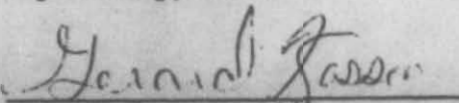
That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.


Presiding Officer


Secretary

Sworn to before me this 11th day of July, 1990.


Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4780390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935389

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Gustave Reifenkugel, residing at 48-14 193rd Street, Fresh Meadows NY 11365, County of Queens, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 8th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

NOTARY PUBLIC

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County
8088-480

My Commission Expires March 22, 1992 5/31/92

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Gustave Reifenkugel, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

ANTHONY M. RUDMANN
Notary Public, State of New York
Qualified in Albany County

9304093390

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned:

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of Gerald B. Solomon, residing at 23 North Road, Queensbury NY 12804, County of Warren, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 24th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990.

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 34-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of Gerald B. Solomon, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 34-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935391

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, the undersigned;

DO HEREBY CERTIFY THAT at a meeting of the State Executive Committee of the Conservative Party of New York State duly convened and held at 1:00 P.M., on 11th day of July, 1990, at 486 78th Street, Brooklyn, New York 11209, County of Kings, State of New York, a quorum of said Committee being present, said Committee did, by majority vote of the members present at such meeting, consent to and authorize the designation of James T. Walsh, residing at 400 Broadview Drive, Town of Onondaga, Syracuse NY 13215, County of Onondaga, State of New York, as a candidate for nomination by the Conservative Party for election to the public office of Member of Congress, 27th Congressional District, to be voted for at the Primary Election to be held on the 11th day of September, 1990, and at the General Election to be held on the 6th day of November, 1990.

Said Committee authorized said designation in conformance with the provisions of Section 6-120 of the Election Law and the Rules and Regulations of the Conservative Party.

WE DO FURTHER CERTIFY that MICHAEL R. LONG was the Presiding Officer at said meeting, and JOHN J. FLYNN was the Secretary thereof.

IN WITNESS WHEREOF, we have hereunto set our hands this 11th day of July, 1990

Presiding Officer

Secretary

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On the 11th day of July, 1990, before me personally came MICHAEL R. LONG and JOHN J. FLYNN, to me known and known to me to be the persons described in and who executed the foregoing instrument, and they duly acknowledged to me that they executed the same.

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

NOTARY PUBLIC

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

We, MICHAEL R. LONG and JOHN J. FLYNN, being severally duly sworn, each for himself, deposes and says:

That we have read the foregoing Certificate of Authorization of James T. Walsh, and know the contents thereof and that the same is true to our own knowledge, except as to matters herein stated to be alleged on information and belief, and as to those matters we believe such to be true.

That said Certificate of Authorization was executed pursuant to the Rules and Regulations of the Conservative Party of New York State and in accordance with law.

That MICHAEL R. LONG was the Presiding Officer at the meeting referred to in the above Certificate, and JOHN J. FLYNN was the Secretary thereof.

Presiding Officer

Secretary

Sworn to before me this 11th day of July, 1990.

Notary Public

GERARD KASSAR
Notary Public, State of New York
No. 24-4789390
Qualified in Kings County
Commission Expires Aug. 31, 1991

93040935392

INVOICE NO. : 91-001

ACCOUNT NO. : 600-01

TO : MIKE LONG
THE CONSERVATIVE PARTY OF NEW YORK STATE

RE : MEDIA ACTIVITY RECAP FOR THE NEW YORK STATE
CONSERVATIVE PARTY

FLIGHT DATES : WEDNESDAY, MARCH 6, 1991
NEW YORK TIMES

BELOW PLEASE FIND A FINANCIAL RECAP OF THE MEDIA FLIGHT(S)
LISTED ABOVE. THE RECAP IS AS FOLLOWS :

TOTAL GROSS TELEVISION :	\$.00
TOTAL GROSS RADIO :	\$.00
TOTAL GROSS PRINT :	\$ 42,412.00
TOTAL GROSS MEDIA :	\$ 42,412.00
TOTAL NET MEDIA :	\$ 36,050.20
TOTAL COMMISSION :	\$ 6,361.80
TOTAL DUE MULTI MEDIA :	\$ 42,412.00
AMOUNT RECEIVED :	\$ 42,412.00
TOTAL DUE MULTI MEDIA :	\$.00

PLEASE FEEL FREE TO CONTACT US WITH ANY QUESTIONS THAT YOU
MAY HAVE.



MULTI MEDIA SERVICES CORPORATION

801 NORTH FAIRFAX STREET, SUITE 312 • ALEXANDRIA, VIRGINIA 22314 • (703) 739-2160

92 MAY 18 PM 3:42

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VIRGINIA ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

93040935394



The New York Times • ADVERTISING INVOICE

P. O. BOX 5236 G.P.O. NEW YORK NY 10087

2	BILLED ACCOUNT
MULTI MEDIA SVCS. CORP. SUITE 312 801 N. FAIRFAX ALEXANDRIA VA 22314	

3	INVOICE NO 1031196	4	PAGE 1	5	BILL DATE 03/31/91
5	BILLING PERIOD 03/01/91 THRU 03/31/91		6	TERMS OF PAYMENT PAY WITHIN 15 DAYS	
7	BILLED ACCOUNT NO 17 0317 A40510		8	ADVERTISER/CLIENT NO	
9	NAME OF ADVERTISER/CLIENT MISCELLANEOUS ADVERTISER(S)				

FOR INVOICE INFORMATION CALL ▶ BOB BRANCAZIO
(212) 556-1051

10	DATE	11	REFERENCE NUMBER	12	CHARGE OR CREDITS DESCRIPTION/PRODUCT CODE	13	SAU DIMENSIONS	14	BILLED UNITS	15	RATE	16	GROSS AMOUNT	17	NET AMOUNT
					DEAR ADVERTISER: PLEASE NOTE THAT 1991 RATES ARE NOW IN EFFECT. TO EXPEDITE CLAIM PROCESSING, PLEASE RETURN A COPY OF YOUR INVOICE WITH PAYMENT. THANK YOU.										
	03/06/91	329080201	PG#A19	C95773	NYT FULL GEN SAU DISCOUNT 10% PAT MOYNIHAN ORD# DWIGHT COM# 0637992 ADV.: N Y CONSERVATIVE PARTY	LV126	6 X 21 #		126.00		374.00		47,124.00 4,712.40CR		
															36,049.86

29	CONTRACT PERFORMANCE (UNAUDITED)		REQUIREMENT						
	CONTRACT PERIOD								
CURRENT MONTH				CUMULATIVE (CONTRACT TO DATE)					
DAILY	ISSUERS	ISSUES	BILLED UNITS		DAILY	ISSUERS	ISSUES	BILLED UNITS	
			LINES	INCHES				LINES	INCHES
SUNDAY					SUNDAY				
TOTAL					TOTAL				

21	CURRENT GROSS AMOUNT	22	PAY THIS CURRENT NET AMOUNT
	42,411.60		36,049.86
NO CASH DISCOUNTS			

THE CURRENT NET AMOUNT DUE REFLECTS APPLICABLE AGENCY COMMISSIONS. IF TERMS OF PAYMENT ARE NOT MET, AGENCY COMMISSIONS ARE DISALLOWED AND THE CURRENT GROSS AMOUNT IS DUE.



The New York Times • ADVERTISING INVOICE
 MAY 80 # 43 100200 TRANS # 00315612 MEDIA 80 # 1 123 0000

RETAIN THIS COPY FOR YOUR RECORDS

FORREST COMMUNICATIONS

149 Church Street, Fifth Floor North
New York, New York 10007
(212) 349-3479

INVOICE

4/15/91

Client: Michael R. Long
New York State Conservative Party
486 78th Street
Brooklyn, NY 11209
(718) 921-2158

Job: Mail Project

INV#: CP001

<u>Item</u>	<u>Cost</u>
Production.....	\$1,738.64
Postage.....	1,483.60
Shipping.....	175.00
Expenses.....	<u>75.00</u>
Total.....	\$3,472.24
Paid in advance.....	<u>\$0.00</u>
Amount due.....	\$3,472.24

pd 6/6/91
check # 1940

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93040935397

FOREST COMMUNICATIONS

RECEIVED
FEDERAL ELECTION COMMISSION
92 MAY 18 PM 3:42

NY PAID NY 8
JE 91 17

0000 14164

CHEMICAL BANK
55 WATER ST
N.Y.C. N.Y. 933
⑆021000128⑈

JE 91
JUN 14 91

THE CONSERVATIVE PARTY
OF NEW YORK STATE

486 78TH STREET
BROOKLYN, NY 11209

1940

PAY TO THE
ORDER OF

Forrest Communications

June 6 1991

\$ 3472.24

Three thousand four hundred seventy two ²⁴/₁₀₀ DOLLARS

**MANUFACTURERS
HANOVER**
MANUFACTURERS HANOVER TRUST COMPANY
1910 FIFTH AVENUE
BROOKLYN, N. Y. 11209

FOR Chw # CPO01

⑈001940⑈ ⑆021000306⑆ 1087067639565⑈ ⑈0000347224⑈

Where Was Pat Moynihan When America Needed Him?

Pat Moynihan said George Bush and our military leaders bordered "on the edge of the disturbed" because the President asked for authorization to use the force necessary to defeat Saddam Hussein and liberate Kuwait. We in the Conservative Party are outraged.

Pat Moynihan shamefully voted against our President. If Pat Moynihan had his way, our soldiers would still be sitting in the Persian Gulf waiting for economic sanctions to *fail*.

Time and again, Pat Moynihan voted *against* a strong America. Pat Moynihan opposed many of the defense weapons that brought the Allied coalition this historic victory. We should never forget.

New Yorkers are proud to be Americans. We should be represented in Washington by men and women who support our values – not oppose them. Representatives who speak out in favor of our national interest – not spokesmen for appeasement.

The New York State Conservative Party stands up for New York... and America. Won't you join us. Fill out the coupon below and send a generous contribution. Our pledge is to continue to be your voice – please join us.

TO: Mike Long
Conservative Party Chairman

Yes, I want Pat Moynihan and the other liberals to know that we remember how they voted against backing our President – we won't forget. Here's my contribution.

Keep up the good work.

Make checks payable to: The New York State Conservative Party
486 78th Street
Fort Hamilton Station, N.Y. 11209
(718) 921 - 2158

☐ \$20 ☐ \$50 ☐ \$100 ☐ \$250 ☐ \$500 ☐ Other

Name: _____

Address: _____

Phone #: _____

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State Conservative Party attacks Democrats who voted against war

John Macchacek

Our Washington Bureau

WASHINGTON — The New York Conservative Party is trying to start a national movement to make Democrats' anti-war votes a key issue in the 1992 congressional elections.

In a full-page fund-raising ad in The New York Times yesterday, the tiny but politically potent party questioned the patriotism of Sen. Daniel Patrick Moynihan, D-N.Y., who was among 47 senators who voted in January against authorizing President Bush to use U.S.

forces to liberate Kuwait.

The ad charged that Moynihan and others who opposed U.S. offensive force were "spokesmen for appeasement."

"If Pat Moynihan had his way," the ad said, "our soldiers would still be sitting in the Persian Gulf waiting for economic sanctions to fail."

Conservative Party Chairman Mike Long said he hoped the ad would inspire a "national movement" of political groups going after lawmakers who voted against using force in the gulf.

The ad included a cut-out coupon for financial contributions to the Conservative Party.

Long said the party would use donations to run the Moynihan ad in other newspapers, and also to attack New York House Democrats who wanted to give economic sanctions time to work before starting a war.

Moynihan charged yesterday that the ad violated federal election laws on a number of counts, including a failure to formally disclose who paid and authorized it. He said he would file a complaint with the Federal Election Commis-

sion.

The election law applies to the ad because Moynihan is a candidate for re-election in 1994, said Lawrence O'Donnell, Moynihan's administrative assistant.

"I can lose the votes of the Conservative Party," said Moynihan, who in 1988 recorded the largest plurality in the history of New York statewide races. "They don't have next week's rent."

Democratic Gov. Mario M. Cuomo defended Moynihan, saying the Conservative Party ad was "deplorably bad taste."

"It shows their paucity of worthwhile constructive ideas," Cuomo said. "It is insistence on the kind of negativism that has made them less than successful in recent years. Pat Moynihan is one of the great Americans and, frankly, everybody knows it."

But in Rochester, Republican officials applauded the Conservative tactic.

"I do think they (Democrats who didn't support Bush's request) have to be held accountable for their votes," said Ronald J. Starkweather, Monroe County GOP elections commissioner and former

county Republican chairman.

Although small, the New York Conservative Party sometimes influences the Republicans' choice of candidates and, occasionally, the outcome of three-way statewide races.

Sen. Alfonse M. D'Amato, R-N.Y., won election in 1980 after using conservative backing to defeat incumbent Jacob Javits, a liberal Republican, in a GOP primary. In last year's New York gubernatorial election, the conservative-endorsed candidate, Herbert London, nearly outpolled Republican standard bearer Pierre Rinfret.

BULLETIN

URGENT MEMO TO CONSERVATIVE SUPPORTERS

FROM: Mike Long, New York Conservative Party Chairman

SUBJECT: Pat Moynihan and Appeasement in the Persian Gulf

Will you join the fight to hold Democratic Sen. Pat Moynihan responsible for his shameful opposition to the use of the American Military in the Persian Gulf crisis?

And will you help us stand up to Pat Moynihan's new outrage -- his efforts to muzzle the New York Conservative Party's comments on his dismal, Liberal record in the Gulf crisis and on defense issues?

Your answer is vitally important. And I need to hear from you immediately.

You see, when President Bush asked for the authorization to use military force against Saddam Hussein, Pat Moynihan said NO.

Moynihan sided with his Ultra-Liberal friends like Teddy Kennedy, John Kerry and Paul Wellstone. Moynihan voted against giving the go-ahead to use force to free Kuwait.

More than just voting no, Moynihan lashed out at President Bush. Days before American Military might began smashing Saddam Hussein, Moynihan accused President Bush and our Military leaders of bordering "on the edge of the disturbed" for their plans to free Kuwait by force.

Moynihan liked leaving sanctions in place. He thought economic pressure could hurt a man like Saddam Hussein -- a man who uses mass murder, rape and torture as everyday weapons.

Pat Moynihan wanted to let our troops linger in the sands of the desert waiting for sanctions to fail.

Moynihan was wrong. American force was needed in the Gulf.

And American force brought us a tremendous victory!

Incredibly, as the victory was being won, Moynihan changed his tune. He started using tough talk to cover his weak votes.

The New York Conservative Party couldn't stand by and let Pat Moynihan cower behind his rhetorical cover-up. We launched a campaign to remind all New Yorkers where Pat Moynihan really stands.

Over, please . . .

He opposed U.S. force in the Persian Gulf. In fact, his Liberal anti-defense record over the years is shocking!

Moynihan voted against improved U.S. ballistic missiles. He voted against funding for missile defense systems like the Patriot. And he even voted for a U.S. defense budget that was so weak President Reagan had to veto it.

The New York Conservative Party thinks voters have a right to know how badly Moynihan has represented them.

But Pat Moynihan must be ashamed of his record -- or afraid of the truth. When the New York Conservative Party started telling the truth about Moynihan, he tried to muzzle us.

Pat Moynihan called in every agency of the Federal bureaucracy he could think of to silence us. From the IRS to the FEC, Moynihan poured an alphabet soup of regulators and red tape on us. He wants to drown out our message.

The man who said his love for free expression made him oppose protecting the American flag from burning is using every trick in the book to block our expression of opposition to his Liberal record.

Pat Moynihan must not succeed. And the truth about his betrayal of American interests in the Gulf must get out.

That's why I need your help. It costs money to spread the message about Moynihan. And it costs far more to fight his muzzle.

Your contribution of \$250, \$100, \$50 or \$25 -- whatever you can afford -- will help us defeat Moynihan's intimidation tactics and spread the word about his horrid, Liberal voting record.

But we need your help today. Please return the coupon below with your most generous contribution.

Pat Moynihan betrayed American interests in the Gulf. And now he doesn't want voters to know about it. Your contribution will help us show New Yorkers where Pat Moynihan really stands.

Sincerely,

MIKE LONG, STATE CHAIRMAN

(Detach here)

YES Mike, I want to help spread the truth about Pat Moynihan!

I have enclosed my maximum contribution of \$250, \$100,
 \$50, \$10, other, to tell all New Yorkers where Pat Moynihan
really stands.

Michael R. Long
537 76th Street
Brooklyn NY 11209

Election law requires:

Employer:

Occupation:

Telephone:

93040935401

BEFORE THE FEDERAL ELECTION COMMISSION

93 JAN -8 PM 3:51

In the Matter of)
New York State Conservative Party)
and Michael R. Long, as Chairman)

MUR 3234

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter arose from a complaint filed by the Moynihan Committee, Inc., relating to a full page advertisement placed in the New York Times by the New York State Conservative Party ("NYSCP"). The advertisement was entitled "Where was Pat Moynihan When America Needed Him?" and it solicited contributions on behalf of the NYSCP. On March 15, 1992, the Commission found reason to believe that the NYSCP, and Michael R. Long, as Chairman (collectively "Respondents") violated 2 U.S.C. §§ 433(a), 434(a), 441a(a), 441b(a) and 441d(a). On May 18, 1992, counsel for the Respondents submitted discovery responses, and requested that the Commission enter into pre-probable cause conciliation in settlement of this matter. See Attachment 1. This Office recommends that the Commission enter into preprobable cause conciliation with the Respondents, and approve the attached proposed conciliation agreement. See Attachment 3.

II. FACTS OBTAINED THROUGH DISCOVERY

The response indicates that the "NYSCP does 'authorize the designation' of individuals as candidates for nomination by the Conservative Party for election to public office," but that it does not "endorse" candidates. Attachment 1 at page 2. The response specifically provides that the NYSCP authorizes the

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nomination of candidates for statewide-Federal office and for candidates who run in Congressional districts across county lines.¹ The NYSCP has included the certificates of authorization for 12 Federal candidates it nominated in 1990. Id. at pages 4-15.

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The Respondents acknowledge expending a total of \$42,412 for the anti-Moynihan New York Times advertisement, which they refer to as the "Gulf War" ad. Specifically, Respondents paid \$42,412 to Multi Media Services for the March 6, 1991, Gulf War ad in the New York Times. Attachment 1 at pages 3, 16-18. The NYSCP states that it received a total of 516 responses to the ad, and that contributions, totaling \$4,198, were provided with 113 responses as a result of the solicitation within the ad. Id. at page 3. All funds received in response to the New York Times solicitation were deposited in NYSCP's "housekeeping" account, and were used for a variety of "ordinary Party expenses ranging from Party registration efforts to issue advocacy to office overhead and more." Id. The response states that none of the funds received "were used to directly influence the outcome of any election." Id.²

1. The NYSCP itself does not authorize Congressional candidates in single-county districts. The local County Party nominates single district Congressional candidates. Attachment 1 at page 2.

2. However, in a newspaper article submitted by the Respondents, and dated a day after the Moynihan ad was published, NYSCP's Chairman Mr. Long is alleged to have stated that he intended to use the contributions to run the ad in other newspapers and to attack other New York Democrats. Attachment 1 at page 24. The article indicated that the NYSCP intended to make Democratic opposition to the Gulf War a "key issue in 1992 Congressional elections." Id.

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The NYSCP further indicates that they "reproduced the Gulf War ad as part of a direct mail appeal to its small file of in-house donors." Attachment 1 at pages 2, 25-26. A sample of the mailer has been provided. The mailing is addressed to "Conservative Supporters," and it solicits contributions so that the NYSCP can "tell all New Yorkers where Pat Moynihan really stands." Id. at page 26. The contributor card requests the occupation, employer and telephone number of contributors, and indicates such information is required by "election law." Id. Unlike the New York Times ad, the mailing states that it is "[p]aid for by the New York State Conservative Party." Id. at page 25.³ However, it does not state whether it was authorized by any candidate or candidate's committee, as required. See 2 U.S.C. § 441d(a)(3).

The NYSCP states that it expended \$3,472.24 for the production, distribution and related costs for this mailing. Attachment 1 at page 21. The mailer was paid for on June 6, 1991. The number of mailings distributed and the amount of contributions received in response to the mail appeal are unknown. The NYSCP states that it did not make any other expenditures for campaign materials or ads which referenced any Federal candidates. Id. at page 3. Thus, it appears that the total amount of federal expenditures made by the NYSCP is \$46,610.

3. The mailing was paid for and appears to have been distributed after the Respondents received this Office's March 15, 1991, notification letter and copy of the complaint. See First General Counsel's Report, dated February 6, 1992. The partial disclaimer and request for contributor information may have been placed upon the mailer in response to the allegations in the complaint.

In sum, the General Counsel's investigation has confirmed that the NYSCP is a political party committee which nominates both Federal and non-Federal candidates for election. Through the advertisement and mailer at issue, the NYSCP voiced its opposition to candidate Moynihan's representation of New Yorkers in Washington. The NYSCP expended well in excess of \$1,000 on the Moynihan ad, and on the related mailer, thereby rendering it a political committee within the meaning of 2 U.S.C. § 431(4). As the NYSCP failed to register and file appropriate disclosure reports, it appears that it violated 2 U.S.C. §§ 433(a) and 434(a).

In addition, the New York Times advertisement and the direct mailing were communications which solicited contributions, and NYSCP indicated in both communications that it intended to use contributions received in response to the solicitations to speak out against Moynihan and others in Washington. The ad did not contain any disclaimer, while the direct mailing contained only a partial disclaimer. Thus, both communications violate 2 U.S.C. § 441d(a).

Finally, New York election law permits the acceptance and use of corporate and labor union contributions, and it permits the acceptance and use of contributions deemed excessive under the statute. See 2 U.S.C. §§ 441a and 441b(a). Moreover, the NYSCP's state disclosure reports indicate that it accepts corporate

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contributions and contributions deemed excessive under the Act.⁴ The reports also disclose that the NYSCP transferred in to its account contributions from local Party and candidate committees. Thus it appears that the NYSCP accepted and used prohibited moneys to pay for the communications at issue, in violation of 2 U.S.C. §§ 441a(a) and 441b(a).

III. DISCUSSION OF PREPROBABLE CAUSE CONCILIATION

4. For example, the NYSCP's state reports reveal the receipt of a \$10,000 contribution from Reserve Management Corp. on November 28, 1990, and another \$10,000 contribution from that corporation on March 20, 1991. In addition, Ronald Lauder made a \$30,000 contribution on January 11, 1991, and another \$5,000 on March 4, 1991. See Attachment 2.

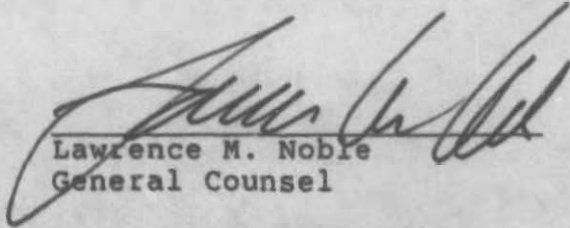
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IV. RECOMMENDATIONS

1. Enter into preprobable cause conciliation with the New York State Conservative Party and Michael R. Long, as Chairman.
2. Approve the attached preprobable cause conciliation agreement with the New York State Conservative Party and Michael R. Long, as Chairman.
3. Approve the appropriate letter.

Date

1/8/93


Lawrence M. Noble
General Counsel

Attachments:

1. NYSCP's response
2. Selected New York state disclosure reports
3. Proposed conciliation agreement

Staff Person: Xavier K. McDonnell

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH *DR*
COMMISSION SECRETARY

DATE: JANUARY 14, 1993

SUBJECT: MUR 3234 - GENERAL COUNSEL'S REPORT
DATED JANUARY 8, 1993

The above-captioned document was circulated to the
Commission on MONDAY, JANUARY 11, 1993 at 11:00 A.M..

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

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Potter	<u>XXX</u>
Commissioner Thomas	<u>XXX</u>

This matter will be placed on the meeting agenda
for TUESDAY, JANUARY 26, 1993.

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

93040935408

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
New York State Conservative Party) MUR 3234
and Michael R. Long, as Chairman)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 26, 1993, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3234:

1. Enter into preprobable cause conciliation with the New York State Conservative Party and Michael R. Long, as Chairman.
2. Approve the preprobable cause conciliation agreement with the New York State Conservative Party and Michael R. Long, as Chairman, as recommended in the General Counsel's report dated January 8, 1993,
3. Approve the appropriate letter as recommended in the General Counsel's report dated January 8, 1993.

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

Attest:

1-27-93
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 29, 1993

J. Curtis Herge, Esquire
Herge, Sparks, Christopher & Biondi
Suite 200
8201 Greensboro Drive
McLean, Virginia 22102

RE: MUR 3234
New York State Conservative
Party and Michael R. Long,
as Chairman

Dear Mr. Herge:

On March 31, 1992, the Federal Election Commission found reason to believe that the New York State Conservative Party and Michael R. Long, as treasurer, violated 2 U.S.C. § 433(a), 434(a), 441a, 441b(a) and 441d(a). At your request, on January 26, 1993, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

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

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact me at (202) 219-3400.

Sincerely

Xavier K. McDonnell
Xavier K. McDonnell
Attorney

Enclosure
Conciliation Agreement

93040935410

BEFORE THE FEDERAL ELECTION COMMISSION 93 MAY -4 AM 11:54

In the Matter of)
New York State Conservative Party) MUR 3234
and Michael R. Long, as Chairman)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

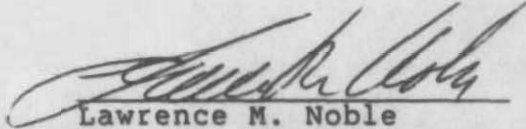
Attached for the Commission's acceptance is a signed copy of a preprobable cause conciliation agreement with the New York State Conservative Party and Michael R. Long, as Chairman.

II. RECOMMENDATIONS

1. Accept the attached preprobable cause conciliation agreement with the New York State Conservative Party and Michael R. Long, as Chairman.
2. Approve the appropriate letter.
3. Close the file.

Date

5/4/93


Lawrence M. Noble
General Counsel

Attachment:
Conciliation agreement

Staff assigned: Xavier K. McDonnell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

New York State Conservative Party
and Michael R. Long, as Chairman.

)
)
) MUR 3234
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 6, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 3234:

1. Accept the preprobable cause conciliation agreement with the New York State Conservative Party and Michael R. Long, as Chairman, as recommended in the General Counsel's Report dated May 4, 1993.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated May 4, 1993.
3. Close the file.

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

Attest:

May 7, 1993
Date

for Delores Hardy
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., May 4, 1993 11:54 a.m.
Circulated to the Commission: Tues., May 4, 1993 4:00 p.m.
Deadline for vote: Fri., May 7, 1993 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MAY 12, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chester Straub, Chairman
The Moynihan Committee, Inc.
P.O. Box 1994
Grand Central Station
New York, New York 10163-1988

RE: MUR 3234

Dear Mr. Straub:

This is in reference to the complaint you filed with the Federal Election Commission on March 9, 1991, concerning the New York State Conservative Party ("NYSCP") and Michael R. Long, Chairman.

The Commission found that there was reason to believe that the NYSCP, and Michael R. Long, as Chairman, violated 2 U.S.C. §§ 433(a), 434(a), 441a(a), 441b(a), and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On May 6, 1993, a conciliation agreement signed by the respondents was accepted by the Commission, and on that date the file in this matter was closed. A copy of this agreement is enclosed for your information.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Xavier K. McDonnell
Xavier K. McDonnell
Attorney

Enclosure
Conciliation Agreement

93040935413



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 12, 1993

J. Curtis Herge, Esquire
Herge, Sparks & Christopher
Suite 200
8201 Greensboro Drive
McLean, Virginia 22102

RE: MUR 3234
New York State Conservative Party
and Michael R. Long, as Chairman

Dear Mr. Herge:

On May 6, 1993, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 433(a), 434(a), 441a, 441b(a) and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

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.

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

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date, and that your clients have agreed to register and begin reporting with the Commission by July 10, 1993.

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J. Curtis Herge, Esquire
Page 2

Thank you for your cooperation in settling this matter. If
you have any questions, please contact me at (202) 219-3400.

Sincerely,

Xavier K. McDonnell

Xavier K. McDonnell
Attorney

Enclosure
Conciliation Agreement

93040935415

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
New York State) MUR 3234
Conservative Party and)
Michael R. Long, Chairman)

93MAY-4 AM 3:13

RECEIVED
FEDERAL ELECTION COMMISSION

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by the Moynihan for Senate Committee, and Chester J. Straub, as treasurer. The Federal Election Commission ("Commission") found reason to believe that the New York State Conservative Party ("NYSCP"), and Michael R. Long, as treasurer ("Respondents") violated 2 U.S.C. §§ 433(a), 434(a), 441a(a), 441b(a) 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 NYSCP is a political party organization, and is registered as a party organization with the New York State Board

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of Elections. The NYSCP authorizes the designation of candidates for nomination for Federal and state elections in New York.

2. Michael R. Long is the chairman of the NYSCP.

3. On March 6, 1991, the Respondents published a full page advertisement in the New York Times entitled "Where Was Pat Moynihan When America Needed Him?" The advertisement contained a picture of Daniel Patrick Moynihan, the United States Senator from New York. At that time, Senator Moynihan had filed a Statement of Candidacy for election to Federal office. The NYSCP's advertisement stated that New Yorkers "should be represented in Washington by men and women who support our values--not oppose them." The advertisement solicited "contributions," and the NYSCP "pledged" that it would use the funds received to be the contributors' "voice," and to let "Pat Moynihan and the other liberals" know that they would "remember how they voted against backing" President Bush with respect to the Persian Gulf crisis. The Respondents expended \$42,412 for the production and publication of the New York Times advertisement. The ad did not contain any statement indicating who paid for it, and whether it was authorized by any candidate or candidate's committee.

4. The Respondents also created and distributed a two page direct mailing addressed to "CONSERVATIVE SUPPORTERS," which was similar to and contained many of the same statements as the March 6, 1991, New York Times advertisement. The Respondents expended \$3,472.24 on June 6, 1991, for the production and distribution of the two page direct mailing. The direct mailing stated that it was "[p]aid for by the New York State Conservative

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Party." It did not indicate whether it was authorized by any candidate or candidate's committee.

5. Under New York election law, political organizations may accept contributions from corporations and labor organizations, and may accept contributions deemed excessive under Federal election law.

6. The Federal Election Campaign Act of 1971, as amended (the "Act"), defines the term "political committee" as any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000, or makes expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A). The term "expenditure" includes 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 election for Federal office. 2 U.S.C. § 431(9)(A)(i).

7. Pursuant to 2 U.S.C. § 433(a), a political committee must file a statement of organization within ten days after becoming a political committee within the meaning of 2 U.S.C. § 431(4).

8. Pursuant to 2 U.S.C. § 434(a), a treasurer of each political committee must file regularly scheduled disclosure reports of receipts and disbursements in accordance with 2 U.S.C. § 434(b) of the Act.

9. The Act provides that whenever any person makes an expenditure for the purpose of financing a communication which solicits contributions through a newspaper or through a direct

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mailing, such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. 2 U.S.C. § 441d(a). Under 11 C.F.R. § 102.5(a)(3), any party committee solicitation which makes reference to a Federal candidate or Federal election shall be presumed to be for the purpose of influencing a Federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act.

10. The Act prohibits the acceptance of corporate contributions and prohibits the use of corporate moneys to make expenditures in connection with a Federal election. 2 U.S.C. § 441b(a).

11. Pursuant to 2 U.S.C. § 441a(a)(1)(C), no person shall make contributions to any political committee in any calendar year which, in the aggregate, exceed \$5,000. Political committees are prohibited from knowingly accepting any contributions and making any expenditures in violation of the provisions relating to the limitations set forth at 2 U.S.C. § 441a.

12. The NYSCP became a political committee on March 6, 1991, when it made expenditures in excess of \$1,000 for the advertisement published in the New York Times. The NYSCP did not register with the Commission within 10 days of when it became a political committee. 2 U.S.C. § 431(4)(a). The NYSCP did not file disclosure reports with the Commission pursuant to 2 U.S.C. § 434(a).

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V. 1. Respondents violated 2 U.S.C. § 433(a) by failing to timely register with the Commission when the NYSCP became a political committee.

2. The Respondents violated 2 U.S.C. § 434(a) by failing to file disclosure reports with the Commission after the NYSCP became a political committee.

3. The Respondents violated 2 U.S.C. § 441d(a) by soliciting contributions through the New York Times advertisement which did not include a disclaimer, and through a direct mailing which contained only a partial disclaimer.

4. Respondents violated 2 U.S.C. §§ 441a and 441b(a) by accepting and using prohibited moneys in connection with Federal electoral activity.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of thirty thousand dollars (\$30,000) pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. Respondents shall register with the Commission pursuant to 2 U.S.C. § 433(a) by July 10, 1993, and, thereafter, file disclosure reports pursuant to 2 U.S.C. §§ 434(a) and 434(b), and shall comply with the requirements set forth at 11 C.F.R. § 102.5(a) (establish a separate Federal account or a political committee which receives only contributions in compliance with the Act) and 11 C.F.R. § 106.5 (allocation of expenses by party committees).

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

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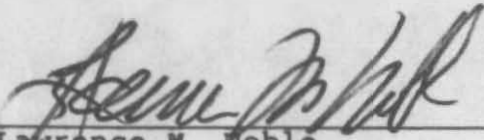
If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

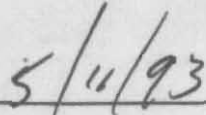
X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:



Lawrence M. Noble
General Counsel

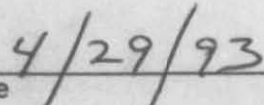


Date

FOR THE RESPONDENTS:



Michael R. Long
State Chairman



Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3234

DATE FILMED 5/25/93 CAMERA NO. 3

CAMERAMAN E.E.S.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

☒ Microfilm
☐ Public Rcds
☐ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3234.

7/1/93

93040951263

1060 4011
FEDERAL ELECTION COMMISSION
93 JUN -8 AM 9:58
CLOSED



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 7, 1993

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECT: Account Determination for Funds Received

23040951264
We recently received a check from New York
State Conservative Party, check number 1816, dated
June 3, 1993, and in the amount of \$30,000.00.
Attached is a copy of the check and any correspondence that
was forwarded. Please indicate below the account into which
it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of
\$30,000.00, the MUR number is 3234 and in the name of
New York State Conservative Party. The account into
which it should be deposited is indicated below:

- ☐ Budget Clearing Account (OGC), 95F3875.16
☒ Civil Penalties Account, 95-1099.160
☐ Other: _____

Anita Alexander
Signature

6-8-93
Date

HERGE, SPARKS & CHRISTOPHER

ATTORNEYS AT LAW

SUITE 200

8201 GREENSBORO DRIVE

MCLEAN, VIRGINIA 22102

(703) 848-4700

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUN -8 AM 9:58

TELECOPIER NUMBER
(703) 893-7371

J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER
MATTHEW SCOTT MCCONNELL
MARGO B. OWEN
PETER N. FARLEY

June 4, 1993

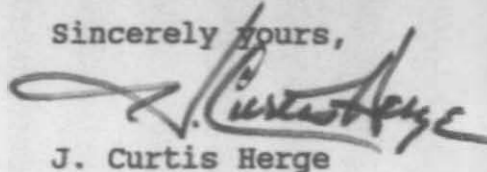
Xavier K. McDonnell, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D. C. 20463

Re: MUR 3234; New York State
Conservative Party and
Michael R. Long, as Chairman

Dear Mr. McDonnell:

Consistent with the provisions of the Conciliation Agreement entered in the above-captioned matter, there is enclosed herewith the check of New York State Conservative Party, drawn to the order of Federal Election Commission in the amount of \$30,000.00, in payment of the civil penalty.

Sincerely yours,



J. Curtis Herge

:sbl

Enclosure

93040951265

June 3 1993

PAY
TO THE
ORDER OF

Federal Election Commission \$30,000.⁰⁰/₁₀₀

Thirty thousand ⁰⁰/₁₀₀ DOLLARS

EAST NEW YORK

THE EAST NEW YORK SAVINGS BANK
7807 5TH AVENUE
BROOKLYN, NY 11209

FOR MUR 3234

[Signature]

⑈001816⑈ ⑆226070351⑆769 1800012 6⑈

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FEDERAL ELECTION COMMISSION

93 JUN -3 AM 9:50

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