



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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August 16, 1991

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: SIMON FOR PRESIDENT - MATTERS REFERABLE
TO THE OFFICE OF GENERAL COUNSEL

On August 13, 1991, the Commission approved the referral of Exhibits A-I to your office. Please find attached said Exhibits.

Should you or your staff wish to review audit workpapers or discuss the matters contained in the Exhibits, please contact Valerie Conroy or Rick Halter at 376-5320.

Attachments:

Exhibit A Allocation of Expenditures to States

Exhibit B Receipt of Prohibited Contributions

Exhibit C Receipt of Excessive Contributions

Exhibit D Recordkeeping for Receipts

Exhibit E Misstatement of Financial Activity

Exhibit F Itemization of Contributions Received from
a Political Committee

Exhibit G Itemization of Refunds and Rebates

Exhibit H Itemization of Disbursements

Exhibit I Apparent Prohibited In-Kind Contribution

Allocation of Expenditures to States

Sections 441a(b)(1)(A) and 441a(c) of Title 2 of the United States Code provide, in part, that no candidate for the office of President of the United States who is eligible under Section 9033 of Title 26 to receive payments from the Secretary of the Treasury may make expenditures in any one State aggregating in excess of the greater of 16 cents multiplied by the voting age population of the State, or \$200,000, as adjusted by the change in the Consumer Price Index.

Section 106.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of that candidate for the office of the President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid. In the event that the Commission disputes the candidate's allocation or claim of exemption for a particular expense, the candidate shall demonstrate, with supporting documentation, that his or her, proposed method of allocation or claim of exemption was reasonable.

1. Iowa

The Committee's FEC Form 3P, Page 3, covering activity through December 31, 1989, disclosed \$792,504.34 allocable to the Iowa expenditure limitation of \$775,217.60.

The Audit staff requested the Committee to provide allocation schedules and workpapers supporting the amounts disclosed on FEC Form 3P, Page 3, but was instead provided with allocation schedules for second, third, and fourth quarter 1987, and January and February 1988 with an explanation that the Committee had prepared these revised schedules in June 1988. Summary workpapers only, however, were provided supporting the Committee's second and third quarter 1987 allocations which are on the public record. The Committee stated it would amend its reports to reflect the revised allocations, however no such amendments had been filed by the end of audit fieldwork. Therefore, the Audit staff reviewed the allocation workpapers provided and determined the correct amount allocable to Iowa.

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Discussed below are categories of costs which were not disclosed by the Committee on FEC Form 3P, Page 3, as allocable to Iowa as presented in the Interim Audit Report. Included within the applicable report section below is the Committee response, if any, to the Interim Audit Report.

a. Exempt Compliance and Fundraising Expenditures

Section 106.2(c)(5) of Title 11 of the Code of Federal Regulations states, in part, that an amount equal to 10% of campaign workers' salaries and overhead expenditures in a particular State may be excluded from allocation to that State as an exempt compliance cost. An additional amount equal to 10% of such salaries and overhead expenditures in a particular State may be excluded from allocation to that State as exempt fundraising expenditures, but this exemption shall not apply within 28 calendar days of the primary election.

If the candidate wishes to claim a larger compliance or fundraising exemption for any person the candidate shall establish allocation percentages for each individual working in that state. The candidate shall keep detailed records to support the derivation of each percentage in accordance with 11 C.F.R. § 106.2(e). Alternatively, the Commission's Financial Control and Compliance Manual for Presidential Primary Candidates contains some other accepted allocation methods for calculating a compliance or fundraising exemption.

Section 106.2(b)(2)(iv) of Title 11 of the Code of Federal Regulations states, in part, that overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges.

Section 100.8(b)(21)(iii) of Title 11 of the Code of Federal Regulations states that fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days prior to a primary election, convention, or caucus.

Section 110.8(c)(1) of Title 11 of the Code of Federal Regulations states that expenditures for fundraising activities targeted at a particular State and occurring within 28 days before that state's primary election, convention, or caucus shall be presumed to be attributable to the expenditure limitation for that State, 11 CFR 100.8(b)(21) (relating to the 20% fundraising exemption) notwithstanding.

As previously noted, the Committee did not provide allocation schedules and workpapers supporting the amounts disclosed on its FEC Forms, 3P, (with the exception of

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second and third quarter 1987 summary workpapers) however it did provide revised allocation schedules and workpapers reflecting the amounts it believes are allocable to Iowa; as of the end of audit fieldwork amendments had not been filed which reflect the Committee's revised allocations.

The Audit staff noted that the allocation schedules and workpapers provided were based on the amounts coded on the Committee's general ledger to Iowa plus manual adjustments for items such as disbursements made from the Committee's Bankers Trust, Iowa depository. During fieldwork, a Committee representative stated the Committee applied a 10% compliance exemption and a 45% fundraising exemption to the total amounts expended in Iowa in determining the Committee's allocable expenditures. The revised allocation schedules provided to the Audit staff were prepared in accordance with the above. Furthermore, the Committee's pool of overhead expenditures included items which are not defined as "overhead" pursuant to 11 C.F.R. §106.2(b)(2)(iv). The Audit staff adjusted the Committee's allocation to comport with the regulations at 11 C.F.R. §106.2 and determined the total amount allocable to Iowa.

In the absence of documentary evidence supporting the reasonableness of the Committee's percentage rate (45%) used in its fundraising exemption calculation, the Audit staff adjusted the Committee's calculations to comport with the regulations at 11 C.F.R. §106.2. As a result, the Audit staff has determined that an additional \$375,762.551/, which represents an apparent misapplication of the fundraising exemption, should be allocated to the Iowa spending limitation.

At the exit conference Committee officials stated that the fundraising exemption was actually 50% of its total expenditures allocated to Iowa and its legal and accounting compliance exemption was actually 5% of its total expenditures allocated to Iowa, based on an analysis of AO 1988-06 and the John Glenn Audit Report [Report of the Audit Division on John Glenn Presidential Committee, Inc., Public Release 8/19/85]. The Committee stated that all activity in Iowa was composed equally of fundraising and political nature. Furthermore, the Committee contends its 50% exemption for fundraising is reasonable.

The Committee representatives also explained that prior to the Iowa caucus the Committee's dual purpose components of its activities did not change; i.e., the Committee continued its fundraising activity and therefore, this activity is exempt from the regulations at 11 C.F.R. §110.8(c)(2) which states that expenses targeted at a state within 28 days of a primary shall be presumed to go against that state's limit. The Committee's

1. This includes an adjustment of \$7,577.49 for expenditures allocated by the Committee and determined during this analysis not to require allocation.

position is that the regulatory use of "presume" creates a presumption as opposed to the use of "is" or "are" and a presumption can be overcome by facts, stating the Commission recognizes this in 11 C.F.R. §110.3(b)(2)(a) and that AO 1984-30 states in a footnote that the regulatory use of presumption can be overcome by actual facts in specific situations. Furthermore, the presumption under the 28-day rule is that it is assumed most committees will initially conduct fundraising and later, prior to the election, focus their expenditures on influencing votes. According to the Committee representatives this was not so with the Simon for President case. Committee representatives feel that their facts can overcome the presumption set forth at 11 C.F.R. § 110.8(c)(2) and therefore the Committee is entitled to its 50% fundraising exemption within 28-days of the caucus/primary²/. The Committee also believes its fundraising exemption is reasonable, stating that Simon for President actually raised significant amounts of money in Iowa during December 1987 through March 1988 and that the Committee realized actual contributions after the Iowa Caucus from fundraising activities held prior to the caucus.

Committee officials stated they would review the Iowa State Allocation workpapers provided to them and provide documentation to support the Committee's 50% fundraising exemption.

On January 24, 1990 Committee officials submitted a state by state fundraising analysis of contributions received by the Committee, which indicated that Iowa ranked thirteenth out the 50 states, the District of Columbia, Puerto Rico and the Virgin Islands in the amount of money contributed and fifth in number of contributors.

Since the Committee has not provided any documentation which supports its exit conference comments with respect to the 50 percent fundraising exemption and 5 percent compliance exemption, the Audit staff rebuttal will address the 45 percent fundraising exemption which is supported by Committee allocation workpapers. Regardless of the percentage taken by the Committee, the Audit staff believes it has correctly applied the Regulations at 11 C.F.R. §106.2(c)(5). Neither the Act nor the Commission's Regulations provide for a 45% fundraising exemption as applied by the Committee. Even though the Committee contends that the activity conducted in Iowa actually raised significant amounts of money the same could be said for activities conducted in any state. A review of the fundraising report submitted by the Committee on January 24, 1990 indicates that the funds raised

2. It should be noted that during fieldwork, the Committee stated it had taken a 20% fundraising exemption on expenditures occurring within 28 days of the caucus.

by the Committee in Iowa during December 1987 through March 1988 comprise only 1.98% of the total funds raised by the Committee during this period.

Furthermore, the Audit staff does not disagree that the Committee may have raised monies as a result of its activities in Iowa in the 28 days prior to the Iowa Caucus; however, the Committee appears to be ignoring completely 11 C.F.R. §100.8(b)(21)(iii) and §110.8(c)(2) which clearly require that fundraising activities targeted at a particular state and occurring within 28 days of a state's primary are chargeable to that state's expenditure limitation. In addition, the revised allocation schedules provided to the Audit staff by the Committee do not reflect a fundraising exemption for activities occurring within the 28 days prior to the Iowa caucus as discussed by Committee officials at the exit conference. Irrespective of the nature of the Committee's expenditures, the Committee can not exclude from state allocation costs for fundraising which occurred within 28 days of the caucus even if the activities were clearly fundraising. Therefore, the Audit staff's position remains unchanged.

b. Media

Section 106.2(b)(2)(i)(B) of Title 11 of the Code of Federal Regulations states that except for expenditures exempted under 11 C.F.R. 106.2(c), expenditures for radio television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, including any commission charged for the purchase of broadcast media, shall be made using industry market data.

Section 106.2(c)(5)(i) of Title 11 of the Code of Federal Regulations states, in part, that exempt compliance costs are those legal and accounting costs incurred solely to ensure compliance with 26 U.S.C. 9031, 2 U.S.C. 431 and 11 C.F.R. Chapter I, including the costs of preparing matching fund submissions. The costs of preparing matching fund submissions shall be limited to those functions not required for general contribution processing.

Section 441d(a)(1) of Title 2 of the United States Code states, in part that, whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents shall clearly state that the communication has been paid for by such authorized political committee.

Section 431(9)(B)(vi) of Title 2 of the United States Code states, in part, that the term "expenditure"

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includes any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b).

The Audit staff reviewed the Committee's allocation worksheets for Iowa as well as supporting documentation made available by the media vendor. Based upon its analysis, the Audit staff allocated an additional \$62,840.55 to the Iowa spending limitation. The Audit staff's analysis identified this adjustment to be the net result of the media vendor applying an allocation rate not based on industry market data (\$-12,084.12); the failure of the Committee to allocate January 1988 commissions (\$37,011.50), and where commissions were allocated by the Committee, an incorrect commission percentage rate was applied (\$2,054.54); and a 50% fundraising exemption on media placed January 1 through 8, 1988 was incorrectly taken by the Committee based on Advisory Opinion 1988-6 (A.O. 1988-6) (\$35,858.63)3/.

The Committee stated at the exit conference that its media allocation as prepared by the vendor was made using industry market data and is therefore a reasonable allocation.

The Committee stated in its response to the Interim Audit Report on January 31, 1991 that the Committee overallocated its media by \$113,966.08 in Iowa, and \$52,602.43 in New Hampshire. This overallocation, according to the Committee, is the result of not taking a 50% compliance exemption on all media commissions paid, and by not taking a 50% fundraising exemption on its media purchases.

In its response the Committee admitted that it did not allocate to the states the 15% media commission paid, but contends that 50% of the commissions should be exempt from state allocation as compliance related. According to the Committee, its media firm, Axelrod and Associates, "charged the Committee a fifteen percent (15%) fee for purchasing media advertising time. The services provided by Axelrod to the

3. It should be noted that the Committee's media spots did not contain any of the elements required in A.O. 1988-6 relative to the 50% fundraising exemption for media; i.e. each commercial must include a video message and a voice over soliciting contributions; a committee telephone number must be presented simultaneously on the screen conveying to the viewer a reinforcing message which suggests a responsive telephone call to the committee should the viewer wish to make a contribution.

Committee in connection with the purchase of media time included: researching the impact of proposed media purchases on state allocation limits; preparing detailed accountings for the Committee on each media buy (in-state and out-of state viewing audiences) and revising these accountings according to whether particular advertisements were actually aired; working closely with the Committee's accounting and compliance team (particularly around FEC-reporting deadlines); and maintaining all documentation regarding media purchases to comply with FEC requirements."

Based upon the above activity the Committee contends that 50% of the media firm's services were compliance related and therefore 50% of the media commissions paid should be allocated to exempt compliance as opposed to a particular state. The Committee provided a statement from the vendor detailing the above duties to support its contention.

The Committee continues to pursue its position that 50% of its media purchase cost should be exempt as fundraising. Further, the Committee contends that the exemption may also be claimed as a compliance exemption since each advertisement contained the "FEC-required authorization disclaimer." Therefore the Committee believes, in either case, it is justified in applying a 50% exemption in its media allocation; and that the Audit staff has incorrectly applied the regulations, stating that the "regulations merely require that a Committee provide a 'reasonable' basis to claim a fundraising or compliance exemption."

The Committee claims that "the Federal Election Commission has defined 'in connection with the solicitation of contributions' to mean 'any cost reasonably related to fundraising activity.' (emphasis in original) 11 C.F.R. § 100.8(b)(21)(ii)" and states that the exemption for such fundraising costs is limited to 20% of the overall expenditure limitation in accordance with 2 U.S.C. §431(9)(B)(vi).

The Committee "asserts that the Commission should employ a 'reasonableness' standard when examining the Committee's decision to allocate various expenditures to fundraising." The Committee states its fundraising exemption for media should not be disallowed due to the fact that the media spots did not contain a fundraising appeal. The Committee claims that if a 50% exemption is allowed for those media spots which contain fundraising appeals, then a 50% fundraising exemption should also be allowed for "a presidential campaign committee which failed to include a fundraising appeal because it conceived of broadcast commercials as the first step in a multi-tiered fundraising strategy" in which media ads would be followed by direct mail and telemarketing fundraising appeals.

The Committee submits that "in its proposed rulemaking for the 1992 presidential elections, the FEC has

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abandoned the approach it adopted in A.O. 1988-6. The Commission has proposed that a presidential committee may 'treat up to 20% of the spending limit for each state as exempt fundraising costs.' 56 Fed. Reg. 110 (1991) (to be codified at 11 C.F.R. § 110.8(c)(2) (proposal would replace the current '28-day rule')."

The Committee believes that "the position embraced by the FEC in its proposed rulemaking is the approach which always has been permitted by §431(9)(B)(vi) because it affords a presidential campaign wide latitude to declare various expenditures as wholly or partially related to fundraising."

The Committee contends that it has provided a reasonable basis for its 50% exemption as required by the Act and the Regulations at 11 C.F.R. §100.8(b)(21)(ii). Additionally, the Committee cites 2 U.S.C. §431(9)(B)(vi) and states the broad language of the provision "permits a candidate to exclude 'any' cost made 'in connection with the solicitation of contributions.'"

The Committee then states that it believes "that the Commission should defer to campaign strategies in determining whether particular expenditures were reasonably related to fundraising," and that "the Commission should defer to a determination by the Committee that soliciting contributions for Senator Paul Simon was best achieved by a multi-tiered fundraising strategy." Therefore, based upon the above determination the Committee is entitled to its 50% exemption of media costs for fundraising.

With respect to the Committee's application of a 50% compliance exemption for the commissions paid for media based upon the purported "FEC compliance nature" of the services rendered by the media firm and the application of a 50% compliance exemption based upon the fact that the media spots contained an authorization disclaimer pursuant to 2 U.S.C. §441d(a)(1) the Audit staff is of the opinion that such exemptions are inappropriate.

The regulations make no provision for a compliance exemption for media. The scope of the compliance exemption is strictly limited to expenditures with a purely compliance related purpose and does not include the cost of an expenditure which merely complies with the FEC, Matching Payment Act, and Commission regulations. For example, the regulations include the costs of preparing matching fund submissions as exempt compliance, but do not include the costs of general contribution processing, even if the the procedures of general contribution processing comply with the legal requirements. Therefore, the mere presence of an informative disclaimer in a media commercial does not make the commercial a compliance expenditure.

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Additionally, in the Audit staff's opinion, the costs associated with including such a disclaimer in the media commercials appears to be incurred at the production stage rather than at air time, and production costs need not be allocated to any state. Furthermore, the exceptions to the "solely to ensure compliance" test have been provided by Commission regulations. These exceptions relate to salary and overhead costs for both state and national headquarters operations. Percentages are given for compliance deductions for these categories of expenses. These exceptions are very specific and narrowly drawn, and do not cover broadcast media.

The Audit staff notes that in accordance with 2 U.S.C. § 431(9)(B)(vi) a fundraising cost is any cost incurred in connection with the solicitation of contributions. Examples of such fundraising expenditures include printing and postage for solicitations, costs of refreshments for fundraising receptions and dinners, and the cost of air time for fundraising advertisements.

In A.O. 1988-6 the Commission addressed the criteria required for the fundraising exemption of media costs. The Commission noted in A.O. 1988-6 that "expenditures for broadcast time to run an advertisement which includes a fundraising solicitation may be allocated on 'a reasonable basis' to the fundraising exclusion for presidential candidates who accept matching Federal payments." The Commission noted that 50% of such media costs could be considered exempt fundraising expenditures.

Furthermore, the Commission noted that the following criteria must be met in order for this exemption to apply. Each commercial must include a video message and a voice over soliciting contributions. In addition, a Committee telephone number must be presented simultaneously on the screen conveying to the viewer a reinforcing message which suggests a responsive telephone call to the committee should the viewer wish to make a contribution.

During fieldwork the Audit staff reviewed each broadcast commercial the Committee aired. Not one of these commercials contained the criteria noted above for claiming the fundraising exemption. The Committee itself, in its response to the Interim Audit Report, admits that none of its broadcast commercials contained a fundraising message. The Committee claims however, that its broadcast media was the "first step in a multi-tiered fundraising strategy." The Committee contends that this statement provides a "reasonable basis" for determining that the expenditures made for the media broadcasts were in connection with the solicitation of contributions, and therefore the Committee is entitled to the 50% fundraising exemption as outlined in A.O. 1988-6.

In the Audit staff's opinion, the criteria for the fundraising exemption relative to media has been clearly defined by the Commission, and the Committee's broadcast commercials clearly do not meet that criteria. Therefore, the Audit staff rejects the Committee's contention that it overallocated its media cost to Iowa and New Hampshire. The Audit staff's allocation of the Committee's media costs to both Iowa and New Hampshire remains unchanged.

c. Intra-State Travel and Subsistence Expenditures

Section 106.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that travel and subsistence expenditures for persons working in a State for five consecutive days or more shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intra-state travel and subsistence expenditures of the candidate and his family or the candidate's representatives.

i. Staff Assigned to Iowa Field Offices

The Audit staff's review of supporting documentation for expenditures incurred by staff assigned to Iowa field offices relative to intra-state travel, subsistence and related goods and services, indicated these expenditures were not allocated by the Committee to the Iowa state expenditure limitation. The Audit staff is of the opinion that the 5-day rule is not applicable in this situation and has determined that expenditures totaling \$37,448.53 should be allocated to the Iowa limitation.

Based upon a review of documentation submitted January 31, 1991 by the Committee in response to the Interim Audit Report to Finding III.C. Apparent Non-Qualified Campaign Expenses-Unclassified the Audit staff noted \$1,062.55 of previously undocumented expenses which now require allocation to Iowa. The amounts allocated are in connection with expenditures incurred by staff assigned to Iowa field offices relative to intra-state travel, subsistence and related goods and services, and are not subject to the 5-day rule. Also noted were \$626.44 of expense reimbursements to an Iowa employee previously included as costs associated with the Committee's Rock Island office, and an adjustment for an allocation made by both the Committee and the Audit staff totaling \$522.74. The Audit staff has revised its calculation of expenditures allocable to the Iowa limitation to be \$38,614.74 (\$37,448.53 + \$1,062.55 + 626.44 - \$522.74).

ii. Non Iowa Staff

The Audit staff's review of Committee expense reimbursement files identified persons who had incurred

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expenditures when in Iowa for five or more consecutive days relative to travel, subsistence and related goods and services (such as supplies, photocopying, equipment rental) used in Iowa. Based on this review the Audit staff has determined that \$26,802.70 in such expenditures requires allocation to the Iowa limitation.

Also noted during the Audit staff's review of the Committee's response of January 31, 1991 with respect to undocumented expenses were additional costs totaling \$394.89 relative to persons who had incurred expenditures while in Iowa for five or more consecutive days for travel, subsistence, and related goods and services (such as supplies, photocopying, equipment rental) used in Iowa. The Audit staff's revised Iowa allocation totals \$27,197.59.

iii. Senator Paul Simon's American Express

Section 9035.2 of Title 11 of the Code of Federal Regulations states, in part, that expenditures made using a credit card for which the candidate is jointly or solely liable will count against the limits of this section to the extent that the full amount due, including any finance charge, is not paid by the committee within 60 days after the closing date of the billing statement on which the charges first appear.

The Audit staff's review of Senator Simon's personal American Express Card activity, identified travel and subsistence expenditures by the candidate totaling \$10,561.54 which require allocation to the Iowa state limitation under the five day rule. Included in this total are February 1988 charges, totaling \$5,043.44 incurred in Waterloo and Davenport, Iowa as well as charter air service charges incurred in Iowa. During fieldwork the Audit staff requested additional documentation relative to these charges however, the Committee has yet to provide such documentation. Should the documentation be provided, the Audit staff will adjust its figure as necessary.

The Audit staff also noted that Senator Simon's use of his American Express Card was in accordance with 11 C.F.R. 9035.2 and that Senator Simon's personal expenditure limitation was not affected.

In its response to the Interim Audit Report, the Committee provided the Audit staff with documentation to verify that Senator Simon was in Iowa from January 29 to February 9, 1988. Based upon this information the Audit staff has revised its allocation of the February 1988 charges to be \$5,075.91.

The Committee made no response relative to the remaining \$5,518.10 (\$10,561.54 - \$5,043.44) allocated under the 5 day rule. As a result, the Audit staff has allocated

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to Iowa \$10,594.01 (\$5,518.10 + \$5,075.91) for travel and subsistence incurred by Senator Simon under the 5 day rule.

In the Interim Audit Report the Audit staff determined that intra-state travel and subsistence expenditures, totaling \$74,812.77 (\$37,448.53 + \$26,802.70 + \$10,561.54) should be allocated to Iowa.

Based upon the Committee's response to the Interim Audit Report as noted above the Audit staff has revised the allocable amount to be \$76,406.38 (\$38,614.78 + \$27,197.59 + \$10,594.01) for intra-state travel and subsistence expenses.

d. Rock Island Office

Section 106.2(a)(1) of Title 11 of the Code of Federal Regulations states, in part, that expenditures incurred by a candidate's authorized committee(s) for the purpose of influencing the nomination of the candidate for the office of the President with respect to a particular State shall be allocated to that State. An expenditure shall not necessarily be allocated to the State in which the expenditure is incurred or paid.

During fieldwork the Audit staff noted a campaign office, identified as the Midwest Regional office, in Rock Island, Illinois, which is strategically located across the Iowa/Illinois state border from Davenport, Iowa. At that time a Committee representative stated that the Rock Island office was set up for the purpose of general campaign fundraising and volunteer recruitment activities which were solely directed toward the Illinois Primary. The Committee representative further stated that Rock Island staff did not commute back and forth from Rock Island into Iowa. When questioned again during fieldwork, the Committee representative stated that the Rock Island Office was the Southern Illinois Headquarters where fundraising and volunteer recruitment was conducted. The Committee had envisioned the Rock Island office to become the Midwest Regional office, however the Des Moines Office was actually the Midwest Regional office. The Committee representative further stated that the Rock Island Office was not set up as a surrogate Iowa Office. When questioned about the states encompassed in the Midwest region the Committee representative responded that it did not know which states were in the Midwest Region or the percentages developed to allocate costs associated with the Des Moines Regional Office. Additionally, the Committee did not exempt any Des Moines office expenditures on its allocation workpapers as related to a Regional Office.

Neither the documentation made available by the Committee nor the facts previously discussed and those presented below, support the Committee's claim that Des Moines

was a regional office. The documentation made available by the Committee which makes reference to a regional office indicates that Rock Island was the Midwest Regional Office. Additionally, the documentation indicates that the expenditures made with respect to the Rock Island Office appear to be directed at the Committee's Iowa effort. An explanation of the patent inconsistencies with respect to the Committee's comments concerning the "Midwest Regional Office" has not been provided.

Internal Committee documents indicated that once the Iowa campaign plan was established the Illinois operation would be integrated into the Iowa campaign plan by increasing the "level of activity of Illinois volunteers through buses, caravans, and other selected 'visibility' projects." Additional evidence indicates that the Midwest Regional office Director approved employment of persons who worked in Iowa; and that a letter writing campaign from Iowa Caucus attendees to New Hampshire Households was apparently coordinated from the Rock Island Office.

In January 1988, additional phone lines were installed at the Rock Island service location and removed on February 20, 1988, one month before the Illinois primary. An analysis of the phone calls made determined that 79% of the total dollars charged on the February 1988 billing statement (calls made during January 1988) were for calls to Iowa; and, on the March 1988 billing statement (calls made through February 8, 1988) 93% of the total dollars charged were for calls to Iowa. It is the Audit staff's opinion that this data evidences the existence of Rock Island activity directed at Iowa. A review of Rock Island staff expense reimbursements also indicates that the bulk of the Rock Island staff's time and effort appears directed to Iowa. Furthermore, in March, the Rock Island Office space was reduced by 50%; and subsequent to the Iowa Caucus expenditures made by the Rock Island office dropped significantly.

Finally, the summary pages for the October 15th (1987) quarterly disclosure report provided to the Audit staff by the Committee, which detail the amounts allocated by the Committee to Iowa on its disclosure reports, indicate that the Committee itself allocates a portion (25%) of the Rock Island expenditures to Iowa. When questioned during fieldwork regarding this allocation the Committee stated it did allocate a portion of the Rock Island expenditures to Iowa because the Committee envisioned Rock Island as a Regional Office; however, in the revised Iowa Allocation schedules provided to the Audit staff, the Committee does not include any amounts relative to Rock Island.

Therefore, based upon our review of the available documentation the Audit staff has determined that an additional \$81,939.54 requires allocation to Iowa.

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As previously noted, during audit fieldwork the Committee stated that the purpose of the Rock Island office was general campaign fundraising and volunteer recruitment, activities which were solely directed toward the Illinois primary. At the exit conference Committee officials restated their position regarding the Rock Island office stating that the purpose of the Rock Island Office was fundraising and the recruitment of volunteers who would be encouraged to go into Iowa for weekends and conduct activity exempt under the 5-day rule. The Committee made no mention of a regional office in Des Moines, Iowa.

In the Interim Audit Report the Audit staff recommended that the Committee provide an explanation regarding the purpose and function of the Rock Island, Illinois office; a listing of all activities and programs conducted or coordinated from the Rock Island Office to include a detailed accounting, with supporting documentation, of all expenses related to each activity or program; and an explanation regarding the Committee's use of a "Midwest Regional Office", including a list of the states in the region, and a detailed accounting with supporting documentation, of all the expenses related to a "Midwest Regional Office".

In response to the Interim Audit Report the Committee maintains its position that Rock Island was initially to be the Committee's Midwest Regional Office, but that those duties later fell to the Des Moines, Iowa office. The Committee states that "the Rock Island office functioned as a fundraising/volunteer center for the entire campaign, and as a key component of the campaign's Illinois-related activity." The Committee states that the Bow-Tie Brigade ("BTB") was organized and operated from Rock Island.

The BTB, the Committee explained, was an activity to "raise funds and mobilize volunteers." The Rock Island staff duties included mailing and canvassing drives to recruit BTB members, organizing bus trips to various destinations, and fundraising. According to Gerald Sinclair, the Committee's Illinois Political Director, the "Rock Island Office's activity included encouraging Illinois citizens to contact individuals from, and engage in volunteer week-end activity, in early primary/caucus states."

The Committee notes that BTB recruitment literature included an appeal to become a BTB member as well as an appeal to contribute to the campaign. In support of this the Committee provided sample literature. Based upon the request for funds the Committee states that all postage and printing costs identified by the Audit staff are allocable to Illinois.

Regarding the remaining costs identified by the Audit staff, the Committee states that it distinguishes BTB staff based in Rock Island from the BTB members and canvassers.

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According to the Committee, Rock Island based BTB staff included Brigade Coordinators and Canvass Directors whose duties "included organizing recruitment mailings for Brigade members and supervising canvassing drives." The salaries of these individuals should therefore be allocated to Illinois because the BTB staff's duties could be discharged from the Rock Island Office and most of the recruitment activities were in Illinois. The Committee also allocated to Illinois the administrative and overhead expenses associated with the Rock Island Office.

With respect to the organized bus trips by the BTB into Iowa the Committee states "even though Brigade Coordinators and Canvass Directors may have spent time in Iowa, such activities were linked to the organized bus trips to Iowa, and to Iowa fundraising. These bus trips were of limited duration, such as for a weekend. Because Brigade Coordinators and Canvass Directors did not go in to Iowa for 5 consecutive days, their transportation, food and lodging expenses are exempted from attribution to Iowa."

According to the Committee BTB members and canvassers, on the other hand, "may have spent extended periods of time in Iowa because their activities were primarily focused at Iowa." Therefore, the Committee concurs with the Audit staff's allocation to Iowa of these individuals expenses.

In addition, the Committee provided a detailed summary of its allocation of the costs with respect to the Rock Island Office. The Committee submits that, of the \$78,448.54 identified in the Interim Audit Report as related to Rock Island \$70,731.04 is allocable to Illinois, and \$7,717.50 is allocable to Iowa.

The Audit staff maintains its position regarding the allocation of the costs associated with the Rock Island Office to Iowa. Based upon the information provided by the Committee in its response, the Audit staff was able to determine conclusively that the focus of the Rock Island Office activities as Iowa related.

The Rock Island Office apparently opened in July 1987 as evidenced by rental payments and consulting fee payments to Dale Smith the Rock Island Office Director. As previously noted, internal Committee memos indicate that it was planned to incorporate Rock Island into the Committee's Iowa campaign strategy by increasing "the level of activity of Illinois volunteers through buses, caravans, and other selected 'visibility' projects." One other Committee memo regarding Iowa suggests the integration of "the Bow Tie Brigade into the mailing program in September and October."

Additionally, according to the Iowa Campaign Plan Outline the following field program activities involving the BTB and Illinois Caravans were planned:

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Phase I

9/30/87 Bow Tie Brigade Letter #1 [to Iowa]
10/05/87 Special Projects -- Illinois Caravans [to Iowa]
10/10/87 Special Projects -- Illinois Caravans [to Iowa]
10/17/87 Special Projects -- Illinois Caravans [to Iowa]
10/24/87 Special Projects -- Illinois Caravans [to Iowa]
10/31/87 Special Projects -- Illinois Caravans [to Iowa]
Bow Tie Brigade Literature Mailing [to Iowa]

Phase II

11/07/87 Special Projects -- Illinois Caravans [to Iowa]
11/10/87 Special Projects -- Illinois Caravans [to Iowa]
11/16/87 Special Projects -- Illinois Caravans [to Iowa]
11/23/87 Special Projects -- Illinois Caravans [to Iowa]
11/23/87 Bow Tie Brigade Third Mailing-Holiday Cards [to Iowa]
11/30/87 Special Projects -- Illinois Caravans [to Iowa]

Phase III

12/07/87 Special Projects -- Illinois Caravans [to Iowa]
12/14/87 Bow Tie Brigade Calls to Iowa [to Iowa]
12/21/87 Bow Tie Brigade Calls Continue [to Iowa]

Phase IV

01/04/88 Bow Tie Brigade visits [to Iowa]
01/11/88 Bow Tie Brigade visits [to Iowa]
01/18/88 Bow Tie Brigade visits [to Iowa]
01/25/88 Bow Tie Brigade visits [to Iowa]
02/01/88 Bow Tie Brigade visits [to Iowa]

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In its response the Committee itself confirms that the Rock Island Office was an integral part of the Iowa campaign plan by admitting that the Rock Island Office's main function was to recruit volunteers for the BTB and to organize BTB bus trips into Iowa on the weekends.

The Committee details the costs of printing the 9/30/87 BTB mailing #1, the 10/31/87 and 11/23/87 mailings, as well as the holiday cards, as noted in the Iowa Campaign Plan Outline evidencing that the mailings actually occurred. Furthermore, the Committee confirms that the Illinois Caravans and BTB visits as outlined in the Iowa Campaign Plan Outline also actually occurred. The Committee states " Brigade activities included organized bus trips" and that "these bus trips were of a limited duration, such as for a weekend," and that "reimbursement requests by Rock Island staff can be matched to the various bus trips planned for Iowa."

A BTB Calender of Events also details the focus of the BTB to be Iowa. It states "Your first assignment as a Brigade Member is to complete a series of six (6) projects to establish contact with 20 Iowa households... The list of households, specific instructions, materials for mailings

and maps for the trips will be provided by the campaign...the campaign will be available to answer questions and provide support resources." The six projects included:

1. Write a short letter to each household before the end of September;
2. Put notes on campaign literature and mail it to Iowans;
3. Telephone each household;
4. Visit each household in Iowa sometime during the first three weeks of November;
5. Put notes on a second piece of campaign literature and mail it to Iowa; and
6. Send a holiday greeting card.

Since the BTB was organized and operated from Rock Island it is reasonable to conclude that the duties of the BTB staff based in Rock Island included those detailed in the BTB Calender of Events.

In the Audit staff's opinion, based upon the evidence noted above the Rock Island Office activities were overwhelmingly aimed at influencing the Iowa Caucus; it is also the Audit staff's opinion based upon the above evidence that the Rock Island Office was indeed integrated into the Iowa campaign as suggested in the Committee's internal memos and the Iowa Campaign Plan Outline. Further, it is the Audit staff's opinion that based upon the integration of Rock Island into the Iowa campaign that the Rock Island Office was a surrogate Iowa field office and the costs associated with Rock Island should appropriately be allocated to Iowa.

Additionally, the Committee's argument that the administrative office costs and salaries of the Rock Island based staff are allocable to Illinois because the activity took place in Illinois is without merit. The Regulations at 11 C.F.R. § 106.2(a)(1) clearly state that costs for the purpose of influencing the nomination of a candidate for the office of the President with respect to a particular State shall be allocated to that state, and that an expenditure shall not necessarily be allocated to the State in which it is incurred or paid.

The duties of the BTB staff based in Rock Island included the recruitment of BTB members, whose main function was a 6 project assignment aimed at Iowa; the instruction of BTB members in their Iowa focused duties; the provision of support resources to the BTB members; and the organization of 11 weekend Illinois Caravans and 5 pre-Caucus BTB visits to Iowa. These duties are clearly related to Iowa, and were not, as the Committee claims, a "key component of the campaign's Illinois-related activity." Since the objective of the BTB activities was to influence Iowa voters, the location of the center of operations is irrelevant to the allocation of the costs associated with conducting the activity. Additionally, the argument regarding location is also irrelevant since the Rock

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Island Office is considered an Iowa field office by the Audit staff.

The Committee's argument that the salaries and travel costs of BTB Coordinators and Directors should be exempt from allocation to Iowa under the 5-day rule is also without merit. The exemption for salaries for an individual working in a state for less than 5 days is based upon the presumption that the individual will be working on national campaign strategy and not influencing the primary in that particular state (Federal Register Volume 48 No. 25 Part 106 page 5225 February 4, 1983). In the case of the Committee, the BTB activities are clearly to influence the Iowa Caucus, therefore there is no exemption. Furthermore, as an Iowa field office the 5-day rule does not apply to Rock Island based staff. Nor does the 5-day rule apply to the costs incurred by the BTB members while conducting activities in Iowa as the costs associated with the BTB members are considered direct costs of conducting the BTB program. And as previously stated, costs for the purpose of influencing the nomination of a candidate for the office of the President with respect to a particular State shall be allocated to that state.

The Audit staff reviewed the Committee's detail accounting of the Rock Island expenses, and made adjustments for expenses occurring from the inception of the Rock Island Office in July 1987 for rent, and consulting fees. Additionally, the Audit staff made adjustments for administrative and overhead expenses which were not previously allocated to Rock Island based upon vendors identified by the Committee that provided such services. Where applicable, the Audit staff made adjustments for the 10% legal and accounting exemption, and the 10% fundraising exemption.

Regarding the Committee's contention that all printing and postage costs are allocable to Illinois as fundraising, the Committee did not associate the BTB Recruitment letters submitted to the Audit staff with the costs for printing and mailing the letters; furthermore the Committee did not provide copies of the BTB Mailings which were detailed in the Iowa Campaign Plan Outline. In one instance the cost of recruitment printing was noted by check memo notation and was accordingly omitted from the allocation due to the fundraising nature of the BTB recruitment literature. Absent documentation which associates the costs of printing and mailing the BTB Recruitment letters submitted to the Audit staff, and absent copies of the BTB Mailings the Audit staff has not excluded these printing and postage costs from the Rock Island allocation.

Based upon our review, the Audit staff has calculated the total cost associated with the Rock Island Office to be \$103,997.25 and has included this amount in the Iowa state limitation calculation.

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e. Northwestern Bell

Section 106.2(b)(2)(iv)(A) of Title 11 of the Code of Federal Regulations states, in part, that overhead expenditures in a particular State shall be allocated to that State. For the purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges. "Telephone service base charges" include any regular monthly charges for committee phone service, and charges for phone installation and intra-state phone calls other than charges related to a special use such as voter registration or get out the vote efforts.

The Audit staff reviewed Committee allocation workpapers and available monthly bills with respect to 20 telephone service locations. Although requested by the Audit staff, not all telephone bills have been provided by the Committee to date. A comparative analysis of costs allocated to the Iowa expenditure limitation by the Committee and costs determined to be allocable by the Audit staff was performed. Should the Committee provide the missing documentation, the Audit staff will revise its analysis as required.

Based upon this review and a review of additional documentation provided by the Committee January 24, 1990, it is the opinion of the Audit staff that an additional \$51,847.83 should be allocated to Iowa. It appears the Committee neglected to allocate the allocable amount(s) of telephone deposits applied to final bills. The amount(s) of a telephone deposit when initially paid to the vendor was not allocated to a particular state(s).

In response to the Interim Audit Report, the Committee disputed the Audit staff's allocation of an additional \$51,847.83 with respect to Northwestern Bell. The Committee states "as of October 17, 1989 the Audit Division had allocated an additional \$30,659.86" to Iowa. The Committee then states that the Audit incorrectly allocated \$21,187.97 in Northwestern Bell charges based upon the Audit Division's review of documentation provided on January 24, 1990. The Committee maintains that

"This additional allocation involved the Committee's use of deposits from various phone lines to pay off the outstanding balance for a phone number (515/243-6232) established by the Committee in Des Moines, Iowa ("Des Moines number").

We believe that the Audit Division improperly allocated the additional \$21,187.97 because this amount double-counted payments for charges previously attributed by the Audit Division to Iowa on October

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17, 1989. Once the Audit Division had allocated all outstanding charges for the Des Moines number, it could not also allocate payment for the same charges."

The Committee is incorrect in its assesment that the Audit staff made a duplicate allocation of \$21,187.97 in charges to Northwestern Bell. At the exit conference the Audit staff presented the Committee with a schedule detailing the additional allocation of \$30,659.86 in Northwestern Bell charges. Based upon our review of the documentation submitted by the Committee on January 24, 1990, which consisted of phone bills which had not previously been reviewed or allocated to Iowa by the Audit staff, the Audit staff increased its allocation of Northwestern Bell charges by \$21,187.97.

Our allocation of Northwestern Bell is based upon the current charges reflected on the billing statements provided by the Committee, and not on the amounts paid by the Committee to Northwestern Bell nor the deposits applied by Northwestern Bell to outstanding balances on billing statements.

The Audit staff reviewed its allocation of Northwestern Bell charges to Iowa and notes that the additional allocation to the Des Moines office phone was only \$5,441.32, and adjustments to other Iowa phones totaled \$1,274.14. The remaining adjustment of \$14,405.44 was the difference between what the Audit staff calculated as allocable to Iowa for Year End 1987 and January 1988 (\$23,537.93) and what the Committee allocated to Iowa (\$9,532.49). A mathematical error totaling \$466.74 was identified during our review and therefore the Audit staff has made a downward adjustment to its allocation of Northwestern Bell. The revised Northwestern Bell allocation to Iowa totals \$51,381.09.

f. Payroll and Employer FICA

Section 106.2(b)(2)(ii) of Title 11 of the Code of Federal Regulations states that except for expenditures exempted under 11 C.F.R. 106.2(c), salaries paid to persons working in a particular State for five consecutive days or more, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that State during a payroll period.

The Audit staff's review of Committee payroll records and allocation workpapers with respect to Iowa determined that an additional \$19,860.46 in payroll and payroll taxes relative to staff assigned to Iowa field offices requires allocation to Iowa. Also noted during this review were payroll

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checks totaling \$16,151.004/ to individuals classified by the Committee on its payroll registers as Iowa staff covering payrolls primarily from January 15 through February 15, 1988 which the Committee has either voided (\$4,036.18), not issued (\$7,058.59), or was apparently issued and the checks remain outstanding (\$5,056.23). The Audit staff noted that the Committee reissued payroll checks to 9 individuals whose payroll checks had either been voided or not issued, apparently only when these individuals had contacted the Committee demanding payment. During fieldwork, a Committee representative stated that the payrolls for pay periods in January and February 1988 which were not immediately issued were issued during June 1988 to all individuals who were legitimately owed payroll checks. The Committee offered no explanation regarding the circumstances surrounding the above mentioned payroll checks which were voided or not issued and further offered no explanation regarding the determination of those individuals who the Committee claims were legitimately owed paychecks and those who were not owed paychecks. Therefore, the Audit staff has included in the above payroll allocation those checks which as stated, have not been issued by the Committee (\$7,058.57) and those checks which remain outstanding (\$5,056.23).

Additionally, the Audit staff noted that payroll and payroll taxes totaling \$3,627.17 relative to individuals working in Iowa for five or more consecutive days had not been allocated by the Committee. As a result of the above, the Audit staff allocated in the Interim Audit Report an additional \$23,487.63 (\$19,860.46 + \$3,627.17) to Iowa.

In the Interim Audit Report the Audit staff recommended that the Committee provide an explanation regarding the circumstances surrounding the void or not issued payroll checks, and provide an explanation regarding the Committee's determination of those individuals the Committee regarded as having legitimate claims to wages and those individuals the Committee did not regard as having legitimate claim to wages.

The Committee did not address directly in its response to the Interim Audit Report the circumstances surrounding the Iowa payroll checks noted in the Interim Audit Report as void, not issued, or outstanding; nor did the Committee provide an explanation regarding the determination of those individuals the Committee regarded as having legitimate claims to wages and those the Committee did not regard as having legitimate claims to wages. The Committee did, however, provide evidence that certain payroll checks were voided and reissued.

The Audit staff reviewed the payroll and related employer FICA and reduced the Iowa allocation by

4. The Audit staff has also included the related employer FICA in its allocation.

\$1,863.69 for void payroll checks, including those outstanding checks noted above as void. The revised Iowa payroll and employer FICA allocation totals \$21,623.94.

g. Aircraft Charters

The Audit staff reviewed the airplane charters booked for Senator Simon for his travel during the campaign. Documentation regarding these charters (i.e., charter manifests, passenger lists, miles traveled, and cost per mile) was requested from the Committee during audit fieldwork but such documentation has not been provided.

Several charters were booked by Charter Search Network in January and February 1988 for travel in Iowa. Evidence indicates that Senator Simon was traveling in Iowa from January 29, to February 9, 1988. Several other charters for intra-state Iowa travel were also noted, one of which occurred during a period of time when Senator Simon was in Iowa for five or more consecutive days.

The Audit staff's review of the limited documentation made available with respect to aircraft charters indicated that an additional \$64,819.85 required allocation to the Iowa spending limitation.

In its January 31, 1991 response to the Interim Audit Report the Committee provided the Audit staff documents relative to Charter Search Network. Based upon a review of the documentation provided, the Audit staff has reduced the amounts to be allocated to Iowa by \$38,028.23 for this vendor. The amounts allocated are costs for travel associated with Iowa staff and individuals (non Iowa staff) who traveled for more than 5 consecutive days in Iowa. The new Iowa allocation for Charter Search Network totals \$24,036.02.

Included in the documentation for Charter Search Network was information relative to one of the other charters noted in the Interim Audit Report for intra-state Iowa travel. This documentation indicated the aircraft chartered was to accommodate the press. Therefore, the allocation for the other intra-state Iowa travel has been reduced by \$790 to \$1,965.60.

In summary, the Audit staff has allocated to Iowa for intra-state Iowa air travel \$26,001.62.

h. Vendors

The Audit staff conducted a thorough review of the Committee's vendor files which could be associated with the Iowa effort. Based upon that review, the Audit staff determined in the Interim Audit Report that an additional \$168,988.36 required allocation to the Iowa spending limit. This amount represents payments to vendors for such things as

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printing, rent, utilities, office supplies, shipping, and car rentals, as well as payments to consultants which are detailed below.

In response to the Interim Audit Report the Committee provided documentation which required the Audit staff to revise the state allocation relative to amounts paid to these vendors. Based upon our review, the Audit staff has determined the total Iowa vendor related allocation to be \$143,112.61. Included in this total are the following vendors.

i. Hickman Maslin Research

The Committee entered into a consulting contract with Hickman Maslin Research (HMR) to conduct polling, research and consulting services, which included the "design, execution and analysis of all public opinion research...including polls and focus groups..." They were also to actively participate in strategic and tactical discussions, brief the Committee on public opinion and review and comment on brochures, newspaper ads, press releases and TV scripts and ads. The contract provides that the Committee compensate HMR for the activities specified above in the form of consulting fees, as well as 100% compensation for the cost of conducting surveys (polls) and and for reimbursement for travel and lodging expenses for HMR personnel for consultations on projects (polls and focus groups) outside of the Washington, D.C. area.

Hickman Maslin Research apparently conducted seven polls and two focus groups which were related to Iowa. The Committee allocated correctly the cost of the polls to Iowa; however, they did not allocate the cost of two focus groups (\$10,000) and the travel and lodging expenses incurred by HMR personnel while in Iowa conducting the polls and focus groups (\$4,533.08). Further, the Committee did not allocate that portion of the consulting fee which represents compensation for the Iowa related polls and focus groups.

The Audit staff requested during fieldwork that the Committee provide documentation from the vendor which associates the consulting fees with a particular survey. To date, the Audit staff has not been provided with such documentation.

The Audit staff has allocated \$24,000, (48% of the consulting fees) paid to Hickman Maslin Research which represents that portion of consulting fees determined by the Audit staff to be related to Iowa (Iowa polling and focus group fees ÷ total polling and focus group fees).

At the exit conference, the Committee noted that HMR's consulting fee was for polling, political, and other activities which were not associated with any state and

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were appropriately allocated by the Committee to national headquarters overhead.

As previously stated, the contract provides for consulting fees to be paid to HMR by the Committee for the activities which HMR performed for the Committee. A review of the HMR billing statements indicates that all work billed by HMR was related to a specific state, therefore the Committee's contention that the consulting fees were for activities not associated with any state is invalid. Therefore the Audit staff has included in the vendor allocation above, \$38,533.08 (\$10,000 + \$4,533.08 + \$24,000) relative to HMR.

In its January 31, 1991 response to the Interim Audit Report, the Committee restates its position that it acted properly in allocating to national headquarters overhead all disbursements made to HMR for consulting services. In addition the Committee states that the cost of the focus groups are media production costs which are not allocable to any state.

The Committee cites a written agreement with HMR "which stipulated that HMR would perform general consulting functions in addition to providing polling services" and asserts that these general consulting services were not associated with any particular state. The Committee also points out that in Section 1.a. of the aforementioned agreement, the costs of polls and focus groups would be incorporated into a form of agreement and attached a copy of such an agreement. The Committee then states that "HMR would bill the Committee separately for costs, including fees, incurred in conducting polls and focus groups" and therefore, disbursements for consulting fees encompassed neither polling nor focus group costs. Additionally, the Committee makes references to other sections of the agreement to support its argument that these fees were for services unrelated to the polls or focus groups.

With respect to focus groups, the Committee's response states that these costs were not allocated to New Hampshire or Iowa by the Committee because these focus groups are exempt from allocation as media production costs. According to the Committee, the focus groups were conducted by HMR as part of the media production team and consisted of assembling citizens from the respective states to preview the proposed media advertising. The reactions of the focus groups were then used by the media consultants to produce and edit the advertising.

The Committee also provided signed statements from Paul Maslin of HMR and from David Axelrod of Axelrod and Associates (the Committee's media consultant) in support of the Committee's position as detailed above.

Based upon our review of the materials submitted by the Committee, the Audit staff notes that the

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contract and agreement language appear to contradict the Committee's assertions with respect to the consulting fees. Paragraph 7 of the contract which addresses fees of HMR states, in relevant part, that "for the performance of the services enumerated in paragraph 1 (a-f) hereof, the Committee agrees to compensate HMR \$10,000 per month through March 8, 1988."

Paragraph 1 of the contract which addresses duties of HMR states, in part, that

"the Committee hereby engages HMR to provide polling, research and consulting services including:

(a) assuming full responsibility for the design, execution, and analysis of all public opinion research for the Committee, including polls and focus groups, which shall be conducted for the Committee in accordance with the provisions of paragraph 2 hereof and, where convenient, in accordance with the terms of a form of Agreement similar to that attached hereto, ...;

(b) actively participating in strategic and tactical discussions as requested by the Committee...;

(c) briefing the Committee and/or its representatives on a regular basis concerning public opinion and other political information which may bear on Paul Simon's political activities;

(d) reviewing and commenting on speeches, brochures, newspaper ads, press releases, radio and television scripts and ads...;

(e) making presentations and/or submitting written statements to members of the press and/or potential contributors and/or potential supporters...;and

(f) working closely with any and all other consultants retained by the Committee."

With respect to the form of agreement mentioned by the Committee and within paragraph 1 (a) of the contract as detailed above, the Audit staff notes that paragraphs 1. and 2. of this agreement state, in part, that: (1) the duties of HMR include the conducting of an agreed upon number of telephone interviews containing a predetermined number of questions with likely voters in a specific state; and (2) HMR will provide three separate reports to the Committee detailing the results of the survey. Paragraph 3. of this same agreement states, quite specifically, that the fees of HMR will be for the above mentioned services. Therefore, it appears to the Audit staff that this agreement relates only to the actual costs of the survey, which are in addition to the consulting fees noted in the contract.

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With respect to the focus groups costs being media production, the Committee's argument is, with the exception of the vendor's statements, unsupported. The Committee did not provide in its response, evidence such as, which ads were viewed, the questionnaires answered by the focus group participants after viewing the ads and prior to the group discussion, the discussion summary, nor the the focus group reports; nor evidence to support the types of changes made or the ads to which changes were made as a result of the focus group discussions.

Also contained within the Committee's response was information relative to a \$9,000 payment to HMR for which additional information was requested in the Interim Audit Report to determine state allocation. According to the Committee the payment was for an Iowa related poll conducted before the Iowa caucus, and should therefore be allocated to Iowa. The Audit staff concurs with the Committee's position that the cost of this poll should be allocated to Iowa and has adjusted its allocation accordingly.

The Commission in previous considerations^{5/} has determined that the costs of focus groups are not allocable and has also determined that consulting fees arising out of agreements to provide polling services are not allocable.

Therefore, based upon the above, the Audit staff has reduced the amounts allocable to Iowa by the cost of the focus groups (\$10,000 + \$1,344.75 focus group travel) and by the amounts of the consulting fees (\$24,000). The total additional amount allocable to Iowa is now \$12,188.33 which consists of \$9,000 for the Iowa poll and \$3,188.33 for Iowa polling related travel.

ii. Fingerhut and Madison Opinion Research and Communications, Inc.

The Committee entered into a consulting contract with Fingerhut and Madison Opinion Research and Communications, Inc. (FM) for general political consulting services to include "all services customarily performed by political consultants to campaigns for the Office of the President of the United States," and polling services which included selecting the polling samples, instructing callers, advising the Committee on the tabulations of results, and providing a written analysis on the results of each poll. The terms of the contract provided compensation for the consulting services as well as compensation for the polling services, and

5. Report of the Audit Division on Dole for President, approved April 15, 1991 and Report of the Audit Division on Gephardt for President, Inc., approved June 10, 1991.

reimbursement for "reasonable expenses incurred by FM in performing its obligations." The contract also stipulates that FM is an independent contractor.

During audit fieldwork the Audit staff reviewed the vendor's billing statement and all of the vendor's invoices and noted \$8,000 of polling consulting fees and \$2,509.43 of expenses for April 1987 Iowa radio ratings (\$240), May 1987 Iowa poll word processing (295.80), June 1987 polling expenses, which included data processing on the Iowa Baseline (\$1,313.98), and July 1987 polling expenses (\$659.65). However, no cost directly associated with conducting the Iowa polls were noted. No other polls or polling expenses were noted. These costs and the polling consulting fees were not allocated to Iowa by the Committee.

Therefore the Audit staff has included in the above allocation all of the polling consulting fees (\$8,000), and all of the polling expenses and other Iowa related expenses (\$2,509.43). In addition, on January 24, 1990 the Committee provided a general statement made by the vendor with respect to the services provided by Fingerhut & Madison. In lieu of additional documentation from the vendor which specifically breaks down the consulting fees (such as by time keeping records for each individual for billable hours with respect to each job) the Audit staff's position remains unchanged.

The Committee's response to the Interim Audit Report contained no mention of this vendor. However, the Audit staff reviewed its allocation with respect to the Commission's decision regarding the allocation of general consulting fees arising out of agreements to provide polling services.

In the vendor's statement, provided January 24, 1990 by the Committee, the vendor states:

"The invoices relating to Strategic Consulting and Polling Consulting are for the monthly retainers set forth in F&M's contract with the Committee (the Committee was invoiced monthly for retainers simply as a 'billing' reminder ...). As stated in the contract, F&M was retained by the Committee's national campaign staff as the Committee's chief political consultant, to perform general consulting and polling services on a nationwide basis, including the design and analysis of a poll in Iowa."

The vendor did not provide evidence to support the performance of any polls other than the Iowa poll and the Iowa polling expenses which were invoiced. Nor did the vendor provide documentation detailing all of the costs associated with conducting the Iowa poll.

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In addition, the vendor claims in its statement that "These invoices were not related to specific jobs, polls..." This statement contradicts the language in the contract noted below.

As previously noted, the consulting contract between FM and the Committee included general political consulting services, and polling services. The contract stated that the Committee would pay FM on a monthly basis for "general political consulting services. Such services shall include consultation as to all services customarily performed by political consultants to campaigns for the Office of President..." The contract also stated the Committee would pay FM \$1,000 on the first and fifteenth of each month "to perform general polling services. These services shall include drafting of all polling instruments required by PS and selecting (drawing) the polling samples, instructing callers, advising PS on tabulations of results, and providing PS with a written evaluation and analysis of results of each poll." (Emphasis added)

Given that the Committee paid polling consulting fees in addition to the "Strategic Consulting" fees for the general consulting work FM performed, it is the audit staff's opinion that the abovementioned polling services, as set forth in the contract between the Committee and FM, represent the actual work performed when conducting polling activities. Furthermore, as set forth in the contract, the fees paid on a monthly basis by the Committee represent payments for the actual polls performed. Although invoiced by FM as "Polling Consulting" the amounts paid are actually compensation for the poll(s) conducted, of which only one, the Iowa poll has been identified. Therefore, the Audit staff's allocation of the polling consulting fees and the Iowa related expenses remains unchanged.

iii. The Clinton Group

The Committee engaged the Clinton Group to conduct direct mail and telephone surveys. A review of the documentation made available indicated that the majority of the activity contained fundraising elements. In its allocations the Committee exempted 50% of the costs relative to programs directed at Iowa occurring outside of the 28 days prior to the Iowa caucus and allocated all of the costs relative to programs directed at Iowa occurring within the 28 days prior to the Iowa caucus. The Audit staff adjusted the Committee's allocations to exempt all fundraising costs outside the 28 day period prior to the Iowa Caucus and to include those fundraising costs within the 28 day period. As a result of its analysis the Audit staff has determined the Committee overallocated costs with respect to the Clinton Group. Therefore, the Audit staff has reduced expenditures subject to the Iowa limitation by \$26,985.

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iv. Robert Francis Jones Associates

The Committee retained Robert Francis Jones & Associates (RFJ) to process Iowa tapes for each of the following data bases:

- 313,000 democratic Iowa voters, which included 75,000 active Iowa democrat caucus attendees;
- 1,100,000 Iowa voters; and
- 41,000 teachers database.

They were to produce three files, the "A" file which would contain 1980 and 1984 caucus attendee households and other activists, the "B" file which would contain those households not listed in the "A" file, and a Democratic Iowa Teachers file. Examples of the work produced are lists of undecided voters by city, and county, undecided teachers, supporters, and supporters with caucus locations, a complex target report for Iowa, keying and printing of labels for miscellaneous political lists, and numerous cheshire labels. In the Interim Audit Report the Audit staff included in the above allocation of expenditures to vendors \$19,335.39 relative to the work performed on the Iowa tapes. The Committee allocated these costs to various National Headquarters categories such as Press, National Political/Field and Office Management.

In response to the Interim Audit Report the Committee submitted a statement disputing the Audit staff's allocation of the costs of the Iowa tapes produced by RFJ. The Committee stated "the tapes generated by the Robert Francis Jones Associates were used for fundraising appeals."

The Committee paid \$12,059.23 to the Iowa Democratic Party during 1987 for computer services; \$10,000 of which was for the purchase/lease of the Iowa Democratic Party Voter Contact and Activist Database ("Iowa Database"). This database consisted of information regarding registered Iowa Democrats, their voter history since 1980, and their caucus attendance history and activist history since 1980. The Committee allocated appropriately these costs to Iowa indicating the use of the Iowa Database was political or campaign related, and not fundraising related.

As previously noted, RFJ prepared files for the Committee from a 313,000 democratic voter database; 75,000 active Iowa democrat caucus attendees database; a 1,100,000 Iowa voter database; and a 41,000 teacher database. One file prepared by RFJ contained 1980 and 1984 caucus attendee households and other activists, the "A" file. The "B" file would contain 1984 or 1986 primary voters, but not caucus attendees.

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It is the Audit staff's opinion that the work performed by RFJ is obviously, in part, data processing of the Iowa Database.

An internal Committee memo dated September 18, 1987 written by John Fitzpatrick regarding the production of Iowa Precinct Target Reports states "I gave the data and formulae to Bob Jones (apparently a reference to Robert Francis Jones) ... he has promised we will have the first run on Monday." The first Iowa report was to include for each precinct within Iowa:

1. Projected voter turnout;
2. Target Simon vote;
3. Precinct rating;

and the report was to include for each Iowa county:

1. Projected voter turnout;
2. Target Simon vote;
3. Percent of EFFORT based on target Simon vote;
4. Percent of effort based on target vote and Delegate equivalency factors; and
5. Ranking of counties from 1 - 99.

Also noted in this memo is the fact that data obtained from the Iowa Democratic Party would be used in the preparation of future Iowa Precinct Targeting reports, further evidencing that the work performed by RFJ was on the Iowa Database.

Furthermore, the nature of the work produced by RFJ for the Committee, for example, lists of undecided voters by city and county, undecided teachers, supporters, and supporters with caucus locations, suggests the Iowa tapes which resulted from the data processing of the Iowa Database by RFJ were used primarily for political targeting and voter analysis rather than fundraising. In addition, the RFJ invoices which detail the above work make no mention with respect to fundraising.

Based upon the evidence noted above, it is the Audit staff's opinion that the Committee's argument that "the tapes generated by the Robert Francis Jones Associates were used for fundraising appeals" is without merit. Therefore the Audit staff's allocation of the costs associated with the work performed on the Iowa tapes/Iowa Database remains unchanged.

v. The Murphine Corporation

The Committee entered into a consulting agreement with The Murphine Corporation (TMC) to provide strategic political analysis and planning, assistance with voter contact programs, and consultation in developing management structures for both Iowa and New Hampshire and for the development of a written campaign plan for the presidential

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primary in New Hampshire. The contract also provided for compensation to TMC for its service in the form of consulting fees and for the reimbursement of all travel related expenses, out of pocket expenses and a living expense (per diem) for each work day personnel of TMC spent outside of the Washington, D.C. area. In the Interim Audit Report the Audit staff included in the vendor allocation above consulting fees of \$7,250 (50% of the total paid) and travel expense reimbursements of \$528.86 relative to the Iowa related portion of services provided.

With respect to the Murphine Corporation (TMC) the Committee stated in its response to the Interim Audit Report that TMC was engaged in fundraising activities and worked closely with the Committee's fundraising team. Further the Committee stated that "George Berger from Murphine Corporation worked closely with the Clinton Group, and developed the plan used as a basis for the Clinton Group's direct mail/telemarketing fundraising campaign." No documentatin from either vendor was provided to support this contention.

An internal Committee memo written by George Burger dated September 10, 1987 entitled "Iowa Plan Campaign Plan -- Draft" (sic) contains as an attachment a draft of a preliminary campaign plan for Iowa, "Simon for President --Iowa Campaign Plan Outline -- Draft." Another Committee memo dated September 17, 1987 written by John Fitzpatrick regarding the September 10, 1987 George Burger memo states "I received yesterday George Burger's memo titled 'Iowa Plan Campaign Plan -- Draft' dated September 10. It is my understanding that this document will be meshed with Pat Mitchell's memo ... to form the basis for the Simon for President campaign in Iowa."

Key elements contained in George Burger's Iowa campaign plan draft include Campaign Strategy; which focused on "bursts of 'paid' contact to the caucus attenders" and an attempt to increase the Committee's "percentage of the vote through concentrated periods of 'paid' communications (radio and television ads, mail and telephone contacts)." A Direct Voter Contact program is also outlined, as well as a Paid Media and Press program, Field program, and a Candidate Activity program among others.

The Audit staff notes that the Direct Voter Contact program mentioned above apparently corresponds to the work performed by the Clinton Group, however the Committee did not provide documentation from TMC that details the portion of time spent on that particular program. Furthermore, the Voter Contact program is only one element of an 7 element activity schedule, which is itself only one phase of a 5 phase campaign plan; and the cost of including the Voter Contact plan in the Iowa campaign plan could be considered merely incidental to the cost of producing the entire Iowa campaign plan.

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Based on our review of the documentation made available, it is the Audit staff's opinion that the services provided by TMC directly influenced the candidate's nomination for the Office of President with respect to Iowa, and therefore the amounts paid for the development of the Iowa related work performed are allocable to Iowa in accordance with the Regulations at 11 C.F.R. § 106.2(a)(1).

i. Drafts Paid to Iowa Vendors

During the campaign the Committee utilized bank drafts which are bearer instruments having a maximum value stated on the face of the draft, (i.e., not more than \$25, \$50, \$100). When presented to the issuing bank for payment, a bank representative would contact the Committee and a Committee representative would approve the draft for payment. Drafts were provided to campaign staff and were used throughout the campaign to purchase goods and services at the state office level as well as to reimburse travel and subsistence expenses incurred by campaign staff.

The Audit staff's review of drafts used by the Committee and the associated documentation indicated an additional \$23,391.86 requires allocation to Iowa. The expenses incurred include postage, office supplies, car rentals, payments to various hotels and expense reimbursements for non-travel and subsistence items relative to Iowa.

During the Audit staff's review of documentation provided by the Committee in response to Interim Audit Report Finding III.C. Apparent Non-Qualified Campaign Expenses-Undocumented Expenditures it was noted that certain draft documentation had been submitted twice by the Committee and initially allocated twice by the Audit staff. The Audit staff has adjusted the allocation of draft expenditures for the duplication and has recalculated the allocable draft expenditures to be \$14,792.56.

j. Bankers Trust

The Audit staff's review of Committee workpapers relative to the Bankers Trust account indicated that an additional \$1,667.40 (net) requires allocation to Iowa. This amount is the net result of under allocation by the Committee and exemptions for legal and accounting and fundraising being taken on items which were not overhead as defined by 11 C.F.R. 106.2, and an over allocation by the Committee in February 1988.

In its response to the Interim Audit Report the Committee provided the Audit staff with evidence that certain checks written from the Banker's Trust account were void. Therefore the Audit staff has decreased its allocation by

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\$3,187.76 resulting in a reduction of \$1,520.36 from the amount the Committee originally allocated on FEC Form 3-P Page 3.

k. Jefferson/Jackson Dinner

The Jefferson/Jackson Dinner ("JJ Dinner") was an event hosted by the Iowa Democratic Party on November 7, 1987. All candidates were invited to speak at the event. The Committee held an Illinoisans for Simon reception, a Paul Simon rally and a buffet dinner.

Based on the documentation made available the Audit staff identified \$10,939.33 in expenditures for the JJ Dinner which the Committee allocated to Iowa. The expenditures were for charter buses, American flags, rental of a tent to be set up outside of the Veterans Memorial Auditorium, rental of video equipment for use on November 7, at the Veterans Auditorium, and room rentals at the Des Moines Convention Center and Veterans Memorial Auditorium. Further review by the Audit staff identified an additional \$18,390.91 in expenditures associated with the JJ Dinner which have been allocated by the Audit staff to Iowa. These include an additional payment to the Veterans Memorial Auditorium Commission for the rental of the Urbandale Room, catering, banners, balloons and hardware supplies, a paging system, generator and per diem for several campaign staff who were in Iowa from November 1 through November 8, 1987.

Additionally, the Audit staff noted in the documentation provided January 24, 1990 receipts from Pratt Audio Visual and Copycat Photocopy for the following activities which could not be associated with a payment:

- ° Portable Panasonic Recorder, \$75.00;
- ° 1,000 copies made November 6, 1987, \$23.92.

In the Interim Audit Report the Audit staff recommended that the Committee provide a detailed accounting, with supporting documentation, of all expenses related to the Committee's participation in the Jefferson/Jackson Dinner, to include payments to vendors for goods and services, and expense reimbursements and per diem paid to individuals associated with supervising or participating in the event.

A review of the Committee's response to the Interim Audit Report identified an additional \$100 allocable to Iowa for the JJ Dinner; and also identified the above noted expenses with the source of payment. The revised amount related to the JJ Dinner totals \$18,490.91, and is included in the allocation to Iowa.

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Recap of Iowa Allocations

Presented below is a recap of Iowa allocations. Photocopies of workpapers and supporting documentation for the Audit staff's allocations as noted in the Interim Audit Report have been provided to the Committee.

	PER INTERIM AUDIT REPORT	PER FINAL AUDIT REPORT
Amount Allocated by the Committee	\$792,504.34	\$792,504.34
Adjustment for Voids		(213.74)
Net Amount Allocated by Committee	\$792,504.34	\$792,290.60
Additional Allocations by Audit Staff:		
Exempt Compliance and Fundraising Expenditures	\$375,762.55	\$375,762.55
Media	62,840.55	62,840.55
Intra-State Travel and Subsistence	74,812.77	76,406.38
Rock Island Office	81,939.54	103,997.25
Northwestern Bell	51,847.83	51,381.09
Payroll and Employer FICA	23,487.63	21,623.94
Aircraft Charters	64,819.85	26,001.62
Iowa Vendors	168,988.36	143,112.61
Drafts	23,391.86	14,792.56
Bankers Trust	1,667.04	(1,520.36)
Jefferson/Jackson Day Event	18,390.91	18,490.91
Sub Total Audit Allocation	\$947,948.89	\$892,889.10
Total Allocable to Iowa	\$1,740,453.23	\$1,685,179.70
Less: Iowa Limitation	(775,217.60)	(775,217.60)
Amount in Excess of Iowa Limitation	\$ 965,235.63	\$ 909,962.10
	=====	=====

Although requested in the Interim Audit Report to amend its FEC Form 3P, Page 3 relative to state allocations, the Committee has not filed amendments as of January 31, 1991.

In the Interim Audit Report the Audit staff recommended that within 30 calendar days of service of this report, the Committee submit the following:

- ° an explanation regarding the purpose and function of the Rock Island, Illinois office; a listing of all activities and programs conducted or coordinated from the Rock Island office to include a detailed accounting, with supporting documentation, of all expenses related to each activity or program; and an explanation regarding the Committee's use of a "Midwest Regional Office", including a list of the states in the region, and a detailed accounting with supporting documentation, of all the expenses related to a "Midwest Regional Office";
- ° a detailed accounting, with supporting documentation, of all expenses related to the Committee's participation in the Jefferson/Jackson Dinner, to include payments to vendors for goods and services, and expense reimbursements and per diem paid to individuals associated with supervising or participating in the event; and
- ° an explanation regarding the circumstances surrounding the void or not issued payroll checks, and an explanation regarding the Committee's determination of those individuals the Committee regarded as having legitimate claims to wages and those individuals the Committee did not regard as having legitimate claim to wages; and
- ° evidence demonstrating that the Committee has not exceeded (or exceeded to a lesser extent) the Iowa spending limitation and amend its disclosure reports to reflect the proper allocations.

Further recommendations may be forthcoming.

On January 31, 1991, the Committee submitted its response to the Interim Audit Report with respect to allocation of expenditures to the Iowa limitation. Those areas addressed by the Committee are discussed within the appropriate sub-section above. As presented in the chart on the previous page of this Exhibit the Audit staff has revised its assessment and has determined that the Committee has exceeded the Iowa state expenditure limitation by \$909,962.10.

2. New Hampshire

The Committee's FEC Form 3P, Page 3, covering activity through December 31, 1989, disclosed \$447,555.23 as allocable to the New Hampshire expenditure limitation of \$461,000. There were no amendments filed with regard to amounts reported as allocable to the New Hampshire limitation.

Presented below are categories of costs which were not reported as allocable on FEC Form 3P, Page 3. Included within the applicable report section below is the Committee response, if any, to the Interim Audit Report.

a. Telephone Related Charges

Section 106.2(b)(2)(iv)(A) of Title 11 of the Code of Federal Regulations states, in part, that overhead expenditures in a particular State shall be allocated to that State. For the purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges. "Telephone service base charges" include any regular monthly charges for committee phone service, and charges for phone installation and intra-state phone calls other than charges related to a special use such as voter registration or get out the vote efforts.

i. New England Telephone

The Audit staff reviewed available telephone bills, to include final bills, for 18 telephone service locations. Although requested by the Audit staff, not all telephone bills have been provided by the Committee to date. A comparative analysis of costs allocated to the New Hampshire expenditure limitation by the Committee and costs determined to be allocable by the Audit staff was performed. This analysis included a review of the application of deposits held (plus interest) to the final bills. Should the Committee provide the missing documentation, the Audit staff will revise its analysis, as required.

Based upon this review, it is the opinion of the Audit staff that an additional \$18,325.74 should be allocated to New Hampshire. It appears the Committee neglected to allocate the amount(s) of telephone deposits applied to final bills. The amount(s) of a telephone deposit when initially paid to the vendor was not allocated to a particular state(s).

On January 31, 1991, in response to the Interim Audit Report, the Committee submitted additional documentation with respect to these phone bills stating that only an additional \$13,285 should be allocated. Based on this documentation, the Audit staff has revised its analysis of the additional amount allocated in the Interim Audit Report. The Audit staff has revised its calculation and notes that an additional \$16,962.60 should be allocated to New Hampshire.

ii. Northwestern Bell, AT & T and Sprint

The Audit staff reviewed the available telephone bills for Northwestern Bell to determine the total amount of New Hampshire intra-state phone calls billed to this

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North Dakota Committee service location. Based on this review, it is the Audit staff's opinion that \$1,657.64 should be allocated to New Hampshire. In addition, the Audit staff's review of documentation with respect to AT & T and Sprint indicated that the cost (\$194.22) of intra-state phone calls (\$117.61 AT & T, and \$76.61 Sprint) also require allocation to the New Hampshire limitation.

Based upon the above noted reviews, to include review of additional documentation received January 31, 1991, the Audit staff determined that an additional \$18,814.46 should be allocated to New Hampshire (New England Telephone 16,962.60, Northwestern Bell \$1,657.64, AT & T \$117.61, Sprint \$76.61).

b. Salaries and Employer FICA

Section 106.2(b)(2)(ii) of Title 11 of the Code of Federal Regulations states that except for expenditures exempted under 11 C.F.R. 106.2(c), salaries paid to persons working in a particular State for five consecutive days or more, including advance staff, shall be allocated to each State in proportion to the amount of time spent in that State during a payroll period.

Section 106.2(c)(5) of Title 11 of the Code of Federal Regulations states, in part, that an amount equal to 10% of campaign workers' salaries in a particular State may be excluded from allocation to that State as an exempt compliance cost. An additional amount equal to 10% of such salaries may be excluded from allocation to that State as exempt fundraising expenditure, but this exemption shall not apply within 28 days of that State's primary election as specified in 11 CFR 110.8(c)(2).

i. Staff Assigned to New Hampshire Field Offices

During the review of Committee payroll records for employees assigned to New Hampshire and associated allocation worksheets, the Audit staff determined that additional salaries and employer FICA, totaling \$49,715.38, require allocation to New Hampshire. It appears that the Committee did not allocate salaries and employer FICA totaling \$22,116.65 for payrolls covering the period February 1-16, 1988 which were paid during March, 1988. In addition, the derivation of the Committee's figure for payroll used on its 1987 year-end allocation workpapers could not be determined by the Audit staff and appears to be understated by \$24,223.49. Finally, several payroll checks and employer's FICA (totaling \$3,375.24) not included on the Committee's computerized payroll for the period ending 11/15/87 were issued manually and do not appear to have been allocated to the New Hampshire limitation. Further, the Audit staff noted that the Committee utilized the standard 10% method for allocating a portion of the New Hampshire payroll as an exempt compliance cost or an exempt fundraising cost.

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ii. Other Campaign Staff

The Audit staff's review of Committee reimbursement files for Committee staff not assigned to New Hampshire field offices identified persons who incurred expenses while in New Hampshire for five or more consecutive days. Their names were traced to payroll records to determine whether their salaries and associated employer FICA had been allocated to New Hampshire.

Based on this review, the Audit staff determined that an additional \$5,437.21 in salaries and employer FICA require allocation to New Hampshire. This figure (\$5,437.21) includes the appropriate adjustment excluding from allocation the exempt compliance/fundraising portion.

Based upon the above reviews the Audit staff has determined that an additional \$55,152.59 (\$49,715.38 + \$5,437.21) requires allocation to New Hampshire for salaries and employer FICA.

c. Media Expenditures

Section 106.2(b)(2)(i)(B) of Title 11 of the Code of Federal Regulations states that except for expenditures exempted under 11 C.F.R. 106.2(c), expenditures for radio, television and similar types of advertisements purchased in a particular media market that covers more than one State shall be allocated to each State in proportion to the estimated audience. This allocation of expenditures, including any commission charged for the purchase of broadcast media, shall be made using industry data.

The Audit staff reviewed the Committee's media allocations for New Hampshire as well as supporting documentation made available by the media vendor. The Audit staff's analysis of these media expenditures indicates that an additional \$5,142.41 is allocable to the New Hampshire expenditure limitation. This adjustment results mainly from two television buys (\$4,714.45) which were not allocated by the Committee.

At the exit conference, Committee representatives stated they believe that their media allocation as prepared by the vendor was made using industry market data and is therefore a reasonable allocation.

The Committee's January 31, 1991 response to the Interim Audit Report and the Audit staff's analysis of that response has been addressed previously at pages 6 to 10 of this report. The Audit staff rejected the Committee's contention that it overallocated media costs in New Hampshire and, therefore, the Audit staff's allocation of additional media costs (\$5,142.41) remains unchanged.

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d. Exempt Compliance and Fundraising Expenditures

Section 106.2(c)(5) of Title 11 of the Code of Federal Regulations states, in part, that an amount equal to 10% of campaign workers salaries and overhead expenditures in a particular State may be excluded from allocation to that State as an exempt compliance cost. An additional amount equal to 10% of such salaries and overhead expenditures in a particular State may be excluded from allocation to that State as exempt fundraising expenditures, but this exemption shall not apply within 28 calendar days of that State's primary election.

With respect to payroll and overhead expenditures of its New Hampshire office, the Committee utilized (albeit inconsistently) the exemptions provided at 11 C.F.R. §106.2(c)(5).

As a result, the Audit staff reviewed all of the Committee's reported allocable expenditures and determined that the Committee is entitled to an additional compliance and fundraising exemption of \$20,677.95.

At the exit conference on January 9, 1990, Committee officials stated that the fundraising exemption was actually 50% of its total expenditures allocated to Iowa and New Hampshire that its legal and accounting compliance exemption was actually 5% of its total expenditures allocated to Iowa based on an analysis of AO 1988-06 and the John Glenn Audit Report [Report of the Audit Division on John Glenn Presidential Committee, Inc., Public Release 8/19/85]. The Committee stated that all activity in Iowa and New Hampshire was composed equally of a fundraising and political nature. Furthermore, the Committee contends its 50% exemption for fundraising is reasonable. The Committee stated at the exit conference that it was not aware of a problem with the New Hampshire expenditure limitation and did not apply its formula as discussed above (50% exempt fundraising, 5% exempt compliance) to New Hampshire. It should be noted that the Committee was made aware, at an interim conference held August 7, 1989, that it was in excess of the New Hampshire state limitation. The Committee stated it would review its New Hampshire allocation and apply the fundraising exemption which would then properly reflect the New Hampshire activity.

The Committee representatives also explained that prior to the Iowa caucus and New Hampshire primary the Committee's dual purpose components of its activities did not change; i.e., the Committee continued its fundraising activity and therefore, this activity is exempt from the regulations at 11 C.F.R. §110.8(c)(2) which state that expenses targeted at a state within 28 days of a primary shall be presumed to go against that state's limit. The Committee's position is that the regulatory use of "presume" creates a presumption as opposed to the use of

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"is" or "are" and a presumption can be overcome by facts, stating the Commission recognizes this in 11 C.F.R. §110.3(b)(2)(a) and that AO 1984-30 states in a footnote that the regulatory use of presumption can be overcome by actual facts in specific situations. Furthermore, the presumption under the 28-rule is that it is assumed most committees will initially conduct fundraising and later, prior to the election, focus their expenditures on influencing votes. According to the Committee representatives this was not so with the Simon for President case. Committee representatives feel that their facts can overcome the presumption set forth at 11 C.F.R. §110.8(c)(2) and therefore the Committee is entitled to its 50% fundraising exemption within 28-days of the caucus/primary.

The Committee also believes its fundraising exemption is reasonable stating that Simon for President actually raised significant amounts of money in Iowa and New Hampshire during December 1987 through March 1988.

Committee Officials stated they would review the New Hampshire State allocation workpapers provided to them and provide documentation to support the Committees 50% fundraising exemption.

On January 24, 1990 Committee submitted a state by state fundraising analysis of contributions received by the Committee which indicated that New Hampshire ranked twenty-first in both amount contributed and number of contributors. However, no amendments were submitted revising Committee allocations to the New Hampshire limitation.

The Audit staff believes it has correctly applied the Regulations at 11 C.F.R. §106.2(c)(5). Neither the Act nor the Commission's Regulations provide for a 50% fundraising exemption as applied by the Committee. Even though the Committee contends that the activity conducted in New Hampshire actually raised significant amounts of money the same could be said for activities conducted in any state. A review of the Fundraising report submitted by the Committee on January 24, 1990 indicates that the funds raised by the Committee in New Hampshire during December 1987 through March 1988 comprise only 0.6% of the total funds raised by the Committee during this time period.

Furthermore, the Audit staff does not disagree that the Committee may have raised monies as a result of its activities in New Hampshire in the 28 days prior to the New Hampshire primary; however, the Committee appears to be ignoring completely 11 C.F.R. §§ 100.8(b)(21)(iii) and 110.8(c)(2) which clearly require that fundraising activities targeted at a particular state and occurring within 28 days of a state's primary are chargeable to that state's expenditure limitation. Thus, in accordance with 11 C.F.R. §§ 100.8(b)(21)(iii) and 110.8(c)(2) the Committee can not exclude from state allocation

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costs for fundraising which occurred within 28 days of the primary even if the activities were clearly fundraising in nature. Therefore, the Audit staff's position remains unchanged.

e. Regional/State Offices Adjacent to New Hampshire

Section 106.2(b)(2)(iv)(B) of Title 11 of the Code of Federal Regulations states, in part, that except for expenditures exempted under paragraph (c) of this section, overhead expenditures of a committee regional office or any committee office with responsibilities in two or more States shall be allocated to each State on a reasonable and uniformly applied basis. For purposes of this section, overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies and telephone service base charges.

i. Regional Office Allocations (Manchester, New Hampshire Office)

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Analysis of the available documentation by the Audit staff does not appear to support the regional office concept. Although not determinative, only the Committee's 1987 Year-end report contained allocated amounts based on adjustments noted in the Committee's New Hampshire allocation workpapers relative to a regional office. Committee allocation workpapers and documentation made available to the Audit staff provide no basis for the Committee derived figures exempting expenditures as related to the operation of a regional office. In addition, it appears that many of the expenditures being exempted as regional office expenses by the Committee do not relate to the regional office in Manchester, New Hampshire, but rather to other local New Hampshire state offices.

As a result, the Audit staff has reviewed Committee allocation workpapers associated with the regional allocations and has determined that an additional \$24,067.65 is allocable to the New Hampshire expenditure limitation.

At the exit conference, Committee representatives stated they believe the Manchester, New Hampshire office was quite clearly a regional office which supervised campaign activity and coordinated travel throughout the New England area.

ii. Boston Field Office

The Audit staff also noted the existence of a Boston, Massachusetts campaign office which apparently opened December 7, 1987. There were no other campaign offices located in Massachusetts. Internal Committee correspondence

generated by Mike Marshall [NH Campaign Director] indicates that the "only gap in our [NH] field organization is the absence of a Boston office.....Massachusetts interest in Simon is growing and should be utilized. Even more important than the obvious press and cap [apparently a reference to the NH state spending limitation] advantages of a Massachusetts location, we need a Boston office to channel people and energy to New Hampshire. A Boston office will be run as a New Hampshire field office. [Emphasis added] The main objective of the Boston field office will be to support the New Hampshire campaign. I intend to assign a staff person to the office to ensure that goal."

A review by the Audit staff of the documentation made available identified expenditures totaling \$22,671.18 associated with Boston Office/Massachusetts activity, the bulk of which (98%) were expended prior to the New Hampshire primary on February 16, 1988. Further review indicated that 42% of the above mentioned expenditures could be associated directly with New Hampshire field staff for such things as postage (\$7,800) or reimbursements for expenses incurred in Boston; rental for the Boston office comprised 34% (\$7,600) of the above mentioned expenditures, and the remainder (24%) consisted of expenditures for such things as telephone, equipment rentals, and printing and supplies. Although the Boston office was opened in the beginning of December, the Committee did not specifically employ Massachusetts staff until the last payroll in January (payroll ending January 31, 1988, 16 hours) when one individual was employed.

Our review of telephone billing statements provided for January 11, 1988 through March 10, 1988 for the Boston service location indicates a previous balance of \$378.97 for the billing period which covered December 1987 through January 11, 1988 service; although requested by the Audit staff a billing statement for this time period was not provided by the Committee. An analysis of telephone activity for January 11 through February 16, 1988 disclosed that 69% of net calling activity was directed to New Hampshire, the majority of which was to New Hampshire field offices.

During fieldwork, a Committee representative stated that an auditor would say the Boston office was set up as a guise, however, the Boston office was opened by Simon supporters which the National Headquarters could not control, based on the theory that Paul Simon could challenge Michael Dukakis. The Committee representative further stated that the Boston office was a Massachusetts related effort and that the Committee did not pay for the office, it sublet the office from two Simon supporters.

At the exit conference, the Committee restated its position regarding the Boston office stating the Boston office was set up as a fundraising office to encourage support in Massachusetts and to encourage college students to go

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to New Hampshire over weekends whose activity would be exempt from state allocation under the 5-day rule.

In the Audit staff's opinion, the Committee's comments are not persuasive given the stated purpose ("main objective") of this office was to support the New Hampshire campaign, and that the Office was set up and coordinated by the New Hampshire Campaign Director. The Audit staff's position remains unchanged, and an additional \$22,671.18 relative to the Boston Office requires allocation to New Hampshire.

iii. Community Savings Bank Account

The Audit staff reviewed and analyzed documentation and records with respect to expenditures which totalled approximately \$53,000 from a Massachusetts state account maintained by the Committee. Of these expenditures, the Audit staff noted \$3,883.97, incurred during the period October 14 through December 18, 1987, which the Committee allocated to New Hampshire.

In addition, however, the Audit staff identified an additional \$22,167.28 in expenditures reimbursing staff assigned to New Hampshire field offices for expenses incurred relative to that state (NH), as well as paying vendors or goods and services used in New Hampshire.

Finally, the Audit staff has identified 31 disbursements, totaling \$13,505.98 for which documentation has been requested to determine if the expenditures are allocable to New Hampshire.

Therefore based upon the above reviews, the Audit staff has determined that at least \$68,906.11 (\$24,067.65 + \$22,671.18 + \$22,167.28) requires allocation to New Hampshire.

Committee officials stated that documentation regarding the regional office and the Boston office would be provided to the Audit staff.

In the Interim Audit Report the Audit staff requested, in part, that the Committee provide an explanation regarding the purpose and function of the Boston Office; a listing of all activities and programs conducted or coordinated by the Boston Office, to include a detailed accounting, with supporting documentation, of all expenses related to each activity or program.

The Committee's response to the Interim Audit Report, received January 31, 1991, in addition to reiterating the arguments presented above, noted the following reasons in support of its position that such expenditures should be exempted from the New Hampshire limitation. The Committee

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first notes that the terms of the lease (11-19-87 to 3-12-88) were keyed to the date of the Massachusetts primary (3-8-88) and by virtue of that fact, efforts were focused on Massachusetts campaign activity. The fact that this office may have encouraged volunteers or campaign workers to travel to New Hampshire is not relevant according to the Committee, as this would be covered by the interstate travel exemption (the five-day rule). Similarly, administrative expenses of those organizing such activity should not be applied against the visited states limit. Finally the Committee cites the "strong Massachusetts campaign effort", which included full participation in the delegate selection process. In support of this the Committee provided copies of a Delegate Recruitment Program binder, the Simon for President House Party Organizer Kit, and a copy of the Paul Simon for President Massachusetts Steering Committee list. The Committee's response did not address the Regional Office allocations or the Community Savings Bank Account.

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The Audit staff again finds that the Committee's comments are not persuasive given the stated main objective of this office was to support the New Hampshire campaign. No documentation has been provided to support the Boston office as the focal point of a strong Massachusetts effort. Furthermore, the individual in charge of the Massachusetts delegate selection could not be identified as being associated with the Boston Office effort. In addition, a Committee memo written by Michael Marshall discussing the Boston office opening states "for Paul's next trip to New Hampshire we have 2 big events planned... Following the town meeting will be the Boston office opening at 12 noon," indicating the Boston office was a New Hampshire event.

With respect to the delegate selection process, the Delegate Recruitment Binder portrays the bulk of the selection process as taking place between 3-24-88 and 6-11-88, well after the end of the lease period. Further, this manual directs information to be forwarded to addresses other than that on the lease. The Audit staff acknowledges that the House Party Kit, a fundraising tool, makes "special reference to the efforts needed after the New Hampshire primary", as pointed out in the Committee's response; however, the Committee fails to note that this reference is to "'Super Tuesday', on March 8th" which involved many states other than Massachusetts. Finally, the documentation provided by the Committee fails to associate any of the expenditures allocated by the Audit staff above with any fundraising program.

Based upon the above, the Audit staff has increased the amount allocable to New Hampshire by \$13,505.98 for those items for which the Committee failed to provide documentation as requested in the Interim Audit Report. The Audit staff has determined that \$82,412.09 (\$68,906.11 + \$13,505.98) requires allocation to New Hampshire.

f. Intra-State Travel, Subsistence, and Related Expenditures

Section 106.2(b)(2)(iii) of Title 11 of the Code of Federal Regulations states, in part, that travel and subsistence expenditures for persons working in a State for five consecutive days or more shall be allocated to that State in proportion to the amount of time spent in each State during a payroll period. This same allocation method shall apply to intra-state travel and subsistence expenditures of the candidate and his family or the candidate's representatives.

i. New Hampshire Staff

The Audit staff's review of supporting documentation for expenditures incurred by staff assigned to New Hampshire offices relative to intra-state travel, subsistence and related goods and services used in New Hampshire indicated these expenditures were not allocated by the Committee to the New Hampshire state expenditure limitation. The Audit staff is of the opinion that the 5-day rule is not applicable in this situation and has determined that expenditures totaling \$8,595.99 should be allocated to the New Hampshire limitation.

ii. Non New Hampshire Staff

The Audit staff's review of Committee expense reimbursement files identified persons who had incurred expenditures in New Hampshire for five or more consecutive days relative to travel, subsistence and related goods and services (such as supplies, photocopying, equipment rental, etc. used in New Hampshire). Based on this review the Audit staff has determined that \$28,517.53 in such expenditures requires allocation to the New Hampshire limitation.

iii. Senator Paul Simon's American Express

Section 9035.2 of Title 11 of the code of Federal Regulations states, in part, that expenditures made using a credit card for which the candidate is jointly or solely liable will count against the limits of this section to the extent that the full amount due, including any finance charge, is not paid by the committee within 60 days after the closing date of the billing statement on which the charges first appear.

The Audit staff's review of Senator Simon's personal American Express Card activity identified a charge to the Sheraton Tara, Nashua New Hampshire, dated February 12, 1988 in the amount of \$867.14, which appears to require allocation to the New Hampshire state limitation under the five day rule. The Audit staff requested additional documentation regarding the above expenditures during audit fieldwork which the

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Committee has yet to provide. Should the documentation be provided the Audit staff will adjust its figure as necessary.

The Audit staff also noted that Senator Simon's use of his American Express card was in accordance with 11 C.F.R. 9035.2 and that Senator Simon's personal expenditure limitation was not affected.

Based on this review, the Audit staff determined that intra-state travel and subsistence expenditures, and related expenditures for goods and services used in New Hampshire totaling \$37,980.66 (\$8,595.99 + \$28,517.53 + \$867.16) should be allocated to New Hampshire.

In its January 31, 1991 response to the Interim Audit Report, the Committee addressed expenditures allocated with respect to two individuals. The Committee contends that the two individuals arrived by plane to Boston on 2-13-88, spent time at a relative's home, and did not arrive in New Hampshire until 2-14-88, exempting them under the five-day rule. In addition, the Committee argues two expenditures (\$127.90) associated with one of the individuals were exempt as compliance/fundraising related.

With respect to the two individuals' travel and subsistence expenditures the Audit staff notes that the hotel credit card slip provided by the Committee was imprinted on 2-12-88 and, absent further documentation to the contrary, the amount determined to be allocable remains unchanged. The Audit staff has decreased the amount allocable by \$127.90 for the associated expenses noted above. Further, the Audit staff has increased the amount allocable to New Hampshire by \$2,624.96 based upon our review of documentation submitted in response to Interim Audit Report Finding III.C. Apparent Non-Qualified Campaign Expenses-Undocumented Expenditures. Therefore, the revised amount allocable to New Hampshire was determined to be \$40,477.72 (\$37,980.66 + \$2,624.96 - \$127.90).

g. Review of Committee Vendor Files

The Audit staff reviewed all available files for vendors which could be associated with the Committee's New Hampshire effort. As a result of this review, the Audit staff determined that an additional \$56,172.19 in expenditures requires allocation to the New Hampshire spending limitation. This amount includes payments to vendors for goods and services such as printing, postage, car rentals, shipping, supplies, posters, banners; as well as payments to consultants as detailed below.

Based on the Committee's January 31, 1991 response to the Interim Audit Report with respect to the consultants as detailed below, the Audit staff has revised the amount determined to be allocable to New Hampshire to \$39,319.62.

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i. Hickman Maslin Research

The Committee entered into a consulting contract with Hickman Maslin Research (HMR) to conduct polling, research and consulting services, which included the "design, execution and analysis of all public opinion research...including polls and focus groups...". They were also to actively participate in strategic and tactical discussions, brief the Committee on public opinion and review and comment on brochures, newspaper ads, press releases and TV scripts and ads. The contract provides that the Committee compensate HMR for the activities specified above in the form of consulting fees, as well as 100% compensation for the cost of conducting surveys (polls) and for reimbursement for travel and lodging expenses for HMR personnel for consultations on projects (polls and focus groups) outside of the Washington, D.C. area.

Although the Committee appears to have allocated correctly some of the costs of the surveys/focus groups relative to New Hampshire, costs associated with one focus group (\$5,000) and a New Hampshire poll (\$4,500), and certain travel costs incurred by HMR personnel (\$3,106.10) do not appear to have been allocated by the Committee.

Further, the Committee did not allocate that portion of the consulting fee which apparently represents compensation for the surveys and focus groups. The Audit staff requested documentation during fieldwork which would associate these fees with a particular service provided. In the absence of said documentation, the Audit staff has included in the above figure \$11,500 paid to Hickman Maslin Research which represents that portion of consulting fees based on the ratio of total polling and focus group expenses made relative to New Hampshire to the total amount of polling and focus group expenses.

At the exit Conference, the Committee noted that HMR's consulting fees, which were for polling, political, and other activities were not associated with any state and were allocated appropriately by the Committee to national headquarters overhead.

As previously stated above, the contract provides for consulting fees to be paid to HMR by the Committee for the activities which HMR performed for the Committee. A review of the HMR billing statements indicates that all work billed by HMR was related to a specific state, therefore the Committee's contention that the consulting fees were for activities not associated with any state is invalid.

Therefore the Audit staff has included in the vendor allocation above, \$24,106.10 (\$9,500 + \$3,106.10 + \$11,500) relative to HMR.

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In its January 31, 1991 response to the Interim Audit Report, the Committee restates its position that it acted properly in allocating to national headquarters overhead all disbursements made to HMR for consulting services based upon the contract and supplemental agreement provided as part of the response (See pages 24 to 26 of this Exhibit for a complete discussion).

The Commission in previous considerations^{6/} has determined that the costs of focus groups are not allocable and has also determined that consulting fees arising out of agreements to provide polling services are not allocable.

Therefore, based upon the above, the Audit staff has reduced the amounts allocable to New Hampshire by the cost of the focus groups (\$5,000 + \$352.57 focus group travel) and by the amounts of the consulting fees (\$11,500). The total additional amount allocable to New Hampshire is now \$7,253.53 which consists of \$4,500 for the New Hampshire poll and \$2,753.53 for New Hampshire polling related travel.

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ii. The Clinton Group

The Committee engaged the Clinton Group to conduct direct mail and telephone surveys. A review of the documentation made available by the Committee indicated the majority of the activity contained fundraising elements. In its allocations, the Committee apparently exempted approximately 50% of these costs relative to programs directed at New Hampshire: all of the activities occurred outside the 28 day period prior to the New Hampshire primary. The Audit staff adjusted the Committee's allocations to exempt from the New Hampshire state limitation all fundraising costs outside the 28 day period prior to the New Hampshire primary and to include those fundraising costs within the 28-day period. As a result of its analysis, the Audit staff has determined the Committee over allocated costs with respect to the Clinton Group. Therefore the Audit staff reduced expenditures allocable to the New Hampshire limitation by \$14,825.

iii. The Murphine Corporation

The Committee entered into a consulting agreement with the Murphine Corporation (TMC) to provide strategic political analysis and planning, assistance with voter contact programs, and consultation in developing management structures for both Iowa and New Hampshire and for the

6. Report of the Audit Division on Dole for President, approved April 15, 1991 and Report of the Audit Division on Gephardt for President, Inc., approved June 10, 1991.

development of a written campaign plan for the presidential primary in New Hampshire. The contract also provided for compensation to TMC for its service in the form of consulting fees and for the reimbursement of all travel related expenses, out of pocket expenses, and a living expense (per diem) for each work day personnel of TMC spent outside of the Washington, D.C. area. Included in the above figure are consulting fees of \$7,250 (50% of \$14,500 in fees received) and travel expense reimbursements of \$942.95 relative to the New Hampshire related portion of services provided.

With respect to the Murphine Corporation (TMC) the Committee stated in its response to the Interim Audit report that TMC was engaged in fundraising activities and worked closely with the Committee's fundraising team. Further the Committee stated that "George Berger from Murphine Corporation worked closely with the Clinton Group, and developed the plan used as a basis for the Clinton Group's direct mail/telemarketing fundraising campaign." No documentation from either vendor was provided to support this contention.

With respect to New Hampshire, the Committee's New Hampshire campaign plan outline details the Committee's situation in New Hampshire, and sets the strategy to be one in which Senator Simon is separated from the "'pack of candidates' mired far behind Governor Dukakis" through a "'jump start'" program that would increase the Committee's "percentage of the vote through an early concentrated use of all communications channels available." [emphasis in original] The New Hampshire campaign plan details a Direct Voter Contact program, a Paid Media and Press program, a Field program, and Candidate Activity program, as well as two other programs.

As with Iowa, the Direct Voter Contact program noted above in New Hampshire apparently corresponds to the work performed by the Clinton Group. However, as with Iowa, the Committee did not provide documentation from the TMC that details the portion of time spent on that particular program. Furthermore, the Voter Contact program is only one element of an 7 element activity schedule, which is itself only one phase of a 3 phase campaign plan; and the cost of including the Voter Contact program in the New Hampshire campaign plan could be considered merely incidental to the cost of producing the entire New Hampshire campaign plan.

Based on our review of the documentation made available, it is the Audit staff's opinion that the services provided by TMC directly influenced the candidate's nomination for the Office of President with respect to New Hampshire and therefore the amounts paid for the development of the New Hampshire related work performed are allocable to New Hampshire in accordance with the Regulations at 11 C.F.R. § 106.2(a)(1).

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h. Event - Octoberfest

The Audit staff reviewed Committee expenditure files for costs which could be identified as part of a Committee event, Octoberfest, which took place in New Hampshire during the period October 23-27, 1987. According to correspondence dated November 5, 1987 from Mike Marshall (New Hampshire Campaign Director) Octoberfest was used "to kick off the New Hampshire campaign" through the candidate's appearance at numerous events scheduled during this period in New Hampshire, as well as three brief stops outside the state. These events included receptions, visits to schools, visits with various groups, public appearances and a scheduled news conference.

The Audit staff's review identified expenditures relative to Octoberfest for such items as use of helicopter/airplane, newspaper ad, hotels, per diem, travel and subsistence, as well as other miscellaneous items.

Although Committee records indicate the expenditures were allocated to National scheduling and advance, the Audit staff's analysis determined that an additional \$20,902.53 requires allocation to the New Hampshire spending limitation.

On January 24, 1990, the Committee submitted additional documentation which states that expenses associated with this trip (Octoberfest) should not be allocated against the New Hampshire state limitation for the following reasons.

1. Senator Simon and his party left New Hampshire twice during this trip to attend prearranged events in Massachusetts and Vermont; and since the FEC regulations "do not mandate a particular method for calculating five consecutive days use of the 24-hour method of review is clearly more appropriate to the instant trip." The Committee then states the Senator was only in New Hampshire for 86.5 hours.

2. The Senator's Octoberfest activities in New Hampshire involved numerous fundraisers, and thus all expenses in connection with these events are exempt from state allocation pursuant to 11 C.F.R. § 106.2(c)(5)(ii).

3. The primary focus of the New Hampshire staff for several months was organizing Octoberfest events and thus at a minimum, should be allocated evenly between fundraising and political.

4. These activities exemplify how New England activity was scheduled, coordinated and organized through the Manchester office as a regional office.

5. Octoberfest activities typify the dual-purpose, fundraising and political, nature of the Committee's activity in

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New Hampshire throughout the campaign.

At the exit conference the Committee was provided with photocopies of workpapers detailing the costs considered allocable by the Audit staff.

The Audit staff believes its assessment of these disbursements under the 5-day rule is consistent with the regulations and with past practice⁷/. Further, the documentation submitted by the Committee, as discussed above, fails to associate any of the disbursements identified by the Audit staff as costs related to specific fundraising events.

Therefore, the Audit staff's determination of the amount (\$20,902.53) allocable is unchanged.

In the Interim Audit Report the Audit staff recommended that the Committee identify all costs associated with the Octoberfest event and provide documentation with respect to these costs for the Audit staff's review.

In response to the Interim Audit Report, received January 31, 1991, the Committee repeated its previously stated position and provided copies of materials, some of which have already been made available to the Audit staff. One exception was a detailed invoice from the helicopter/airplane charter vendor, which detailed the flight segments made by each aircraft. The narrative portion of the Committee's response restates its position that the Octoberfest events had a fundraising purpose, but then states "[t]he fundraising nature of these events is not eliminated by the fact that contributions were received from follow-up appeals, rather than directly at the event." The Committee then concludes that all transportation, subsistence and lodging incurred in connection with fundraising events, identified by the Committee within the narrative portion of its response, are exempt under 11 C.F.R. §106.2(c)(5)(ii).

Except as noted below, the Audit staff believes its assessment of these disbursements under the five-day rule is still correct. The Committee's response does not provide documentation associating these disbursements with fundraising events. However, based upon the Audit staff's review of the charter service invoice, interstate segments which could be associated with events outside of New Hampshire, totaling

7. The Commission's Explanation and Justification relative to the 5-day rule states, in part, that "For purposes of determining the length of time an individual remains in a State, the Commission will generally look to calendar days or any portion thereof that a person was in a State rather than using 24-hour periods." Federal Register, Vol. 48 No. 25, p.5225, 2/4/83.

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\$8,322.50 were identified. The Audit staff has reduced the amount allocable to New Hampshire to \$12,580.03 (\$20,902.53 - \$8,322.50).

i. Miscellaneous Expenditures

Our review of Committee allocation workpapers resulted in the identification of \$292.22 in expenditures not allocated by the Committee to New Hampshire, which the Audit staff determined require such allocation. As a result, the Audit staff has increased expenditures subject to the New Hampshire limitation by a like amount (\$292.22).

On January 31, 1991, the Committee submitted its response to the Interim Audit Report. As part of that response the Committee submitted documentation with respect to Interim Report Finding III.C. Apparent Non-Qualified Campaign Expenses-Undocumented Expenditures. The Audit staff's review of this documentation noted one additional expenditure allocable to New Hampshire in the amount of \$287.25. Therefore, the Audit staff has increased the expenditures subject to the New Hampshire state limitation by a total of \$579.47 (\$292.22 + \$287.25).

j. Conotabs Network

In the Interim Audit Report the Committee was requested by to provide information relative to work performed by Conotabs Network. The Committee did not provide the information requested. Based upon the invoices available, the Audit staff has determined that an additional \$4,461.03 requires allocation to the New Hampshire limit.

Recap of New Hampshire Allocations

Presented below is a recap of New Hampshire allocations. Photocopies of workpapers and supporting documentation for the Audit staff's allocations as presented in the Interim Audit Report have been provided to the Committee.

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	<u>Per Interim Audit Report</u>	<u>Per Final Audit Report</u>
Amount Allocated by the Committee	\$447,555.23	\$447,555.23
Additional Allocations by the Audit Staff:		
Telephone related charges	20,177.60	18,814.46
Salaries and Employer FICA	55,152.59	55,152.59
Media Expenses	5,142.41	5,142.41
Exempt Fundraising/Compliance	(20,677.95)	(20,677.95)
Regional and State Offices	68,906.11	82,870.82
Intra-State Travel and Subsistence	37,980.66	40,477.72
Review of Vendor Files	56,172.19	39,319.62
Event - Octoberfest	20,902.53	12,580.03
Miscellaneous Expenditures	292.22	579.47
Conotabs Network		4,461.03
Total Allocable to New Hampshire	\$691,603.59	\$686,275.43
Less: New Hampshire Limitation	<u>(461,000.00)</u>	<u>(461,000.00)</u>
Amount in Excess of New Hampshire Limitation	<u>\$230,603.59</u>	<u>\$225,275.43</u>

Although requested in the Interim Audit Report to amend its FEC Form 3P, Page 3 relative to state allocations, the Committee has not filed amendments as of January 31, 1991.

In the Interim Audit Report, the Audit staff recommended that within 30 calendar days of service of this report the Committee:

° identify all costs associated with the Octoberfest event and provide documentation with respect to these costs for the Audit staff's review;

° provide an explanation regarding the purpose and function of the Boston, Massachusetts office; a listing of all activities and programs conducted or coordinated from the Boston office, to include a detailed accounting, with supporting documentation, of all

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expenses related to each activity or program;

° provide evidence showing that it has not exceeded the limitation as set forth above; or

° absent such a showing the Committee adjust its record, to reflect the expenditures allocated to New Hampshire, and file amended reports to reflect the correct amount allocable to New Hampshire.

On January 31, 1991, the Committee submitted its response to the Interim Audit Report with respect to allocation of expenditures to the New Hampshire limitation. Those areas addressed by the Committee are discussed within the appropriate sub-section above. As presented in the chart on the previous page of this report, the Audit staff has revised its assessment and has determined that the Committee has exceeded the New Hampshire state expenditure limitation by \$225,275.43.

Recommendation

The Audit staff recommends that the matters presented above be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

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Receipt of Prohibited Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, and further states that it is unlawful for a candidate, political committee or other person knowingly to accept or receive any contribution prohibited by this section.

Sections 103.3(b)(1) and (2) of Title 11 of the Code of Federal Regulations state, in part, that contributions that present questions as to whether they were made by corporations may be, within ten days of the treasurer's receipt, either deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. If the treasurer in exercising his or her responsibilities determined that at the time a contribution was received and deposited it did not appear to be made by a corporation, but later discovers that it is illegal based on new evidence, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality was discovered. If the committee does not have sufficient funds to refund the contribution at the time the illegality is discovered, the committee shall make the refund from the next funds it receives.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make such refunds.

The Audit staff's review of contributions recorded as having been received from individuals indicated that the Committee received 117 contributions totalling \$21,119.05 from incorporated entities. Our review included verification of corporate status with the appropriate Secretaries of State. The Committee made 14 refunds totalling \$1,722, which were not made in accordance with 11 C.F.R. §103.3(b)(1) (see Attachment 1).

It was also noted that the Committee did not deposit the contributions in question into a separate depository, however, an analysis of the Committee's bank accounts from June

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1988 through December 1989 indicates the Committee maintained sufficient funds with which it could make such refunds.

At the exit conference, held January 9, 1990 the Committee was provided with schedules detailing the prohibited contributions mentioned above. Committee representatives stated that considerable resources had been expended to ensure that all contributions received were in compliance with the regulations, however due to computer and administrative errors a small number of prohibited contributions may have been deposited into the Committee accounts. Committee representatives further stated that the Committee has, and will continue to review all contributions and will make the appropriate refund or reattribution¹/ of the prohibited contributions. Additionally, the Committee representatives stated that a number of refund checks which were outstanding were reissued and had cleared the bank and evidence to support this would be provided to the Audit staff.

On January 24, 1990, the Committee submitted documentation which evidenced the refunds via checks dated November 1, 1989 of 15 additional corporate contributions totalling \$2,190. As noted in Attachment 1, refund checks dated July 18, 1988 were written and never mailed; these refunds were also reported on the Committee's August 20, 1988, monthly disclosure report. During fieldwork a Committee representative stated that the refund checks dated July 18, 1988 were not mailed, and due to the [Democratic] Convention activity may have been misplaced. The Committee then prepared refund checks dated May 16, 1989 and apparently did not mail them until November 1, 1989, at which time the checks were redated. Therefore, the Committee's contention that it had "reissued" checks to replace contribution refund checks which were "outstanding", (i.e., did not clear the bank) is not supported by the record of this activity. As stated above, the Committee itself was in possession of the May 16, 1989 refund checks on November 1, 1989 and as such these checks could never have been "issued", much less be classified as outstanding. Further, no amendments have been filed by the Committee to correct the public record regarding these transactions. Thus, corporate contributions totalling \$17,207.05 [\$21,119.05 - (\$1,722 + \$2,190)] remain to be refunded.

In the Interim Audit report the Audit staff recommended that within 30 calendar days of service of this report the Committee take the following action:

- provide an explanation as to why the refunds made November 1, 1989 were not made timely, including a description of any mitigating circumstances, as to why

1. The Audit staff notes that reattributions of corporate contributions is not permissible under 11 C.F.R. § 103.(b)(2).

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the refund checks dated July 18, 1988 and May 16, 1989 were not issued (mailed), and an explanation as to why the checks dated May 16, 1989 were redated November 1, 1989;

- provide evidence that the contributions which have not yet been refunded are not prohibited; or
- refund \$17,207.05 to the 88 contributors and present evidence of such refunds (copies of the front and back of the negotiated refund checks) to the Audit staff for review; and
- amend its disclosure reports to reflect the voided July 18, 1988 refunds and the issuance of the November 1, 1989 refunds.

The Audit staff also noted that further recommendations may be forthcoming.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding, nor did the Committee file amended disclosure reports.

Recommendation

The Audit staff recommends that the Committee's receipt of prohibited contributions be referred to the Office of General Counsel in consideration of the dollar value involved plus the lack of Committee response to the Interim Audit Report.

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Listing of Corporate Contributors by First Last Name--Simon

Run Date 02/21/1990

Attachment 1
Page: 1 of 9

Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Chk Dt	Refund Amount	Refund Count	Refund Chk #	Refund Chk Dt
Refund Amount	Refund Count	Refund Chk #	Refund Chk Dt	Refund Amount	Refund Count	Amount Due			
5455 State Inc	880217052	25.00	05/11/1970			25.00			
A & A Erection	870608018	100.00	12/28/1982			100.00			
A. G. Edwards & Sons, Inc	870624001	250.00	10/10/1969			250.00			
Allen Lumber Co	870917019	100.00	08/25/1987			100.00			
Altchuler, Melvoin and Glasser	880127007	250.00	01/28/1954			250.00			
Altchuler, Melvoin and Glasser	870812012	250.00	01/28/1954			250.00			
Altchuler, Melvoin and Glasser	870608018	1,000.00	01/28/1954			1,000.00			
Anderson, Hay & Worch, P.C.	880107012	150.00	01/01/1982			150.00			
Arvel Film Enterprises	880108006	25.00	06/04/1987	7178	07/18/1988	25.00	VOID	7057	05/16/1989
25.00 RDTD 7057	11/01/1989	25.00	CL		0.00				
Armed Management	871231020	100.00	10/05/1984	7279	08/12/1988	100.00	CL		
					0.00				
Atelier Associates	880107000	10.00	07/01/1987			10.00			
B. P. Chombrun M.D., S.C.	871231018	100.00	11/27/1979			100.00			
Beneach Friedlander Coplan & Aronoff	31100	217.05	09/08/1986			217.05			
Barry A. Gomberg & Associates Ltd.	880222097	25.00	09/29/1986			25.00			
Ben Hernandez Bonds & Insurance Agency	880203019	250.00	04/21/1981			250.00			
Beck's Ltd	880209013	15.00	06/02/1986	7190	07/18/1988	15.00	VOID	7066	05/16/1989
15.00 RDTD 7066	11/01/1989	15.00	CL		0.00				

CL = cleared bank

RDTD = 5/16/89 check reated 11/1/89

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Exhibit 15
Attachment 1
Page: 2 of 9

Listing of Corporate Contributors by Fiscal Year: 1970

Run Date: 07/11/1970

Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Bernard G. Heiligenstein, Ltd.	070930201	50.00	07/11/1974			50.00			
Bernard G. Heiligenstein, Ltd.	000129010	50.00	07/11/1974			50.00			
Brockton Lockwood, P.C. 200.00 CL	071026010	100.00	04/11/1985	7106	07/10/1988	150.00	0/5	7153	08/12/1988
Brockton Lockwood, P.C.	070527010	250.00	04/11/1985	7055	05/16/1989	0.00	0/5		
Charles E. Gillman Company	000115021	50.00	06/21/1950			50.00			
Florida Engineering Co.	070600010	100.00	08/11/1972			100.00			
Clerton of St. Victor	000219008	15.00	12/31/1091			15.00			
Clerton of St. Victor	070917014	15.00	12/31/1091			15.00			
Coad Chevrolet Olds Cadillac, Inc.	000107020	400.00	08/19/1981	7268	08/12/1988	400.00	CL		
Coffield Ungaratta Harris & Slavin	071204000	1,000.00	07/14/1970			1,000.00			
Conservation Police Lodge No 146	000114041	50.00	02/27/1981			50.00			
Creative Specialty Manufacturing, Inc. 25.00 O/S	000222097	25.00	05/19/1987	7227	07/10/1988	25.00	0/5	7070	05/16/1989
D & E Services, Inc. 17.00 CL	000111017	17.00	01/20/1987	7174	07/10/1988	0.00	0/5	7704	03/01/1989
Dale Bayles on Campus, Inc.	000110001	25.00	02/20/1975			25.00			
Danz & Danz, M.D. & S.C.	070603019	50.00	11/10/1981			50.00			
David A. and Frieda Glenner Foundation	070720009	250.00	12/24/1986			250.00			
David L. Israelowitz, M.D., P.A.	000109010	25.00	06/30/1981			25.00			

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Exhibit B

Attachment 1
Page: 3 of 9

Listing of Corporate Contributors by first/last name--Simon

Run Date: 02/21/1990

Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Detroit Firefighters Association	880330012	100.00	06/10/1935						
				100.00					
Donner Partners	871231033	100.00	10/23/1987						
				100.00					
Downen Enterprises	871231008	2,500.00	09/20/1977						
				2,500.00					
Downen Enterprises	880226021	500.00	09/20/1977						
				500.00					
Du Page Development & Construction Inc.	870630007	50.00	05/13/1987	7180	07/18/1988	50.00	VOID	7852	05/16/1989
50.00 RDTD 7852	11/01/1989	50.00	CL						
E. H. Bickett & Company, Inc.	880422003	50.00	05/15/1987	7177	07/18/1988	50.00	VOID	7854	05/16/1989
50.00 RDTD 7854	11/01/1989	50.00	CL						
Edward L. Daugherty Landscape Architect Inc.	880226021	100.00	08/04/1982	7189	07/18/1988	100.00	VOID	7856	05/16/1989
100.00 RDTD 7856	11/01/1989	100.00	CL						
Erick Sales, Inc.	880511007	10.00	05/22/1986						
				10.00					
Erik B. Rasmussen & Associates, Inc.	880217016	25.00	02/20/1980						
				25.00					
Excel College	880108014	100.00	12/04/1929	7280	04/12/1988	100.00	CL		
				0.00					
Fraternal Order of Police	871202017	50.00	02/22/1974	7151	04/29/1988	50.00	CL		
				0.00					
Fraternal Order of Police	880322011	50.00	02/22/1974						
				50.00					
Gary E. Kerr, Ltd	870420002	50.00	04/23/1985	3169	12/15/1987	50.00	CL		
				0.00					
General Flavor Co.	880501005	25.00	06/03/1947						
				25.00					
Gersten Investments, Inc.	870608018	125.00	09/11/1976						
				125.00					
Gold Nugget Publications, Inc.	880202011	100.00	12/12/1979						
				100.00					
Heller, Horowitz and Felt	871026019	100.00	10/03/1979						
				100.00					

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EXHIBIT D

Attachment 1

Page: 4 of 9

Listing of Corporate Contributors by First/Last Name--Simon

Run Date: 02/21/1990

Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Henry Phillip Gross, Ltd. 100.00 RDTD 7873	880222037 11/01/1989	100.00 100.00	04/22/1985 CL	7224	07/26/1988 0 00	100.00	VOID	7873	05/16/1989
Homan Apartments, Inc.	880301014	40.00	05/08/1981		40.00				
Hospitality Standards, Ltd.	870903004	100.00	12/08/1982	7353	08/29/1988 0 00	100.00	CL		
Huston Insurance Agency	870610017	25.00	12/30/1986		25.00				
Illinois Assoc. of Retired Fire Fighters	880301022	100.00	03/08/1984		100.00				
Illinois Beef Association	880111021	100.00	09/06/1963		100.00				
Immunex 100.00 O/S	880516011	100.00	12/05/1986	7226	07/26/1988 100.00	100.00	O/S	7871	05/16/1989
J. Tap, Inc. 100.00 RDTD 7860	871011008 11/01/1989	100.00 100.00	05/14/1981 CL	7182	07/18/1988 0 00	100.00	VOID	7860	05/16/1989
Jerry Solock D B A Solock Equipment Co	871023008	10.00	07/09/1986		10.00				
Joe Horwitz Foundation	871014001	50.00	09/28/1956		50.00				
Joe Horwitz Foundation	870608037	25.00	09/28/1956		25.00				
John P. Synaugh, Ltd.	880422003	150.00	01/20/1973		150.00				
Law Office of Tony Center	880323011	100.00	11/17/1980	7280	08/12/1988 0 00	100.00	CL		
Law Offices of John B. Grogan	871123010	100.00	03/19/1981		100.00				
Law Offices of Mark Alan Johnson, Inc. P.S. 100.00 RDTD 7872	880222014 11/01/1989	100.00 100.00	01/07/1987 CL	7225	07/26/1988 0 00	100.00	VOID	7872	05/16/1989
Law Offices of Richard A. Crane, Ltd.	880308020	100.00	07/06/1983		100.00				
Lazer's Juvenile Furniture Inc.	871027003	20.00	12/31/1986		20.00				

Business Name	Batch Ref	Conte Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Refund Amount	Refund Count	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Amount Due			
Leasing Consultants	870915113	70.00	06/16/1972			70.00			
Lewis & Price P.A.	871013008	50.00	07/25/1973			50.00			
Lipman Foundation	871123011	250.00	12/18/1981			250.00			
Louis G. Lariviere Appraisals Limited	880202013	50.00	08/07/1986	7171	07/18/1988	50.00	VOID	7851	05/16/1989
50.00 RDTD	7851	11/01/1989	50.00	CL		0.00			
Louis Hilfman, Ltd	880222037	200.00	11/03/1980			200.00			
Malden Novelty Co., Inc	871016011	50.00	01/18/1974			50.00			
Mark Hogan Companies	870916104	1,000.00	10/28/1965			1,000.00			
Marketplace Electric, Inc.	880121011	25.00	01/19/1988			25.00			
Marshall N. Dickler, Ltd	880229016	100.00	09/22/1981	7185	07/18/1988	100.00	VOID	7863	05/16/1989
100.00 RDTD	7863	11/01/1989	100.00	CL		0.00			
Mathew K. Gzygowski, P.C.	871116015	25.00	09/19/1979			25.00			
Mellogac, Inc. Old name: Durkin's Tavern, Inc	880222097	50.00	09/19/1974			50.00			
Meyer S. Glasberg, P.C.	880411005	50.00	01/26/1978			50.00			
Midgley's Mill Investments	870603019	50.00	01/29/1979			50.00			
Midgley's Mill Investments	870603019	100.00	01/29/1979			100.00			
Muldoon, Pemberton & Ferris	871231008	100.00	01/27/1983			100.00			
Neal Electric Company	870608017	100.00	04/29/1971			100.00			
Neubauer Meat Market, Inc	870922115	40.00	11/02/1946	7352	04/29/1988	40.00	CL		
						0.00			
Neubauer Meat Market, Inc.	870922115	40.00	11/02/1946	7352	04/29/1988	40.00	CL		
						0.00			

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Run Date: 07/21/1990

Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Refund Amount	Refund Count	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Amount Due			
On the Radio Broadcasting	880222097	100.00	08/01/1986			100.00			
Page One Tavern, Inc.	880422003	50.00	04/15/1985			50.00			
Painter's College of Beauty Inc.	871208005	100.00	05/05/1984	7172	07/18/1988	100.00	VOID	7850	05/16/1989
100.00 RDTD 7850	11/01/1989	0.00	CL			0.00			
Paul Bunyard Inc.	880107005	25.00	02/14/1979			25.00			
Paul Bunyard Inc.	880414008	100.00	02/14/1979			100.00			
Paul Quinn College	871211020	250.00	04/09/1942			250.00			
Plumbers & Pipefitters Local Union 551	880314050	500.00	10/10/1989			500.00			
Prairie Homes Association, Inc.	880112010	50.00	12/10/1985	7191	07/18/1988	50.00	VOID	7277	08/12/1988
25.00 CL						0.00			
Prairie Homes Association, Inc.	880222014	25.00	12/10/1985	7867	05/16/1989	50.00	RDTD	7867	11/01/1989
50.00 CL						0.00			
Psychological Services & Chronic Pain Mgt Inc.	871222003	15.00	10/07/1982	7192	08/18/1988	15.00	O/S	7868	05/16/1989
15.00 O/S						15.00			
Ralph H. Mickelson, P.C.	870420001	1,000.00	03/26/1982	7181	07/18/1988	1,000.00	VOID	7862	05/16/1989
1000.00 RDTD 7862	11/01/1989	1000.00	CL			0.00			
Rice Motor Company	880107020	100.00	02/20/1961	7272	08/12/1988	100.00	CL		
						0.00			
Robert A. Ades & Associates, P.C.	880302013	100.00	10/20/1980			100.00			
Robin Jones, Inc.	880224025	60.00	06/10/1984			60.00			
Ruffa & Hanover, P.C.	871121017	1,000.00	08/01/1980			1,000.00			
Shaku Nagpal, M.D. A Medical Corporation	880201010	250.00	10/01/1981			250.00			

Listing of Corporate Contributors

95043663748
by First Class name--Simon
Run Date: 02/21/1990Attachment 1
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Business Name	Batch Ref	Contr Amt	Inc Date	Refund Chk #	Refund Check Dt	Refund Amount	Refund Count	Refund Chk #	Refund Check Dt
Stanley P. Kaplan, P.C. 100.00 RDTD 7858	871105000 11/01/1989	100.00 100.00	11/10/1982 CL	7179 0 00	07/10/1988	100.00	VOID	7858	05/16/1989
Statewide Custom Remodeling	880301014	100.00	06/02/1977						
				100.00					
Stewart Freifeld, M.D., P.C.	870910501	25.00	03/10/1975						
				25.00					
Surf Insurance Agency, Inc. 50.00 RDTD 7859	871119029 11/01/1989	50.00 50.00	04/25/1981 CL	7181 0 00	07/10/1988	50.00	VOID	7859	05/16/1989
Sutton Brothers Farms, Inc.	871211007	400.00	09/21/1976						
				400.00					
Sylma Company	870603019	50.00	07/08/1964						
				50.00					
T A Management Services, Inc.	880222097	500.00	11/15/1981						
				500.00					
Texas Junction Grain, Inc.	880121029	200.00	12/01/1981						
				200.00					
The Adams Group Inc	870711005	250.00	12/31/1986						
				250.00					
The Alan and Lorraine Fischer Foundation	870921104	1,000.00	05/23/1984						
				1,000.00					
The Balloonery, Inc	880422004	25.00	09/10/1980						
				25.00					
The Hope Clinic For Women, Ltd 200.00 O/S	880222014	200.00	10/15/1976	7221 200.00	07/26/1988	200.00	O/S	7874	05/16/0879
Thompson/Roth Associates, Inc.	870608036	400.00	10/10/1986	7170 0 00	12/15/1987	400.00	CL		
Tom Martin, M.D S.C	880107020	100.00	09/12/1972						
				100.00					
Tom Rubin Productions, Inc.	870914101	250.00	07/23/1979						
				250.00					
Wilson Oil Co.	880328012	100.00	07/25/1979						
				100.00					
Total For Report		21,119.05							
				17,201.05					

Total Records: 117

Explanation of Symbols and Procedures Used
in Generating Listing of Corporate Contributors

DESCRIPTION

FIELD NAME

a) Business Name Name of account holder of contribution check.
b) Batch Ref Batch Reference. YYDDMMBBB = YEAR/DATE/MONTH/BATCH
c) Contribution Amount Contribution Amount is the amount the contribution check was written for in dollars.
d) Inc. Date Incorporation date. Date account holder/business was incorporated with appropriate Secretary of State.
e) Refund Chk # Refund check number.
f) Refund Amount Amount refund check was written for in dollars.
g) Refund Check Dt Refund Check date. Date on refund check.
h) Refund Comment Refund Comment. Auditor notes regarding the status of the refund check.

i) Amount Due Contributions which require refunds.
VOID = Void check
CL = Negotiated refund check
RD TD = Check originally dated 5/16/89 that was redated 11/1/89
Contributions which require refunds.

Data and Procedures Used:

The contributions reviewed were confined to those available on the Committee's contribution data tape, as provided to the Audit Division by the Committee; those contributors for which the Committee reported on its disclosure report as making a refund of a prohibited contribution; and those apparent prohibited contributions which the Committee deposited in group batches. The documentation available consisted of contribution checks as contained in the Committee's matching fund submissions; as well

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Simon for President
Referral - FAR

Exhibit B
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as negotiated refund checks, bank records and check registers relative to the refunded contributions, and Committee disclosure reports. All prohibited contributions were verified with the appropriate Secretaries of State. All prohibited contributions, refunds of contributions, and reissued contribution refunds are documented. The documentation is available for review in the Audit Division.

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Receipt of Excessive Contributions

Section 441a(a)(1)(A) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitation may be deposited into a campaign depository or returned to the contributor. If any such contributions are deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 C.F.R. §§110.1(b), 110.1(k) or 110.2(b), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of receipt of the contribution, refund the contribution to the contributor.

Section 103.3(b)(4) of Title 11 of the Code of Federal Regulations states, in part, that any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make such refunds.

The Audit staff's review of contributions received from individuals indicated that 149 contributions from 145 contributors exceeded their contribution limitation by the amount of \$64,589.59. It should be noted that the Committee made refunds totalling \$18,294.00 for 53 of these contributions; however, such refunds were not made timely in accordance with 11 C.F.R. §103.3(b)(3). In addition, the Committee obtained undated reattribution letters for 5 of these contributions in an attempt to reattribute \$4,500 of excessive contributions.

Although the Committee did not maintain a separate depository pursuant to 11 C.F.R. 103.3(b)(4), the Committee did maintain sufficient funds with which it could make refunds.

At the exit conference, the Committee was provided with schedules detailing the excessive contributions mentioned above. Committee representatives stated that considerable resources had been expended to ensure that all contributions received were in compliance with the regulations, however due to computer and administrative errors a small number of excessive contributions

may have been deposited into the Committee accounts. Committee representatives further stated that the Committee has, and will

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continue to review all contributions and will make the appropriate refund or reattribution of the excessive contribution. Additionally, the Committee representatives stated that a number of refund checks which were outstanding were reissued and had cleared the bank and evidence to support this would be provided to the Audit staff.

On January 24, 1990, the Committee provided evidence documenting the November 1, 1989 refunds of 43 excessive contributions totalling \$17,384. As noted at Attachment 1, these refund checks were originally dated July 18, 1988 and never issued (mailed); these refunds were also reported in the Committee's August 20, 1988 monthly disclosure report. During fieldwork a Committee representative stated that the refund checks dated July 18, 1988 were not mailed, and due to the [Democratic] Convention activity may have been misplaced. The Committee then prepared refund checks dated May 16, 1989 and apparently did not mail them until November 1, 1989, at which time the checks were redated. Therefore, the Committee's contention that it had "reissued" checks to replace contribution refund checks which were "outstanding" (i.e., did not clear the bank) is not supported by the record of this activity. As stated above, the Committee itself was in possession of the May 16, 1989 refund checks on November 1, 1989 and as such these checks could never have been "issued", much less be classified as outstanding. Further, no amendments have been filed by the Committee to correct the public record regarding these transactions.

As a result of the above, there remain 48 excessive contributions totalling \$24,411.59 which still require refunds.

In the Interim Audit Report the Audit staff recommended that within 30 calendar days of service of this report the Committee take the following action:

- provide an explanation as to why the refunds made November 1, 1989 were not made timely, including a description of any mitigating circumstances, as to why the refund checks dated July 18, 1988 and May 16, 1989 were not issued (mailed), and an explanation as to why the checks dated May 16, 1989 were redated November 1, 1989;
- provide evidence that the contributions which have not yet been refunded are not excessive; or
- refund \$24,411.59 to the 48 contributors and present evidence of such refunds (copies of the front and back of the negotiated refund checks) to the Audit staff for review; and
- amend its disclosure reports to reflect the voided July 18, 1988 refunds and the issuance of the November 1, 1989 refunds.

The Audit staff also noted that further recommendations may

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be forthcoming.

The Committee's response to the Interim Audit Report contained no response with respect to this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Daniel S. Abraham	10/26/87	\$ 1,000.00						
	12/09/87	500.00	1,500.00	\$ 500.00	\$ 500.00	05/11/88	154	
Gordon B. Allen	05/20/87	200.00						
	09/30/87	100.00						
	11/24/87	60.00						
	12/31/87	400.00						
	12/31/87	300.00						
	01/21/88	100.00	1,160.00	160.00	160.00	05/11/88	111	
Lida Allen	05/22/87	500.00						
	05/22/87	500.00			50.00	10/06/87	100	
	07/21/87	50.00	1,050.00	50.00	50.00	11/03/87	-	
Michael Andrews	09/14/87	1,000.00			1,000.00	07/18/88	*	
	01/01/88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	
					1,000.00	11/01/89	579	-0-
A. Jerry Auerbach	05/12/87	200.00						
	11/24/87	1,000.00	1,200.00	200.00	200.00	01/21/88	110	
H. H. "Sam" Bartee	05/21/87	1,000.00						
	11/30/87	500.00	1,500.00	500.00	500.00	05/11/88	142	
Tom Beckett	01/12/88	2,000.00	2,000.00	1,000.00	1,000.00	01/25/88	73	
Lawrence Brady	10/08/87	1,000.00						
	12/31/87	500.00	1,500.00	500.00	500.00	05/11/88	132	
Howard Bury	07/14/87	500.00						
	09/30/87	500.00						
	12/31/87	200.00	1,200.00	200.00	200.00	05/11/88	CK 0/3	200.00

CK 0/3 - Check did not clear bank

* not applicable, check voided

** not applicable, check redated 11/1/89

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PAUL SIMON FOR PRESIDENT
Schedule of Excessive Contributors

Attachment 1 to Exhibit C

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
William K. Carson	06/03/87	\$ 100.00						
	07/20/87	50.00						
	10/08/87	100.00						
	11/10/87	100.00						
	11/18/87	50.00						
	11/19/87	59.00						
	12/11/87	50.00						
	01/19/88	100.00						
	01/19/88	100.00						
	02/09/88	50.00						
	02/18/88	100.00						
	03/11/88	50.00				07/18/88	*	
	03/01/88	100.00	1,000.00	9.00	9.00	05/16/89	**	
Doris Casper	06/01/87	300.00				11/01/89	579	-0-
	07/24/87	125.00						
	07/30/87	200.00						
	11/16/87	200.00						
	01/01/88	250.00	1,075.00	75.00	75.00	05/11/88	111	
Donald Chalkey	01/23/87	1,000.00				07/18/88	*	
	02/01/88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	
						11/01/89	639	-0-
Mary Anne Chalkey	12/23/87	1,000.00				07/18/88	*	
	02/01/88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	
						11/01/89	639	-0-
Yi Cheng Chang	07/14/87	250.00						
	09/08/87	250.00						
	12/02/87	500.00						
	12/02/87	15.00		15.00	15.00	05/11/88	161	
	02/16/88	100.00				07/18/88	*	
	05/19/88	50.00	1,165.00	150.00	150.00	05/16/89	**	
						11/01/89	531	-0-

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Lanore T. Colson	02/10/88	\$ 20 00						
	02/22/88	1,000 00	1,020 00	20.00	20 00	05/11/88	Ch O/S	20.00
Philip H. Corboy	05/04/87	1,000 00						
	11/16/87	250 00		250 00				
	05/21/88	125 00	1,175 00	125 00	250 00	03/21/88	126	\$125.00
James J. Coulan	12/02/87	1,000 00						
	12/02/87	1,000 00	2,000 00	1,000 00	1,000 00	03/21/88	110	
Dr. James W. Crawford	11/23/87	1,000 00				07/10/88	*	
	02/08/88	125 00	1,125 00	125 00	125 00	05/16/89	Ch O/S	125.00
Mrs. Lola L. Crosby	05/12/87	600 00						
	09/02/87	100 00						
	01/27/88	500 00	1,200 00	200 00	200 00	05/11/88	104	
Harry M. Cunningham	08/20/87	1,000 00						
	11/19/87	500 00	1,500 00	500 00	500 00	03/21/88	123	
John P. Duce	11/12/87	1,000 00						
	01/21/88	100 00	1,100 00	100 00	100 00	05/11/88	Ch O/S	100.00
Vernon C. Dushner	05/21/87	400 00						
	01/11/88	200 00						
	01/25/88	500 00	1,100 00	100 00	100 00	05/11/88	107	
Arthur Debatdeleben	07/08/87	250 00						
	12/04/87	250 00						
	03/16/88	200 00				07/10/88	*	
	03/29/88	550 00	1,250 00	250 00	250 00	05/16/89	**	-0-
						11/01/89	502	

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Louise W. Demonic	09/30/87	\$ 50.00						
	11/19/87	150.00						
	12/18/87	50.00						
	01/12/88	50.00						
	01/14/88	50.00						
	02/03/88	50.00						
	02/11/88	50.00						
	02/18/88	100.00				07/18/88	*	
	02/25/88	500.00	1,050.00	50.00	50.00	05/16/89	**	
Margaret T. Donnelly						11/01/89	615	-0-
	10/15/87	250.00						
	11/30/87	125.00						
	01/20/88	100.00						
	01/27/88	100.00						
	02/03/88	50.00						
	02/16/88	300.00				07/18/88	*	
	02/18/88	100.00	1,025.00	25.00	25.00	05/16/89	Ch O/S	25.00
Sean J. M. Dorian	09/11/87	250.00						
	09/30/87	100.00						
	12/21/87	200.00						
	02/22/88	450.00				07/18/88	*	
	03/25/88	100.00	1,100.00	100.00	100.00	05/16/89	**	-0-
Margaret E. Dorian						11/01/89	586	
	06/10/87	500.00						
	09/10/87	500.00				07/18/88	*	
	02/26/88	25.00	1,025.00	25.00	25.00	05/16/89	**	-0-
Kenneth G. Eichenold						11/01/89	614	
	10/08/87	31.00						
	12/02/87	1,000.00						
	01/26/88	100.00	1,131.00	131.00	131.00	03/21/88	Ch O/S	131.00

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Janice Eichorn	07/13/87	100.00						
	10/28/87	35.00						
	01/15/88	900.00	1,035.00	35.00	15.00	05/11/88	117	
Garry L. Eyles	05/27/87	250.00						
	07/20/87	750.00						
	12/31/87	180.00		180.00	180.00	05/11/88	132	
	07/20/87	350.00	1,910.00	750.00				750.00
Penelope S. Farthing	09/17/87	250.00						
	11/10/87	750.00						
	01/07/88	10.00	1,010.00	10.00	10.00	05/11/88	Ck O/S	10.00
William Farberg	11/12/87	1,000.00						
	12/02/87	1,000.00	2,000.00	1,000.00	1,000.00	01/21/88	Ck O/S	1,000.00
Ellen Field	08/06/87	250.00						
	11/12/87	1,000.00	1,250.00	250.00	250.00	01/21/88	130	
Theodore Field	07/10/87	200.00						
	10/07/87	500.00				07/18/88	*	
	01/02/88	500.00	1,200.00	200.00	200.00	05/16/89	**	-0-
						11/01/89	609	
Robert Foxworth	06/01/87	500.00			500.00	11/04/87	-	
	09/15/87	1,000.00				07/18/88	*	
	02/01/88	1,000.00	2,500.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	639	
Roger Frum	04/28/87	500.00						
	09/08/87	500.00						
	01/11/87	500.00	1,500.00	500.00	500.00	05/11/88	121	
	10/14/88	250.00	1,250.00	250.00	0-			250.00

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Elizabeth Garst	11/17/87	\$ 200.00						
	11/23/87	100.00						
	02/08/88	200.00						
	02/16/88	300.00						
	03/08/88	250.00						
	03/15/88	100.00				07/18/88	*	
	04/04/88	300.00	1,450.00	450.00	450.00	05/16/89	**	-0-
						11/01/89	576	
Ray C. Gerhardt, Sr.	06/08/87	100.00						
	07/16/87	100.00						
	10/07/87	250.00						
	12/08/87	300.00						
	01/11/88	200.00						
	02/05/88	250.00	1,200.00	200.00	200.00	05/11/88 (iss.)	96	
						07/20/88 (clrd.)		
June E. Goldfine	05/19/87	1,000.00						
	08/28/87	500.00			500.00	10/16/87		
	09/10/87	500.00	2,000.00	500.00	1,000.00	11/12/87 (iss.)	121	
						02/25/88 (clrd.)		
Julia A. Gottlieb	09/15/87	1,000.00				07/18/88	*	
	05/16/88	500.00	1,500.00	500.00	500.00	05/16/89	**	-0-
						11/01/89	514	
Georgina Gronner	05/19/87	250.00						
	10/08/87	1,000.00	1,250.00	250.00	250.00	01/21/88	165	
Donald H. Henley	09/10/87	1,000.00						
	12/01/87	500.00	1,500.00	500.00	500.00	01/21/88	111	
Anita Hirsh	09/22/87	1,000.00						
	12/17/87	500.00	1,500.00	500.00	500.00	05/11/88	ck o/s	500.00

no

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Albert Hofeld	05/08/87	\$1,000.00						
	11/16/87	1,000.00	2,000.00	1,000.00	1,000.00	01/21/88	126	
Roslyn Homer	06/30/87	1,000.00				07/18/88	.	
	05/24/88	200.00	1,200.00	200.00	200.00	05/16/89	Ch 0/3	200.00
Lawrence E. Irvin	05/01/87	1,000.00				07/18/88	.	
	02/22/88	100.00	1,100.00	100.00	100.00	05/16/89	Ch 0/3	100.00
Anna D. Johnson	11-01-87	1,000.00						
	11-24-87	225.00		225.00			121	
	12-21-87	100.00		100.00			91	
	01-22-88	2,000.00					59	-0-
	02-16-88	500.00					34	
	03-02-88	250.00	1,075.00		1,075.00	01/21/88	18	
Ellen Jones	06-15-87	125.00						
	07-21-87	250.00						
	12-14-87	250.00						
	01-30-87	500.00	1,125.00	125.00	125.00	05/11/88	112	
Laura Jurcic	02/04/88	1,000.00				07/18/88	.	
	02-23-88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	..	-0-
						11/01/89	617	
Harry Kahn	06-30-87	250.00						
	09/23/87	750.00						
	12-10-87	500.00	1,500.00	500.00	500.00	03/21/88	102	
Joel Karp	12-03-87	500.00				07/18/88	.	
	12-31-87	1,000.00	1,500.00	500.00	500.00	05/16/89	..	-0-
						11/01/89	671	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Harold A. Katz	05/26/87	100.00						
	05/26/87	250.00						
	09/30/87	200.00						
	10/15/87	100.00						
	12/02/87	100.00						
	02/08/88	150.00				07/18/88	*	
	03/17/88	200.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	594	
Anna Carol Fultz Khattab	05/21/87	100.00						
	06/03/87	100.00						
	07/07/87	100.00						
	10/07/87	100.00						
	11/17/87	100.00						
	12/17/87	100.00						
	02/18/88	200.00						
	03/11/88	105.00				07/18/88	*	
	03/10/88	100.00	1,005.00	5.00	5.00	05/16/89	ck O/S	5.00
Joseph A. Kinner	05/01/87	100.00						
	07/24/87	100.00						
	09/04/87	135.00						
	09/17/87	100.00						
	09/22/87	35.00						
	01/15/88	150.00						
	02/08/88	250.00				07/18/88	*	
	03/08/88	280.00	1,150.00	150.00	150.00	05/16/89	*	-0-
						11/01/89	603	
Lawrence Kirshtein	07/16/87	1,000.00						
	09/17/87	250.00	1,250.00	250.00	250.00	11/09/87	ck O/S	250.00
Peter B. Kovler	09/17/87	125.00						
	10/07/87	1,000.00	1,125.00	125.00	125.00	1/21/88	166	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Stuart C. Kroesch	06/02/87	\$ 250.00						
	06/08/87	250.00						
	07/21/87	500.00						
	09/03/87	250.00			250.00	11/19/87	67	
	11-27-87	80.00	1,110.00	80.00	80.00	03/21/88	115	-0-
Ying Shi Lai	12/17/87	1,000.00				07/18/88	*	
	12-21-87	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	681	
Hon. Mark M. Lane	02-04-88	147.00				07/18/88	*	
	03-12-88	1,000.00	1,147.00	147.00	147.00	05/16/89	**	-0-
						11/01/89	623	
Thomas M. Lardner	10-14-87	250.00						
	01-20-88	1,000.00	1,250.00	250.00	250.00	05/11/88	Ch O/S	250.00
Eva Lee	05-27-87	10.00						
	06-09-87	25.00						
	07-10-87	25.00						
	08-14-87	10.00						
	08-19-87	10.00						
	09-02-87	50.00						
	09-10-87	10.00						
	10-07-87	50.00						
	11-12-87	50.00						
	11-23-87	59.00						
	01-08-88	50.00						
	01-29-88	50.00						
	02-09-88	100.00						
	02-17-88	50.00						
	02-23-88	100.00						
	03-02-88	100.00						
	03-14-88	50.00						
	03-15-88	50.00						
	03-23-88	10.00						
	04-06-88	100.00				07/18/88	*	
	04-22-88	50.00	\$ 1,109.00	\$ 109.00	109.00	05/16/89	**	-0-
						11/01/89	574, 558	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Jerome Leiberman	12/09/87	1,000.00						
	01/25/88	100.00	1,100.00	100.00	100.00	05/11/88	107	
Marcia Lipetz	11/12/87	25.00						
	12/02/87	1,000.00	1,025.00	25.00	25.00	03/21/88	110	
Georgia Lloyd	06/02/87	1,000.00						
	09/10/87	300.00		300.00	300.00	11/09/87	Ch O/S	
	10/08/87	500.00	1,400.00	500.00	800.00	01/21/88	173, 165	
Cora G. Lyman	10/26/87	1,000.00						
	11/24/87	225.00		225.00			117	
	12/29/87	50.00					83	
	02/19/88	50.00					41	
	03/15/88	100.00	1,125.00		425.00	01/21/88	6	
Mark D. Maloney	05/21/87	250.00						
	06/02/87	250.00						
	01/08/88	250.00	1,250.00	250.00	250.00	05/11/88	Ch O/S	250.00
Victor E. Maron	05/21/87	250.00				07/18/88	*	
	02/01/88	1,000.00	1,250.00	250.00	250.00	05/16/89	**	-0-
						11/01/89	618	
Charlotte E. Mason	09/10/87	1,000.00						
	11/19/87	250.00	1,250.00	250.00	250.00	01/21/88	142	
George A. McAlmon	09/23/87	250.00				07/18/88	*	
	12/04/87	1,000.00	1,250.00	250.00	250.00	05/16/89	**	-0-
						11/01/89	668	
Hope McCormick	06/08/87	250.00						
	09/10/87	500.00						
	11/09/87	500.00	1,250.00	250.00	250.00	01/21/88	131	

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Michael P. McCuskey	05/26/87	\$ 250.00						
	11/27/87	500.00						
	11/27/87	250.00						
	12/02/87	250.00	1,250.00	250.00	250.00	05/11/88	Ck O/S	250.00
Jessie J. McGuire	11-13/87	250.00						
	01/20/88	375.00						
	02/17/88	200.00				07/10/88	*	
	02-23/88	200.00	1,025.00	25.00	25.00	05/16/89	Ck O/S	25.00
Harris Milgram	07-21/87	65.00						
	10-15-87	100.00						
	12-01-87	100.00						
	01-19-88	150.00						
	01-21-88	100.00						
	02-23-88	200.00						
	03-14-88	165.00				07/10/88	*	
	01-01-88	110.00	1,010.00	10.00	10.00	05/16/89	**	-0-
						11/01/89	578	
Jerome W. Ruff	12-09/87	100.00				07/10/88	*	
	02-03-88	1,000.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	616	
S. W. Murchach	05/26/87	500.00						
	10-13-87	1,000.00	1,500.00	500.00	500.00	03/21/88	150	
Carol E. Myers	10/20/87	1,000.00						
	12-10-87	1,000.00	2,000.00	1,000.00	1,000.00	03/21/88	102	
John F. Nash	09/23/87	1,000.00						
	11-23-87	75.00	1,075.00	75.00	75.00	03/21/88	119	
Michael L. O'Brien	06/03/87	1,000.00				07/10/88	*	
	03-11-88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	580	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
George W. Overton	05/08/87	\$ 100.00						
	06/12/87	100.00						
	09/01/87	100.00						
	09/30/87	200.00						
	11/09/87	800.00	1,100.00	300.00	300.00	03/21/88	133	
Mary G. Patterson	10/29/87	100.00						
	01/11/88	100.00						
	02/22/88	200.00						
	03/11/88	200.00				07/18/88	*	
	01/05/88	100.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	575	
Michael A. Perone	05/27/87	250.00						
	08/11/87	500.00				07/18/88	*	
	01/01/88	500.00	1,250.00	250.00	250.00	05/16/89	**	-0-
						11/01/89	578	
Patricia E. Picken	04/21/87	1,000.00						
	10/11/87	1,000.00	2,000.00	1,000.00	1,000.00	03/21/88	251	
Stanley K. Platt	06/02/87	200.00						
	07/08/87	100.00						
	09/03/87	100.00						
	09/30/87	100.00						
	10/26/87	500.00						
	02/16/88	100.00	1,100.00	100.00	100.00	08/12/88	Ck O/S	100.00
Neal Potter	05/20/87	500.00						
	11/13/87	100.00						
	02/16/88	200.00						
	04/08/88	200.00				07/18/88	*	
	04/27/88	200.00	1,200.00	200.00	200.00	05/16/89	**	-0-
						11/01/89	553	
Thomas E. Radecki	06/30/87	1,000.00						
	11/17/87	250.00						
	12/31/87	250.00	1,500.00	500.00	500.00	03/21/88	Ck O/S	500.00

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9 5 0 4 3 6 6 3 8 0 7

PAUL SIMON FOR PRESIDENT
Schedule of Excessive ContributorsAttachment 1 to Exhibit C
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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Louise Palley	06/08/87	\$ 100.00						
	07/14/87	50.00						
	01/27/88	50.00						
	01/27/88	100.00						
	02/17/88	100.00						
	02/22/88	50.00						
	02/23/88	25.00						
	03/02/88	100.00						
	03/03/88	100.00						
	03/16/88	100.00						
	03/24/88	100.00						
	04/01/88	100.00			125.00	07/18/88	*	
	04/14/88	100.00			100.00	08/12/88	*	
	05/16/88	50.00	1,125.00	125.00	125.00	05/16/89	Ch O/S	125.00
Melba Price	12/21/87	250.00				07/18/88	*	
	01/01/88	1,000.00	1,250.00	250.00	250.00	05/16/89	Ch O/S	250.00
Jack L. Ringer	06/18/87	250.00						
	08/21/87	200.00						
	09/22/87	70.00						
	12/02/87	550.00	1,070.00	70.00	70.00	03/21/88	110	
A. G. Rosenquaten, Jr.	06/02/87	100.00						
	07/07/87	100.00						
	09/10/87	200.00						
	10/14/87	100.00						
	11/16/87	100.00						
	11/19/87	100.00						
	11/24/87	100.00						
	01/13/88	100.00						
	01/20/88	100.00				07/18/88	*	
	02/11/88	100.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	629	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
David Saidel	05/26/87	250.00						
	12/02/87	500.00				07/18/88	*	
	01/09/88	500.00	1,250.00	250.00	250.00	05/16/89	**	-0-
						11/01/89	602	
William G. Sanders	06/10/87	1,000.00				07/18/88	*	
	02/01/88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	638	
Doris A. Santos	02/10/87	500.00						
	11/04/87	500.00						
	12/21/87	250.00	1,250.00	250.00	250.00	05/11/88	141	
Helen Saunders	07/08/87	200.00						
	11/25/87	100.00						
	12/10/87	100.00						
	01/28/88	200.00				07/18/88	*	
	02/12/88	500.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	623	
Est. Seaton and Son	06/08/87	1,600.00	1,600.00	600.00	0			600.00
David Scheuer	09/28/87	1,000.00						
	12/09/87	1,000.00	2,000.00	1,000.00	1,000.00	01/21/88	183	
Frank E. Schneider	06/24/87	100.00						
	09/10/87	1,000.00	1,100.00	100.00	100.00	11/09/87	Ch voided	100.00
John F. Sieberling	05/27/87	250.00						
	12/01/87	750.00						
	12/15/87	69.00	1,069.00	69.00	69.00	01/21/88	97	

Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
James Sanyaszyn	05/04/87	\$ 50.00						
	08/28/87	150.00						
	10/13/87	50.00						
	10/19/87	50.00						
	01/21/88	100.00						
	02/18/88	400.00						
	02/23/88	250.00	1,050.00	50.00	50.00	07/18/88 05/16/89 11/01/89	* ** 617	-0-
Walter Shorestein	10/26/87	1,000.00						
	12/21/87	1,000.00	2,000.00	1,000.00	1,000.00	07/18/88 05/16/89 11/01/89	* ** 681	-0-
Joshua Silverman	08/22/87	150.00						
	12/18/87	1,000.00	1,150.00	150.00	150.00	03/21/88	102	
Louis B. Silverman	05/20/87	1,500.00	1,500.00	500.00	500.00	07/13/87 10/20/87 (cleared)	133	
Sheldon Sisson	08/02/87	250.00						
	09/30/87	100.00						
	12/21/87	200.00						
	02/22/88	450.00						
	01/25/88	100.00	1,100.00	100.00	100.00	07/18/88 05/16/89 11/01/89	* ** 586	-0-
Johnathan L. Stein	12/02/87	1,000.00						
	12/02/87	250.00	1,250.00	250.00	250.00	03/21/87	110	
Richard A. Stein	05/26/87	500.00						
	02/22/87	1,000.00	1,500.00	500.00	500.00	07/18/88 05/16/89 11/01/89	* ** 618	-0-
Mary Grace Stern	09/10/87	100.00						
	10/08/87	100.00						
	12/02/87	125.00						
	12/24/87	25.00						
	01/22/88	800.00	1,150.00	150.00	150.00	05/11/88	110	

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date Refunded	# of Days Outstanding	Amount Requiring Action
Patricia M. Stewart	07/23/87	\$ 200.00						
	08/18/87	500.00						
	11/16/87	500.00	1,200.00	200.00	200.00	03/21/88	126	
Robert E. L. Strider II	06/09/87	100.00						
	07/08/87	100.00						
	09/17/87	100.00						
	11/03/87	100.00						
	11/20/87	59.00						
	02/09/88	100.00						
	02/16/88	200.00						
	02/18/88	100.00						
	03/02/88	100.00				07/18/88	*	
	03/10/88	100.00	1,059.00	59.00	59.00	05/16/89	**	-0-
						11/01/89	601	
Robert V. Stumpf	09/22/87	15.00						
	12/01/87	1,000.00	1,015.00	15.00	15.00	03/21/88	110	
Helmut Gung	07/20/87	500.00						
	10/23/87	1,000.00	1,500.00	500.00	500.00	03/21/88	150	
Alex G. Tulsky	05/19/87	500.00						
	08/06/87	200.00						
	09/09/87	200.00						
	01/13/88	200.00	1,100.00	100.00	100.00	05/11/88	119	
Hon. John V. Tunney	06/03/87	250.00						
	09/30/87	750.00				07/18/88	*	
	02/01/88	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	630	
Tom Turnipseed	06/03/87	250.00						
	10/08/87	739.19						
	11/19/87	11.81	1,001.00	1.00	1.00	05/11/88	Ch O/S	1.00

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Ruth Van Doren	11/19/87	50.00						
	12/23/87	100.00						
	02/17/88	100.00						
	02/19/88	100.00						
	03/04/88	100.00						
	03/08/88	100.00						
	03/11/88	100.00						
	03/18/88	100.00						
	03/24/88	100.00				07/18/88	*	
	04/05/88	250.00	1,100.00	100.00	100.00	05/16/89	**	-0-
						11/01/89	575	
Walter G. Weiss	11/04/87	1,000.00				07/18/88	*	
	02/01/88	225.00	1,225.00	225.00	225.00	05/16/89	**	-0-
						11/01/89	637	
Jeanne Wright	02/10/87	1,000.00				07/18/88	*	
	12/02/87	1,000.00	2,000.00	1,000.00	1,000.00	05/16/89	**	-0-
						11/01/89	663	
Bennett L. Zimovitz	09/03/87	500.00				07/18/88	*	
	02/04/88	1,000.00	1,500.00	500.00	500.00	05/16/89	**	-0-
						11/01/89	636	
Mrs. Lois H. Zimovitz	05/19/87	500.00						
	09/10/87	1,000.00	1,500.00	500.00	500.00	03/21/88	173	
Elizabeth H. Mehl	02/10/87	1,250.00	1,250.00	250.00	-0-	—	—	250.00
David Sensibar	06/15/87	200.00						
	07/13/87	200.00						
	09/04/87	250.00						
	10/07/87	200.00						
	12/24/87	150.00				07/18/88	*	
	01/26/88	500.00	1,500.00	500.00	500.00	05/16/89	**	-0-
Ken & Lau Kee	09/01/87	210.00				11/01/89	645	
	02/16/88	1,000.00	1,210.00	210.00	-0-			210.00

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Contributor Name	Date of Contribution	Amount of Contribution	Total Amount Contributed	Excessive Portion	Amount Refunded	Date of Refund Check	# of Days Outstanding	Amount Requiring Action
Charles Ratner	02/16/88	1,000.00						
	02/16/88	1,000.00						
	02/16/88	1,000.00	1,000.00	2,000.00	-0-			2,000.00
Adams, Fox, Adelshtein and Rosen	06/08/87	250.00						
	02/08/88	1,000.00	1,250.00	250.00	-0-			250.00
Dr. Marion A. Ivanuck	05/21/87	200.00						
	06/08/87	100.00						
	06/26/87	100.00						
	07/09/87	200.00						
	09/08/87	200.00		100.00			226	
	09/30/87	50.00		50.00			173	
	11/12/87	25.00	1,175.00	25.00	1,020.00	01/21/88	130	
	12/31/87	200.00					timely	
	02/16/88	20.00						
	02/16/88	10.00						
	02/16/88	10.00						
	02/16/88	100.00						
	02/16/88	20.00						
	02/16/88	10.00						
	02/16/88	20.00						
	02/24/88	100.00						
	02/24/88	10.00						
Subtotal Part 1			\$44,630.00					\$8,952.00

91.

PAUL SIMON FOR PRESIDENT COMMITTEE
Schedule of Excessive Contributions Resulting from Reattributions

Contributor	Contribution Date	Contribution Amount	Amount Excessive	Reattribution Letter with No Date	Requiring Action (Excessives)
Arlene Alda	12/23/87	\$ 1,500.00	\$ 500.00		\$ 500.00
Elliott B. Barnett	12/31/87	2,000.00	1,000.00	1,000.00	
Frederick M. Baron	12/24/87	2,000.00	1,000.00		1,000.00
Eugene H. Budner	11/19/87 02/16/88	250.00 1,000.00	250.00		250.00
James Chao	04/01/88	2,000.00	1,000.00		1,000.00
Chen Wu Chu	04/01/88	2,000.00	1,000.00		1,000.00
Lerald W. Donaway	10/30/87 04/04/88	500.00 1,000.00	500.00		500.00
Sandra Eskin	05/27/87 02/04/88 02/23/88	200.00 100.00 1,800.00	1,100.00		1,100.00
Margaret Fischer	12/04/87 01/15/88 02/02/88 02/23/88 04/05/88	100.00 175.00 250.00 500.00 75.00	100.00		100.00
Lee Fong Ha	04/01/88	2,000.00	1,000.00		1,000.00
Stanley Kleinstein	06/08/87 09/30/87 11/23/87 02/05/88 03/04/88	100.00 500.00 100.00 50.00 500.00	250.00		250.00

PAUL SIMON FOR PRESIDENT COMMITTEE
Schedule of Excessive Contributions Resulting from Reattributions

Contributor	Contribution Date	Contribution Amount	Amount Excessive	Reattribution Letter with No Date	Amount Requiring Action (Excessives)
Joseph M. Monaco	11/20/87 02/26/88	1,000.00 1,000.00	1,000.00		1,000.00
Gerald H. Pitman	02/16/88	2,000.00	1,000.00	1,000.00	
Hans Ries	10/27/87 02/01/88	500.00 1,000.00	500.00	500.00	
Cynthia Scaravelli	02/04/88	2,000.00	1,000.00	1,000.00	
Michael Selig	05/27/87 08/07/87 04/01/88	250.00 500.00 500.00	250.00		250.00
Semso Selimovic	02/12/88	1,500.00	500.00		500.00
Mary Telman Shackelford	05/12/87 09/30/87 04/12/88	500.00 500.00 200.00	200.00		200.00
Gary N. Wang	04/01/88	2,000.00	1,000.00	1,000.00	
Wachtell Lipton Rosenkrantz	03/30/88	5,000.00	4,000.00		4,000.00
Hazel Brock	09/04/87 11/19/87 01/19/88 03/18/87	200.00 300.00 535.00 300.00	335.00		335.00
Refund Check to Hazel	07/18/87 and 05/16/88	350.00	Checks are Outstanding		
Total Part 2			\$ 17,485.00	\$4,500.00	\$12,985.00
Grand Total (Part 1 and Part 2)			\$ 62,115.00		\$21,937.00

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Simon for President

Explanation of Symbols and Procedures Used
in Generating Schedule of Excessive Contributors

<u>FIELD NAME</u>	<u>DESCRIPTION</u>
a) Contributor Name	Account holder/signatory on contribution check.
b) Date of Contribution	Date committee deposited contribution into bank.
c) Amount of Contribution	Amount check written for by contributor in dollars.
d) Total Amount Contributed	Aggregate amount of all contributions from one contributor.
e) Excessive Portion	Amount of contributions in excess of \$1,000.
f) Amount Refunded	Amount Committee refunded to the contributor.
g) Date of Refund	Date of the refund check.
h) # of days outstanding	Total days excessive; from date of contribution to date of refund by Committee.
i) Amount Requiring Action	Amount which remains excessive which the Committee has not refunded or reattributed.
j) Amount Requiring Action (Excessive)	Same as above.
k) Reattribution Letter with No Date	Committee has reattribution letter to reattribute the excessive portion of the contribution(s); however the letter is undated.

Data and Procedures Used:

The contributions reviewed were confined to those available on the Committee's contribution data tape as provided to the Audit Division by the Committee, and those contributors for which the Committee reported making a refund of an excessive contribution on its disclosure reports. The documentation available consisted of contribution checks and reattribution letters as contained in the Committee's matching fund submissions; as well as negotiated refund checks, bank records and check registers relative to the refunded contributions as well as the Committee's disclosure reports. All excessive contributions, refunded contributions, and reissued contributions are documented. The documentation is available for review in the Audit Division.

95043663816

Recordkeeping for Receipts

Section 432(c) of Title 2 of the United States Code states, in part, that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee, the name and address of any person who makes any contribution in excess of \$50, and the identification of any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to be in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer.

Section 104.14(b) of Title 11 of the Code of Federal Regulations states, in part, that each political committee required to file any report under this subchapter shall maintain records relevant to such reports, including bank records, with respect to the matters required to be reported which shall provide in sufficient detail the necessary information from which the filed reports may be verified, explained, clarified, and checked for accuracy and completeness.

Section 102.9(c) of Title 11 of the Code of Federal Regulations states, in part, the treasurer shall preserve all records and accounts required to be kept for 3 years after the report to which such records relate is filed.

The Audit staff's review of the Committee's State depositories maintained in various states identified deposits totalling \$21,731.51 the documentation for which did not satisfy the recordkeeping requirements of 2 U.S.C. §432(c) or 11 C.F.R. §104.14(b). The majority of the undocumented funds were deposited into the Committee's depositories with Midway Bank in Minnesota, and Community Savings Bank in Massachusetts. Based on the documentation available, the primary source of funds for these two depositories were contributions from individuals. The documentation available consisted of bank statements and deposit slips with no detail or incomplete detail. There was no evidence to support the funds were the result of transfers from other Committee depositories.

The Committee was presented schedules detailing the above mentioned deposits. According to the Committee representative, the Midway Bank depository was not authorized to receive direct contributions. The Committee representative stated the amounts in question were probably deposits of Committee

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drafts and that it would review its records and provide the necessary documentation to the Audit staff.

With respect to Committee comments made at the exit conference, as noted above, there is no evidence indicating that the deposits in question were the result of deposits of Committee drafts, checks or wires into the account, and as previously stated, the primary source of funds into these accounts consisted of contributions from individuals.

In the Interim Audit report the Audit staff recommended that within 30 calendar days of service of this report the Committee obtain and provide photocopies of the checks which comprised the above mentioned deposits as well as the identification of each contributor, as required, to the Audit staff for review, and amend its disclosure reports accordingly. The Audit staff also noted that further recommendations may be forthcoming.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

95043663818

Misstatement of Financial Activity

Section 434(b) of Title 2 of the United States Code states, in relevant part, that each report shall disclose the amount of cash on hand at the beginning of the reporting period and the total amount of all receipts and disbursements received or made during the reporting period and the calendar year.

The Audit staff's reconciliation of the Committee bank accounts to its disclosure reports filed during the period covered by the audit indicated the following differences:

1987

- Reported receipts were overstated by: \$ 43,703.69
- Reported disbursements were overstated by: \$182,923.71
- Reported ending cash was understated by: \$139,220.02

The misstatement of receipts for 1987 was primarily the net result of overstatements of contributions received from individuals (\$49,310.56) and interest earned (\$154.32); coupled with understatements of refunds and rebates (\$4,530.33), political committee contributions (\$820.00); and reconciling items (\$410.86).

The misstatement of disbursements was primarily the net result of reporting a \$250,000 loan repayment which was actually made January 4, 1988 (overstatement); and an understatement of disbursements (\$16,232.88), service charges (\$2,498.43); and reconciling items (\$48,344.98).

1988

- Reported receipts were understated by: \$ 19,116.01
- Reported disbursements were understated by: \$410,113.76
- Reported ending cash was overstated by: \$251,777.73

The misstatement of receipts for 1988 was primarily the net result of reporting an inter-account transfer (\$11,500 overstatement); and certificate of deposit as a receipt upon its maturity (\$18,000 overstatement); and understatements of refunds and rebates (\$10,681.81), political committee contributions

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(\$8,851.00), and interest earned (\$1,275.94); and reconciling items (\$27,807.26).^{1/}

The misstatement of disbursements was determined to be the net result of the Committee reporting a loan repayment made January 4, 1988 on the 1987 Year End disclosure report (\$250,000 understatement); reporting payroll checks which were voided, never released or did not clear the bank (\$27,944.70 understatement) and interaccount transfers (\$11,500 overstatement); coupled with understatements in disbursements from the Committee's state depositories (\$123,264.88) and April 29, 1988 payroll (\$14,725.94); and overstatements in disbursements (\$900.00); and reconciling items (\$62,467.64)^{2/}.

At the exit conference held January 9, 1990, Committee officials were given photocopies of audit workpapers which identified the required adjustments.

The Committee representatives stated they would review Committee records, submit any relative documentation to the Audit staff for review, and amend its reports as necessary.

In the Interim Audit Report the Audit staff recommended that within 30 calendar days of service of this report the Committee file comprehensive amendments for both 1987 and 1988 correcting the misstatement of financial activity described above as well as an explanation as to why the loan repayment made January 4, 1988 was reported as having been made on December 30, 1987, at a time when the Audit staff's reconciliation of Committee bank accounts indicates no more than \$200,000 was available.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

1. In the absence of Committee workpapers which detail the preparation of its disclosure reports the Audit staff was unable to determine the composition of certain reconciling items.
2. See footnote 1 above.

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Itemization of Contributions Received from Political
Committees

Section 434(b)(3)(B) of Title 2 of the United States Code states, in part, that each report under this section shall disclose for the reporting period and calendar year the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

431(13) of Title 2 of the United States Code defines the term identification to be in the case of any other person, the full name and address of such person.

Section 431(11) of Title 2 of the United States Code defines the term "person" to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

The Audit staff's review of contributions received from political committees revealed that 21 contributions totalling \$12,625.00 were not itemized as required.

At the exit conference the Committee was provided photo-copies of audit workpapers which identified the political committee contributions required to be itemized. The Committee representatives stated they would review Committee records, submit any relative documentation to the Audit staff for review and amend its reports as necessary.

In the Interim Audit report the Audit staff recommended that within 30 calendar days of service of this report the Committee file comprehensive amendments, as necessary, itemizing the 21 contributions mentioned above. The Audit staff also noted that further recommendations may be forthcoming.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

9504366321

Itemization of Refunds and Rebates

Section 434(b)(3)(F) of Title 2 of the United States Code states that each report under this section shall disclose the identification of each person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt.

Section 431(13) of Title 2 of the United States Code defines, in part, the term "identification" to be the full name and address of such person.

The Audit staff's review of refunds and rebates received from vendors indicated that 23 refunds/rebates totalling \$33,818.83 were not itemized on the Committee's disclosure reports as required.

At the exit conference the Committee was provided photocopies of audit workpapers which identified the refunds and rebates required to be itemized. Committee representatives stated they would review Committee records, submit any relative documentation to the Audit staff for review and amend its reports as necessary.

In the Interim Audit report the Audit staff recommended that within 30 calendar days of service of this report the Committee file comprehensive amendments, as necessary, to correct the public record. The Audit staff also noted that further recommendations may be forthcoming.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

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Itemization of Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states, in part, that each report under this section shall disclose for the reporting period and the calendar year, the total amount of all disbursements and the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such expenditure.

Section 434(b)(5)(E) of Title 2 of the United States Code states, in part, that each report under this section shall disclose for the reporting period and calendar year the name and address of each person who receives a contribution refund together with the date and amount of such disbursement.

The Audit staff's review of the Committee's disbursements, to include those which were not on the computerized data base, and third quarter 1987 draft disbursements, identified 779 expenditures totalling \$333,958.27 which were not itemized as required.

The Audit staff also noted 36 contribution refunds totalling \$8,041.00 which were not itemized on Committee disclosure reports. The majority of these refunds were made during May, 1988.

The Committee was provided photocopies of audit workpapers which identified the disbursements required to be itemized. Committee representatives stated they would review Committee records, submit any relative documentation to the Audit staff for review and amend its reports as necessary.

In the Interim Audit report the Audit staff recommended that within 30 calendar days of service of this report the Committee file comprehensive amendments, as necessary, itemizing the expenditures noted above, and provide an explanation regarding why the expenditures were not itemized. The Audit staff also noted that further recommendations may be forthcoming.

The Committee's January 31, 1991 response to the Interim Audit report did not contain a response regarding this finding.

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

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Apparent Prohibited Inkind Contribution

Section 431(8) of Title 2 of the United States Code defines the term "contribution" 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.

Section 100.7(a)(1)(iii) of Title 11 of the Code of Federal Regulations states the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution.

During fieldwork the Audit staff noted shipping charges of \$1,177.75 (See Attachment 1 to Exhibit I) for shipments to various Committee offices originating from Grove Printing Co. (also shown as Groves Printing Co.). The Audit staff was unable to identify any payments to Grove Printing Co. or locate a vendor file with respect to this vendor.

In the Interim Audit Report the Audit staff requested the Committee provide documentation with respect to this vendor to include: a detailed statement of the Simon for President account with Grove Printing (all charges and payments to include source of payments for all materials produced); copies of all invoices detailing printed matter produced to (include shipping instructions and number of copies sent to each location); and, copies of all printed matter.

The Committee's response to the Interim Audit Report received January 31, 1991 did not address this matter, nor was any documentation provided.

Therefore, in the Audit staff's opinion, it appears the above noted matter is indicative of a prohibited in-kind contribution from a corporation or some third party, the extent of which, as well as the possible excessive nature of which, cannot be determined from the information available.^{1/}

Recommendation

The Audit staff recommends this matter be referred to the Office of General Counsel in accordance with Commission approved Materiality Thresholds.

^{1/} The Secretary of State (NC) confirms that Groves Printing Company, Inc. was incorporated 2/26/60 and remains in good standing. Further, although the Audit staff has not reviewed any evidence to indicate the vendor was merely a sub-contractor of a Committee vendor who was paid in full, it is possible.

9504366324

14 boxes

460 wt

Paralator courier.

FOR BILLING INQUIRY PLEASE CONTACT
301/480-1400

ACCOUNT NO
02-65-75995

INVOICE NO
05290061

INVOICE DATE
01/21/00

PAGE
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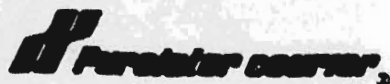
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001240406 011500	KITTY TOMBERLIN 2012-6	THIRD PARTY				
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REF NO 2012-6

SUBTOTAL 234.60

PAGE SUBTOTAL 234.60

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FOR BILLING INQUIRY PLEASE CONTACT
501/466-1400

ACCOUNT NO
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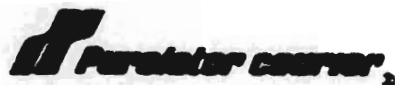
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INVOICE DATE
02/04/88

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001240404 012700	65115	COLLECT				

PAGE SUBTOTAL 175.10



FOR BILLING INQUIRY PLEASE CONTACT
501/466-1400

ACCOUNT NO
02-65-78995

INVOICE NO
00405145

INVOICE DATE
02/04/88

PAGE
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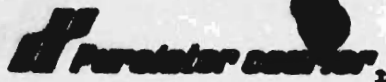
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REF NO 65115

SUBTOTAL 581.40

PAGE SUBTOTAL 192.10

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FOR BILLING INQUIRY PLEASE CONTACT
181/488-3400

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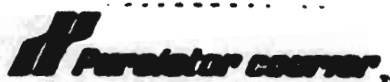
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054851AS

INVOICE DATE
02/06/88

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PAGE SUBTOTAL 107.10



FOR BILLING INQUIRY PLEASE CONTACT
181/488-3400

ACCOUNT NO
02-48-78995

INVOICE NO
054851AS

INVOICE DATE
02/06/88

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DL NUMBER SHIP DATE	SHIPPED FROM & PO/REFERENCE NUMBER	SHIPPED TO INFORMATION	TYPE OF SERVICE	PCS/MT	CHARGES	NET CHARGES
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001940404 012700	" 48115	THIRD PARTY				
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001940404 012700	" 48115	THIRD PARTY				

PAGE SUBTOTAL 107.10

95043663827



Allstates Air Cargo, Inc.

PROVIDING ON TIME DELIVERY SINCE 1961

DATE: 6/8/83

2nd Notice

RE: ACCOUNT # 19021048
INVOICE # 80267 80266, 802667
AMOUNT \$ 356.35

DEAR CUSTOMER,

IN REVIEWING YOUR ACCOUNT, IT HAS BEEN BROUGHT TO MY ATTENTION THAT REGULAR MONTHLY PAYMENTS ARE NOT BEING MADE TO REDUCE YOUR FINANCIAL OBLIGATION.

WE ARE ABLE TO CARRY ACCOUNTS AS LONG AS NECESSARY, BUT ONLY IF WE HAVE YOUR COOPERATION IN SENDING SYSTEMATIC MONTHLY PAYMENTS IN ORDER TO REDUCE YOUR INDEBTEDNESS AS QUICKLY AS POSSIBLE.

WHEN ALLSTATES EXTENDS CREDIT TO A CUSTOMER, IT IS WITH THE EXPECTATION THAT PAYMENT WILL BE MADE WITHIN OUR CREDIT TERMS. I WILL BE WAITING FOR FULL PAYMENT TO REACH MY DESK WITHIN 10-15 DAYS FROM THE DATE OF THIS LETTER.

IN THE EVENT PAYMENT IS NOT RECEIVED, THE ACCOUNT WILL BE PLACED FOR COMMERCIAL COLLECTION. WE BOTH KNOW THE PROBLEMS THAT ARE INVOLVED WITH COMMERCIAL COLLECTIONS SO SEND YOUR CHECK TODAY.

SINCERELY,

Jerry Badger
JERRY BADGER

CREDIT/COLLECTION MANAGER

Executive Office: One Allstate Plaza, Newark, New Jersey 07114
(201) 824-8300 (212) 267-5880 (800) 526-8086

P.O. Box 24, Front & Ericson
Eggington, PA 19029
(215) 237-8758 (800) 983-8258

2401 First World Plaza, Suite #102
Marquette Heights, IL 60150
(312) 464-4800

2508 East Thomas Road, Suite #7
Phoenix, AZ 85016
(602) 968-6684

601 A Hawthorne Ferry Rd.
Lynchburg, VA 21080
(301) 788-8833 Washington Metro (301) 281-1251

748 North Sawyer
St. Louis, MO 64153
(314) 881-8884

901 West Arbor View
Fremont, CA 94501
(415) 870-8625

181 Plymouth Street
East Boston, MA 02128
(617) 581-0455

888 South Olive
Birmingham, AL 35206
(205) 888-6220

578 Broadway Road
Canton, PA 16108
(412) 262-6375

1732 Midwest Center Rd., Suite #100A
Greensboro, NC 27401
Metro (919) 329-0415

95043663328

STATION: SALES
INT: 904
CUSTOMER #
15001444



Allstates Air Cargo, Inc.

PROVIDING ON TIME DELIVERY
SINCE 1961

CUSTOMER #

078- 80267

From Consignor GROVE PRINTING CO.		To Consignee SIMON FOR PRESIDENT	
Street Address 60 Ravenscroft Road		Street Address 94 Ranover Street	
City & State Asheville, North Carolina	To Code	City & State Manchester, New Hampshire	To Code
Authorized By	Shipped From AVL	Consignee's No.	ALSO NOTIFY:

Third Party: Paul Simon For President		☒ C.O.D. PREPAID ☐ COLLECT ☐ 3RD PARTY ☒ C.O.C.	
Street Address 1711 K Street N.W.		Declared Value	
City & State Washington, D.C.	To Code 20015	CUSTOMER #	

SELECT SERVICE:
A ☐ B ☒ C ☐ OTHER ☐

No. Pcs.	Description and Marks	Weight	Rate	Charges
3	Printed Material	60		87.00

Special Instructions To Carrier ALLSTATES REWEIGHT	AIR EXPRESS
	SMALL PACKAGE
	PICK UP
	DELIVERY
	VALUATION
DOCUMENTATION	
TELEPHONE & TELETYPE	
TO BE FILLED IN BY SHIPPER	
CONSIGNEE'S C.O.D.	
C.O.D. FEE	

Received By: ALLSTATES AIR CARGO, INC.	NO. OF: PIECES	
DATE: 1/28/88	TIME:	
TOTAL CHARGES DUE \$		87.00

It is mutually agreed that the goods herein described are accepted in accordance with order placed when filed

No. 078- 802671

1 CARRIER'S ACCOUNTING COPY

Allstates Air Cargo, Inc.
P.O. BOX 494, ELIZABETH, N.J. 07207

95043663029

Allstates Air Cargo, Inc.

PROVIDING ON TIME SERVICE
SINCE 1961

CUSTOMER #

078- 802670

From Consignor GROVE PRINTING CO.		To Consignee SINCE FOR PRESIDENT	
Street Address 60 Ravenscroft Road		Street Address 1511 K Street N.W.	
City & State Asheville, North Carolina		City & State Washington, D.C.	
Authorized By	Shipped From AVL	Consignee's No.	ALSO NOTIFY
Third Party		☐ C.O.D. ☐ PREPAID ☐ COLLECT ☒ 3RD PARTY ☐ C.O.D.	
Street Address		Declared Value	
City & State	Zip Code	SELECT SERVICE: ☐ A ☒ B ☐ C ☐ OTHER	
CUSTOMER #			

No. Pcs	Description and Marks	Weight	Rate	Charges
13	Printed Material	260		\$166.70
Special Instructions to Carrier				
ALLSTATES RENEWED		AIR EXPRESS SMALL PACKAGE PICK UP		
PCS DIMENSIONAL WEIGHT (L x W x H) 1 cu ft = 166 lbs		DELIVERY WEIGHT DOCUMENTATION CARRIER'S FEE TELEPHONE & TELETYPE TO BE FILLED IN BY SHIPPER CARRIER'S FEE		
RECEIVED BY ALLSTATES AIR CARGO, INC.		NO. OF: PIECES DATE: 1/28/88 TIME:		
TOTAL CHARGES DUE \$		166.70		

No. 078- 802670

L CARRIER'S ACCOUNTING COPY

Allstates Air Cargo, Inc.
P.O. BOX 484, ELIZABETH, N.J. 07207

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STATION	SALES
TWT	OK
CUSTOMER #	



Allstates Air Cargo, Inc.

PROVIDING ON TIME DELIVERY
SINCE 1961

CUSTOMER #

078- 802667

From/Originator GROVE PRINTING CO.		To/Consignee PAUL SIMON FOR PRESIDENT	
Street Address 60 RAVENSCRAFT ROAD		Street Address 573 Des Moines Street	
City & State Asheville North Carolina	Zip Code	City & State Des Moines, Iowa	Zip Code
Authorized By	Shipped From ATL	Comptroller's No.	ALSO NOTIFY
Title Party Paul Simon for President		CHECK PREPAID ☐ COLLECT ☐ 3RD PARTY ☒ C.O.D. ☐	
Street Address 1519 E Street N.W.		Declared Value	
City & State Washington D.C.	Zip Code	SELECT SERVICE: A ☐ B ☒ C ☐ OTHER ☐	
CUSTOMER #			
No. Pcs	Destination and Marks	Weight	Rate
6	Printed Material	08	ATL/DSM
Special Instructions To Carrier		ALLSTATES REQUEST	AIR EXPRESS SMALL PACKAGE PICK UP DELIVERY VALUATION DOCUMENTATION OVERSEAS FEES TELEPHONE & TELETYPE
PCB		DIMENSIONAL WEIGHT L x W x H 194 72x 50	ALLSTATES AIR CARGO INC. CERTIFIED TO BE A TRUE AND EXACT COPY OF THE ORIGINAL INVOICE
Received By ALLSTATES AIR CARGO, INC.		NO. OF: PIECES	TO BE FILLED IN BY SHIPPER COMMITTEE'S C.O.D.
DATE: 1/27/88		TIME:	C.O.D. FEE
		TOTAL CHARGES DUE \$ 108.61	

No. 078- 802667

1. CARRIER'S ACCOUNTING COPY

Allstates Air Cargo, Inc.
P.O. BOX 494, ELIZABETH, N.J. 07207

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SECRETARIAT

91 DEC -4 AM 10:33

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 3375
STAFF MEMBER Helen J. Kim

SOURCE: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS: Paul Simon for President
James C. Rosapepe, as treasurer
Jader Fuel Co., Inc.
Groves Printing Co., Inc.
Wachtell, Lipton, Rosen, & Katz

RELEVANT STATUTES: 2 U.S.C. § 432
2 U.S.C. § 434
2 U.S.C. § 441a
2 U.S.C. § 441b
26 U.S.C. § 9035(a)
11 C.F.R. § 100.7(a)(1)
11 C.F.R. § 103.3(b)
11 C.F.R. § 106.2

INTERNAL REPORTS CHECKED: Audit Documents

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by an audit of Paul Simon for President ("the Committee") pursuant to 26 U.S.C. § 9038(a) to determine whether there had been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and of the Presidential Primary Matching Payment Account Act ("Matching Payment Act"). See also 26 U.S.C. § 9039(b) and 11 C.F.R. § 9038.1(a)(2). On August 13, 1991, the Commission approved the referral of certain matters arising from the audit

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to the Office of General Counsel for enforcement. The referral was forwarded to this Office on August 19, 1991. The Commission approved the Final Audit Report of Simon for President on October 22, 1991.

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive State Expenditures

1. Statutory and Regulatory Provisions

No candidate for the office of President of the United States, who is eligible under Section 9033 of Title 26 to receive payments from the Secretary of the Treasury, may make expenditures in any one state aggregating in excess of the greater of 16 cents multiplied by the voting age population of the state, or \$200,000, as adjusted by changes in the Consumer Price Index. 2 U.S.C. §§ 441a(b)(1)(A) and 441a(c) and 26 U.S.C. § 9035(a). Except for expenditures exempted under 11 C.F.R. § 106.2(a)(1), expenditures incurred by a candidate's authorized committee for the purpose of influencing the nomination of that candidate for the office of President with respect to a particular state shall be allocated to that state. 11 C.F.R. § 106.2(a)(1).

The categories of expenditures exempted from state allocation are outlined at 2 U.S.C. § 431(9)(B)(vi) and 11 C.F.R. §§ 106.2(b)(2)(v) and 106.2(c). National campaign expenditures, including operating expenditures related to national campaign headquarters, national advertising, and nationwide polls, are not allocable, nor are media production

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costs whether or not the media advertising is used in more than one state. 11 C.F.R. § 106.2(c)(1) and (2). Interstate travel and telephone calls are also exempt. 11 C.F.R. §§ 106.2(b)(2)(v) and 106.2(c)(4).

An amount equal to 10 percent of campaign workers salaries and overhead expenditures in a particular state may be excluded from allocation to that state as an exempt compliance cost. An additional amount equal to 10 percent of such salaries and overhead expenditures in a particular state may be excluded from allocation to that state as exempt fundraising expenditures, but this exemption shall not apply within 28 calendar days of the primary election. 2 U.S.C. § 431(9)(B)(vi) and 11 C.F.R. § 106.2(c)(5). Overhead expenditures include, but are not limited to, rent, utilities, office equipment, furniture, supplies, and telephone service base charges. 11 C.F.R. § 106.2(b)(2)(iv). Overhead expenses of a committee's regional office or other office which services more than one state are to be allocated on a "reasonable and uniformly applied basis." 11 C.F.R. § 106.2(b)(2)(iv)(B).

2. Audit Report Determinations

The expenditure limitations for the 1988 presidential primary elections were \$775,217.60 for the State of Iowa and \$461,000.00 for the State of New Hampshire. The Committee allocated \$792,504.34 to Iowa and \$447,555.23 to New Hampshire on its FEC Form 3P, Page 3, covering activity through December 31, 1989. Thus, based on the documentation provided by the

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Committee, the Committee exceeded the Iowa state expenditure limitation by \$17,286.74.

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The audit determined that additional amounts needed to be allocated to both the Iowa and New Hampshire expenditure figures. These additional amounts involve numerous categories of expenses which the Committee may not have properly allocated. Some of these include media expenses, vendor costs, and expenses associated with certain campaign offices, as well as the Committee's contention that half of all its Iowa expenditures qualify as fundraising expenditures which are exempted from allocation to the Iowa spending limitation. The attached excerpt of the Final Audit Report, approved October 22, 1991, provides a detailed analysis of these additional allocations. Attachment 1, at pp. 3-54.¹ Chart A and Chart B, copies of which the Committee will receive, list all of the additional allocations to Iowa and New Hampshire, respectively:

1. The Committee may contest the Commission's initial repayment determination contained in the Final Audit Report. If so, the final repayment determination may result in changes to the allocation amounts used in this report. See 11 C.F.R. § 9038.2(c).

Chart A--Iowa Allocations

	PER INTERIM AUDIT REPORT	PER FINAL AUDIT REPORT
Amount Allocated by the Committee	\$792,504.34	\$792,504.34
Adjustment for Voids		(213.74)
Net Amount Allocated by Committee	\$792,504.34	\$792,290.60
Additional Allocations by Audit Staff:		
Exempt Compliance and Fundraising Expenditures	\$375,762.55	\$375,762.55
Media Expenses	62,840.55	62,840.55
Intrastate Travel and Subsistence	74,812.77	76,406.38
Rock Island Office	81,939.54	\$103,997.25
Northwestern Bell	51,847.83	51,381.09
Payroll and Employer FICA	23,487.63	21,623.94
Aircraft Charters	64,819.85	26,001.62
Iowa Vendors	168,988.36	143,112.61
Drafts	23,391.86	14,792.56
Bankers Trust	1,667.04	(1,520.36)
Jefferson/Jackson Day Event	18,390.91	18,490.91
Sub Total Audit Allocation	\$947,948.89	\$892,889.10
Total Allocable to Iowa	\$1,740,253.23	\$1,685,179.70
Less: Iowa Limitation	(775,217.60)	(775,217.60)
Amount in Excess of Iowa Limitation	\$965,235.63	\$909,962.10

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Chart B--New Hampshire Allocations

	PER INTERIM AUDIT REPORT	PER FINAL AUDIT REPORT
Amount Allocated by the Committee	\$447,555.23	\$447,555.23
Additional Allocations by Audit Staff:		
Exempt Compliance and Fundraising Expenditures	(20,677.95)	(20,677.95)
Media Expenses	5,142.41	5,142.41
Intrastate Travel and Subsistence	37,980.66	40,477.72
Regional and State Offices	68,906.11	82,445.82
Telephone Related Charges	20,177.60	18,814.46
Payroll and Employer FICA	55,152.59	55,152.59
Vendors	56,172.19	39,319.62
Event -- Octoberfest	20,902.53	12,580.03
Miscellaneous Expenditures	292.22	579.47
Conotabs Network		4,461.03
Sub Total Audit Allocation	<u>\$244,048.36</u>	<u>\$238,295.20</u>
Total Allocable to New Hampshire	\$691,603.59	\$685,850.43
Less: New Hampshire Limitation	<u>(461,000.00)</u>	<u>(461,000.00)</u>
Amount in Excess of New Hampshire Limitation	<u>\$230,603.59</u>	<u>\$224,850.43</u>

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The additional Iowa allocations raise the amount spent by the Committee to more than double the Iowa expenditure limitation. The additional New Hampshire allocations raise the amount spent by the Committee to over \$200,000.00 more than the New Hampshire expenditure limitation. Therefore, this Office recommends that the Commission find reason to believe that Paul Simon for President and James C. Rosapepe, as treasurer, violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(a).

B. Corporate Contributions

The Act prohibits any corporation from making a contribution or expenditure in connection with any election at which presidential and vice presidential electors are to be voted for, or in connection with any primary or political convention or caucus held to select candidates for any of the foregoing offices. 2 U.S.C. § 441b(a). The Act also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any prohibited contributions, or any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation. Id.

1. Receipt of Direct Corporate Contributions

The treasurer of a committee is responsible for examining all contributions received for evidence of illegality. 11 C.F.R. § 103.3(b). When the received contributions present genuine questions as to whether they were made by corporations,

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within ten days of receipt, the treasurer can deposit the funds into a campaign depository or return them to the contributor. If any contribution is deposited, the treasurer shall make at least one written or oral request for evidence of the legality of the contribution.

If the contribution cannot be determined to be legal, the treasurer shall within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

11 C.F.R. § 103.3(b)(1). Any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in the campaign depository for such contributions or maintain sufficient funds to make all such refunds. 11 C.F.R.

§ 103.3(b)(4).

A review of contributions recorded as being received from individuals indicated that the Committee received 117 contributions, totaling \$21,119.05, from incorporated entities. See Attachment 1, at pp. 59-65.² Of these contributions, the Committee made 14 refunds totaling \$1,722.00 which were not made in a timely manner as required by 11 C.F.R. § 103.3(b)(1). Id. The Committee later submitted documentation indicating that it

2. The Committee will receive a copy of those pages of the attachment that contain the charts that list the corporate contributions.

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made 15 additional refunds in the amount of \$2,190.00.³

In sum, the Committee accepted \$21,119.05 in contributions from corporate entities, \$17,207.05 of which remains to be refunded. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441b(a) by accepting prohibited corporate contributions.

One of the corporate contributors, Downen Enterprises, made contributions totaling \$3,000 to the Committee. The contributions were made by checks dated May 15, 1987, and February 23, 1987, in the amounts of \$2,500 and \$500 respectively. See Attachment 2. Both checks were drawn from Downen Enterprises' corporate account. Id. Thus, Downen Enterprises may have made a corporate contribution to the Committee. Subsequent to the audit, Downen Enterprises merged into Jader Fuel Co., Inc., on June, 30, 1989. Consequently, Jader Fuel Co., Inc., has been substituted for Downen Enterprises as a respondent.

this Office recommends that the Commission find reason to believe that Jader Fuel Co., Inc., violated 2 U.S.C. § 441b(a) by making a corporate contribution to the Committee.

3. The Committee reports disbursing these refund checks dated July 18, 1988. However, these refund checks were not mailed until November 1, 1989, at which time the checks were redated. Furthermore, the Committee has not filed amendments to correct its previous reports regarding these transactions.

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2. In-Kind Corporate Contribution

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The Act defines a contribution 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). "Anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii). Unless specifically exempted by 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution.

The audit revealed that the Committee received a number of shipments of goods from Groves Printing Co, Inc. The Secretary of State of North Carolina confirms that Groves Printing Co., is a corporate entity. While the Committee was charged \$1,177.75 for the shipping costs, the audit was unable to identify any payments from the Committee to Groves Printing Co, Inc., for the goods that were shipped. See Attachment 1, at pp. 100-06.

Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441b(a) by accepting an in-kind contribution from a corporate entity. Furthermore, this Office recommends that the Commission find reason to believe that Groves Printing Co., Inc., violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Committee.

C. Excessive Contributions

No person may make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1000. 2 U.S.C. § 441a(a)(1)(A). "Person" includes a partnership as well as an individual. See 2 U.S.C. § 431(11). Moreover, no candidate or political committee shall knowingly accept any contribution which exceeds this limitation. 2 U.S.C. § 441a(f).

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The treasurer of a committee is responsible for examining all contributions received for evidence of illegality. 11 C.F.R. § 103.3(b). Contributions which exceed the contribution limitation may be deposited into a campaign depository or returned to the contributor. If any such contributions are deposited, the treasurer may request redesignation or reattribution by the contributor in accordance with 11 C.F.R. §§ 110.1(b), 110.1(k) or 110.2(b), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within 60 days of receipt of the contribution, refund the contribution to the contributor.

Moreover, any contribution which appears to be illegal and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in the campaign depository for such contributions or maintain

sufficient funds to make all such refunds. 11 C.F.R.
§ 103.3(b)(4).

The Committee received 148 excessive portions of contributions from individuals in the amount of \$62,115.00. See Attachment 1, at pp. 71-90.⁴ The Committee refunded 53 of these contributions totaling \$18,294.00. Id. However, the refunds were not made in a timely manner. In addition, the Committee obtained undated reattribution letters for five contributions to reattribute \$4,500 of excessive contributions.

The Committee provided evidence that it made 43 additional refunds totaling \$17,384.00, on November 1, 1989.⁵ In sum, the Committee accepted \$62,115.00 in excessive contributions, \$21,937.00 of which was not refunded. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 441a(f) by accepting excessive contributions.

One of these excessive contributions was a \$5,000 contribution made by Wachtell, Lipton, Rosen & Katz, a law firm partnership, to the Committee. The letter accompanying the

4. The Committee will receive a copy of those pages of the attachment that contain the charts that list the excessive contributions.

5. The Interim Audit Report recommended that the Committee: (1) explain why the November 1, 1989 refunds were not timely and explain why the earlier refund checks were not mailed; (2) provide evidence that the contributions not yet refunded are not excessive or refund such contributions; and (3) amend its disclosure reports to reflect the voided July 18, 1988 refunds and the issuance of the November 1, 1989 refunds. The Committee's response to the Interim Audit Report did not address this matter.

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contribution indicated that the payment represented individual contributions of \$500 from ten of the firm's partners. See Attachment 3, at p. 2. However, the entire \$5,000 contribution was made with only one cashier's check. Id. at 1. Thus, the partnership may have made an excessive contribution to the Committee.

this

Office recommends that the Commission find reason to believe that Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. § 441a(a)(1)(A) by contributing more than \$1,000 to the Committee.

D. Reporting and Recordkeeping

1. Reporting

The Act requires that each treasurer of a principal campaign committee file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434(a). The information required to be disclosed is set out in 2 U.S.C. § 434(b).

a. Itemization

Each report filed under this section must disclose for the reporting period and calendar year: the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date an amount of any contribution, 2 U.S.C. § 434(b)(3)(B); the identification of each person who provides a rebate, refund, or

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other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of such receipt, 2 U.S.C. § 434(b)(3)(F); the total amount of all disbursements and the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such expenditure, 2 U.S.C. § 434(b)(5)(A); and the name and address of each person who receives a contribution refund together with the date and amount of such disbursement, 2 U.S.C. § 434(b)(5)(E). Proper identification includes the full name and address of each contributing committee. 2 U.S.C. § 431(13).

The audit revealed that the Committee failed to itemize certain disbursements and receipts. Specifically, the Committee did not itemize \$333,958.27 in disbursements and \$8,041.00 in refunded contributions. In addition, the Committee did not itemize \$12,625.00 in receipts from political committees and \$33,818.83 in refunds and rebates from vendors.

The Interim Audit Report recommended that the Committee file amendments to its reports to rectify its itemization deficiencies. The Committee has not amended its reports.

b. Misstatement of Financial Activity

Each report filed under this section must disclose the amount of cash on hand at the beginning of the reporting period

and the total amount of all receipts and disbursements received or made during the reporting period and the calendar year.

2 U.S.C. § 434(b).

The Committee misstated its receipts, disbursements, and ending cash balances in 1987 and 1988. In 1987, the Committee overstated receipts by \$43,703.69, overstated disbursements by \$182,923.71, and understated the ending cash balance by \$139,220.02. In 1988, the Committee understated receipts by \$19,116.01, understated disbursements by \$410,113.76, and overstated the ending cash balance by \$251,777.73.

Included in the misstatements for 1987, is a loan repayment in the amount of \$250,000.00 which was actually made by the Committee on January 4, 1988. This loan repayment was reported as having been made on December 30, 1987 at a time when the Committee's accounts had no more than \$200,000.00 available.

Therefore, in consideration of the above reporting irregularities, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 434(b) by failing to itemize certain required transactions and misstating its financial activity for the reporting period.

2. Recordkeeping

The treasurer of a committee must keep an account of: all contributions received by or on behalf of such political committee; the name and address of any person who makes any contribution in excess of \$50, together with the date and amount of any such contribution by any person; the identification of

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any person who makes a contribution or contributions aggregating more than \$200 during a calendar year, together with the date and amount of any such contribution; the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of \$200. 2 U.S.C. § 432(c). The treasurer must keep the aforementioned records and copies of all reports required by this subchapter for three years after the report is filed. 2 U.S.C. § 432(d).

The audit revealed a number of recordkeeping irregularities, including the Committee's failure to keep records of receipts. The audit review of the Committee's state depositories identified deposits totaling \$21,731.51, the documentation for which did not satisfy the recordkeeping requirements of the Act or the Commission's regulations. The majority of these funds were deposited into two Committee depositories.

The documentation available consisted of bank statements and deposit slips indicating that the primary source of these funds were contributions from individuals. These documents were incomplete or provided no detail as to the aforementioned

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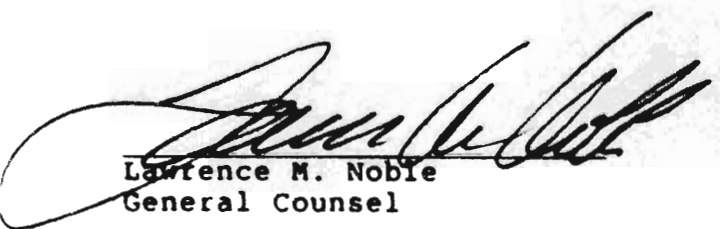
information required by the Act. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 432(c) by failing to keep appropriate records.

III. RECOMMENDATIONS

1. Find reason to believe that Paul Simon for President and James C. Rosapepe, as treasurer, violated 2 U.S.C. §§ 432(c), 434(b), 441a(b)(1)(A), 441a(f) and 441b(a) and 26 U.S.C. § 9035(a).
2. Find Reason to believe that Jader Fuel Co., Inc., violated 2 U.S.C. § 441b(a).
3. Find reason to believe that Groves Printing Co., Inc., violated 2 U.S.C. § 441b(a).
4. Find reason to believe that Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. § 441a(a)(1)(A).
5. Approve the appropriate letters and the attached Factual and Legal Analyses.

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Date

12/3/91


Lawrence M. Noble
General Counsel

Attachments:

1. Excerpt of Final Audit Report and Referral Materials
2. Copy of Corporate Contribution Check
3. Copy of Excessive Contribution Check
4. Factual and Legal Analyses (4)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Paul Simon for President;) MUR 3375
James C. Rosapepe, as treasurer;)
Jader Fuel Co., Inc.;)
Groves Printing Co., Inc.;)
Wachtell, Lipton, Rosen, & Katz.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 6, 1991, the Commission decided by a vote of 5-0 to take the following actions in MUR 3375:

1. Find reason to believe that Paul Simon for President and James C. Rosapepe, as treasurer, violated 2 U.S.C. §§ 432(c), 434(b), 441a(b)(1)(A), 441a(f) and 441b(a) and 26 U.S.C. § 9035(a).
2. Find reason to believe that Jader Fuel Co., Inc., violated 2 U.S.C. § 441b(a).
3. Find reason to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a).
4. Find reason to believe that Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. 441a(a)(1)(A).

(Continued)

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5. Approve the appropriate letters and the Factual and Legal Analyses, as recommended in the General Counsel's Report dated December 3, 1991.

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

Attest:

12-6-91
Date

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

Received in the Secretariat:
Circulated to the Commission:
Deadline for vote:

Wed., Dec. 4, 1991 10:33 a.m.
Wed., Dec. 4, 1991 4:00 p.m.
Fri., Dec. 6, 1991 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

December 19, 1991

James C. Rosapepe, Treasurer
Paul Simon for President
c/o Leslie Kerman
1227 25th Street, N.W.
Suite 800
Washington, D.C. 20037

RE: MUR 3375
Paul Simon for President
and James C. Rosapepe, as
treasurer

Dear Mr. Rosapepe:

On December 6, 1991, the Federal Election Commission found that there is reason to believe Paul Simon for President ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 432(c), 434(b), 441a(b)(1)(A), 441a(f), and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 26 U.S.C. § 9035(a), a provision of Chapters 95 and 96 of Title 26, U.S. Code. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for

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pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


John Warren McGarry
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

95043663052



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 19, 1991

Corporation Services Company
1013 Centre Road
Wilmington, Delaware 19805

RE: MUR 3375
Jader Fuel Co., Inc.

Dear Gentlemen:

On December 6, 1991, the Federal Election Commission found that there is reason to believe Jader Fuel Co., Inc., ("Corporation") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Corporation. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Corporation, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause

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must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


John Warren McGarry
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jader Fuel Co., Inc.

MUR: 3375

I. GENERATION OF MATTER

This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). 2 U.S.C. § 437(a)(2). The information is based on contributions received by Paul Simon for President (the "Committee") from Downen Enterprises, an Illinois corporation.

II. FACTUAL AND LEGAL ANALYSIS

The Act prohibits any corporation from making a contribution or expenditure in connection with any election at which presidential and vice presidential electors are to be voted for, or in connection with any primary or political convention or caucus held to select candidates for any of the foregoing offices. 2 U.S.C. § 441b(a). A contribution includes 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).

The Committee received contributions from Downen Enterprises totaling \$3,000. The contributions were made by checks dated May 15, 1987, and February 23, 1987, in the amounts

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of \$2,500 and \$500 respectively. Both checks were drawn from Downen Enterprises' bank account. See attachment. Thus, Downen Enterprises may have made a corporate contribution to the Committee.

Subsequent to the making of the contribution, Downen Enterprises merged into Jader Fuel Co., Inc., on June, 30, 1989. Consequently, Jader Fuel Co., Inc., has been substituted for Downen Enterprises as a respondent. Thus, Jader Fuel Co., Inc., may have made a corporate contribution to the Committee.

Therefore, there is reason to believe Jader Fuel Co., Inc., violated 2 U.S.C. § 441b(a) by making a corporate contribution to Paul Simon for President.

Attachment
Copies of Checks

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

December 19, 1991

P. Rae Groves
Groves Printing Co., Inc.
25 N. Lexington Avenue
Asheville, North Carolina 28801

RE: MUR 3375
Groves Printing Co., Inc.

Dear Mr. Groves:

On December 6, 1991, the Federal Election Commission found that there is reason to believe Groves Printing Co., Inc., ("Corporation") violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Corporation. 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 your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Corporation, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause

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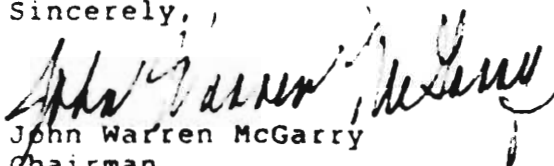
must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely, ,


John Warren McGarry
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

95043663358

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Groves Printing Co., Inc.

MUR: 3375

I. GENERATION OF MATTER

This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). 2 U.S.C. § 437(a)(2). The information is based on transactions between Groves Printing Co., Inc., ("Groves") and Paul Simon for President (the "Committee").

II. FACTUAL AND LEGAL ANALYSIS

The Act prohibits any corporation from making a contribution or expenditure in connection with any election at which presidential and vice presidential electors are to be voted for, or in connection with any primary or political convention or caucus held to select candidates for any of the foregoing offices. 2 U.S.C. § 441b(a). The Act also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any prohibited contributions, or any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation. Id.

A contribution includes 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

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office. 2 U.S.C. § 431(8). "Anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii). Unless specifically exempted by 11 C.F.R. § 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution.

The Committee received a number of shipments of goods from Groves. The Secretary of State of North Carolina confirms that Groves is a corporate entity. While the Committee was charged \$1,177.75 for the shipping costs, there is no record of any payments from the Committee to Groves for the goods that were shipped. Thus, Groves may have violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Committee.

Therefore, there is reason to believe that Groves Printing Co., Inc., violated 2 U.S.C. § 441b(a) by making an in-kind contribution to the Committee.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 3375

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INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: P. Rae Groves
25 N. Lexington Avenue
Asheville, North Carolina 28801

95043663861

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from September 1, 1987, to April 1, 1988.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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Questions and Requests for Production of
Documents to P. Rae Groves
Page 4

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

1. Describe all transactions between Groves Printing Co., Inc., and Paul Simon for President.
2. List all goods and services provided to Paul Simon for President and for each good or service, state the nature or type of good or service, list the date the good or service was provided, the quantity, the amount charged for such good or service, and the usual and normal charges for such good or service.
3. Provide and identify all documents, including invoices, receipts, letters, and other communications, pertaining to the answers given to Questions 1 and 2.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 19, 1991

Wachtell, Lipton, Rosen & Katz
229 Park Avenue
New York, New York 10171

RE: MUR 3375
Wachtell, Lipton, Rosen &
Katz

Dear Gentlemen:

On December 6, 1991, the Federal Election Commission found that there is reason to believe Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. Along with such materials, please state whether Manufacturers Hanover Trust Company bank check dated February 9, 1988, made to the order of Paul Simon for President, was purchased by written instrument or cash. If the bank check was purchased by written instrument, then provide copies of such written instrument.

In the absence of any additional information demonstrating that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for

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pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

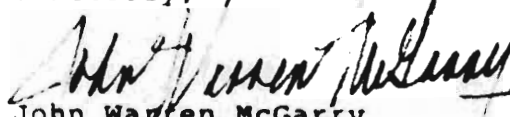
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


John Warren McGarry
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Wachtell, Lipton, Rosen & Katz

MUR: 3375

I. GENERATION OF MATTER

This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). 2 U.S.C. § 437(a)(2). The information is based on contributions received by Paul Simon for President ("the Committee").

II. FACTUAL AND LEGAL ANALYSIS

No person may make contributions to any candidate and his authorized political committees with respect to any election for federal office which, in the aggregate, exceed \$1000. 2 U.S.C. § 441a(a)(1)(A). "Person" includes partnerships as well as individuals. See 2 U.S.C. § 431(11).

The Committee may have received a \$5,000 contribution from Wachtell, Lipton, Rosen & Katz ("Wachtell"), a law firm partnership. The letter accompanying the contribution indicated that the payment represented individual contributions of \$500 from ten of the firm's partners. However, the entire \$5,000 contribution was made with only one cashier's check dated

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February 9, 1988, payable to Paul Simon for President.

Id. at 1. Thus, Wachtell may have made a contribution in excess of \$1,000 to a candidate and his authorized committee.

Therefore, there is reason to believe Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. § 441a(a)(1)(A) by making a contribution in excess of \$1,000 to Paul Simon for President.

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WACHTELL, LIPTON, ROSEN & KATZ

299 PARK AVENUE

NEW YORK, N. Y. 10171

TELEPHONE (212) 371-9200
FACSIMILE (212) 371-1658

227 WEST MONROE STREET

CHICAGO, ILLINOIS 60606

TELEPHONE (312) 236-8080

FACSIMILE (312) 236-8595

GEORGE A. KATZ (1905-1989)

COUNSEL

LAWRENCE P. KING NORMAN REDLICH
JOHN M. RICHMAN

JOSEPH J. SIMONS
ADAM O. EMMERICH
MICHAEL W. GOROFF
HARVEY M. SAWIKIN
GREGORY J. SHROCK
DOUGLAS K. MAYER
DAVID E. TADMOR
CRAIG M. WASSERMAN
GREGORY A. AZIARA
ANDREW H. BARAFF
ADAM D. CHINN
GEORGE T. CONWAY III
RALPH M. LEVENE
RICHARD G. MASON
STEPHEN R. NEUWIRTH
ERIN S. ENRIGHT
DAVID A. KATZ
THOMAS J. KUHN
JEFFREY I. LANG
MORRIS J. PANNER

ERIC J. PETERMAN
DAVID M. BILK
DAVID A. ZAPOLSKY
REUVEN S. AVI-YONAH
GEORGE S. CANELLOS
JOHN C. COATES IV
SCOTT E. ECRAS
ARTHUR S. GREENSPAN
CLARENCE T. HAY
MITCHELL S. PRESSER
BARRY S. PRICE
TONI A. PUX
LYON L. ROTH
CLAIRE D. CHAPPELL
HOWARD S. GLAZIER
NEIL S. MORGANDESSER

STEVEN G. LOCKWOOD

December 27, 1991

VIA FEDERAL EXPRESS

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

Attention: Ms. Helen Kim

Re: MUR 3375 (Wachtell, Lipton, Rosen & Katz)

Dear Ms. Kim:

I am in receipt of the Commission's letter of December 19, 1991 addressed to Wachtell, Lipton, Rosen & Katz. We received that letter on December 23, 1991. I will be the contact person for our firm in connection with this matter. For that purpose, I have completed the Statement of Designation of Counsel, which is enclosed herewith.

Since the Commission's letter was received during the Christmas and New Year's holiday weeks, we will require additional time to respond. The present due date for our response, as I compute it, is January 8, 1992. However, as you can appreciate, because of vacation schedules and time out of the office for family commitments, it will not be feasible for us to pull together the relevant information and prepare our response by January 8, 1992.

We accordingly request a twenty day extension of time, to January 28, 1992.

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MAIL ROOM

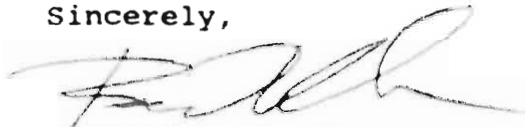
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FEDERAL ELECTION COMMISSION
MAIL ROOM

Federal Election Commission
December 27, 1991
Page 2

Because of the time constraints we are facing due to the holidays, we would appreciate your prompt consideration of this request for extension and ask that you telecopy your response to me. My fax number is 212-371-1658. If there is any trouble with that line, please call the main number, 212-371-9200 and ask for the telecopy room.

Your consideration of our request is most appreciated.

Sincerely,



Bernard W. Nussbaum

BWN/mle
Enclosure

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STATEMENT OF DESIGNATION OF COUNSEL

NOR 3375

NAME OF COUNSEL: Bernard W. Nussbaum

ADDRESS: Wachtell, Lipton, Rosen & Katz

299 Park Avenue

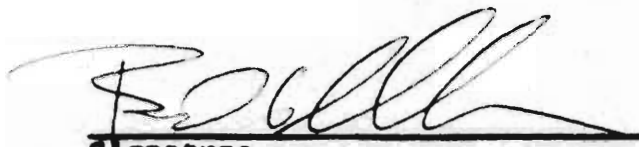
New York, New York 10171

TELEPHONE: 212-371-9200

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

12-27-91

Date


Signature

RESPONDENT'S NAME: Wachtell, Lipton, Rosen & Katz

ADDRESS: 299 Park Avenue

New York, New York 10171

HOME PHONE: 212-371-9200

BUSINESS PHONE: 212-371-9200

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 8, 1992

Bernard W. Nussbaum
Wachtell, Lipton, Rosen & Katz
299 Park Avenue
New York, New York 10171

RE: MUR 3375
Wachtell, Lipton, Rosen &
Katz

Dear Mr. Nussbaum:

This is in response to your letter dated December 27, 1991, which the Office of the General Counsel received on January 2, 1992, but which did not come to my attention until January 7, 1992, requesting an extension of 20 days to respond to the Federal Election Commission's reason to believe finding in the above captioned matter. After considering the circumstances presented in your letter, this Office has granted the requested extension. Accordingly, your response is due by the close of business on January 28, 1992.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Helen J. Kim
Attorney

95043663672



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 22, 1992

Corporation Services Company
1013 Centre Road
Wilmington, Delaware 19805

RE: MUR 3375
Jader Fuel Co., Inc.

Dear Gentlemen:

On December 19, 1991, you were notified that the Federal Election Commission found reason to believe Jader Fuel Co., Inc., violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). To date, no response has been received to the notification. If you wish to submit additional factual or legal material, please do so as soon as possible.

Should you have any questions, please contact me at (202) 219-3690.

Sincerely,

Helen J. Kim
Attorney

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WACHTELL, LIPTON, ROSEN & KATZ

MARTIN LIPTON
HERBERT M. WACHTELL
LEONARD M. ROSEN
THEODORE GEWERTZ
BERNARD W. NUSSBAUM
BERTRAM M. KANTOR
WILLIAM C. STERLING, JR.
RICHARD D. KATCHER
DOUGLAS S. LIEBHAFSKY
LAURENCE D. CHERRIS
STEVEN M. BARNA
CHARLES T. MEDERRICK
CHAIM J. FORTGANG
PETER C. CAHELLOS
MICHAEL W. SCHWARTZ
ALLAN A. MARTIN
DENIS F. CRONIN
BARRY A. BRYER
LAWRENCE B. PEDOWITZ
ROBERT B. MAZUR
PAUL VIZCARRONDO, JR.
PETER C. HEIN
HAROLD S. NOVAKOFF
DAVID M. EINHORN
KENNETH B. FORREST
MEYER G. KOPLOW
THEODORE N. MIRVIS
EDWARD D. HERLIHY

RICHARD D. FEINTUCH
DANIEL A. NEFF
ERIC M. ROTH
WARREN R. STERN
ANDREW R. BROWNSTEIN
MICHAEL H. BYOWITZ
MICHAEL G. BENNER
MARC WOLINSKY
DAVID GRUENSTEIN
PATRICIA A. VLAHAKIS
STEPHEN G. GELLMAN
FREDRIC H. GOLDSTEIN
SETH A. KAPLAN
BARBARA ROBBINS
STEVEN A. ROSENBLUM
PAMELA S. SEYMOR
STEPHANIE J. BELIGMAN
ERIC S. ROBINSON
ELLIOTT V. STEIN
JOHN F. SAVARESE
JANE LEE VRIS
SCOTT K. CHARLES
ANDREW G. HOUSTON
PHILIP MINDLIN
DAVID B. NEILL
JODI J. SCHWARTZ
ADAM G. EMMERICH

299 PARK AVENUE
NEW YORK, N. Y. 10171

TELEPHONE: (212) 371-9200
FACSIMILE: (212) 371-1658

227 WEST MONROE STREET
CHICAGO, ILLINOIS 60606
TELEPHONE: (312) 236-8080
FACSIMILE: (312) 236-8595

GEORGE A. KATZ (1908-1988)
JAMES H. FOGELSON (1907-1991)

COUNSEL

LAWRENCE P. KING
PETER D. MCARENNA

AMY R. WOLF

NORMAN REDLICH
JOHN M. RICHMAN

JOSEPH J. SIMONS
MICHAEL W. GOROFF
HARVEY M. SAWIRIN
GREGORY J. SHROCK
DOUGLAS K. MAYER
DAVID E. TADNOR
CRAIG M. WASSERMAN
ANDREW M. BARAFF
ADAM D. CHINN
GEORGE T. CONWAY III
RALPH M. LEVINE
RICHARD G. MASON
STEPHEN R. NEUWIRTH
ANDREW R. BERMAN
ERIN S. ENRIGHT
DAVID A. KATZ
THOMAS J. RUHN
JEFFREY I. LANG
MORRIS J. PANNER
ERIC J. PETERMAN
DAVID M. SILK

DAVID A. ZAPOLSKY
REUVEN S. AVI-YONAH
JEFFREY R. BOFFA
GEORGE S. CANELLOS
JOHN C. COATES IV
SCOTT E. ECKAS
MEIR FEDER
ARTHUR S. GREENSPAN
MITCHELL S. PRESSER
BARRY S. PRICE
TONI A. PUZ
STEVEN L. ROTH
STEVEN M. ABRAMOWITZ
WARREN E. BARROWS
VINEET BHATIA
CLAIRE D. CHAPPELL
HOWARD S. GLAZER
NEIL S. MORGANESSER
SETH D. RIGRODSKY
STEVEN G. LOCKWOOD

January 27, 1992

VIA FEDERAL EXPRESS

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

Attention: Ms. Helen Kim

Re: MUR 3375 (Wachtell, Lipton, Rosen & Katz)

Dear Ms. Kim:

I am enclosing herewith the Memorandum of Wachtell, Lipton, Rosen & Katz in response to MUR 3375 and the supporting affidavit of Paul Vizcarrondo, Jr. As indicated therein, no action should be taken with respect to Wachtell, Lipton, Rosen & Katz. Please contact me at 212-371-9200 if you have any further questions concerning this matter.

Sincerely,



Bernard W. Nussbaum

BWN/mle
Enclosure

92 JAN 28 AM 9:35

92 JAN 28 PM 3:45

MEMORANDUM OF WACHTELL,
LIPTON, ROSEN & KATZ
IN RESPONSE TO MUR 3375

The "factual and legal analysis" which accompanied the Commission's letter of December 19, 1991 alleges that the Paul Simon for President Committee "may have received a \$5,000 contribution from Wachtell, Lipton, Rosen & Katz..., a law firm partnership". However, that is simply not the case.

9 5 0 4 3 6 6 3 8 7 5

The February 9, 1988 letter transmitting the contributions, signed by each of the ten contributing individuals, expressly states that the \$5,000 bank check "represents contributions [of \$500 each] made from the personal funds" of the ten contributing individuals (emphasis added). That in fact was the case, as confirmed by the accompanying affidavit of Paul Vizcarrondo, Jr., one of the ten contributors. As Mr. Vizcarrondo's affidavit indicates, each partner's personal drawing account was charged for his \$500 contribution. No contribution was made by Wachtell, Lipton, Rosen & Katz ("WLR&K"), a law firm partnership which at the time had approximately 46 partners.

The Factual and Legal Analysis which accompanies MUR 3375 seems to imply that since the individual contributions of \$500 from each of ten individuals were combined in one bank check, rather than being drawn in the form of ten individual checks, there may have been a contribution by the

partnership, as distinct from contributions by ten individuals from their personal funds. However, as noted above, that is simply not the case -- each \$500 contribution came from the personal funds of each contributing individual.

Because the contributions at issue came from the personal funds of each of the ten individuals, and there was no contribution by the WLRK partnership, no further analysis is necessary. However, it should be noted that the possibility that multiple individuals may make joint contributions using a single check or other written instrument is expressly contemplated in the FEC publications and regulations. Thus, for example, the FEC Record publication dated March 1988, at page 3, states:

95043663876

A joint contribution is a contribution that is made by more than one person using a single check or other written instrument. (Note, however, that a joint contribution must represent the personal funds of each donor because contributions in the name of another are prohibited. 11 CFR 110.4(b).) A husband and wife, for example, may each make a contribution using one check drawn on a joint account. When making a joint contribution, each contributor must sign the check (or other written instrument) or a statement that accompanies the contribution. (Contributions by partnerships are an exception to this rule; signatures of contributing partners are not required.) If the check or statement does not indicate how much should be attributed to each donor, the recipient committee must attribute the contribution in equal portions. 11 CFR 110.1(k)(1) and (2).

-- Emphasis added.

95043663377

This section of the FEC Record concerning "joint contributions" appears to be based on the FEC regulations at 11 CFR § 110.1(k).

Here, as contemplated by this section of the FEC Record and the applicable regulations, each contributor signed a statement accompanying the contribution, which statement, among other things, confirmed that the contributions came from their personal funds. See Vizcarrondo Aff. Exhibit A.

Finally, while we are responding to the substance of the inquiry in the December 19, 1991 letter from the Commission, we wish to object for the record to the belated nature of the inquiry, which was received by us almost four years after the date of the contributions at issue.

January 27, 1992

BERNARD W. NUSSBAUM
WACHTELL, LIPTON, ROSEN & KATZ
299 Park Avenue
New York, N.Y. 10171
Tel. No.: 212-371-9200

AFFIDAVIT

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

PAUL VIZCARRONDO, JR., being duly sworn, deposes
and says as follows:

1. I am a partner in the law firm of Wachtell,
Lipton, Rosen & Katz. I am submitting this affidavit in
response to MUR 3375.

2. I am one of the ten individuals who each made a
\$500 contribution to Paul Simon for President which is the
subject of your inquiry. The February 9, 1988 letter trans-
mitting our individual contributions is signed by each of the
ten contributing individuals, and expressly states that the
\$5,000 bank check "represents contributions made from the
personal funds" of each individual. A copy of the February
9, 1988 letter is annexed hereto as Exhibit A.

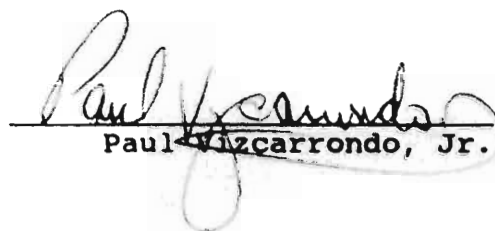
3. Because employer and occupation information was
requested of contributors, the February 9, 1988 letter states
that each of the ten individuals is a partner in the law firm
of Wachtell, Lipton, Rosen & Katz. However, the check was
not a partnership check and, as stated in the February 9,
1988 letter, the contributions made came from the personal

95043663878

9 5 0 4 3 6 6 3 8 7 9

funds of each contributing individual. No contribution was made by Wachtell, Lipton, Rosen & Katz itself, which, in February 1988, had approximately 46 partners.

4. No check or other written instrument was provided to Manufacturers Hanover to purchase the bank check. The check was requested orally. Each partner's personal draw account was charged for his \$500 contribution.


Paul Vizcarrondo, Jr.

Sworn to before me this
27th day of January, 1992.


Notary Public

TOM CLARK
Notary Public, State of New York
No. 81-7713885
Qualified in New York County
Commission Expires December 31, 1992

299 PARK AVENUE
NEW YORK, N. Y. 10171

February 9, 1988

Mr. Stephen C. Swid, Chairman
"The People's Choice -- Paul Simon '88"
30 East 71st. Street
New York, New York 10021

Dear Mr. Swid:

Enclosed please find a check for \$5,000 payable to
"Paul Simon for President". This check represents
contributions made from the personal funds of the following
individuals in the amounts indicated next to their names:

Chaim J. Fortgang \$500
2319 Avenue M
Brooklyn, N.Y. 11210

Allan A. Martin \$500
21 Maple Drive
Flower Hill
Port Washington, N.Y. 11050

Denis F. Cronin \$500
64 Elderfields Road
Manhasset, N.Y. 11030

Lawrence Pedowitz \$500
72 Cottonwood Lane
Briarcliff Manor, N.Y. 10583

Paul Vizcarrondo \$500
1070 Park Avenue
New York, N.Y. 10128

95043663800

Mr. Stephen C. Swid, Chairman
"The People's Choice -- Paul Simon '88"
Page 2
February 9, 1988

Harold S. Novikoff \$500
369 E. Shore Rd.
Kings Point, N.Y. 11023

David M. Einhorn \$500
87 The Serpentine
Roslyn Estates, N.Y. 11576

Kenneth B. Forrest \$500
134 Westwood Circle
Roslyn Hts., N.Y. 11577

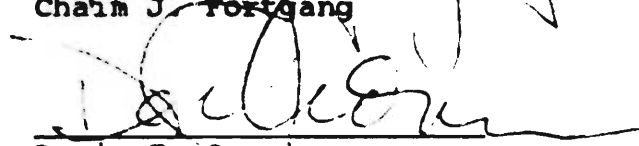
Robert N. Macris \$500
139 West 13th Street
New York, N.Y. 10011

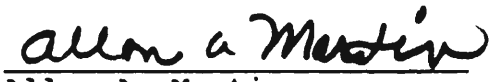
Richard D. Feintuch \$500
14 Cornell Street
Scarsdale, N.Y. 10583

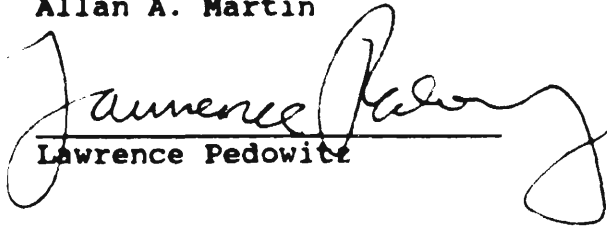
Each of these individuals is a partner in the law
firm of Wachtell, Lipton, Rosen & Katz, 299 Park Avenue, New
York, New York 10171.

Sincerely,


Chaim J. Portgang

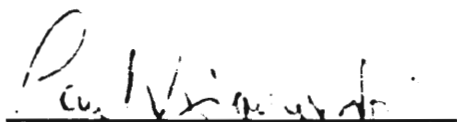

Denis F. Cronin


Allan A. Martin


Lawrence Pedowitz

95043663881

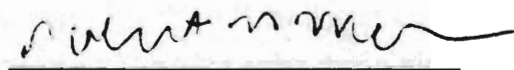
Mr. Stephen C. Swid, Chairman
"The People's Choice -- Paul Simon '88"
Page 3
February 9, 1988


Paul Vizcarondo


Harold S. Novikoff


David M. Einhorn


Kenneth B. Forrest


Robert R. Macris


Richard D. Feintuch

BWN:mm
Enc.

BY HAND

95043663002



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 31, 1992

Roger Meyers
Jader Fuel Co., Inc.
P.O. Box 620
Shawneetown, Illinois 62984

RE: MUR 3375
Jader Fuel Co., Inc.

Dear Mr. Meyers:

Enclosed is a copy of the original letter, with attachments, notifying Jader Fuel Co., Inc. ("Corporation") that the Federal Election Commission found reason to believe the Corporation had violated provisions of the Federal Election Campaign Act of 1971, as amended. If you wish to submit additional factual or legal material that you believe are relevant to the Commission's determination of this matter, please do so within 15 days of receipt of this letter.

If you have any questions, please contact me at
(202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen J. Kim", is written over a horizontal line. The signature is stylized with a large, sweeping "H" and "K".

Helen J. Kim

Enclosures

Original Notification Letter
Designation of Counsel Form
Procedures
Factual and Legal Analysis

9504366333

Groves Printing

c o m p a n y

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

92 FEB -5 PM 12:47

January 28, 1992

Federal Election Commission
Washington, D. C. 20463
Helen Kim

RE: MUR 3375
Groves Printing Co., Inc.

Richard J. Whittington, Pres.

Please see attachments.

92 FEB -5 PM 3:28

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF THE CLERK
WASHINGTON, D.C. 20463

95043663884

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

1. Describe all transactions between Groves Printing Co., Inc., and Paul Simon for President. NONE
2. List all goods and services provided to Paul Simon for President and for each good or service, state the nature or type of good or service, list the date the good or service was provided, the quantity, the amount charged for such good or service, and the usual and normal charges for such good or service. NONE
3. Provide and identify all documents, including invoices, receipts, letters, and other communications, pertaining the answers given to Questions 1 and 2. NONE

COMMENT:

We did work for Political Americana. We produced and billed all items to Political Americana.

See copies of invoices attached -

Groves Printing Company shipped for Political Americana under their Account Number, therefore, no billing of freight occurred.

Contact: Jim Warlick
Political Americana
226 F Street N. E.
Washington, D. C. 20002
(202) 546-8093
FAX (202) 546-8094

92 FEB -5 PM 3:28

RECEIVED
FEDERAL ELECTION COMMISSION
JAN 11 1992

9504366385



GROVES
PRINTING COMPANY
P.O. BOX 611, ASHEVILLE, NC 28802

(704) 258-0246

TO: POLITICAL AMERICANA (2)
1 OAK PLAZA
SUITE 301-W
ASHEVILLE, N.C. 28801

INVOICE # 63750

DATE: 01/31/88

DATE TO:

PO#005		NET 30 DAYS	
2500	POSTERS 17X 34		1141.00
10000	POSTERS 14 X 20 SIMON FOR PRESIDENT		2571.00
		SUBTOTAL	3712.00
		SALES TAX	.00
		FREIGHT	526.50
		TOTAL	4238.50

A SERVICE CHARGE of 1 1/2 % per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%

Thank You



GROVES
PRINTING COMPANY
P.O. Box 811, ASHEVILLE, NC 28802

4 3 6 6 3 3 7

(704) 258-0248

SHIP TO:

TO:

POLITICAL ADVERTISING
1 DAY PAPER
SUITE 301 D
ASHEVILLE, N.C. 28801

POLYGRAPH		NET 30 DAYS	
50000	ENVELOPES. PAUL SIMON		
		SUBTOTAL	1235.23
		SALES TAX	00.00
		FREIGHT	00.00
A SERVICE CHARGE of 1½% per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.		TOTAL	

Thank You



GROVES
PRINTING COMPANY
P.O. Box 811, ASHEVILLE, NC 28802

4 3 6 6 3 8 8

INVOICE # 64962

(704) 258-0246

SHIP TO:

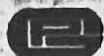
01/31/88

TO: POLITICAL AMERICANA (2)
1 OAK PLAZA
SUITE 301-A
ASHEVILLE, N.C. 28801

QUANTITY	DESCRIPTION	UNIT PRICE	NET 10 DAYS	
10000	LETTERHEADS, PAUL SIMON			
		SUB TOTAL		
		SALES TAX		
		FREIGHT		
		TOTAL		

A SERVICE CHARGE of 1 1/2 % per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.

Thank You



GROVES
PRINTING COMPANY
P.O. Box 611, ASHEVILLE, NC 28802

0 4 3 6 6 3 3 9

INVOICE # 65113

(704) 258-0248

SHIP TO:

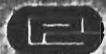
03/11/88

TO:

POLITICAL AMERICAN
1 DR. PLAZA
SUITE 301-A
ASHEVILLE, N.C. 28801

DATE SHIPPED	APPROVAL	TERMS	YOUR ORDER NUMBER
POL005		net 30 days	118
DESCRIPTION			
SHIPPING COST. SIMON POSTERS. SEE ATTACHED			
			</

Thank You



GROVES
PRINTING COMPANY
P.O. Box 611, ASHEVILLE, NC 28801

43653890

INVOICE # 63145

(704) 258-0246

SHIP TO:

10/13/87

TO:

POLITICAL AMERICAN (2)
1 OAK PLAZA
SUITE 301-A
ASHEVILLE, N.C. 28801

POLYMS		NET 30 DAY	
	CREDIT MEMO ON FREIGHT PAUL SINGH BROCHURES	GRAND TOTAL	45.51
		SALES TAX	00.00
		FREIGHT	00.00
		TOTAL	45.51

A SERVICE CHARGE of 1½ % per month will be added on all Invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.

Thank You



GROVES
PRINTING COMPANY
P.O. Box 611, ASHEVILLE, NC 28602

0 4 3 6 6 3 8 9 1

(704) 258-0246

SHIP TO:

11/88

TO: POLITICAL ADVERTISING
1 OAK PLAZA
SUITE 301-0
ASHEVILLE, N.C. 28601

POL 005		NET 30 DAY	
	IMPRINT LETTERS PAUL STONE	SUBTOTAL SALVAGE FREIGHT	1845.32 1845.32 0.00
	A SERVICE CHARGE of 1½% per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.	TOTAL	

Thank You



GROVES
PRINTING COMPANY
P.O. Box 611, ASHEVILLE, NC 28802

043663892

INVOICE # 6350

(704) 258-0246

SHIP TO:

10/30/87

TO:

POLITICAL AMERICANA (2)
LEON PLAZA
SUITE 301 A
ASHEVILLE, N.C. 28801

POL 005		NET 30 days	7918
3500	POSTERS, 17 X 14		
5000	POSTERS, 14 X 20		2527.00
	PAUL SIMON		
		SUBTOTAL	2527.00
		SALES TAX	.00
		FREIGHT	153.40
A SERVICE CHARGE of 1 1/2 % per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.		TOTAL	2680.40

A SERVICE CHARGE of 1% per month will be added on all Invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.

Thank You



3 6 6 3 8 9 3

(704) 258-0246

SHIP TO:

TO:

DOUGLAS, JAMES
1000 ALABAMA
SUITE 301
BIRMINGHAM, AL 35203

POLYMER	DESCRIPTION	NET 30 DAYS	TOTAL
565970			4597.00
			4597.00
			SALES TAX
			FREIGHT
			TOTAL

A SERVICE CHARGE of 1% per month will be added on all invoice amounts not paid by the 25th day of the month following invoicing. ANNUAL PERCENTAGE RATE of 18%.

Thank You



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 27, 1992

Steve Wittington
Groves Printing Company
60 Ravenscroft Drive
Asheville, North Carolina 28802

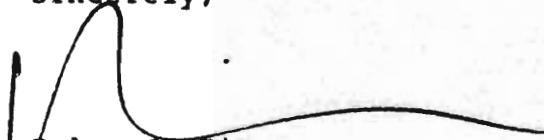
RE: MUR 3375
Groves Printing Co., Inc.

Dear Mr. Wittington:

This is to confirm our telephone conversation on Wednesday, February 26, 1992 regarding the answers to the interrogatories dated January 28, 1992. Enclosed are copies of the interrogatories and the answers you submitted. Please give the answers under oath and resubmit them within fifteen days of receipt of this letter.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Helen J. Kim
Staff Attorney

Enclosures
Questions
Copy of answers submitted

95043663324

Questions and Requests for Production of
Documents to P. Rae Groves
Page 4

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

1. Describe all transactions between Groves Printing Co., Inc., and Paul Simon for President.
2. List all goods and services provided to Paul Simon for President and for each good or service, state the nature or type of good or service, list the date the good or service was provided, the quantity, the amount charged for such good or service, and the usual and normal charges for such good or service.
3. Provide and identify all documents, including invoices, receipts, letters, and other communications, pertaining to the answers given to Questions 1 and 2.

95043663895

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

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3. Provide and identify all documents, including invoices, receipts, letters, and other communications, pertaining the answers given to Questions 1 and 2. NONE

COMMENT:

We did work for Political Americana. We produced and billed all items to Political Americana.

See copies of invoices attached -

Groves Printing Company shipped for Political Americana under their Account Number, therefore, no billing of freight occurred.

Contact: Jim Warlick
Political Americana
226 F Street N. E.
Washington, D. C. 20002
(202) 546-8093
FAX (202) 546-8094

92 FEB -5 PM 3:28

95043663396



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 2, 1992

Leslie Kerman
Epstein, Becker & Green
1227 25th Street, N.W.
Suite 800
Washington, D.C. 20037

RE: MUR 3375
Paul Simon for President
and James C. Rosapepe, as
treasurer

Dear Ms. Kerman:

You were notified by letter dated December 19, 1991 that the Federal Election Commission found reason to believe Paul Simon for President and James C. Rosapepe, as treasurer ("Committee"), violated provisions of the Federal Election Campaign Act of 1971, as amended.

During our telephone conversation of Tuesday, January 14, 1992, you stated that the Committee would not be able to respond to the notification until the Commission makes its Final Repayment Determination and may need an extension of time to respond. To this date, such a request has not yet been received. If the Committee requires an extension of time, please request one in writing at the earliest possible date.

This matter also involves issues such as the receipt of prohibited contributions and reporting and recordkeeping irregularities, that are not relevant to the Commission's repayment determination. The Commission expects that these issues will also be fully addressed in the Committee's response to the enforcement action.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to be "HJ Kim", written over a horizontal line.

Helen J. Kim
Staff Attorney

95043663397

Mar 20 11 01 AM '92

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

1. Describe all transactions between Groves Printing Co., Inc., and Paul Simon for President. NONE
2. List all goods and services provided to Paul Simon for President and for each good or service, state the nature or type of good or service, list the date the good or service was provided, the quantity, the amount charged for such good or service, and the usual and normal charges for such good or service. NONE
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COMMENT:

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See copies of invoices attached -

Groves Printing Company shipped for Political Americana under their Account Number, therefore, no billing of freight occurred.

Contact: Jim Warlick
Political Americana
226 F Street N. E.
Washington, D. C. 20002
(202) 546-8093
FAX (202) 546-8094

My Commission Expires 11-26-95

Annette E. Buckner
Steve Whittington personally appeared
Before me this 6th day of March '92

92 FEB -5 PM 3:28

92 MAR 20 PM 3:23

95043663893

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375

Questions to P. Rae Groves

1. Describe all transactions between Groves Printing Co., Inc., and Paul Simon for President.
2. List all goods and services provided to Paul Simon for President and for each good or service, state the nature or type of good or service, list the date the good or service was provided, the quantity, the amount charged for such good or service, and the usual and normal charges for such good or service.
3. Provide and identify all documents, including invoices, receipts, letters, and other communications, pertaining to the answers given to Questions 1 and 2.

95043663899



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

July 28, 1992

Bernard W. Nussbaum
Wachtell, Lipton, Rosen & Katz
229 Park Avenue
New York, New York 10171

RE: MUR 3375
Wachtell, Lipton, Rosen &
Katz

Dear Mr. Nussbaum:

By letter dated December 6, 1991, you were notified that the Federal Election Commission found reason to believe Wachtell, Lipton, Rosen & Katz violated a provision of the Federal Election Campaign Act of 1971, as amended.

In furtherance of its investigation into this matter, the Commission requests a response to the enclosed questions. You may also submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials and the answers to the enclosed questions to the General Counsel's Office within 30 days of your receipt of this letter.

This Office apologizes for any inconveniences caused by the delay of the investigation in this matter. Should you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in black ink, appearing to read "Helen J. Kim", is written over a horizontal line.

Helen J. Kim
Attorney

Enclosure
Questions

95043663900

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3375
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Wachtell, Lipton, Rosen & Katz
229 Park Avenue
New York, New York 10171

95043663201

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from November 1, 1987, to March 1, 1988.

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.

95043663202

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

95043663903

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375
Questions

1. Paul Vizcarrondo, Jr. stated in his affidavit dated January 27, 1992 that the Manufacturers Hanover bank check dated February 9, 1988, made to the order of Paul Simon for President, was requested orally and that each partner's personal draw account was charged for his \$500 contribution. The following questions relate to this statement:

- a. State whether each partner's personal draw account is nonrepayable, i.e., is each draw or transfer from the account against salary, profits or commissions already due and owing to him. Also, state whether the partner is obligated in any way to repay the amount withdrawn from his/her personal draw account.
- b. State whether there are any restrictions placed by the partnership on the types of transfers that can be made from the draw accounts. If so, what type of restrictions does the partnership attach to the accounts?
- c. Describe each step in the purchase of the bank check. For example, were the funds used to purchase the bank check directly transferred from each of the ten partners' personal draw accounts or was the check purchased using partnership funds for which the partnership in turn charged each partner's account for the partner's share of the total amount.

2. State whether Wachtell, Lipton, Rosen & Katz had any contracts with the United States Government or any department or agency thereof at the time the contribution to Paul Simon was made. If so, identify the contracting entity and state whether, under the contract, Wachtell, Lipton, Rosen & Katz was compensated with funds comprised in whole or in part by Congressional appropriations.

95043663904



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 3, 1992

Roger Meyers
Jader Fuel Co., Inc.
P.O. Box 620
Shawneetown, Illinois 62984

RE: MUR 3375
Jader Fuel Co., Inc.

Dear Mr. Meyers:

By letter dated December 19, 1991, you were notified that the Federal Election Commission found reason to believe Jader Fuel Co., Inc. violated a provision of the Federal Election Campaign Act of 1971, as amended.

In furtherance of its investigation into this matter, the Commission requests a response to the enclosed questions. You may also submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials and the answers to the enclosed questions to the General Counsel's Office within 30 days of your receipt of this letter.

This Office apologizes for any inconveniences caused by the delay of the investigation in this matter. Should you have any questions, please contact me at (202) 219-3690.

Sincerely,


Helen J. Kim
Attorney

Enclosure
Questions

95043663905

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3375
)

INTERROGATORIES

TO: Jader Fuel Co., Inc.
P.O. Box 620
Shawneetown, Illinois 62984

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 30 days of your receipt of this request. Such answers must be forwarded to the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463.

95043663906

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from May 1, 1987, to March 1, 1988.

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.

95043663907

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

95043663903

BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3375
Questions

1. Roger Meyers, stated in a telephone conversation with the Office of the General Counsel on February 6, 1992, that check number 09653, dated May 15, 1987, made to the order of Paul Simon for President, was drawn on Downen Enterprises' partnership account. Mr. Meyers further stated that each partner's personal equity account was charged for the amount of the partner's share of the contribution. The following questions relate to this statement:

- a. State whether each partner's personal draw account is nonrepayable, i.e., is each draw or transfer from the account against salary, profits or commissions already due and owing to him. Also, state whether the partner is obligated in any way to repay the amount withdrawn from his/her personal draw account.
- b. State whether there are any restrictions placed by the partnership on the types of transfers that can be made from the draw accounts. If so, what type of restrictions does the partnership attach to the accounts?
- c. Describe each step in the issuance of the partnership check. For example, were the funds used for the check directly transferred from each of the partners' personal equity accounts or were partnership funds used initially for which the partnership in turn charged each partner's account for the partner's share of the total amount.

2. State whether Jader Fuel Co., Inc. or Downen Enterprises Partnership had any contracts with the United States Government or any department or agency thereof at the time the contribution to Paul Simon was made. If so, identify the contracting entity and state whether, under the contract, Jader Fuel or the partnership was compensated with funds comprised in whole or in part by Congressional appropriations.

95043663909

RECEIVED
F.E.C.
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

92 SEP -4 PM 12:54

In the Matter of)
)
Paul Simon for President)
and James C. Rosapepe, as)
treasurer)
Jader Fuel Co., Inc.)
Groves Printing Co., Inc.)
Wachtell, Lipton, Rosen & Katz)

MUR 3375

SENSITIVE

COMPREHENSIVE INVESTIGATIVE REPORT #1

95043663910
This matter was generated by an audit of Paul Simon for President ("the Committee") pursuant to 26 U.S.C. § 9038(a) to determine whether there had been compliance with the provisions of the Federal Election Campaign Act of 1971, as amended, and of the Presidential Primary Matching Payment Account Act. See also 26 U.S.C. § 9039(b) and 11 C.F.R. § 9038.1(a)(2). On August 13, 1991, the Commission approved the referral of certain matters arising from the audit to the Office of General Counsel for enforcement. The referral was forwarded to this Office on August 19, 1991. The Commission approved the Final Audit Report of Simon for President on October 22, 1991.

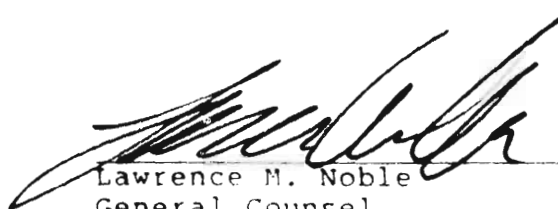
On December 6, 1991, the Commission found reason to believe that Paul Simon for President and James C. Rosapepe, as treasurer, violated 2 U.S.C. §§ 432(c), 434(b), 441a(b)(1)(A), 441a(f), and 441b(a) and 26 U.S.C. § 9035(a). On that date, the Commission also found reason to believe that Jader Fuel Co., Inc. and Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a). Furthermore, the Commission found reason to believe that Wachtell, Lipton, Rosen & Katz violated 2 U.S.C. § 441a(a)(1)(A).

Jader Fuel, Co., Inc., Groves Printing Co., Inc., and Wachtell, Lipton, Rosen & Katz, responded to the Commission's reason to believe determinations on February 6, 1992, January 28, 1992, and January 27, 1992 respectively. This Office is continuing its investigation by sending additional inquiries to these three respondents regarding the transactions in question.

To date, the Committee has yet to respond to the reason to believe notification. In a telephone conversation with staff on January 14, 1992, counsel for the Committee stated that the Committee would submit a response when the Commission's audit process is completed. On August 5, 1992, counsel for the Committee made an oral presentation to the Commission in connection with the audit process, and on August 13, 1992, the Commission denied the Committee's request for an extension regarding supplemental submissions. Upon issuance of the Commission's Statement of Reasons for the audit matter, this Office intends to continue its investigation regarding the Committee.

95043663911
Date

9/3/92


Lawrence M. Noble
General Counsel

Staff assigned: Helen J. Kim



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: Lawrence M. Noble
General Counsel

FROM: *MWR* Marjorie W. Emmons/Bonnie J. Ross *[Signature]*
Secretary of the Commission

DATE: September 9, 1992

SUBJECT: MUR 3375 - Comprehensive Investigative Report
#1 dated September 3, 1992

The above-captioned matter was received in the Commission Secretariat at 12:54 p.m. on Friday, September 4, 1992 and circulated to the Commission on a 24-hour no objection basis at 11:00 a.m. on Tuesday, September 8, 1992.

There were no objections to the report.

95043663912



downen enterprises

p.o. box 620
shawneetown, Illinois 62984
tel. (618) 269-3101
fax: 810-996-2085

September 18, 1992

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

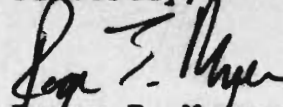
RE: MUR 3375 Jader Fuel Co., Inc.

Dear Ms. Kim:

Please find enclosed the interrogatories requested in
your letter of August 3, 1992.

If I can be of any further assistance, please feel free
to contact me at (618) 269-3101.

Sincerely,


Roger E. Myers

REM/pw

Enclosure:

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OFFICE OF GENERAL COUNSEL
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AFFIDAVIT

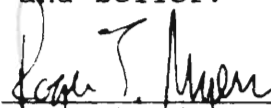
STATE OF ILLINOIS (
 (
 COUNTY OF GALLATIN(SS.

1. I, Roger E. Myers, being duly sworn, affirm that I stated in a telephone conversation with the Office of the General Counsel on February 6, 1992, that check number 09653, dated May 15, 1987, made to the order of Paul Simon for President, was drawn on Downen Enterprises' partnership account. I further stated that each partner's personal equity account was charged for the amount of the partner's share of the contribution.

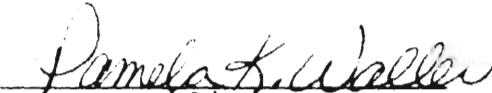
- a. Each partner's equity account has had all taxes paid and is an after tax balance of each partner. A partner is not obligated in any way to repay the amount withdrawn from his equity account.
- b. There are no restrictions by the partnership concerning the use of fund of each individual partner.
- c. The funds used for the check were the partners individual funds. One check was issued as a matter of convenience as opposed to each of the five partners writing an individual check.

2. Jader Fuel Co., Inc. did not have any contracts with the United States Government or any agency thereof at the time of the contribution to Paul Simon. Downen Enterprises is a farming operation and as such participates in the Federal Farm Program as administrated by Agricultural Stabilization and Conservation Service Department of the USDA.

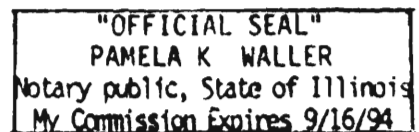
I swear or affirm the above information is true and correct to the best of my knowledge and belief.


Roger E. Myers

Subscribed and sworn to before me this 18th day of September, 1992.


Notary Public

My commission expires September 16, 1994



95043663214



FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 22, 1992

Steve Wittington
Groves Printing Company
60 Ravenscroft Drive
Asheville, North Carolina 28802

RE: MUR 3375
Groves Printing Co., Inc.

Dear Mr. Wittington:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on December 6, 1991, the Federal Election Commission found reason to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

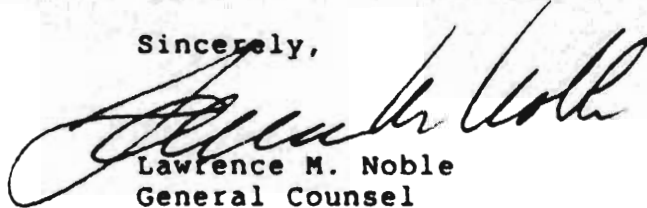
95043663215

Steve Wittington
Page 2

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Helen Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name and title.

Lawrence M. Noble
General Counsel

Enclosure
Brief

95043663916

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Groves Printing Co., Inc.) MUR 3375
)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

95043663217
This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). This information was based on transactions between Groves Printing Co., Inc. ("Groves") and the Paul Simon for President Committee ("Simon Committee").

Shipping invoices indicated that the Simon Committee received a number of shipments of goods from Groves. There was, however, no record of any payments from the Simon Committee to Groves for the goods themselves. Thus, on December 6, 1991, the Commission found reason to believe that Groves violated 2 U.S.C. § 441b(a) for making an in-kind corporate contribution. On December 19, 1991, this Office sent a letter notifying Groves of the Commission's finding and enclosing the Commission's Factual and Legal Analysis.

Groves responded to the Commission's reason to believe notification on February 5, 1992. In its response, Groves argues that it did not make an in-kind contribution to the Simon Committee because Groves billed a political consulting firm,

Political Americana, for the goods referenced in the shipping invoice, not the Simon Committee. In support of its assertion, Groves submitted the invoices that it sent to Political Americana for payment of the items.

II. ANALYSIS

The Act prohibits corporations from making contributions to candidates for federal office or their authorized committees. 2 U.S.C. § 441b(a). Section 441b(b)(2) defines "contributions" to include, among other things, giving anything of value to any candidate or campaign committee in connection with federal elections.

The evidence indicates that Groves provided goods to Political Americana, not the Simon Committee. In its answers to interrogatories, Groves asserts that it never dealt with the Simon Committee and that the goods in question were produced for Political Americana, a political consulting firm that did work for the Simon Committee. Groves also asserts that it billed Political Americana for the goods and shipped them to the Simon Committee using Political Americana's freight account. The Simon Committee's reports confirm that Political Americana was indeed a vendor for the Simon Committee and that the Simon Committee paid Political Americana in full for the goods and services it provided.

Because Groves did not provide something of value to the Simon Committee, it did not make a contribution to the Simon Committee within the meaning of section 441b(b)(2) of the Act. Furthermore, the Simon Committee ultimately paid for the goods

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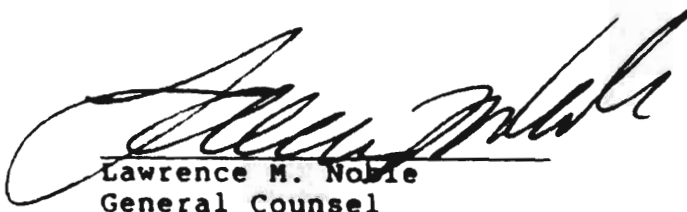
through its payment to Political Americana. Thus, based on the foregoing analysis, the General Counsel recommends that the Commission find no probable cause to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a).

Date

12/21/92


Lawrence M. Noble
General Counsel

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MUR 3375

SENSITIVE

95043663920

As stated in the General Counsel's Brief, the investigation revealed information indicating that Groves did not make a corporate contribution to Paul Simon for President. Therefore, this Office recommends that the Commission find no probable cause to believe Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a). This Office notes that this issue could have been resolved earlier had Paul Simon for President responded fully during the Commission's audit process.

III. RECOMMENDATIONS

1. Find no probable cause to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a) and close the file as it pertains to this respondent.
2. Approve the appropriate letter.

Date

2/19/93

Lawrence M. Noble (7/2)
Lawrence M. Noble
General Counsel

Staff Assigned: Helen J. Kim

95043663921

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Groves Printing Co., Inc.

)
)
)

MUR 3375

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 25, 1993, the Commission decided by a vote of 5-0 to take the following actions in MUR 3375:

1. Find no probable cause to believe that Groves Printing Co., Inc. violated 2 U.S.C. § 441b(a) and close the file as it pertains to this respondent.
2. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 19, 1993.

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

Attest:

2-25-93

Date

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

Received in the Secretariat:
Circulated to the Commission:
Deadline for vote:

Fri., Feb. 19, 1993 4:08 p.m.
Mon., Feb. 22, 1993 11:00 a.m.
Thurs., Feb. 25, 1993 4:00 p.m.

dr

950436639222



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 1, 1993

Steve Wittington
Groves Printing Company, Inc.
60 Ravenscroft Drive
Asheville, North Carolina 28802

RE: MUR 3375
Groves Printing Co., Inc.

Dear Mr. Wittington:

This is to advise you that on February 25, 1993, the Federal Election Commission found that there is no probable cause to believe Groves Printing Company, Inc. violated 2 U.S.C. § 441b(a). Accordingly, the file in this matter has been closed as it pertains to Groves Printing Company, Inc.

The file will be made part of the public record within 30 days after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence M. Noble", is written over the typed name.

Lawrence M. Noble
General Counsel

95043663923

EPSTEIN BECKER & GREEN, P.C.

ATTORNEYS AT LAW

1227 25TH STREET, N.W.

WASHINGTON, D.C. 20037-11561

(202) 861-0900

TELECOPIER: (202) 296-2882

DIRECT LINE

250 PARK AVENUE
NEW YORK, NEW YORK 10177-00771
(212) 351-4800

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90087-2501
(310) 556-8881

SIX LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-27041
(203) 348-3737

ONE RIVERFRONT PLAZA
NEWARK, NEW JERSEY 07102-84011
(201) 642-1900

75 STATE STREET
BOSTON, MASSACHUSETTS 02109
(617) 342-4000

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 16 1 44 PM '95

2 EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-5984
(415) 398-3800

12750 MERIT DRIVE
DALLAS, TEXAS 75281-12091
(214) 490-3143

116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1530
(904) 681-0596

2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33133
(305) 856-1100

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-31321
(703) 684-1204

*P.C. NEW YORK, WASHINGTON, D.C., NEW JERSEY,
CONNECTICUT, VIRGINIA AND TEXAS ONLY

June 16, 1995

**VIA FACSIMILE &
HAND-DELIVERED**

Lawrence M. Noble, Esquire
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Room 657
Washington, DC 20463

**RE: M.U.R. 3375: RESPONDENTS PAUL SIMON FOR PRESIDENT
COMMITTEE AND JAMES C. ROSAPEPE AS TREASURER**

Dear Mr. Noble:

I am writing to you on behalf of my clients Paul Simon for President Committee ("the Simon Committee") and James C. Rosapepe, as Treasurer, in connection with M.U.R. 3375 -- the enforcement action stemming from the FEC's audit of the Simon Committee under Title 26. The transactions cited in this action occurred more than seven years ago, in 1987 and the first half of 1988, and are obviously stale at this point.

The Commission found reason-to-believe in this case on December 6, 1991. The Simon Committee's most recent correspondence from the FEC in this matter is dated March 2, 1992. This action now has been dormant for over three years. It is our understanding that there is no attorney currently assigned to the action and that the files are in central docketing.

95043663224

Lawrence M. Noble, Esquire
June 16, 1995
Page 2

In view of these circumstances, I am requesting that the Commission formally terminate this enforcement action and notify the Simon Committee of same. This will allow the Simon Committee -- which has continued in existence for more than seven years solely for compliance purposes -- to finally terminate.

As you can imagine, my clients are eager to conclude this matter and wrap-up the 1988 presidential campaign. Thus, I will call you later today to discuss how to proceed.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leslie J. Kerman", written over a horizontal line.

Leslie J. Kerman
General Counsel
Paul Simon for President Committee

95043663925



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1995

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3375 Simon for President

95043663926

This matter was referred by the Audit Division and involves activity related to Paul Simon's 1988 Presidential campaign. The audit revealed that the Committee received \$21,195 in corporate contributions, \$62,115 in excessive contributions, \$21,937 of which was not refunded, a \$1,117 in-kind corporate contribution, and exceeded the Iowa state independent expenditure limit by approximately \$800,000 and the New Hampshire limit by approximately \$200,000. On December 6, 1991, the Commission found RTB that the Committee violated 2 U.S.C. §§ 432(c), 434(b), 441a(b), 441a(f), and 441b(a). This case, currently in the Central Enforcement Docket, is in the investigative stage and requires significant resources to resolve. This matter had been transferred to the Central Enforcement Docket pending the Court of Appeals decision in Simon v. FEC.

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In light of Court of Appeals decision in Simon v. FEC, the amount of time that has elapsed since the Commission made its reason to believe findings and the Commission's efforts to bring the 1988 Presidential matters to a close, and our current resources, this Office recommends that the Commission take no further action against the Simon for President Committee and James C. Rosapepe, as treasurer, and the other two remaining respondents, Jader Fuel, Inc. and Wachtell, Lipton, Rosen & Katz, and close the file in this matter.

RECOMMENDATIONS

1. Take no further action against the Simon for President Committee and James C. Rosapepe, as treasurer.
2. Take no further action against Jader Fuel, Inc. and Wachtell, Lipton, Rosen & Katz.
3. Close the file.
4. Approve the appropriate letters.

Attachment

Letter from Leslie Kerman

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Simon for President, et al.) MUR 3375

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 27, 1995, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3375:

1. Take no further action against the Simon for President Committee and James C. Rosapepe, as treasurer.
2. Take no further action against Jader Fuel, Inc. and Wachtell, Lipton, Rosen & Katz.
3. Close the file.
4. Approve the appropriate letters as recommended in the General Counsel's June 23, 1995 memorandum to the Commission.

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

Attest:

6-29-95
Date

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

95043663928



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

June 30, 1995

Leslie J. Kerman, Esq.
Epstein, Becker & Green, P.C.
1227 25th Street, NW
Washington, DC 20037-1156

RE: MUR 3375
Simon for President
Committee and James C.
Rosapepe, as treasurer

Dear Ms. Kerman:

On December 19, 1991, you were notified that the Federal Election Commission ("Commission") found reason to believe your clients, Paul Simon for President Committee and James C. Rosapepe, as treasurer, violated 2 U.S.C. §§ 432(c), 434(b), 441a(b)(1)(A), 441a(f), and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 26 U.S.C. § 9035(a), a provision of Chapters 95 and 96 of Title 26, U.S. Code.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against your clients. Accordingly, the Commission closed its file in this matter on June 27, 1995.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

95043663229



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

June 30, 1995

Roger Meyers
Jader Fuel Co., Inc.
P.O. Box 620
Shawneetown, IL 62984

RE: MUR 3375
Jader Fuel Co., Inc.

Dear Mr. Meyers:

On December 19, 1991, Jader Fuel Co., Inc. ("Jader") was notified that the Federal Election Commission ("Commission") found reason to believe that Jader violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against Jader. Accordingly, the Commission closed its file in this matter on June 27, 1995.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

95043663930



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20545

June 30, 1995

Steve Wittington
Groves Printing Company, Inc.
60 Ravenscroft Drive
Asheville, NC 28802

RE: MUR 3375

Dear Mr. Wittington:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

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 receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

95043663931



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

June 30, 1995

Bernard W. Nussbaum, Esq.
Wachtell, Lipton, Rosen & Katz
299 Park Avenue
New York, NY 10171

RE: MUR 3375
Wachtell, Lipton, Rosen
& Katz

Dear Mr. Nussbaum:

On December 19, 1991, Wachtell, Lipton, Rosen & Katz ("Wachtell") was notified that the Federal Election Commission ("Commission") found reason to believe that Wachtell violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against Wachtell. Accordingly, the Commission closed its file in this matter on June 27, 1995.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar
Attorney

95043663932



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3375

DATE FILMED 7/29/95 CAMERA NO. 1

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