



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3435/3428

7/31/92

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FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20461

*Connelly*

**MEMORANDUM**

TO: COMMISSIONERS  
GENERAL COUNSEL NOBLE  
STAFF DIRECTOR SURINA  
PRESS OFFICER EILAND

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

DATE: JULY 28, 1992

SUBJECT: STATEMENT OF REASONS FOR MUR 3435/3428

Attached is a copy of the Statement of Reasons in  
MUR 3435/3428 signed by Commissioners Aikens, Elliott,  
McDonald and McGarry. This was received in the Commission  
Secretary's Office on Monday, July 27, 1992 at 4:09 p.m.

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# FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

## STATEMENT OF REASONS

In the Matter of )  
Kirkpatrick & Lockhart )  
Richard L. Thornburgh ) NUR 3435/3428  
Thornburgh for Senate Committee )  
and Raymond P. Dimuzio, )  
as treasurer )

On June 23, 1992, a majority of the Federal Election Commission rejected the recommendations of the Office of General Counsel to find reason to believe the law firm of Kirkpatrick & Lockhart, Richard L. Thornburgh, and the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated the Federal Election Campaign Act concerning Mr. Thornburgh's employment at the firm while a candidate for U.S. Senate. Instead, the Commission voted to find no reason to believe a violation of the Act occurred, and closed the file.

The complainants in these matters alleged (1) the compensation paid to Richard L. Thornburgh by Kirkpatrick & Lockhart was an impermissible contribution to Mr. Thornburgh's campaign and (2) the firm's advance of secretarial and support services to the Thornburgh For Senate Committee was also a contribution in violation of the limits and prohibitions of the Act.

### 1. Compensation as a Contribution

The Federal Election Campaign Act limits the amount a candidate may receive in contributions from any one source. 2 U.S.C. § 441(a). The Act defines "contribution" as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person to influence any election for federal office. 2 U.S.C. § 431(8)(A)(i). A candidate's receipt or use of personal funds during a campaign is not a contribution, as long as the funds are from a salary or other bona fide employment. 11 CFR 110.10(a),(b)(2).

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The Commission has, on several occasions, considered the issue of whether regular compensation paid to a partner in a law firm constitutes a "contribution" when that partner spends time away from the firm on campaign-related activity. The Commission has concluded when a partner's compensation is at least partially based on his or her number of client-billable hours, then the partner's compensation must be reduced to reflect the lower number of hours worked on firm business due to the campaign activity. Advisory Opinion 1978-6. If the partner's compensation is not reduced, the amount attributable to lower billable hours is considered a contribution by the partnership to the benefiting candidate subject to the limits of 2 U.S.C. § 441a. Id. See also Advisory Opinion 1980-115.

If a partner's compensation is not based on the number of hours worked, but is instead based on an ownership interest in the firm, then that partner's full compensation does not constitute a contribution by the firm. Advisory Opinions 1979-58, 1980-107. The Commission has placed partners in this category if their proprietary compensation is based on their stature in the bar, ability to attract clients, problem solving and counseling. Id. The Commission understands these partners have wide discretion in the use of their time, and that no reduction in the partner's compensation would occur if he spent less time on law firm business for any reason. Id.

Richard L. Thornburgh was a candidate in the November 5, 1991 special election for the U.S. Senate from Pennsylvania. Before entering the race, Mr. Thornburgh resigned as Attorney General of the United States on August 15, 1991 and joined Kirkpatrick & Lockhart as a partner on August 19, 1991. Shortly after his arrival at the firm, Mr. Thornburgh announced his candidacy for the Senate.

Mr. Thornburgh's compensation as a partner at Kirkpatrick & Lockhart in 1991 was a share of the firm's projected annual net profits. According to the Committee's Response to the Complaint, distribution is made to each partner in monthly accruals of 1/12 of that partner's annual projected share. The Responses contend Mr. Thornburgh received some monthly compensation on that basis during his two-and-a-half month campaign. Thornburgh Response at 3-4.

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On the basis of the Responses to the Complaint, we concluded Mr. Thornburgh's compensation was based on his proprietary interest in the firm, and not on his client billings or billable hours. The firm calculated Mr. Thornburgh's ownership share on "the belief that his legal skills, broad experience in government, professional standing, reputation in the community and distinguished record of public service would benefit the Firm, enhance its professional standing and reputation and enhance its ability to serve and to attract clients." Craig Aff. at para. 12. We agree with the respondent's assertion that "any law firm having the former Attorney General of the United States and governor of Pennsylvania as a partner will assuredly enhance its public and professional reputation .... [although] his compensation has not been tied to specific billable hours nor specific time spent on firm activities." Thornburgh Response at 4. Accordingly, we found no reason to believe the firm violated 2 U.S.C. § 441(a) in compensating Mr. Thornburgh during his campaign.

We disagree with the characterization that Advisory Opinions 1979-58 and 1980-107 require a continuous relationship between the law firm and the partner before the onset of the partner's political activity. First G.C. Report at 9. The underlying rationale of those opinions had nothing to do with continuity of employment, but on whether the partner was being compensated as an owner, rather than as a producer of revenue through client billings for the firm. Therefore, we placed no emphasis on the timing or sequence of Mr. Thornburgh's partnership services at the firm.

## 2. Advance of Secretarial and Support Services.

The complainants also claim the Thornburgh for Senate Committee's use of Kirkpatrick & Lockhart office space, equipment and support staff was an in-kind contribution by the firm. According to the responses, however, the law firm segregated and billed the Committee for 100 percent of the salaries and expenses it incurred in connection with Mr. Thornburgh's Senate campaign. The responses provided documentation that these bills were promptly paid, giving us no reason to believe the firm made, or the Committee accepted, any contribution in violation of 2 U.S.C. § 441a. See Dimuzio Aff., Craig Aff. at para. 16 and Attachment A.

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Our decision on this issue is, in fact, consistent with the General Counsel's recommendations in MUR 1741. In that case, the General Counsel did not recommend finding probable cause to believe the law firm of Winston & Strawn violated 2 U.S.C. §441a when it billed the Committee for the Future of America for rent, leased equipment and disburseable support services incurred by the committee. This recommendation was adopted even though the political committee "did receive more lenient credit treatment than that accorded other subtenants". MUR 1741 G.C. Brief at 18 (March 18, 1986).

Accordingly, the Commission found no reason to believe Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441a(a)(1)(A) and 441c(a)(1) and no reason to believe Richard L. Thornburgh, the Thornburgh for Senate Committee and Raymond P. Dimuzio, as<sup>1</sup> treasurer, violated 2 U.S.C. §§ 441a(f) and 441c(a)(2).

Joan D. Aikens  
Joan D. Aikens  
Commissioner

Danny Lee McDonald  
Danny Lee McDonald  
Commissioner

Lee Ann Elliott  
Lee Ann Elliott  
Commissioner

Joan Warren McGarry  
Joan Warren McGarry  
Commissioner

July 27, 1992

1. Additionally, our finding no reason to believe any contribution occurred under §441(a) obviously means no prohibited contribution occurred under 2 U.S.C. § 441c, as well.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3435

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MUR 3428

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BEFORE THE FEDERAL ELECTION COMMISSION  
OF THE UNITED STATES OF AMERICA

IN THE MATTER OF:

Michael Waldman,  
Director, Public Citizen's  
Congress Watch,

v.

Kirkpatrick & Lockhart,  
A Law Firm.

MUR 3428

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
91 OCT -4 AM 9:51

COMPLAINT

Michael Waldman, Director of Public Citizen's Congress Watch, 215 Pennsylvania Avenue S.E., Washington, D.C. 20003, files this complaint and accompanying exhibits against Kirkpatrick & Lockhart, a law firm with its principal office at 1500 Oliver Building, Pittsburgh, Pennsylvania 15222. Public Citizen is a non-profit, public-interest organization dedicated to the promotion of greater government accountability which has approximately 6,000 members in the Commonwealth of Pennsylvania. This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1).

I. FACTS

Richard Thornburgh, former Attorney General of the United States, is currently a candidate for one of the two Pennsylvania seats in the United States Senate. The general election for this Senate seat is to be held in November 1991. After resigning his position as Attorney General in September 1991, Mr. Thornburgh joined the Pittsburgh, Pennsylvania, law firm of Kirkpatrick & Lockhart, where he was formerly employed. According to press reports, Mr. Thornburgh joined Kirkpatrick & Lockhart as a full

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partner, rather than as "counsel," the status that law firms usually assign to persons associated with the firm who are running for public office. (Exhibit A).

Kirkpatrick & Lockhart is currently a contractor to the federal government. It is under contract to perform legal services for two federal agencies, the Resolution Trust Corporation and the Federal Deposit Insurance Corporation. Kirkpatrick & Lockhart appears on databases of contractors for both agencies. (Exhibit B).

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It appears, from press reports, that Mr. Thornburgh may be performing no substantial gainful activity at Kirkpatrick & Lockhart. According to an article in the Legal Times of Washington, D.C., Edward Craig, III, chairman of Kirkpatrick & Lockhart's management committee, stated that Mr. Thornburgh would not have to "carry a partner's workload" because "'His value to us is not measured out merely by the number of billable hours he records.... He helps us in lots of ways." (Exhibit A). Moreover, the extremely short time period between Mr. Thornburgh's departure from the government and the election makes it very unlikely that Mr. Thornburgh will perform substantial legal work for Kirkpatrick & Lockhart.

Nonetheless, Mr. Thornburgh is earning a substantial income as a partner at Kirkpatrick & Lockhart. His campaign spokesman stated that Mr. Thornburgh rejoined the firm for "purposes of income." (Exhibit C). As a partner of Kirkpatrick & Lockhart, he is undoubtedly earning substantially more than he would under the



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usual "of counsel" arrangement. Mr. Thornburgh may also be using his office space, office equipment, and support staff at Kirkpatrick & Lockhart for campaign purposes.

## II. VIOLATIONS

Kirkpatrick & Lockhart's provision of a salary, office space, office equipment, and support staff to Mr. Thornburgh violates 2 U.S.C. § 441c(a). Under that section, it is unlawful for any person "who enters into any contract with the United States or any department or agency thereof for the rendition of personal services ... directly or indirectly to make any contribution of money or other things of value ... to any ... candidate for public office or to any person for any political purpose or use." In light of the insubstantial work that Mr. Thornburgh is performing for Kirkpatrick & Lockhart, the law firm is apparently making a "contribution" of money and other things of value (such as office space, office equipment, and support staff) to him. Further, Mr. Thornburgh's relationship with Kirkpatrick & Lockhart appears designed to provide Mr. Thornburgh with a private income which he can use for expenses of his campaign, or to pay his personal expenses while devoting the great majority of his time to political activities. Finally, if Mr. Thornburgh is using office space, office equipment, and support staff at Kirkpatrick & Lockhart to conduct political activities, then the law firm has provided him with things of value for political use.

Furthermore, the substantial salary, office space, office equipment, and support staff provided by Kirkpatrick & Lockhart to

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Mr. Thornburgh may be designed to evade limits on permissible campaign contributions by partnerships. Under 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed \$1,000. The term "person" is specifically defined in 2 U.S.C. § 431(11) to include partnerships like Kirkpatrick & Lockhart. Kirkpatrick & Lockhart has undoubtedly provided a salary and other things of value to Mr. Thornburgh in excess of \$1,000 without receiving substantial legal work in return. Therefore, it may have violated the \$1,000 limit on contributions.

### III. PRAYER FOR RELIEF

The complainant requests that the Commission investigate these violations of 2 U.S.C. § 441c(a), seek the maximum penalties available under the law for the violations, and take all steps necessary, including civil and injunctive action, to prevent Kirkpatrick & Lockhart from continuing their violations of the law.

### IV. VERIFICATION

The undersigned complainant swears that the allegations and facts set forth in this complaint are true to the best of his knowledge, information, and belief.

Michael Waldman

Michael Waldman

Director, Public Citizen's  
Congress Watch  
215 Pennsylvania Avenue S.E.  
Washington, D.C. 20003

Subscribed and sworn before me this 3rd day of October, 1991.

Joan J. Cotter  
Notary Public

My commission expires:

April 30, 1994

Paul R.Q. Wolfson  
David C. Vladeck  
PUBLIC CITIZEN LITIGATION GROUP  
Suite 700  
2000 P Street, N.W.  
Washington, D.C. 20036  
(202) 833-3000

Attorneys for Complainant





Richard Thornburgh, shown here on the campaign trail in Pennsylvania, is coming under scrutiny for his ties to Kirkpatrick & Lockhart.

## Thornburgh's Cushy Deal

Critics Probe What Senate Candidate,  
Law Firm Gain From Close Relationship

BY DANIEL KLAIDMAN

When Kirkpatrick & Lockhart signed on Richard Thornburgh as a partner last month, the Pittsburgh-based firm eagerly showcased its prize catch. The 330-lawyer firm placed advertisements in newspapers all over the country, heralding the arrival of the former attorney general and current candidate for the U.S. Senate from Pennsylvania.

But try finding out *anything* about what Thornburgh is doing to earn his keep—or how much money he's taking home—and the firm's enthusiastic crowing gives way to cold silence.

Kirkpatrick & Lockhart leaders, citing a policy against disclosing information about internal firm operations, refuse to comment on what kind of work—if any—Thornburgh is doing. They won't say if he's got a financial stake or if he is a non-equity partner. They won't even say how often Thornburgh stops in at the office as he zigzags his way across Pennsylvania in his blitz campaign to replace the late GOP Sen. John Heinz in the state's special Senate election.

But the firm's silence hasn't stopped critics, including Thornburgh's Demo-

cratic opponent, Sen. Harris Wofford (who was appointed to fill Heinz's seat until the election), from raising tough questions about the deal Kirkpatrick & Lockhart has struck with Thornburgh. Those questions are uncomfortable for one of Pennsylvania's most venerable, white-shoe firms, and could prove to be a political liability for its most famous partner.

The bottom-line question is whether Kirkpatrick & Lockhart—which has a substantial Washington-based legislative practice—has, in effect, given Thornburgh a lucrative sinecure. If so, critics say, there may be an expectation that Thornburgh will return the firm's favor if and when he arrives on Capitol Hill.

"When a powerful politician goes on the payroll of an influential lobbying firm and is asked to do little work in exchange for that money, then something is rotten in Denmark," says Wofford campaign manager Paul Begala.

Some critics even suggest that Thornburgh's salary from Kirkpatrick & Lockhart is little more than a glorified campaign contribution.

"The big question is: To what extent is

SEE THORNBURGH, PAGE 15

EXHIBIT A

# Thornburgh's Firm Perch: Serious Job or Simple Sinecure?

## THORNBURGH FROM PAGE 1

this money for nothing, and is he using his salary to fund his campaign," says Michael Waldman, director of Public Citizen's Congress Watch. "People have to know if they're electing a senator or a law firm."

Thornburgh was on the campaign trail and unavailable for comment. His campaign spokesman, former Justice Department spokesman Dan Eramian, says absolutely nothing is wrong with Thornburgh's arrangement with Kirkpatrick & Lockhart. Eramian adds that, over the years, Thornburgh has scrupulously sought to avoid any favoritism toward the firm.

### Campaign Fodder

Nevertheless, Thornburgh's relationship with the firm has already become a campaign issue. On Sept. 6, environmental groups held a demonstration in downtown Pittsburgh, protesting that Thornburgh's arrival at Kirkpatrick & Lockhart had helped two local hazardous-waste management companies—both

Kirkpatrick & Lockhart clients—win faster approval of operating permits from local regulators. The environmental coalition branded the companies polluters and argued that Kirkpatrick & Lockhart helped them clear regulatory hurdles.

Thornburgh was forced to defend his environmental record, and he distanced himself from any dealings with the companies via the firm.

"I don't represent them. If [Kirkpatrick & Lockhart] does represent them, it has no connection with me," Thornburgh said in a Sept. 7 interview with local media in Beaver, Pa.

Thornburgh attempted to downplay his overall involvement with Kirkpatrick. But his effort left his actual level of involvement with the firm and its clients open to debate.

"My representation is confined to advising my partners in matters that they're handling," Thornburgh said in the interview, which aired on WMBA radio in Beaver.

### Center of Attention

The practice of lawyers using non-demanding law firm jobs as launching pads for political office is hardly a new phenomenon. Indeed, Kirkpatrick & Lockhart has played that part for Thornburgh throughout his political career.

But Thornburgh's current arrangement with the law firm has prompted Pennsylvania political insiders, government watchdogs, and even some former Thornburgh colleagues to take a close look at the setup and its consequences.

First, the negligible amount of time Thornburgh is expected to remain at the firm has raised concerns. He joined Kirkpatrick & Lockhart only two months before the Nov. 5 special election, which Thornburgh is heavily favored to win.

His spokesman acknowledges that with Thornburgh's frenetic campaign schedule, he won't be spending a lot of time at the firm. "We're trying to squeeze a six-month campaign into seven weeks," says Eramian.

Critics are also bothered by the fact that Kirkpatrick & Lockhart has apparently hired Thornburgh as a full partner. Even law firms that have maintained long relationships with their lawyer-candidates—the link between Thornburgh and Kirkpatrick & Lockhart dates back to 1959—have traditionally given them of counsel



Michael Waldman is asking what Thornburgh does for his salary.



AP/WIDE WORLD PHOTO

### **Richard Thornburgh is favored to hold a Senate seat for the GOP.**

status. Many observers are surprised that Kirkpatrick & Lockhart and Thornburgh have broken that mold.

And Thornburgh comes in for closer scrutiny because of his assiduous efforts to cultivate a squeaky clean image throughout his 22-year career in public service.

Thornburgh came to the Justice Department in 1988 riding a wave of good will as a corruption-buster and the man expected to restore respectability to an agency sullied during the tenure of Attorney General Edwin Meese III.

For Thornburgh to exit the Justice Department and immediately accept a hefty law-firm salary in exchange for a paltry amount of work smacks some of the kind of influence-peddling he assailed as a prosecutor.

"I think it's very distressing that he would do that," says a Pennsylvania lawyer who has worked closely with Thornburgh in the past.

"It's a question of appearances," adds this lawyer, who asks not to be identified. "Everybody knows he's out there carn-

paing every day. It doesn't look good for him to return to a cushy law firm job."

While neither the law firm nor the campaign will reveal what Thornburgh is earning, average profits per partner at Kirkpatrick & Lockhart are \$265,000 a year, according to 1990 estimates by *The American Lawyer*, a magazine affiliated with *Legal Times*. According to Thornburgh's 1988 financial disclosure report, filed with the Justice Department after he became attorney general, his partnership draw at Kirkpatrick & Lockhart was \$251,000.

Eramian hotly contests the suggestion that Kirkpatrick is giving Thornburgh a free ride. He says the former Pennsylvania governor talks with his partners by telephone almost every day and "advises them on a range of legal issues."

Many of Thornburgh's former associates at Justice say it would be out of character for the hard-working lawyer to take money for little or no labor.

Edward Craig III, chairman of Kirkpatrick's management committee, did not return phone calls or respond to written questions seeking his comment for this article. But earlier, in an Aug. 30 interview with *Legal Times*, he suggested that Thornburgh won't be expected to carry a normal partner's workload.

"His value to us is not measured out merely by the number of billable hours he records," said Craig. "He helps us in lots of ways."

### **A Good Fit**

The relationship between Thornburgh and Kirkpatrick & Lockhart has been long and mutually beneficial.

After graduating from the University of Pittsburgh School of Law in 1957, Thornburgh worked in the legal department of the Aluminum Company of America (Alcoa) before joining Kirkpatrick & Lockhart in 1959. As an associate, he specialized in mergers and acquisitions.

Thornburgh was passed over for partner at Kirkpatrick & Lockhart. But his career took off in 1969 when he was tapped to become U.S. attorney for the Western District of Pennsylvania. There, his aggressive prosecution of Harrisburg officials helped him earn a reputation as a crusader against public corruption and establish a broad political base in the state.





**Sen. Harris Wofford will face Thornburgh in the fall election.**

#### **THORNBURGH FROM PAGE 15**

In 1975, Thornburgh left his U.S. attorney's perch for a plum Justice Department job in Washington, serving a two-year stint as chief of the department's Criminal Division. He returned to Kirkpatrick & Lockhart in 1977 as a partner, and the firm heavily supported his 1978 bid for the governorship.

Thornburgh won high marks for his fiscal prudence and efficient management. But during Thornburgh's second term as governor, Democrats accused his administration of engaging in "pinstripe patronage," citing bond and other municipal work that was doled out to law firms that had contributed to his campaign. Kirkpatrick & Lockhart was never implicated.

The firm was there for Thornburgh again after he left the governor's mansion in 1987. He took a job at Harvard University, heading the John F. Kennedy School of Government's Institute of Politics. Thornburgh—never considered much of a rainmaker—held down a quarter-million-dollar partnership with Kirkpatrick & Lockhart even while toiling in the ivory tower.

#### **'The Perception of Access'**

If Kirkpatrick & Lockhart has been so good to Richard Thornburgh for more than three decades, the question bears asking: What's in it for the firm? Kirkpatrick is, of course, counting on Thornburgh's high visibility and political stock as a magnet to attract clients.

"It's hard to imagine that Thornburgh will do any legal work for them, but they can sell the perception of access," says one Pittsburgh lawyer active in Democratic Party politics.

"Thornburgh has had a long relationship with those guys, and what the firm is doing is essentially reminding everyone of that relationship," this lawyer says. "It's a perception that someone at the firm can always get Dick Thornburgh on the line. That's a real draw for potential clients."

Indeed, at least one Kirkpatrick & Lockhart client says her company benefited from Thornburgh's ties to the firm when he was attorney general—and she expects that such advantages will continue if he gets into the Senate.

"We view Thornburgh's coming to Kirkpatrick & Lockhart as a real plus," says Sheila Barton, an in-house lawyer at Search Group Inc. of Sacramento, Calif., which is represented by Robert Belair, a partner in Kirkpatrick's D.C. office.

Search Group, a non-profit computer company that advises law-enforcement agencies and courts on improving information systems, is largely funded through multimillion-dollar grants from the Justice Department's Office of Justice Programs. Kirkpatrick earned about \$100,000 in lobbying fees from Search Group over the

ILLUSTRATION BY MICHAEL O'NEILL

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last five years, according to lobby registration records.

In June, Barton says, Thornburgh, then the attorney general, gave the keynote address at a conference in Washington jointly sponsored by Search Group and the Justice Department's Bureau of Justice Statistics, which is part of the Office of Justice Programs.

"Thornburgh knew that Belair is counsel to Search Group, and that didn't hurt us at all," says Barton. "Let's just put it that way."

Eramian and Search Group's executive director, Gary Cooper, say that Barton is mistaken; they say Belair had nothing to do with Thornburgh's decision to speak at the conference. They also say there is no connection between Thornburgh's ties to Kirkpatrick & Lockhart and the company's Justice Department contracts. Belair did not return phone calls.

#### Senate Ethics

There is no hard evidence that Thornburgh intervened on behalf of Kirkpatrick & Lockhart clients while he was attorney general; it would have been a serious breach if he had.

But as a U.S. senator, he would be permitted under the law and ethics rules to vote on legislation directly affecting the firm's clients. In that setting, he'll have to be especially careful to avoid conflicts.

Kirkpatrick & Lockhart, a broad-based firm that handles everything from corporate and tax work to labor, pension, and environmental issues, has a number of clients who routinely have business on Capitol Hill. Prominent among them are the Pittsburgh-based Westinghouse Corp., the Grocery Manufacturers Association, the Meridian Bank Corp., and a host of other banks and investment companies.

Critics of Thornburgh's arrangement with Kirkpatrick & Lockhart say that potential conflicts of interest will arise over such clients every time they head for Capitol Hill.

"All of the firm's clients have terrific access to him and his decision-making—better access than other citizens of the

state," says Ellen Miller of the Center for Responsive Politics, a D.C.-based campaign finance watchdog group.

"It's further evidence of our two-tiered



**Ellen Miller raises the issue of potential conflicts of interest.**

system, where you have to pay to play," Miller adds.

But Thornburgh spokesman Eramian insists that a Sen. Thornburgh would never give preferential treatment to his firm or to any of its clients.

"No client of Kirkpatrick & Lockhart will have any more access to Dick Thornburgh than any other citizen of Pennsylvania," Eramian says. □

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# INADMISSIBLE

**Kirkpatrick's Favorite Son . . .** Talk about cushy jobs. Richard Thornburgh, who resigned as attorney general last month, will have a nice paying post with the Pittsburgh office of Kirkpatrick & Lockhart from which to wage his campaign for the U.S. Senate. The firm has made Thornburgh a partner, rather than give him the of-counsel title that firms typically hand their lawyer-candidates. Edward Craig III, chairman of Kirkpatrick & Lockhart's management committee, says the firm is simply following its custom in restoring Thornburgh to the position he held there before leaving for the Justice Department in 1984. But with the special Senate election looming in November, can Thornburgh carry a partner's workload? He probably won't have to. "His value to us is not measured out merely by the number of billable hours he records," Craig says of his prize recruit, who raises the firm's profile mainly by his association. "He helps us in lots of ways." Thornburgh campaign spokesman Dan Eranian could not be reached for comment.



Richard Thornburgh

**Following the Money . . .** With the Soviet Union's one-dimensional political system a thing of the past, American lawyers are quickly working to cover all the newly formed bases—namely, the Soviet Union's growing roster of independent republics. D.C.'s Steptoe & Johnson and Chicago's Baker & McKenzie, which both have Moscow offices, are already shopping around for lawyers to represent them outside the Soviet capital. Eugene Theroux, a partner in Baker & McKenzie's D.C. office, says the firm will now be taking more lawyers in the republics to give clients greater access to business activities outside the Russian Republic. "It has become a much larger playing field," says Theroux. "Our Moscow office may be of some assistance, but not comprehensive for projects that need to be approved in places like Riga." Steptoe & Johnson partner Sarah Carvey agrees, noting that the surge of business generated by the fallout from the failed coup creates a greater need to establish a presence in outlying republics. "We're strengthening a network of affiliates in capitals of republics where clients are doing business," Carvey says.

**Lending a Hand . . .** While welfare groups may give George Bush's administration poor marks for the way it deals with the foster-care crisis, an aide from the Department of Health and Human Services has helped broker a settlement that will bring massive changes in the D.C. foster-care system. D. Ray Sirry, associate commissioner of the Children's Bureau and one of four HHS aides on loan to the D.C. Department of Human Services, was the intermediary between officials of the D.C. department and the Children's Rights Project of the American Civil Liberties Union during three months of negotiations. The result: an 84-page settlement, approved Aug. 24 by Judge Thomas Hogan of the U.S. District Court for the District of Columbia. Sirry, former head of Virginia's Department of Social Services, relayed proposals and comments between the parties and mediated the frequently protracted negotiating sessions. "It literally went from zero agreement to complete agreement," he says. Marden Robinson Levy, head of the New York-based ACLU project, calls Sirry's role "very helpful." The settlement sets the standard of foster-care special workers at 20 and seeks to limit the number of unrelated children to be placed in a single foster home.

**Latham's Layoffs . . .** Saying there is not enough work to go around, the D.C. office of Los Angeles' Latham & Watkins laid off four associates last month. "The demand is down for legal services for everybody," observed national managing partner John P. Walker Jr. In all, the firm dropped 43 associates from



RTS CONTRACTOR DATABASE  
OFFICES, CAPABILITIES, AND APPRAISERS

NAME: KIMPATRICK & LOCKHART

TRN ID: 250921010

ORGANIZATIONAL STRUCTURE

JOHN GARDY FARM 0  
KIMPATRICK CODE: 0000  
SMALL BUSINESS FIRM 0  
JOHN GARDY FARM 0

OFFICES

PRINCIPAL OFFICE: 001  
CONTACT: JOHN G. GARDY  
ADDRESS: 1500 OLIVER BUILDING

PIZZAHOUSE, PA 15202  
PHONE NR: (412) 353-4544  
GEORGIAN SERVICE AREA:  
010-010

OFFICE NO: 002  
CONTACT: THOMAS H. LEAHY  
ADDRESS: 1000 W STREET, N.W.  
SUITE 1000 - 9TH FLOOR  
WASHINGTON, DC 20036

PHONE NR: (202) 770-7000  
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OFFICE NO: 003  
CONTACT: JAMES E. BOWEN  
ADDRESS: 84 STATE STREET  
NEW YORK, NY 10002  
PHONE NR: (212) 227-6000  
GEORGIAN SERVICE AREA:  
010-010

OFFICE NO: 004  
CONTACT: S. BARRY STEGEMAN  
ADDRESS: 201 S. BIRCHMOUNT BLVD.  
SUITE 2000  
MIAMI, FL 33131  
PHONE NR: (305) 374-0112  
GEORGIAN SERVICE AREA:  
320-342

OFFICE NO: 005  
CONTACT: R. TANDY WOOD  
ADDRESS: 240 N. TULSA STREET  
HARTSDALE, PA 17001  
PHONE NR: (717) 231-4300  
GEORGIAN SERVICE AREA:  
210-106

PAGE 1

EXHIBIT B

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EDMUND EIGHTLINGER & GRAY  
MARKET SQUARE CENTER, SUITE 400  
101 NORTH DELAWARE STREET  
INDIANAPOLIS IN 46204

CONTACT  
817-428-4321 PETER A. WILDE, ESQUIRE

STATUS  
READ

EDMUND EIGHTLINGER & GRAY  
ONE DEVERPONT PLACE, SUITE 210  
20 N.W. FIRST STREET  
BRANDSVILLE OH 47702

812-444-7000 GARY WEL, ESQUIRE

EDMUND EIGHTLINGER & GRAY  
SUITE 200  
2317 GRANT LINE ROAD  
NEW ALBANY IN 47130

812-949-1700 RICHARD MALLINCAUX, ESQUIRE

EDMUND KIN & ANDREWS  
ARCO CENTER BUILDING, SUITE 2000  
9005 WEST SEVENTH STREET  
LOS ANGELES CA 90017

812-900-0000 CHRISTOPHER KIN, ESQUIRE

EDMUND KIN F. WOLFE  
SUITE 200  
2700 NORTH MAIN STREET  
SANTA ANA CA 92701

714-241-1400 KIN F. WOLFE, ESQUIRE

EDMUND KIRKALL, WILSON, WALKER &  
PARRISH, P.A.  
THE ENERGY PARKWAY, SUITE 400  
301 BRIDGEMONT AVENUE STREET  
BALTIMORE CITY MD 21216

410-643-0075 PAUL H. KIRKALL, ESQUIRE

EDMUND KIRKALL & BROWN, P.A.  
SUITE 900 BRICKELL CENTER  
700 BRICKELL PLAZA  
MIAMI FL 33131-2000

305-380-0101 JOHN H. PEARL, ESQUIRE

EDMUND KEMPATRIK & LORRENT  
1000 OLIVER BUILDING  
PITTSBURGH PA 15222-2070

412-375-2000 THOMAS E. KEMPEL, ESQUIRE

EDMUND KEMPATRIK & LORRENT  
SUITE 1000  
2000 N STREET, N.W.  
WASHINGTON DC 20036-2001

202-778-0000

EDMUND KERN, WOOD & PETER  
ATTORNEYS AT LAW  
200 MAIN STREET  
MARTIN GARDEN CA 90041-2000

213-397-0121 RALPH H. KERN, ESQUIRE



# Wofford closing in, poll shows

By Katharine Seelye  
Pittsburgh Post-Gazette

The first statewide independent poll to be conducted for the U.S. Senate race shows Democratic Sen. Harris Wofford much closer to catching Republican Dick Thornburgh than other candidate's polls have shown.

The Pennsylvania poll, conducted for the Pittsburgh Post-Gazette and Pittsburgh television station WTAE, shows Thornburgh with 56 percent of the vote compared with 35 percent for Wofford and the rest undecided.

Wofford's poll, conducted last week, showed him 24 points behind, up from 44 points behind in August.

Thornburgh's pollster, Fred Stepler, of Market Strategies Inc. in Southfield, Mich., said yesterday that his company's polls were virtually identical to Wofford's, with Thornburgh 23 points ahead.

"We don't believe that the Pennsylvania poll accurately reflects the lead of Gov. Thornburgh's lead," said Rich Myers, a Thornburgh spokesman.

The Pennsylvania poll, of 714 voters with a margin of error of 3 percent, showed Thornburgh ahead in every region of the state except Philadelphia, where Wofford held an insignificant lead. Wofford's poll showed similar results.

Thornburgh's poll, however, showed the former governor ahead even in Philadelphia and with a much bigger lead in the Philadelphia suburbs than the Pennsylvania poll indicated.

Stepler said it wasn't unusual in a campaign for one poll to be out of line with others conducted at the same time.

The Thornburgh campaign, which is preparing for a lunchtime fundraising visit tomorrow with President Bush in Pittsburgh, spent yesterday answering questions about an article in yesterday's *Legal Times* from Washington.

Thornburgh has been rehired by his former Pittsburgh law firm, Kirkpatrick & Lockhart, as a full partner instead of "counsel," the article said. The firm usually reserves for employees who are running for office. After Thornburgh was named attorney general, the Search Group Inc., a Sacramento, Calif., computer company under contract to the Justice Department, hired the law firm as its Washington lobbyist, according to the article.

Gov. Thornburgh, resigned himself while he was attorney general from anything having to do with his law firm, said his campaign spokesman Dan Gramian, who also said Thornburgh's spokesman on the Justice Department "he wouldn't be involved in it."

He said Thornburgh had rejoined the law firm while campaigning for the Senate for purposes of income. A spokesman for the law firm would not be reached for comment. Gramian dismissed the *Legal Times* article as full of "inaccuracies and errors." "These accusations are coming from lawyers from what I suspect are rival law firms who are indirectly helping the Democratic party. Obviously, you have political motivation going on here."





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 8, 1991

Thornburgh for Senate Committee  
Raymond P. Dimuzio, Treasurer  
P.O. Box 22070  
Pittsburgh, PA 15222

RE: MUR 3428

Dear Mr. Dimuzio:

The Federal Election Commission received a complaint which alleges that Thornburgh for Senate Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3428. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 5 U.S.C. § 552(a)(7)(D) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

92040921537

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

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosures

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

92040921538



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 8, 1991

Richard Thornburgh  
P.O. Box 22070  
Pittsburgh, PA 15222

RE: MUR 3428

Dear Mr. Thornburgh:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3428. Please refer to this number in all future correspondence.

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

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

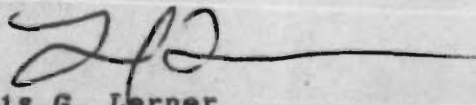
92040921539



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

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosures

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

92040921540



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 8, 1991

Kirkpatrick & Lockhart  
1500 Oliver Building  
Pittsburgh, PA 15222

RE: MUR 3428

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Kirkpatrick & Lockhart ("Law Firm") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3428. Please refer to this number in all future correspondence.

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

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

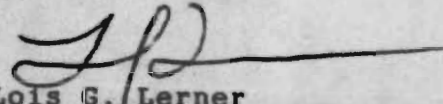
92040921541

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

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

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

92040921542





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 8, 1991

Michael Waldman  
Director of Public Citizen's  
Congress Watch  
215 Pennsylvania Avenue, SE  
Washington, D.C. 20003

RE: MUR 3428

Dear Mr. Waldman:

This letter acknowledges receipt on October 4, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Kirkpatrick & Lockhart, a Law Firm, Richard Thornburgh, and Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3428. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 219-3410.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures

92040921543

06C 3134

KIRKPATRICK & LOCKHART

1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222-5379  
TELEPHONE (412) 355-6500  
RCA TELEX 244859  
FACSIMILE (412) 355-6501  
FACSIMILE (412) 355-6461

BOSTON, MA  
HARRISBURG, PA  
MIAMI, FL  
WASHINGTON, D.C.

WRITER'S DIRECT DIAL NUMBER

(412) 355-6442

October 11, 1991

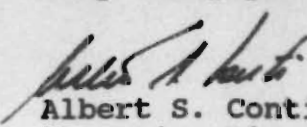
Jonathan Bernstein, Esquire  
Federal Election Commission  
Washington, D.C. 20463

Re: MUR 3428

Dear Mr. Bernstein:

We acknowledge receipt on Thursday, October 10, 1991, of a letter from the Federal Election Commission dated October 8, 1991. Enclosed is the Firm's Statement of Designation of Counsel form for this matter.

Very truly yours,

  
Albert S. Conti  
Executive Director

ASC/kab  
Enclosure

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
91 OCT 16 AM 11:18

RECEIVED  
FEDERAL ELECTION COMMISSION  
91 OCT 16 AM 10:13

92040921544

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3428

NAME OF COUNSEL: Jan Witold Baran, Esq. and Carol A. Laham, Esq.

ADDRESS: Wiley, Rein & Fielding

1776 K Street, N.W.

Washington, D.C. 20006

TELEPHONE: (202) 429-7000

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

Date

10/11/91

Signature

Administrative Partner

RESPONDENT'S NAME: Kirkpatrick & Lockhart  
Attn: Executive Director

ADDRESS: 1500 Oliver Building

Pittsburgh, PA 15222

HOME PHONE: Not Applicable

BUSINESS PHONE: (412) 355-6500

92040921545



## WILEY, REIN &amp; FIELDING

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

October 21, 1991

JAN WITOLD BARAN  
(202) 429-7330

FACSIMILE  
(202) 429-7049  
TELEX 248349 WYRN UR

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

Attn: Jonathan Bernstein

Re: MUR 3428 (Kirkpatrick & Lockhart)

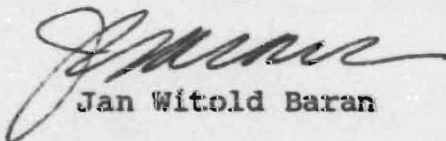
Dear Mr. Noble:

This office has been retained to represent Kirkpatrick & Lockhart ("Respondent") in Matter Under Review ("MUR") 3428. An executed Statement of Designation of Counsel form was sent to you by our client on October 11, 1991.

We are currently in the process of conferring with our client and obtaining whatever information and documentation which may prove necessary to respond to the complaint in this matter. However, that information will not be available to us prior to October 25, 1991. Moreover, because both Ms. Laham and I will be travelling during November, Respondent respectfully requests a six-week extension of time to and including December 6, 1991, to respond to this matter.

In light of the fact that there clearly will be no resolution of this matter prior to the November, 1991 election, we do not believe that this extension of time will prejudice this matter. Your favorable consideration of this request will be appreciated.

Sincerely,



Jan Witold Baran

cc: Albert S. Conti, Esq.

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
91 OCT 21 PM 5:08

92040921546

**BAKER  
&  
HOSTETLER**  
COUNSELLORS AT LAW

86C 3237  
RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIN COPY ROOM

91 OCT 24 PM 12:15

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 861-1500

FAX (202) 861-1783 • TELEX 2357276

WRITER'S DIRECT DIAL NUMBER (202)

861-1504

October 23, 1991

Jonathan A. Bernstein  
General Counsel's Office  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR 3428

Dear Mr. Bernstein:

I have been retained as counsel by the Thornburgh for Senate Committee, Raymond P. Dimuzio, Treasurer and Richard L. Thornburgh in MUR 3428. I have enclosed with this letter signed statements of designation of counsel by both parties. I will provide written statements demonstrating why no further action should be taken against either party by the Commission in this matter. It is my plan to initially provide the Commission with full and complete factual and legal materials which will permit the Commission to dispose of this matter expeditiously.

As I indicated in our telephone conversation, the 15-day period from the initial receipt of this letter by my clients provides insufficient time for the formulation by counsel of a response which would provide the Commission with sufficient detailed information for your office to deal with the matter in the most efficient manner. Also, I understand from counsel for Kirkpatrick and Lockhart that they are requesting an extension of time in which to respond to this matter. Undoubtedly the Commission could not begin a serious review of this MUR without their response. For these reasons, I request an additional 20 days in which to respond to the Commission's notification. I will endeavor to provide you with a full response before the end of that period.

If you should have any questions regarding this request or any other matter, please do not hesitate to contact me. The Thornburgh for Senate Committee and Dick Thornburgh intend to cooperate fully with the Commission to ensure the prompt resolution of this matter.

Sincerely,

*Mark Braden*

E. Mark Braden

1735-2789  
8411591002

Enclosure

CLEVELAND, OHIO  
(216) 621-0200

COLUMBUS, OHIO  
(614) 228-1541

DENVER, COLORADO  
(303) 861-0600

HOUSTON, TEXAS  
(713) 236-0020

LONG BEACH, CALIFORNIA  
(213) 432-2827

LOS ANGELES, CALIFORNIA  
(213) 624-2400

ORLANDO, FLORIDA  
(407) 649-4000

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
91 OCT 24 PM 3:51

92040921547

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3428

NAME OF COUNSEL: Mark Braden  
c/o Baker & Hostetler  
ADDRESS: Suite 1100  
Connecticut Avenue N.W.  
Washington, DC 20036

TELEPHONE: (202) 861-1504

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.

Oct. 14, 1991  
Date

  
Signature

RESPONDENT'S NAME: Raymond P. Dimuzio  
ADDRESS: c/o Deloitte & Touche  
3000 Two Oliver Plaza  
Pittsburgh, PA 15222  
HOME PHONE: (412) 963-8206  
BUSINESS PHONE: (412) 338-7210

92040921548



STATEMENT OF DESIGNATION OF COUNSEL

MUR 3428

NAME OF COUNSEL: Mark Braden  
ADDRESS: Baker & Hostettler  
1050 Connecticut Avenue, NW  
Suite 1100  
Washington, D.C. 20036  
TELEPHONE: 202/861-1504

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.

October 15, 1991

Date

  
Signature

RESPONDENT'S NAME: Richard L. Thornburgh  
ADDRESS: c/o Kirkpatrick & Lockhart  
1500 Oliver Building  
Pittsburgh, Pennsylvania 15222-5379  
HOME PHONE: 412/281-3377  
BUSINESS PHONE: 412/355-6341

92040921549



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 29, 1991

E. Mark Braden  
Baker & Hostetler  
Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036

RE: MUR 3428  
Richard L. Thornburgh,  
Thornburgh for Senate  
Committee and Raymond P.  
Dimuzio, as treasurer

Dear Mr. Braden:

This is in response to your letter dated October 23, 1991, which we received on October 24, 1991, requesting an extension of an additional 20 days to respond to the complaint in the above referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on November 10, 1991.

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

92040921550



FEDERAL ELECTION COMMISSION 91 OCT 29 PH 5:18  
WASHINGTON, D.C. 20463

RECEIVED  
F.E.C.  
SECRETARIAT

**SENSITIVE**

October 29, 1991

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner *LL*  
Associate General Counsel

SUBJECT: MUR 3428  
Request for Extension of Time

By letter dated October 21, 1991, Kirkpatrick & Lockhart requested an extension of time until December 6, 1991, or 39 days past the response due date, in which to respond to the complaint filed against it in the above referenced matter. (Attachment 1.) The letter explains that an extension is necessary because the information necessary to respond will not be available until October 25, 1991 and that its counsel will be travelling during the month of November. This Office has granted counsel to Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, an extension until November 18, 1991, to respond to the complaint.

The Office of the General Counsel recommends that the Commission grant the requested extension.

RECOMMENDATIONS

1. Grant an extension of 39 days to Kirkpatrick & Lockhart
2. Approve the appropriate letter.

Attachment

1. Request for Extension

Staff Assigned: Helen J. Kim

92040921551



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Kirkpatrick & Lockhart - Request for ) MUR 3426  
Extension of Time. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 1, 1991, the Commission decided by a vote of 4-0 to take the following actions in MUR 3428:

1. Grant an extension of 39 days to Kirkpatrick & Lockhart.
2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated October 29, 1991.

Commissioners Elliott, Josefiah, McGarry, and Thomas voted affirmatively for the decision; Commissioners Aikens and McDonald did not cast votes.

Attest:

11-1-91  
Date

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

Received in the Secretariat: Tues., Oct. 29, 1991 5:18 p.m.  
Circulated to the Commission: Wed., Oct. 30, 1991 11:00 a.m.  
Deadline for vote: Fri., Nov. 01, 1991 11:00 a.m.

bjf

92040921552



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 6, 1991

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

RE: MUR 3428  
Kirkpatrick & Lockhart

Dear Mr. Baran:

This is in response to your letter dated October 21, 1991, which we received on October 21, 1991, requesting an extension until December 6, 1991, to respond to the complaint in the above referenced matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on December 6, 1991.

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

A handwritten signature in dark ink, appearing to read "L. G. Lerner", is written over the typed name of Lois G. Lerner.

BY: Lois G. Lerner  
Associate General Counsel

92040921553

mur

34 35

92040921554





# The Democratic Party Of Pennsylvania

510 North Third Street • Harrisburg, Pennsylvania 17101 • (717) 238-9381

October 1, 1991

Federal Election Commission  
General Counsel  
999 E Street, NW  
Washington, DC 20002

re: Richard L. Thornburgh  
candidate for U. S. Senate

Partners, generally and severally  
Kirkpatrick & Lockhart

Dear General Counsel:

MUR 3435

The Legal Times reports that Dick Thornburgh has returned to Kirkpatrick and Lockhart as a partner rather than with the "of-counsel" status usually afforded by firms to political candidates. The chairman of the partnership's management committee says "His value to us is not measured out merely in the form of the number of billable hours he records. He helps us in lots of ways."

In an article in yesterday's edition of Legal Times, Thornburgh sidestepped the question of what he actually does as a partner at Kirkpatrick and Lockhart: "My representation is confined to advising my partners in matters that they're handling." His campaign advisors say his contact with the firm is limited to intermittent telephone calls. The American Lawyer estimated in 1990 that the average annual profits for K&L partners are \$265,000. Today in the Philadelphia Inquirer, a spokesman for Thornburgh said that he rejoined Kirkpatrick and Lockhart while campaigning for the Senate "for purposes of income." Judging from this information regarding the amount of work that Dick Thornburgh is doing for Kirkpatrick and Lockhart, Thornburgh's income from the law firm seems suspiciously like a massive corporate campaign contribution.

At the same time, Kirkpatrick and Lockhart is under contract with the federal government's Resolution Trust Corporation and the Federal Deposit Insurance Corporation as part of RTC's and FDIC's Outside Legal Counsel program.

These Federal clients put Thornburgh in violation of federal election law. Section 317 [2 USC 441c] of the Federal Election Campaign Act states that it is unlawful for any government contractor "to make any contribution of money or other things of value . . . to any political party, committee, or candidate for public office." Kirkpatrick and Lockhart is a government contractor through its involvement in the Outside Legal Counsel programs of the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, and they are using the partnership's proceeds to pay for non-working partner Thornburgh to run for the United States Senate.

The people of Pennsylvania are owed full compliance with federal election law by their candidates for federal office. I urge the Federal Election Commission to act with speed and diligence to investigate this violation of election law.

Sworn to and subscribed  
before me this 3<sup>rd</sup> day of  
October, 1991

*Renée Dreisbach*

Lawrence J. Yatch  
Chairman

Notarial Seal  
Renée Dreisbach, Notary Public  
Harrisburg, Dauphin County  
My Commission Expires Oct. 18, 1993

Kenn Baumgartner  
Vice-Chair

Sincerely,

*Bob Barnett*  
Bob Barnett  
Executive Director

Frank J. McDonnell  
Treasurer

91 OCT 21 PM 2:50

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

92040921555

# The Philadelphia Inquirer

Tuesday, October 2, 1991

## Campaign '91

### Wofford closing in, poll shows

By Katharine Seelye  
Inquirer Staff Writer

The first statewide independent poll to be conducted for the U.S. Senate race shows Democratic Sen. Harris Wofford much closer to catching Republican Dick Thornburgh than either candidate's polls have shown.

The Pennsylvania poll, conducted for the Pittsburgh Post-Gazette and Pittsburgh television station WTAE, shows Thornburgh with 50 percent of the vote compared with 38 percent for Wofford and the rest undecided.

Wofford's polls, conducted last week, showed him 24 points behind, up from 44 points behind in August.

Thornburgh's pollster, Fred Steeples, of Market Strategies Inc. in Southfield, Mich., said yesterday that his company's polls were virtually identical to Wofford's, with Thornburgh 25 points ahead.

"We don't believe that the Pennsylvania poll accurately reflects the size of Gov. Thornburgh's lead," said Rich Myers, a Thornburgh spokesman.

The Pennsylvania poll, of 714 voters with a margin of error of 4 percent, showed Thornburgh ahead in every region of the state except Philadelphia, where Wofford held an insignificant lead. Wofford's poll showed similar results.

Thornburgh's poll, however, showed the former governor ahead even in Philadelphia and with a much bigger lead in the Philadelphia suburbs than the Pennsylvania poll indicated.

Steeples said it wasn't unusual in a campaign for one poll to be out of line with others conducted at the same time.

The Thornburgh campaign, which is preparing for a lunchtime fundraising visit tomorrow with President Bush in Pittsburgh, spent yesterday answering questions about an article in yesterday's *Legal Times* from Washington.

Thornburgh has been rehired by his former Pittsburgh law firm, Kirkpatrick & Lockhart, as a full partner instead of "counsel," the status that law firms usually reserve for employees who are running for office.

After Thornburgh was named attorney general, the Search Group Inc., a Sacramento, Calif., computer company under contract to the Justice Department, hired the law firm as its Washington lobbyist, according to the article.

"Gov. Thornburgh recused himself while he was attorney general from anything having to do with his law firm," said his campaign spokesman, Dan Eramian, who was also Thornburgh's spokesman at the Justice Department. "He wouldn't be involved in it."

He said Thornburgh had rejoined the law firm while campaigning for the Senate for "purposes of income." A spokesman for the law firm could not be reached for comment.

Eramian dismissed the *Legal Times* article as full of "innuendoes and cheap shots. These accusations are coming from lawyers from what I suspect are rival law firms who admittedly belong to the Democratic party. Obviously, you have political motivation going on here."

**on &  
es, Inc.  
Search  
ants**

**Challenge  
atisfaction  
Growth  
Security  
Values**

**Service**

**t you in  
er options**

## INADMISSIBLE

**Kirkpatrick's Favorite Son . . .** Talk about cushy jobs. Richard Thornburgh, who resigned as attorney general last month, will have a nice paying post with the Pittsburgh office of Kirkpatrick & Lockhart from which to wage his campaign for the U.S. Senate. The firm has made Thornburgh a partner, rather than give him the of-counsel title that firms typically hand their lawyer-candidates. Edward Craig III, chairman of Kirkpatrick & Lockhart's management committee, says the firm is simply following its custom in restoring Thornburgh to the position he held there before leaving for the Justice Department in 1988. But with the special Senate election looming in November, can Thornburgh carry a partner's workload? He probably won't have to. "His value to us is not measured out merely by the number of billable hours he records," Craig says of his prize recruit, who takes the firm's profile heavily by his association. "He helps us in lots of ways." Thornburgh campaign spokesman Dan Eramian could not be reached for comment.



Richard Thornburgh

**Following the Money . . .** With the Soviet Union's one-dimensional political system a thing of the past, American lawyers are quickly working to cover all the newly formed bases—namely, the Soviet Union's growing roster of independent republics. D.C.'s Steptoe & Johnson and Chicago's Baker & McKenzie, which both have Moscow outposts, are already shopping around for lawyers to represent them outside the Soviet capital. Eugene Theroux, a partner in Baker & McKenzie's D.C. office, says the firm will now be hiring more lawyers in the republics to give clients greater access to business activities outside the Russian Republic. "It has become a much larger playing field," says Theroux. "Our Moscow office may be of some assistance, but not comprehensive for projects that need to be approved in places like Riga." Steptoe & Johnson partner Sarah Carey agrees, noting that the swell of business generated by the fallout from the failed coup creates a greater need to establish a presence in outlying republics. "We're strengthening a network of affiliates in capitals of republics where clients are doing business," Carey says.

**Lending a Hand . . .** While welfare groups may give George Bush's administration poor marks for the way it deals with the foster-care crisis, an aide from the Department of Health and Human Services has helped broker a settlement that will bring massive changes in the D.C. foster-care system. D. Ray Sirry, associate commissioner of the Children's Bureau and one of four HHS aides on loan to the D.C. Department of Human Services, was the intermediary between officials of the D.C. department and the Children's Rights Project of the American Civil Liberties Union during three months of negotiations. The result: an 84-page settlement, approved Aug. 26 by Judge Thomas Hogan of the U.S. District Court for the District of Columbia. Sirry, former head of Virginia's Department of Social Services, relayed proposals and comments between the parties and mediated the frequently protracted negotiating sessions. "It literally went from zero agreement to complete agreement," he says. Marcia Robinson Lowry, head of the New York-based ACLU project, calls Sirry's role "very helpful." The settlement sets the caseload of foster-care social workers at 20 and limits to three the number of unrelated children to be placed in a single foster home.

**Latham's Layoffs . . .** Saying there is not enough work to go around, the D.C. office of Los Angeles' Latham & Watkins laid off four associates last month. "The demand is down for legal services for everybody," observes national managing partner John F. Walker Jr. In all, the firm dropped 43 associates from



(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

[Sec. 316, as added by P. L. 94-283; as renumbered by P. L. 96-187, Act of January 8, 1980, effective January 8, 1980.]

[§ 142]

Section 317 [2 USC 441c]. Contributions by government contractors.

(a) It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

(c) For purposes of this section, the term "labor organization" has the meaning given it by section 321.(b)(1).

[Sec. 317, as added by P. L. 94-283; as renumbered by P. L. 96-187, Act of January 8, 1980, effective January 8, 1980.]

## [§ 143]

Sec. 318 [2 USC 441d]. Publication and distribution of statements and solicitations. (a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public advertising, such communication—

(1) 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, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication shall clearly state that the communication is paid for by such other persons and authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

[Sec. 318, as added by P. L. 94-283; as amended by P. L. 96-187, Act of January 8, 1980, effective January 8, 1980.]

→ Prior to amendment, former Section 323 read as follows:

Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if authorized by a candidate, his authorized political committee, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

(2) if not authorized by a candidate, his authorized political committee, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

## [§ 144]

Sec. 319 [2 USC 401a]. Contributions by foreign nationals. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held

§ 143 2 USC 441d

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Federal Deposit Insurance Corporation  
Washington, D.C. 20429

Legal Division

**FAX**

**FAX**

DATE: 9-5-91

**[REDACTED]**  
FAX TEL. NO: 202-736-0589

TO: **[REDACTED]**

LOCATION: \_\_\_\_\_

TEL. NO.: \_\_\_\_\_

FAX NO.: **[REDACTED]**

FROM: Pam Wilkerson

LOCATION: Legal Outside Counsel

TEL. NO.: 202-736-0584

NO. OF PAGES FOLLOWING: 1

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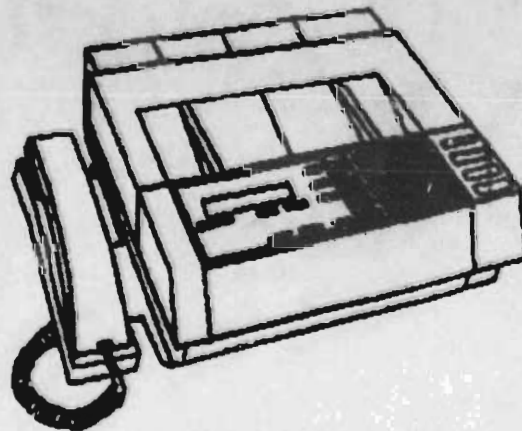
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☒ NORMAL

ACKNOWLEDGMENT REQUIRED:

☐ YES

☐ NO



Outside Counsel  
~~LEGAL RESOURCES UNIT~~

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**FAX**

92040921560



08/25/91

## ALPHABETICAL LISTING OF LAW FIRMS

81

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| KIGH100 | KIGHTLINGER & GRAY<br>MARKET SQUARE CENTER, SUITE 600<br>181 NORTH DELAWARE STREET<br>INDIANAPOLIS, IN 46204-                         | 317-638-4521 | PETER A. VALDE, ESQUIRE     | L      | Y    |
| KIGH100 | KIGHTLINGER & GRAY<br>ONE RIVERFRONT PLACE, SUITE 210<br>20 N.W. FIRST STREET<br>EVANSVILLE, IN 47708-                                | 812-444-9308 | BRENT WELLS, ESQUIRE        | L      | Y    |
| KIGH100 | KIGHTLINGER & GRAY<br>SUITE 300<br>3317 BRANT LINE ROAD<br>NEW ALBANY, IN 47150-                                                      | 812-949-2300 | RICHARD MULLINEAUX, ESQUIRE | L      | Y    |
| KIM850  | KIM & ANDREWS<br>ARCO CENTER BUILDING, SUITE 2800<br>1055 WEST SEVENTH STREET<br>LOS ANGELES, CA 90017-                               | 213-955-9500 | CHRISTOPHER KIM, ESQUIRE    | N      | Y    |
| KIM100  | KIM F. KADLETZ<br>SUITE 508<br>2700 NORTH MAIN STREET<br>SANTA ANA, CA 92701-                                                         | 714-541-1453 | KIM F. KADLETZ, ESQUIRE     | L      | Y    |
| KIM000  | KIMBALL, VILSONI, WALKER &<br>PERLSON, P.C.<br>THE HARVEY PARKWAY, SUITE 400<br>301 NORTHWEST 43RD STREET<br>OKLAHOMA CITY, OK 73116- | 405-843-8895 | PAUL H. KIMBALL, ESQUIRE    | L      | Y    |
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| KIRK130 | KIRKPATRICK & LOCKHART<br>1500 OLIVER BUILDING<br>PITTSBURGH, PA 15222-5379                                                           | 412-395-6500 | THOMAS C. MURCHO, ESQUIRE   | L      | N    |
| KIRK120 | KIRKPATRICK & LOCKHART<br>SOUTH LOBBY<br>1800 H STREET, N.W.<br>WASHINGTON, DC 20036-5891                                             | 202-778-9000 |                             | L      | N    |
| KIZ120  | KIZER, HOOD & AUSTIN<br>ATTORNEYS AT LAW<br>7601 HAIN STREET<br>BATCH HOUSE, LA 70802-9836                                            | 504-387-3121 | RALPH E. HOOD, ESQUIRE      | L      | Y    |

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FAX NO. [REDACTED]

FROM: Joe Boone

Contractor Registration Group

FAX NO. (202) 416-2497

PHONE NO. (202) 416-4097

COMMENTS: Here is your profile report, sorry for the delay.

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OFFICES, CAPABILITIES, AND APPRAISERS

NAME: KIMPATRICK & LOCKHART

TAX ID: 250921010

ORGANIZATIONAL STRUCTURE

URBAN GROW FIRM? ☐  
INDEPENDENT GROW: NONE  
SMALL BUSINESS FIRM? ☐  
JOINT VENTURE FIRM? ☐

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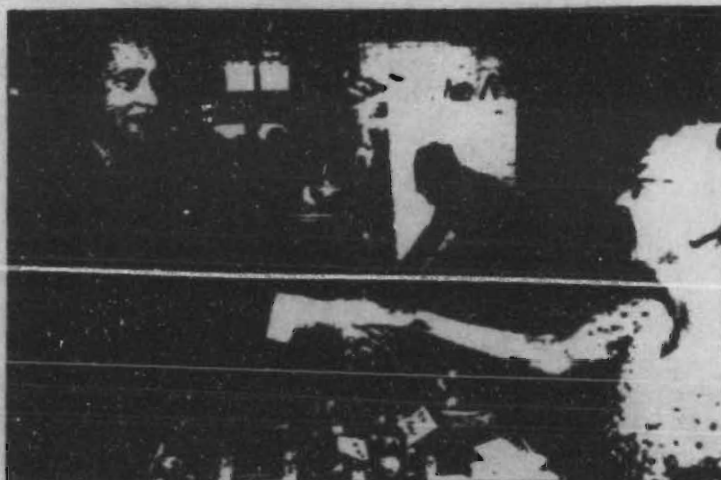
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# LEGAL TIMES

LAW AND LOBBYING IN THE NATION'S CAPITAL

WEEK OF SEPTEMBER 30, 1991 • VOL. XIV, NO. 19 • \$8.00



Richard Thornburgh, shown here on the campaign trail in Pennsylvania, is coming under scrutiny for his ties to Kirkpatrick & Lockhart.

## Thornburgh's Cushy Deal

Critics Probe What Senate Candidate,  
Law Firm Gain From Close Relationship

BY DANIEL KLAIDMAN

When Kirkpatrick & Lockhart signed on Richard Thornburgh as a partner last month, the Pittsburgh-based firm eagerly showcased its prize catch. The 330-lawyer firm placed advertisements in newspapers all over the country, heralding the arrival of the former attorney general and current candidate for the U.S. Senate from Pennsylvania.

But try finding out anything about what Thornburgh is doing to earn his keep—or how much money he's taking home—and the firm's enthusiastic crowing gives way to cold silence.

Kirkpatrick & Lockhart leaders, citing a policy against disclosing information about internal firm operations, refuse to comment on what kind of work—if any—Thornburgh is doing. They won't say if he's got a financial stake or if he is a non-equity partner. They won't even say how often Thornburgh stops in at the office as he zigzags his way across Pennsylvania in his blitz campaign to replace the late GOP Sen. John Heinz in the state's special Senate election.

But the firm's silence hasn't stopped critics, including Thornburgh's Demo-

cratic opponent, Sen. Harris Wofford (who was appointed to fill Heinz's seat until the election), from raising tough questions about the deal Kirkpatrick & Lockhart has struck with Thornburgh. Those questions are uncomfortable for one of Pennsylvania's most venerable, white-shoe firms, and could prove to be a political liability for its most famous partner.

The bottom-line question is whether Kirkpatrick & Lockhart—which has a substantial Washington-based legislative practice—has, in effect, given Thornburgh a lucrative sinecure. If so, critics say, there may be an expectation that Thornburgh will return the firm's favor if and when he arrives on Capitol Hill.

"When a powerful politician goes on the payroll of an influential lobbying firm and is asked to do little work in exchange for that money, then something is rotten in Denmark," says Wofford campaign manager Paul Begala.

Some critics even suggest that Thornburgh's salary from Kirkpatrick & Lockhart is little more than a glorified campaign contribution.

"The big question is: To what extent is

SEE THORNBURGH, PAGE 15

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# Thornburgh's Firm Perch: Serious Job or Simple Sinecure?

THORNBURGH FROM PAGE 1

this money for nothing, and is using his salary to fund his campaign," says Michael Waldman, director of Public Citizen's Congress Watch. "People have to know if they're electing a senator or a law firm."

Thornburgh was on the campaign trail and unavailable for comment. His campaign spokesman, former Justice Department spokesman Dan Eraman, says absolutely nothing is wrong with Thornburgh's arrangement with Kirkpatrick & Lockhart. Eraman adds that, over the years, Thornburgh has scrupulously sought to avoid any favoritism toward the firm.

## Campaign Fodder

Nevertheless, Thornburgh's relationship with the firm has already become a campaign issue. On Sept. 6, environmental groups held a demonstration in downtown Pittsburgh, protesting that Thornburgh's arrival at Kirkpatrick & Lockhart had helped two local hazardous-waste management companies—both



Michael Waldman is asking what Thornburgh's done for his salary.

Kirkpatrick & Lockhart clients—win faster approval of operating permits from local regulators. The environmental coalition branded the companies polluters and argued that Kirkpatrick & Lockhart helped them clear regulatory hurdles.

Thornburgh was forced to defend his environmental record, and he distanced himself from any dealings with the companies via the firm.

"I don't represent them. If [Kirkpatrick & Lockhart] does represent them, it has no connection with me," Thornburgh said in a Sept. 7 interview with local media in Beaver, Pa.

Thornburgh attempted to downplay his overall involvement with Kirkpatrick. But his effort left his actual level of involvement with the firm and its clients open to debate.

"My representation is confined to advising my partners in matters that they're handling," Thornburgh said in the interview, which aired on WMBA radio in Beaver.

## Center of Attention

The practice of lawyers using non-demanding law firm jobs as launching pads for political office is hardly a new phenomenon. Indeed, Kirkpatrick & Lockhart has played that part for Thornburgh throughout his political career.

But Thornburgh's current arrangement with the law firm has prompted Pennsylvania political insiders, government watchdogs, and even some former Thornburgh colleagues to take a close look at the setup and its consequences.

First, the negligible amount of time Thornburgh is expected to remain at the firm has raised concerns. He joined Kirkpatrick & Lockhart only two months before the Nov. 9 special election, which Thornburgh is heavily favored to win.

His spokesman acknowledges that with Thornburgh's frenetic campaign schedule, he won't be spending a lot of time at the firm. "We're trying to squeeze a six-month campaign into seven weeks," says Eraman.

Critics are also bothered by the fact that Kirkpatrick & Lockhart has apparently hired Thornburgh as a full partner. Even law firms that have maintained long relationships with their law-yes-candidates—the link between Thornburgh and Kirkpatrick & Lockhart dates back to 1959—have traditionally given them of counsel



Richard Thornburgh is favored to hold a Senate seat for the GOP.

status. Many observers are surprised that Kirkpatrick & Lockhart and Thornburgh have broken this mold.

And Thornburgh comes in for closer scrutiny because of his assiduous efforts to cultivate a squeaky clean image throughout his 22-year career in public service.

Thornburgh came to the Justice Department in 1988 riding a wave of good will as a corruption-buster and the man expected to restore respectability to an agency sullied during the tenure of Attorney General Edwin Meese III.

For Thornburgh to exit the Justice Department and immediately accept a hefty law-firm salary in exchange for a paltry amount of work smacks some of the kind of influence-peddling he assailed as a prosecutor.

"I think it's very distressing that he would do that," says a Pennsylvania lawyer who has worked closely with Thornburgh in the past.

"It's a question of appearances," adds this lawyer, who asks not to be identified. "Everybody knows he's out there can-

paying every day. It doesn't look good for him to return to a cushy law firm job."

While neither the law firm nor the campaign will reveal what Thornburgh is earning, average profits per partner at Kirkpatrick & Lockhart are \$265,000 a year, according to 1990 estimates by *The American Lawyer*, a magazine affiliated with *Legal Times*. According to Thornburgh's 1988 financial disclosure report, filed with the Justice Department after he became attorney general, his partnership drew at Kirkpatrick & Lockhart was \$251,000.

Eraman hotly contests the suggestion that Kirkpatrick is giving Thornburgh a free ride. He says the former Pennsylvania governor talks with his partners by telephone almost every day and "advises them on a range of legal issues."

Many of Thornburgh's former associates at Justice say it would be out of character for the hard-working lawyer to take money for little or no labor.

Edward Craig III, chairman of Kirkpatrick's management committee, did not return phone calls or respond to written questions seeking his comment for this article. But earlier, in an Aug. 30 interview with *Legal Times*, he suggested that Thornburgh won't be expected to carry a normal partner's workload.

"His value to us is not measured out merely by the number of billable hours he records," said Craig. "He helps us in lots of ways."

## A Good Fit

The relationship between Thornburgh and Kirkpatrick & Lockhart has been long and mutually beneficial.

After graduating from the University of Pittsburgh School of Law in 1957, Thornburgh worked in the legal department of the Aluminum Company of America (Alcoa) before joining Kirkpatrick & Lockhart in 1959. As an associate, he specialized in mergers and acquisitions.

Thornburgh was passed over for partner at Kirkpatrick & Lockhart. But his career took off in 1969 when he was tapped to become U.S. attorney for the Western District of Pennsylvania. There, his aggressive prosecution of Harrisburg officials helped him earn a reputation as a crusader against public corruption and establish a broad political base in the state.

SEE THORNBURGH, PAGE 17



Sen. Harris Wofford will face Thornburgh in the fall election.

THORNBURGH FROM PAGE 15

In 1975, Thornburgh left his U.S. attorney's perch for a plum Justice Department job in Washington, serving a two-year stint as chief of the department's Criminal Division. He returned to Kirkpatrick & Lockhart in 1977 as a partner, and the firm heavily supported his 1978 bid for the governorship.

Thornburgh won high marks for his fiscal prudence and efficient management. But during Thornburgh's second term as governor, Democrats accused his administration of engaging in "pinstripe patronage," citing bond and other municipal work that was doled out to law firms that had contributed to his campaign. Kirkpatrick & Lockhart was never implicated.

The firm was there for Thornburgh again after he left the governor's mansion in 1987. He took a job at Harvard University, heading the John F. Kennedy School of Government's Institute of Politics. Thornburgh—then considered much of a maverick—held down a quarter-million-dollar partnership with Kirkpatrick & Lockhart even while toiling in the ivory tower.

## The Perception of Access

If Kirkpatrick & Lockhart has been so good to Richard Thornburgh for more than three decades, the question bears asking: What's in it for the firm? Kirkpatrick is, of course, counting on Thornburgh's high visibility and political stock as a magnet to attract clients.

"It's hard to imagine that Thornburgh will do any legal work for them, but they can sell the perception of access," says one Pittsburgh lawyer active in Democratic Party politics.

"Thornburgh has had a long relationship with these guys, and what the firm is doing is essentially reminding everyone of that relationship," this lawyer says. "It's a perception that someone at the firm can always get Dick Thornburgh on the line. That's a real draw for potential clients."

Indeed, at least one Kirkpatrick & Lockhart client says her company benefited from Thornburgh's tie to the firm when he was attorney general—and she expects that such advantages will continue if he gets into the Senate.

"We view Thornburgh's coming to Kirkpatrick & Lockhart as a real plus," says Sheila Barton, an in-house lawyer at Search Group Inc. of Sacramento, Calif., which is represented by Robert Belair, a partner in Kirkpatrick's D.C. office.

Search Group, a non-profit computer company that advises law-enforcement agencies and courts on improving information systems, is largely funded through multimillion-dollar grants from the Justice Department's Office of Justice Programs. Kirkpatrick earned about \$100,000 in lobbying fees from Search Group over the

last five years, according to lobby registration records.

In June, Barton says, Thornburgh, then the attorney general, gave the keynote address at a conference in Washington jointly sponsored by Search Group and the Justice Department's Bureau of Justice Statistics, which is part of the Office of Justice Programs.

Thornburgh knew that Belair is counsel to Search Group, and that didn't hurt us at all," says Barton. "Let's just put it that way."

Eraman and Search Group's executive director, Gary Cooper, say that Barton is mistaken; they say Belair had nothing to do with Thornburgh's decision to speak at the conference. They also say there is no connection between Thornburgh's ties to Kirkpatrick & Lockhart and the company's Justice Department contracts. Belair did not return phone calls.

## Senate Ethics

There is no hard evidence that Thornburgh intervened on behalf of Kirkpatrick & Lockhart clients while he was attorney general; it would have been a serious breach if he had.

But as a U.S. senator, he would be permitted under the law and ethics rules to vote on legislation directly affecting the firm's clients. In that event, he'll have to be especially careful to avoid conflicts.

Kirkpatrick & Lockhart, a broad-based firm that handles everything from corporate and tax work to labor, pension, and environmental issues, has a number of clients who routinely have business on Capitol Hill. Prominent among them are the Pittsburgh-based Westinghouse Corp., the Grocery Manufacturers Association, the Meridian Bank Corp., and a host of other banks and investment companies.



Ellen Miller raises the issue of potential conflicts of interest.

system, where you have to pay to play," Miller adds.

But Thornburgh spokesman Eraman insists that a Sen. Thornburgh would never give preferential treatment to his firm or to any of its clients.

"No client of Kirkpatrick & Lockhart will have any more access to Dick Thornburgh than any other citizen of Pennsylvania," Eraman says.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1991

Thornburgh for Senate Committee  
Raymond P. Dimuzio, Treasurer  
P.O. Box 22070  
Pittsburgh, PA 15222

RE: MUR 3435

Dear Mr. Dimuzio:

The Federal Election Commission received a complaint which alleges that Thornburgh for Senate Committee ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3435. Please refer to this number in all future correspondence.

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

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

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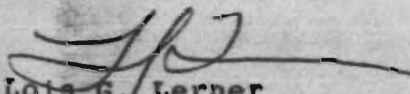


If you have any questions, please contact Helen Kim, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

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

912040921567



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 23, 1991

Richard Thornburgh  
Gateway Towers, 12-B  
320 Ft. Duquesne Blvd  
Pittsburgh, PA 15222

RE: MUR 3435

Dear Mr. Thornburgh:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3435. Please refer to this number in all future correspondence.

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

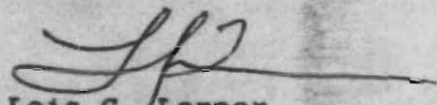
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed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

92040921568

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

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosures

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

92040921569





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 23, 1991

Kirkpatrick & Lockhart  
1500 Oliver Building  
Pittsburg, PA 15222

RE: MUR 3435

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Kirkpatrick & Lockhart ("Law Firm") may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3435. Please refer to this number in all future correspondence.

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

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

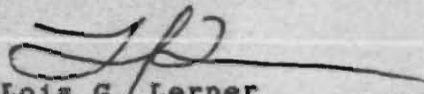
92040921570

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

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

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

92040921571



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 23, 1991

Bob Barnett, Executive Director  
The Democratic Party of Pennsylvania  
510 North Third Street  
Harrisburg, PA 17101

RE: MUR 3435

Dear Mr. Barnett:

This letter acknowledges receipt on October 21, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by, Kirkpatrick & Lockhart ("Law Firm"), Richard L. Thornburgh, and Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer. The respondents will be notified of this complaint within five days.

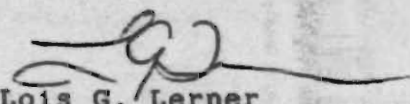
You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3435. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 219-3410.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures

92040921572



06-C 3276

KIRKPATRICK & LOCKHART

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIN COPY ROOM

1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222-5379

TELEPHONE (412) 355-6500  
RCA TELEX 244859  
FACSIMILE (412) 355-6501  
FACSIMILE (412) 355-6461

91 OCT 28

BOSTON, MA  
HARRISBURG, PA  
MIAMI, FL  
WASHINGTON, D.C.

WRITER'S DIRECT DIAL NUMBER

(412) 355-6442

October 25, 1991

RECEIVED  
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OFFICE OF GENERAL COUNSEL  
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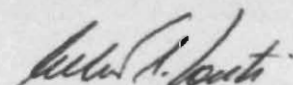
Ms. Helen Kim  
Federal Election Commission  
Washington, DC 20463

Re: MUR 3435

Dear Ms. Kim:

We acknowledge receipt on Friday, October 25, 1991, of a letter dated October 23, 1991 from the Federal Election Commission. Enclosed is the Firm's Statement of Designation of Counsel form for this matter.

Very truly yours,

  
Albert S. Conti  
Executive Director

ASC:mlf  
Enclosure

92040921573

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 3435

NAME OF COUNSEL: Jan Witold Baran, Esq. and Carol A. Laham, Esq.

ADDRESS: Wiley, Rein & Fielding

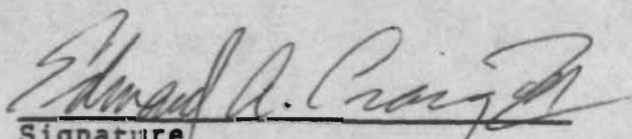
1776 K Street, N.W.

Washington, D.C. 20006

TELEPHONE: (202) 429-7000

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.

October 25, 1991  
Date

  
Signature  
Chairman of the Management Committee

RESPONDENT'S NAME: Kirkpatrick & Lockhart  
Attn.: Executive Director

ADDRESS: 1500 Oliver Building

Pittsburgh, PA 15222

HOME PHONE: Not Applicable

BUSINESS PHONE: (412) 355-6500

92040921574

06C 3306  
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FEDERAL ELECTION COMMISSION  
MAIN COR / ROOM

WILEY, REIN & FIELDING 91 OCT 31 PH 2:01

1776 K STREET, N. W.  
WASHINGTON, D. C. 20006

(202) 429-7000

October 30, 1991

JAN WITOLD BARAN  
(202) 429-7330

FACSIMILE  
(202) 429-7049  
TELEX 248349 WYRN UR

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

ATTN: Helen Kim

Re: MUR 3435 (Kirkpatrick & Lockhart)

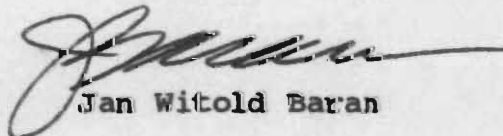
Dear Mr. Noble:

This office has been retained to represent Kirkpatrick & Lockhart ("Respondent") in Matter Under Review ("MUR") 3435. An executed Statement of Designation of Counsel form was sent to you by our client on October 25, 1991.

As indicated in my letter of October 21, 1991, we are currently in the process of conferring with our client and obtaining whatever information and documentation necessary to respond to the allegations contained in this complaint which are similar to those in MUR 3428. Further, we previously asked for an extension to and including December 6, 1991, in order to respond to the complaint in MUR 3428 due to Ms. Laham's and my travel schedules. In accordance with that request, we respectfully request an extension in this matter to December 6, 1991, at which time we would respond to both complaints.

In light of the fact that there clearly will be no resolution of this matter prior to the November 1991 election, we do not believe that this extension of time will prejudice this matter. Your favorable consideration of this request will be appreciated.

Sincerely,



Jan Witold Baran

cc: Albert S. Conti, Esq.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 6, 1991

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

RE: MUR 3435  
Kirkpatrick & Lockhart

Dear Mr. Baran:

This is in response to your letter dated October 30, 1991, which we received on October 31, 1991, requesting an extension until December 6, 1991, to respond to the complaint in the above referenced matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 6, 1991.

If you have any questions, please contact Helen J. Kim, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

92040921576

86 C 3473

**BAKER  
&  
HOSTETLER**  
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1100 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 861-1500  
FAX (202) 861-1783 • TELEX 2357278  
WRITER'S DIRECT DIAL NUMBER (202)

861-1504

November 19, 1991

**VIA HAND DELIVERY**

Ms. Helen J. Kim  
General Counsel's Office  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20563

Re: MUR 3435  
MUR 3428  
Richard L. Thornburgh  
Thornburgh for Senate Committee  
and Raymond P. Dimuzio, as Treasurer

Dear Ms. Kim:

Pursuant to our conversation, enclosed is the response without attachment. The affidavit of Ray Dimuzio will be provided under a separate cover.

If you have any additional questions, please do not hesitate to contact me. Thank you.

Sincerely,

*E. Mark Braden/clv*

E. Mark Braden

EMB/clv

Enclosure

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
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**BAKER  
&  
HOSTETLER**  
COUNSELLORS AT LAW

WASHINGTON SQUARE, SUITE 1109 • 1050 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 861-1500  
FAX (202) 861-1783 • TELEX 2357276  
WRITER'S DIRECT DIAL NUMBER (202)  
861-1504

November 19, 1991

Lawrence M. Noble, General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20563

Attn: Helen J. Kim, General Counsel's Office

Re: MUR 3428, MUR 3435  
Richard L. Thornburgh  
Thornburgh for Senate Committee and  
Raymond P. Dimuzio, as Treasurer

Dear Mr. Noble:

This letter with attached materials is written in response to a letter dated October 8, 1991 from the Federal Election Commission ("Commission") to the Thornburgh for Senate Committee ("Committee"). In your letter you stated that the Commission had received a complaint that the Thornburgh for Senate Committee may have violated the Federal Election Campaign Act of 1971 as amended ("the Act"). A copy of the complaint was enclosed with your letter.

The allegations contained in the complaint are not complex. The complaint states that the law firm of Kirpatrick & Lockhart is a contractor for the federal government and alleges that Kirpatrick & Lockhart has made illegal contributions to the Thornburgh for Senate Committee by their compensation to Mr. Thornburgh, a partner in Kirpatrick & Lockhart, and by providing in kind contributions, such as office space, equipment and support staff to Mr. Thornburgh which he allegedly used to perform work for his Senate Campaign Committee.<sup>17</sup>

<sup>17</sup> The complainants appear to be unaware of the issue of whether a law firm which represents the Federal Deposit Insurance Corporation and the Resolution Trust Corporation in foreclosures, bankruptcies or other financial acts is a federal contractor for purposes of 2 U.S.C. § 441c(a)(1) (1988); 11 C.F.R. § footnote continued

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Pursuant to your procedures you have offered the Committee the opportunity to respond in writing to demonstrate that no further action should be taken by the Commission in the matter. It is the intent of the Committee to demonstrate clearly to the Commission that neither the Committee, its treasurer nor Richard Thornburgh violated any provisions of the Act. In the absence of any facts to support a belief that such a violation occurred, the Commission should promptly terminate this matter.

#### Factual and Legal Analysis

Former United States Attorney General Richard Thornburgh has had a professional relationship either as an employee or member of the Kirkpatrick & Lockhart law firm during a period spanning more than 30 years. Except for those breaks of association when Richard Thornburgh held either elective or appointive positions of public trust, this relationship has been continuous since he was first employed by the firm as an associate in 1959. From 1959 to 1969, Thornburgh was an associate at the firm. During that period Thornburgh was actively involved in political and public service activities with the express encouragement of the firm. He played important roles in numerous political campaigns and party activities. In 1966, Thornburgh was the Republican nominee for the U.S. House of Representatives from the 14th District of Pennsylvania. In 1967, he was elected as a delegate to the Pennsylvania Commonwealth Constitutional Convention. During this period of political and public service, Richard Thornburgh's time spent directly servicing the firm's clients, billable hours, was reduced. However, his compensation was unaffected pursuant to the firm's policy of basing compensation on a variety of factors.

In 1969, Thornburgh resigned from the firm to assume the position of United States Attorney for the Western District of Pennsylvania. He served in this capacity until 1975 when he became the Assistant Attorney General in charge of the criminal division at the Department of Justice. In March of 1977, he resigned from the Department of Justice and rejoined the firm as a partner.

In January of 1978 while a member of the firm, he began his campaign for governor of Pennsylvania. During this campaign

continued footnote

115.1(a)(1)(i) and (a)2 (1991). In light of the Commission's interpretation of this restriction in Advisory Opinion 1990-20, it is quite probable that the firm is not a federal contractor and would not be prohibited from making a contribution to the Committee. This issue is not being discussed here since it is irrelevant to the Commission's resolution of this matter since no contribution was made by the firm to the Committee.

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period, he continued to practice law at a significantly reduced level of specific work for firm clients (billable hours). He was elected in the general election held in November 1978 and in January of 1979, he resigned from the firm to become governor of Pennsylvania. After serving eight years as governor of Pennsylvania, Thornburgh was again elected a member of the firm and returned to practice at the beginning of 1987. At the time Governor Thornburgh returned to the firm, he was contemplating affiliation with an academic institution. In June of 1987, he was appointed Director of the Institute of Politics of the Kennedy School of Government at Harvard University. As a result, he served dual roles as a partner in the firm and as Director of the Institute of Politics.

In July 1988, Thornburgh was nominated by then-President Reagan to the position of Attorney General of the United States. He resigned from the firm on August 12, 1988, the effective date of his confirmation as Attorney General. He served as Attorney General until resigning on August 15, 1991. On August 19, 1991, Thornburgh was again elected a partner of the firm.

At the time of his reelection as a partner of the firm, he was actively considering becoming a candidate for the United States Senate from Pennsylvania. Thornburgh announced his candidacy for the Senate on August 29, 1991 and was nominated the next day by the Republican State Committee of Pennsylvania.

Kirkpatrick & Lockhart has traditionally espoused a policy of encouraging the participation of its professional employees and members of the firm in political and community activities. Since his first association with the firm, it actively encouraged Mr. Thornburgh's participation in these activities.

Upon rejoining the firm in 1987 following his years as Governor of Pennsylvania, Thornburgh's monthly distribution rate was premised upon an annual distribution share of the firm's proceeds to him of . Upon taking the position as Director of the Institute of Politics at Harvard, his annual distribution share was reduced by an amount equal to the annual salary received from the Institute (\$85,000). Upon rejoining the firm on August 19, 1991, Mr. Thornburgh's monthly accrual was again based upon a projected annual distribution share of .

Mr. Thornburgh's compensation as a partner of the firm during the period from February 1, 1987 through August 12, 1988 and on rejoining the firm on August 19th of this year was and is not tied to the number of billable hours of legal work done for specific firm clients. His compensation as a partner has never been based on the specific number of hours worked for the firm or its clients, but rather based on a proprietary interest in the firm reflecting a number of factors. Among others, these factors including the former Attorney General's stature in the bar,

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ability to attract clients, problem solving and counseling. Any law firm having the former Attorney General of the United States and Governor of Pennsylvania as a partner will assuredly enhance its public and professional perception. It is reasonable to conclude this enhanced perception and visibility will permit the firm to discuss its professional capabilities with additional potential clients. It is also reasonable to assume that the firm will significantly benefit in its efforts to recruit the top-level candidates from law schools and to recruit other experienced attorneys. In the competitive economic circumstances that law firms presently function, the ability to attract business and quality lawyers is of great importance to the long-term development of any firm.

During his period as a partner in the firm from February 1987 through August 1988, Thornburgh did not record significant numbers of billable hours. The firm anticipated upon his rejoining it as partner in August of this year that he would not record significant billable hours. His compensation has not been tied to specific billable hours nor specific time spent on firm activities. His compensation reflects a proprietary interest in the firm and his value to the partnership other than specific time spent on firm business and billable hours. He has complete discretion in the use of his time and no reduction of income from the firm would be made even if during the period of campaign he had spent no time providing services to the firm's clients.

Since rejoining the law firm and prior to the November election, Thornburgh received a single draw payment of \$5,000. Any individual concluding that a payment of this size is disproportionate to Thornburgh's value to Kirkpatrick & Lockhart is woefully ignorant of the economics of the practice of law. By any reasonable analysis, the value to the firm of Kirkpatrick & Lockhart vastly exceeds the compensation received during this period by Mr. Thornburgh.

During the period of Thornburgh's senate campaign, certain incidental expenses were incurred by the law firm on behalf of the Thornburgh for Senate Committee. The Committee has been billed for all such costs incurred by the firm. These costs included clerical, reproduction and communications costs. The billing occurred in a commercially reasonable time and the firm has received appropriate payment in a timely fashion. Any additional incidental firm expenses which could be reasonably concluded to benefit the Committee, will be reimbursed by the Committee. See Affidavit of Raymond Dimuzio, attached hereto as Exhibit A.

The situation under consideration in this matter appears to be materially indistinguishable from the situation considered by the Commission in Advisory Opinions 1979-58 and 1980-107, when the Commission concluded that an individual may participate in a campaign for federal office without his income from his law firm

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constituting a contribution for purposes of the Act. The particular factual circumstances presented here are clearly distinguishable from those present to the Commission in its Advisory Opinion 1980-115. Unlike the lawyer candidate in that Advisory Opinion request, Mr. Thornburgh's compensation is not dependent in any part on the number of client billable hours he performs. This has been the consistent arrangement between Mr. Thornburgh and the firm for many years before Mr. Thornburgh became a candidate for the Senate.

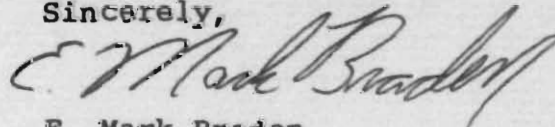
A firm in kind contribution might have occurred if any increase in the firm's overhead or operating expenses were attributable to any campaign activities which were not reimbursed by the Committee. This is not the circumstance present in this matter.

#### Conclusion

The law firm of which Mr. Thornburgh is a member, Kirkpatrick & Lockhart, is justifiably proud of its history of encouraging its members and employees to participate in political and public service. Surely neither the public good nor policy goal of Congress expressed when enacting the Act would be served by the Commission analyzing it in a manner to chill the participation of members and employees of a law firm in the political process. The firm has scrupulously avoided seeking work which raise issues of improper influence. When Richard Thornburgh was governor of Pennsylvania, the firm did not seek substantial legal representations of the Commonwealth in matters which the firm was imminently qualified, even though such representation would have violated no ethical or state restriction. Mr. Thornburgh has avoided any contact with client matters which raise even a specter of a potential conflict with his prior position as United States Attorney General.

For these reasons, the Commission should immediately determine to close this matter. If you should have any additional questions in regard to this matter, please contact my office.

Sincerely,



E. Mark Braden

Attachments

92040921582

91 NOV 22 PH 2:21

66C  
3498

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3435

NAME OF COUNSEL: E. Mark Braden

ADDRESS: Baker & Hostetler

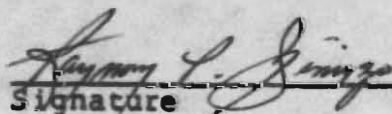
1050 Connecticut Ave., NW., Suite 1100

Washington, DC 20036

TELEPHONE: (202) 861-1504

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

Nov. 21, 1991  
Date

  
Signature

RESPONDENT'S NAME: Raymond P. Dimuzio

ADDRESS: 3000 Two Oliver Plaza

Pittsburgh, PA 15222

HOME PHONE: (412) 963-8206

BUSINESS PHONE: (412) 338-7210

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FEDERAL ELECTION COMMISSION  
MAIL ROOM  
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AFFIDAVIT OF RAYMOND P. DIMUZIO

I, Raymond P. Dimuzio, of the City of Pittsburgh, Commonwealth of Pennsylvania, under penalty of law do hereby state the following to be true and correct to the best of my knowledge information and belief:

1. I was the Campaign Treasurer of the Thornburgh for Senate Committee ("Committee"), the principal campaign committee of Richard Thornburgh. Richard Thornburgh sought election to the United States Senate from Pennsylvania in the Special Election held November 5, 1991.

2. To my knowledge the Thornburgh for Senate campaign received no in kind contributions from the law firm of Kirkpatrick & Lockhart ("firm").

3. Certain incidental expenses and disbursements were incurred by the firm for activities on behalf of the Thornburgh for Senate Committee.

4. The Committee has reimbursed the firm for all such charges for the period of August 19 through October 15, 1991.

5. I anticipate there will be other additional minor expenses which the Committee will pay upon receiving the appropriate documentation from the firm.

6. The Thornburgh for Senate Committee has received no contribution of money from Kirkpatrick & Lockhart. Members of the

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firm and affiliated political committee did make contributions to the Committee.

*Raymond L. Sinigaglia*

Subscribed and sworn to before me this 21<sup>st</sup> day of November, 1991.

*Jean Donatelli*

NOTARIAL SEAL  
JEAN DONATELLI, NOTARY PUBLIC  
PITTSBURGH, ALLEGHENY COUNTY  
MY COMMISSION EXPIRES MARCH 20, 1993  
Member, Pennsylvania Association of Notaries

WILEY, REIN & FIELDING

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

December 10, 1991

JAN WITOLD BARAN  
(202) 429-7330

FACSIMILE  
(202) 429-7049  
TELEX 248349 WYRN UR

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

Attn: Helen Kim, Esq.

Re: MURs 3428 & 3435 (Kirkpatrick & Lockhart)

Dear Mr. Noble:

This Response and the attached affidavit are submitted on behalf of Kirkpatrick & Lockhart ("Law Firm") in reply to Complaints filed by Michael Waldman on behalf of Public Citizen's Congress Watch ("PCCW") and by Bob Barnett on behalf of the Democratic Party of Pennsylvania and designated Matters Under Review ("MUR") 3428 and 3435, respectively.<sup>1</sup> For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that the Law Firm has violated any provision of the Federal Election Campaign Act of

<sup>1</sup> Kirkpatrick & Lockhart does not waive the right to confidential treatment of the commercial and financial information provided in this response. See 11 C.F.R. § 4.5(a)(4). Respondent specifically requests that information concerning the finances of Kirkpatrick & Lockhart, including but not limited to the amount of partner compensation, contained in any of its submissions in this matter be deleted before the file in this matter is placed on the public record.

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1971, as amended, 2 U.S.C. §§ 431-455 ("Act"), specifically the contribution limitations and prohibitions contained in 2 U.S.C. §§ 441c(a) and 441a(a)(1)(A).

BACKGROUND

A. Richard Thornburgh's History of Employment with Kirkpatrick & Lockhart

Former Attorney General Richard Thornburgh has had a long-standing relationship with Kirkpatrick & Lockhart, a law firm with a principal office in Pittsburgh, Pennsylvania and other offices in Washington, D.C., Boston, Harrisburg, and Miami. Affidavit of Edward A. Craig, III before the Federal Election Commission (hereinafter "Craig Aff.") at ¶ 1. Exhibit 1. Specifically, Mr. Thornburgh has been employed by, or has been a member of, the Law Firm for more than 30 years, with breaks in service during periods of government employment. Id. ¶ 2. "Mr. Thornburgh was first employed by the Firm as an associate in March, 1959." Id. ¶ 3. He first ran for public office in 1966, and was defeated. Id. During this campaign, and thereafter, he continued to practice at the Law Firm and received his full salary and benefits. Id. Thus, Mr. Thornburgh worked at the Law Firm until his resignation in July, 1969, "upon his appointment as U.S. Attorney for the Western District of Pennsylvania." Id. ¶ 4. Mr. Thornburgh returned to private practice in March, 1977, at which time he was elected partner of the Law Firm, thereby acquiring a proprietary interest in the Law Firm. Id. ¶ 5.

While practicing law at the Law Firm, Mr. Thornburgh began in January, 1978, to campaign for the Governorship of Pennsylvania and



was elected Governor in the November, 1978, general election. Id.

¶ 6. During this campaign period, Mr. Thornburgh received "his full draw and benefits." Id. "He resigned from the Firm in January, 1979, to assume the position of Governor" of Pennsylvania. Id.

After serving two four-year terms as Governor, Mr. Thornburgh again returned to the private practice of law in February, 1987, when he was re-elected a partner in the Law Firm. Id. ¶ 7. His monthly draw rate, in accordance with the Law Firm's practice, was premised upon an annual distributive share of . Id. The determination of his distributive share was based on various factors, many of which were intangible benefits provided by Mr. Thornburgh's association with the Law Firm. Id. ¶ 12. In re-electing Mr. Thornburgh to the partnership and determining his share of the partnership, the Law Firm acted on the belief that his legal skills, broad experience in government, professional standing, reputation in the community and distinguished record of public service would benefit the Firm, enhance its professional standing and reputation and enhance its ability to serve and to attract clients." Id. Billings and billable hours "were not a factor in a decision to make him a partner or in setting his draw." Id. In fact, "[f]rom February, 1987, through the date of his resignation in 1988, Mr. Thornburgh had billed a total of billable hours . . . ." Id. at ¶ 8.

In June, 1987, Mr. Thornburgh was appointed Director of the Institute of Politics of the John F. Kennedy School of Government

of Harvard University, and upon assuming that position, served dually as partner of the Law Firm and Director of the Institute. Id. ¶ 7. Mr. Thornburgh's monthly draw rate was revised to reflect an \$85,000 reduction in his assumed annual distributive share, a figure representing his Institute salary. Id. ¶ 14.

In July, 1988, President Reagan nominated Mr. Thornburgh to be Attorney General of the United States. Upon his confirmation as Attorney General on August 12, 1988, he resigned from the Law Firm. Id. ¶ 8. Mr. Thornburgh served as Attorney General until his resignation on August 15, 1991. Effective August 19, 1991, Mr. Thornburgh was again elected partner of the Law Firm. Id. ¶ 9. Mr. Thornburgh's monthly accruals "are premised on the same original assumed annual distributive share of profits" as during his most recent tenure with the Law Firm in 1987-1988.<sup>2</sup> Id. ¶ 15. Once again, Mr. Thornburgh's partnership share level is not based on billable client hours, but on the same variety of factors relied upon by the Firm in 1987-88 in determining his annual distributive share. Id. ¶ 12. In accordance with the Law Firm's partnership agreements and practices, Mr. Thornburgh's partnership account has been credited each month with "a percentage of 1/12th of his[ ]

---

<sup>2</sup> "Individual partner accounts are credited with monthly accruals in anticipation of the partner's year-end distributive share. In general, each partner's monthly accruals are equal to a percentage of 1/12th of his/her prior year's distributive share. In the case of a partner who recently joined the Firm, the monthly accrual is made based on an estimate as to what that partner's distributive share would have been had he or she been a partner during the prior year." Craig Aff. at ¶ 11.

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prior year's distributive share," or in Mr. Thornburgh's case, a percentage of 1/12th of his 1987/1988 distributive share. Id. ¶ 11. Once credited to his account, Mr. Thornburgh has the right to seek distributions from his monthly accruals.

#### ARGUMENT

A. The Compensation Received by Richard Thornburgh from Kirkpatrick & Lockhart Does Not Constitute a Contribution to His Political Campaign

The Complaints call into question the financial arrangements between the Law Firm and former Attorney General Thornburgh, arguing that he would be performing "no substantial gainful activity" at the Firm prior to the November election while earning "a substantial income as a partner at Kirkpatrick & Lockhart," thereby resulting in a political contribution. In short, the complainants apparently believe that merely by Mr. Thornburgh's being a partner in the Law Firm, the firm has, de facto, made a contribution to Mr. Thornburgh's campaign. Under the facts of this case, that assertion is not correct.

A partner's distributive share at Kirkpatrick & Lockhart depends on a determination by the Management Committee as to the "value of each partner's contribution". Id. ¶ 10. A review of Mr. Thornburgh's compensation during his most recent previous tenure with the Firm evidences that the Law Firm has a history of compensating Mr. Thornburgh on the basis of a variety of contributions to the Law Firm beyond "billable hours," and that it again followed this practice once he rejoined the Law Firm in



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August of 1991. Prior to 1991, Mr. Thornburgh most recently was a partner from February 1, 1987 through August 12, 1988, following the completion of his second term as Governor and preceding his appointment as Attorney General. When he rejoined the Firm in February, 1987, his monthly draw rate was premised upon an assumed annual distributive share of profits. Id. ¶ 14. "In both fiscal 1987 and fiscal 1988, the Management Committee of the Firm regarded Mr. Thornburgh's billings and billable hours as de minimis" and those figures were not "a factor in determining his distributive share of profits." Id.

"The current financial arrangements between the Firm and Mr. Thornburgh -- his monthly accruals -- are premised on the same original assumed annual distributive share of profits as when he rejoined the Firm as a partner in 1987." Id. ¶ 15. As in 1987-88, the Management Committee anticipates that Mr. Thornburgh's billable hours and billings will be de minimis and will not be a factor in determining his distributive share from the Law Firm. Id. This practice is expressly in accord with Advisory Opinions previously issued by the Commission. Thus, the monthly accruals received by Mr. Thornburgh since he rejoined the Law Firm do not constitute "contributions" in violation of the Act.

1. The Law

The Commission has issued several Advisory Opinions addressing whether a partnership would be making a contribution to a campaign in various circumstances. The Commission has recognized that billable hours may not be the exclusive factor, or even a relevant

factor in determining partner compensation. Rather, the Commission has held that there may be many relevant factors in determining a partner's distributive share of a Law Firm's profits.

Thus, in Advisory Opinion 1980-107, where a senior partner in a law firm was engaged in a substantial amount of political activity (almost all of his time during the normal work week) for the Reagan-Bush campaign committee, the Commission ruled that no "contribution" arose even though almost all the partner's time was devoted to campaign business, and his share of the firm's net income would not be diminished. Fed. Election Camp. Fin. Guide (CCH) ¶ 5555 (1980). Recognizing that his draw was not tied to the number of hours he worked, but to a proprietary interest in the firm, and that his compensation reflected a variety of factors, including "status in the Bar, ability to attract clients, effectiveness in problem solving and value as a counselor to other attorneys in the firm and clients," the Commission concluded that "this partner may volunteer his time to the Committee without his income from the firm constituting an in-kind contribution for purposes of the Act." Id.

Essentially, therefore, the Commission acknowledged that the partner's value to his law firm was what he did for it in a broad sense, and that his draw "was not tied to the number of hours worked, but, rather, was based on a proprietary interest in the firm which reflected a number of factors, including stature in the Bar, ability to attract clients, problem solving, and counseling, among others."

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Similarly, in Advisory Opinion 1979-58, Fed. Election Camp. Guide (CCH) ¶ 5465 (1980) a senior partner in a law firm wanted to engage in fundraising and political activities for the Carter-Mondale campaign committee as a volunteer without the firm making a contribution. As in Advisory Opinion 1980-107, the firm's policy on compensation paid to this partner was not tied to the number of hours he worked, but rather was:

based on his proprietary or ownership interest in the firm, which reflects a variety of historical factors, including seniority of service in the firm, stature in the Bar, ability to attract clients, effectiveness in problem solving, value as a counselor to other attorneys in the firm, and the like. Id.

The Commission concluded that since the partner had discretion in the use of his time and that, accordingly, no reduction of income would be made even if he spent less time on firm matters, the "income from the firm would not constitute an in-kind contribution to the Committee for purposes of the Act." Id. The Commission distinguished that situation from those in which the compensation of a law firm partner campaigning for Federal office was dependent, at least in part, on the number of billable client hours he recorded.<sup>3</sup>

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<sup>3</sup> Only when billable hours have been identified as a relevant factor in determining a partner's distributive share has the Commission found that a "contribution" could arise. Thus, in Advisory Opinion 1980-115, the Commission dealt with a situation involving a partner in a law firm who was himself a candidate for Congress. Fed. Election Camp. Guide (CCH) ¶ 5559 (1980). The partner held a percentage ownership interest in the firm which was based on a wide variety of factors, including "seniority of service in the firm, stature in the Bar, number of client billable hours, results achieved for clients, ability to attract clients, effectiveness in



2. Discussion

Consistent with these Advisory Opinions, Kirkpatrick & Lockhart has not made a "contribution" by compensating former Attorney General Thornburgh while he was a candidate for the U.S. Senate. As discussed above, Mr. Thornburgh has had a relationship with the Law Firm for more than 30 years during which time he entered and left prestigious positions in government service. As recognized by the Commission, some law firm partners are compensated in proportion to their client billings, while others are paid for their tangible and intangible contributions in terms of attracting new business, new lawyers, and advising existing clients. In Mr. Thornburgh's case, each time he was elected a partner of the Law Firm, the Firm acted on the belief that his legal skills, broad experience in government, professional stature, reputation in the community and distinguished record of public service would benefit the Firm, enhance its professional standing and reputation and enhance its ability to serve and to attract

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problem solving, value as an advisor to other attorneys in the firm, and other considerations." The Commission ruled that because the partner's compensation was dependent in part on the "number of client billable hours," the firm would be making a contribution to the extent that his compensation was not reduced to reflect the lower number of hours he would work because of his campaign.

Nonetheless, the Commission reiterated that it defers to a partnership's compensation procedures, and recognizes that firms could benefit from other aspects of a partner's presence in the firm, such as greater stature in the Bar and an increased ability to attract clients. Thus, the Commission found that there would be no "contribution" if there was "an indication that [the partner's] value to the firm throughout the year has increased to offset the reduction in [his] client billable hours." Id.

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clients. Craig Aff. at ¶ 12. The Law Firm has not considered Mr. Thornburgh's billable hours as relevant in determining his compensation. See Id. ¶¶ 14-15. Furthermore, as in Advisory Opinions 1980-107 and 1979-58, Mr. Thornburgh has a proprietary interest in the Law Firm and his annual "draw" or compensation is directly based on that interest.

The Complaints allege that Mr. Thornburgh's partnership share constitutes a "contribution" because during the campaign he "would not have to 'carry a partner's work load.'" PCCW Complaint at 2. However, this allegation is meaningless in the context of general compensation practices in the legal community. Complainants have concentrated on "billable hours," but their focus is misplaced; compensation is determined by a wide variety of factors, set independently by each law firm, and the Commission explicitly has recognized this in its Advisory Opinions.

In electing former Attorney General Thornburgh partner in August, 1991, and determining his monthly draw rate, the Law Firm acted consistently with its past arrangements with him when he was not a candidate. The Law Firm has anticipated that significant benefits will flow from its present association with him in view of his recent service as a senior member of President Reagan's and President Bush's cabinet, and as the nation's chief law enforcement officer. Id. ¶ 13. Compensation based on such benefits to the Law Firm meets the analysis employed by the Commission in the Advisory Opinions discussed above, in which a partner's presence as a member of a firm, and his proprietary interest in the firm, were seen to

provide justifiable grounds for compensation exclusive of a specified amount of client billable hours. Thus, the Commission has allowed law firms to compensate partners involved in political campaigns without reference to hours worked at the firm, where the firm gained other advantages, and where the partner's compensation (as here) was tied to his ownership interest in the firm. AO's 1979-58 and 1980-107.

Mr. Thornburgh's Law Firm activities during the period from his rejoining the Law Firm in August, 1991, to the general election in November reflect that "he has fulfilled the Firm's expectations in this regard, particularly by meeting with individual Firm clients and consulting with Firm lawyers on certain client matters." Id. ¶ 17. Mr. Thornburgh has, and will continue to receive a distributive share of profits for the activities he has engaged in as partner and for the intangible benefits accruing to the Firm since his return. Further, the current financial arrangement between Mr. Thornburgh and the Law Firm duplicates their earlier arrangement from 1987-88, during the period after he left the Governorship and until he became Attorney General. His draw rate reflects the long-standing relationship between him and Kirkpatrick & Lockhart, his efforts on behalf of the Firm to date, and his ability in the State of Pennsylvania and elsewhere to attract new clients, counsel existing clients and the Firm's attorneys, and serve in a variety of roles within and outside the Firm. While it is true that Kirkpatrick & Lockhart is a government contractor, the compensation it has paid Mr. Thornburgh does not



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constitute a "contribution" and therefore does not violate 2 U.S.C. § 441c(a). Nor has the Law Firm violated the limitation on partnership contributions contained in 2 U.S.C. § 441a(a)(1)(A) or any other provision of the Act since it has made no contribution.

B. Kirkpatrick & Lockhart Has Not Violated the Act's Restrictions Regarding In-Kind Contributions to a Campaign Committee

The Complaint in MUR 3428 also alleges that the Law Firm has violated the Act by providing "things of value" (i.e., office space, equipment, and support staff) to Mr. Thornburgh in an effort to avoid limitations on permissible campaign contributions by partnerships.

However, the Law Firm has not violated the Act's provisions with respect to office space, equipment, and the salary and benefits accorded to Mr. Thornburgh's "support staff." Since rejoining the Law Firm, Mr. Thornburgh has maintained an office and a secretary there. However, this is an essential aspect of his functioning as a partner of the Firm. It is inconceivable that he would be elected partner, but not allowed to have an office or phone until the end of the campaign.

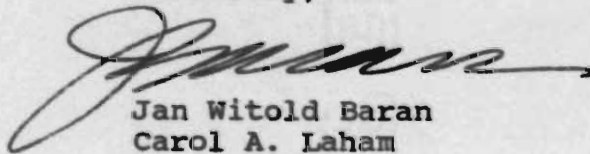
Further, the campaign received no contribution from this office support. Indeed, in order to avoid any question, the Law Firm billed the campaign 100 percent of the value of Mr. Thornburgh's secretary during this time. In fact, the Law Firm has billed the Thornburgh campaign for the value of any support services used to benefit the campaign. Thus, to comply with applicable provisions of the Act, the Law Firm segregated all

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expenses incurred in connection with Mr. Thornburgh's Senate campaign (including 100 percent of the salary and fringe benefits of his secretary and all identified postage, copying, telephone, etc.) from his expenses incurred in service to the Firm. Craig Aff. at ¶ 16. Thus, on October 17, 1991, the Law Firm billed the Thornburgh for Senate Committee \$4,715.64 for secretarial services and overtime, document preparation, telecommunication costs, transportation, and refreshments for the period from August 19, 1991 (when Mr. Thornburgh returned to the Firm) to October 15, 1991. A second bill for subsequent services was also sent. Both bills were paid promptly. See Exhibit A to Craig Aff. Thus, Mr. Thornburgh's campaign is paying for all of the services of the law firm which it is using.

CONCLUSION

For the reasons set forth above, the Commission should find no reason to believe that Kirkpatrick & Lockhart violated the Act.

Sincerely,



Jan Witold Baran  
Carol A. Laham  
Dan Renberg

Counsel for  
Kirkpatrick & Lockhart

cc: Edward A. Craig, III

BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington )  
District of Columbia ) MURs 3428 and 3435

AFFIDAVIT OF EDWARD A. CRAIG, III

EDWARD A. CRAIG, III, first being duly sworn, deposes and says:

1. I am Edward A. Craig, III, Chairman of the Management Committee of the law firm of Kirkpatrick & Lockhart ("the Firm"). The Firm has offices in Pittsburgh, Boston, Washington, D.C., Miami, and Harrisburg.
2. Richard L. Thornburgh has been employed by, or been a member of, the Firm, with certain breaks in service during periods of government employment for more than thirty (30) years.
3. Mr. Thornburgh was first employed by the Firm as an associate in March, 1959. He ran successfully in the May, 1966 primary election for the Republican nomination as a candidate for the U.S. House of Representatives but was defeated in the November, 1966 general election. During his primary and general election campaigns, Mr. Thornburgh continued to practice law at the Firm and continued to receive his full salary and benefits.
4. Mr. Thornburgh resigned from the Firm in July, 1969 upon his appointment as U.S. Attorney for the Western District of Pennsylvania.

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5. Upon his resignation from the Department of Justice in March, 1977, Mr. Thornburgh was elected partner of the Firm and returned to active practice in March, 1977. As a partner, Mr. Thornburgh has a proprietary interest in the Firm.

6. Beginning in January, 1978, Mr. Thornburgh campaigned for the Governorship of the Commonwealth of Pennsylvania. He ran successfully in the gubernatorial primary in May, 1978 and was elected Governor in the November, 1978 general election. During his primary and general election campaigns, Mr. Thornburgh continued to practice law with the Firm and received his full draw and benefits. He resigned from the Firm in January, 1979 to assume the position of Governor.

7. After serving two four-year terms as Governor, Thornburgh was elected a partner of the Firm and returned to the practice of law on February 1, 1987. At this time, Mr. Thornburgh's draw rate, in accordance with Law Firm practice, was premised on an annual distribution share of . In June, 1987, he was appointed Director of the Institute of Politics of the John F. Kennedy School of Government of Harvard University, and upon assuming that position, served in the dual roles of a partner of the Firm and Director of that Institute.

8. In July, 1988 Governor Thornburgh was nominated by President Reagan to the position of Attorney

General of the United States. He resigned from the Firm, effective upon his confirmation as Attorney General, which took place on August 12, 1988. From February, 1987, through the date of his resignation in 1988, Mr. Thornburgh had billed a total of            billable hours, or an average of billable hours per month.

9. Upon Attorney General Thornburgh's resignation from that office on August 15, 1991, he was again elected a partner of the Firm effective August 19, 1991.

10. The Firm's Management Committee allocates shares of the Firm's net profits to each partner at the end of the calendar year. There is no formula by which distributive shares are determined. Rather, distributive shares depend on a determination by the Management Committee as to the value of each partner's contribution to the Firm.

11. Individual partner accounts are credited with monthly accruals in anticipation of the partner's year-end distributive share. In general, each partner's monthly accruals are equal to a percentage of 1/12th of his/her prior year's distributive share. In the case of a partner who recently joined the Firm, the monthly accrual is made based on an estimate as to what that partner's distributive share would have been had he or she been a partner during the prior year.

12. Each time Mr. Thornburgh was elected a partner of the Firm, the Firm acted on the belief that his legal

skills, broad experience in government, professional standing, reputation in the community and distinguished record of public service would benefit the Firm, enhance its professional standing and reputation and enhance its ability to serve and to attract clients. Billings and billable hours were not a factor in a decision to make him a partner or in setting his draw.

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13. The Firm anticipates that similar benefits will again flow from its present association with former Governor and former Attorney General Thornburgh. Mr. Thornburgh's insights with respect to political and economic developments, both domestically and internationally, may be of benefit to the Firm's partners, may assist the Firm's clients in their business activities, and may assist the Firm's ongoing client development activities. In addition, Mr. Thornburgh enhances the professional skills offered by the Firm to its existing and prospective clients through his knowledge of the processes and personalities involved in Federal and state government and in international affairs. His affiliation with the Firm is expected to benefit the Firm's ongoing efforts to recruit new lawyers and may have a significant impact on the Firm as it pursues its long-term growth plans. He is also expected to conduct Continuing Legal Education sessions for the Firm's young lawyers. It is also anticipated that Mr. Thornburgh will become active in local, state, and national business organizations and may be



asked to serve on the Board of Directors of various corporations, all in a manner similar to his role with the Firm prior to being appointed Attorney General.

14. Mr. Thornburgh's most recent prior tenure with the Firm, from February 1, 1987 through August 12, 1988, followed the completion of his second term as Governor and preceded his appointment as Attorney General. At the time he rejoined the Firm in February, 1987, his monthly draw rate was premised upon a annual distributive share of profits. When he was appointed Director of the Institute of Politics of Harvard's John F. Kennedy School of Government on June 1, 1987, Mr. Thornburgh's monthly accruals were revised downward to reduce his assumed annual distributive share by \$85,000, the annual salary he received directly from the Institute. In both fiscal 1987 and fiscal 1988, the Management Committee of the Firm regarded Mr. Thornburgh's billings and billable hours as de minimis and not as a factor in determining his distributive share of profits.

15. The current financial arrangements between the Firm and Mr. Thornburgh -- his monthly accruals -- are premised on the same original assumed annual distributive share of profits as when he rejoined the Firm in 1987. As in the past, Mr. Thornburgh's billable hours and billings were not a factor in determining his distributive share from the Firm.

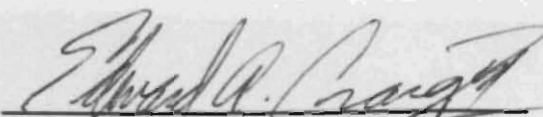
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16. Since rejoining the Firm, Mr. Thornburgh has maintained an office and a secretary at the Firm. The Firm segregated all expenses incurred in connection with his Senate campaign (100 percent of the salary and fringe benefits of his secretary and all identified postage, copying, telephone, etc.) from his expenses incurred in service to the Firm. To date, the firm has issued two bills to the Thornburgh for Senate Committee, both of which were paid promptly. See Attachment A.

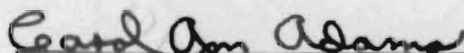
17. Notwithstanding the burdens of a political campaign, Mr. Thornburgh engaged in certain client-related and Firm-related matters during the course of his candidacy for the U.S. Senate. Since August 19, when he returned to the Firm, Mr. Thornburgh has fulfilled the Firm's expectations in this regard, particularly by meeting with individual Firm clients and consulting with Firm lawyers on certain client matters.

18. Finally, Mr. Thornburgh remains a partner in the Firm and we expect that he will continue to fully contribute to the Firm in the upcoming years. We also expect that he will meet or exceed the billable hours which he recorded in 1987-1988 during the same period in 1991-1993.

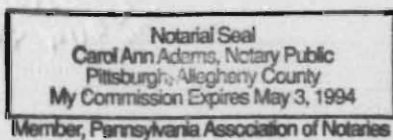
The above information is true and correct to the best of  
my knowledge, information and belief.

  
Edward A. Craig, III

Signed and sworn to before me  
this 9<sup>th</sup> day of December, 1991.

  
Notary Public

My Commission Expires:



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**ATTACHMENT A**

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## KIRKPATRICK &amp; LOCKHART

1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222-5379  
TELEPHONE (412) 353-6500

October 17, 1991

Thornburgh for Senate Committee  
P. O. Box 22070  
Pittsburgh, PA 15222-0998

For the period from August 19, 1991 through October 15, 1991:

## DISBURSEMENTS AND OTHER CHARGES

|                                   |              |
|-----------------------------------|--------------|
| Secretarial Services and Overtime | \$3,496.19   |
| Document Preparation              | 643.43       |
| Communication Costs               | 546.34       |
| Transportation and Refreshments   | <u>29.68</u> |

TOTAL \$4,715.64

PAID  
OCT 18 1991

YOUNG & RUBICAM

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## KIRKPATRICK &amp; LOCKHART

1500 OLIVER BUILDING  
PITTSBURGH, PENNSYLVANIA 15222-5379  
TELEPHONE (412) 551-4100

November 15, 1991

Thornburgh for Senate Committee  
P. O. Box 22070  
Pittsburgh, PA 15222-0998

For the period from October 16, 1991 through October 31, 1991:

## DISBURSEMENTS AND OTHER CHARGES

|                                   |               |
|-----------------------------------|---------------|
| Secretarial Services and Overtime | \$1,100.00    |
| Document Preparation              | 765.00        |
| Communications Costs              | <u>151.40</u> |
|                                   | \$2,016.40    |

PAID  
NOV 25 1991

KIRKPATRICK & LOCKHART

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PUBLIC CITIZEN LITIGATION GROUP

SUITE 700

2000 P STREET N.W.

WASHINGTON, D.C. 20036

(202) 833-3000

March 2, 1992

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

92 MAR -3 AM 10:41

MUR 3428

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

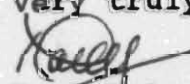
Dear Mr. Noble:

As you know, Michael Waldman, Director of Public Citizen's Congress Watch, filed a complaint with the Federal Election Commission against Kirkpatrick & Lockhart on October 3, 1991, requesting an investigation into possible violations of the Federal Election Campaign Act by Kirkpatrick & Lockhart. Mr. Waldman's complaint suggested that Kirkpatrick & Lockhart may have contributed to the 1991 campaign of Richard Thornburgh for a United States Senate seat from Pennsylvania, in violation of 2 U.S.C. § 441c(a) and 2 U.S.C. § 441a(a)(1)(A).

Over 120 days have passed since Mr. Waldman filed this complaint, yet there is no public indication that the Commission has taken any action on the complaint. Under 2 U.S.C. § 437g(a)(8)(A), Mr. Waldman has the right to file suit against the Commission in District Court and to seek a judicial order compelling the Commission to act on his complaint. It is Mr. Waldman's hope that such a lawsuit can be avoided. Mr. Waldman also understands that the primary election season is a very busy one for the Commission. Nevertheless, the Commission cannot allow election law complaints to disappear into a void of non-action.

Mr. Waldman therefore insists that the Commission take public action on his complaint within 60 days of the date of this letter. If the Commission has not taken any action by that time, he will consider resorting to the judicial remedies provided by the Federal Election Campaign Act.

Very truly yours,

  
Paul R.Q. Wolfson

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FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 18, 1992

Paul R.Q. Wolfson  
Public Citizen Litigation Group  
Suite 700  
2000 P Street, N.W.  
Washington, D.C. 20036

RE: MUR 3428

Dear Mr. Wolfson:

This is to confirm receipt of your letter dated March 2, 1992 pertaining to the complaint Michael Waldman, Director of Public Citizen's Congress Watch, filed on October 3, 1992, with the Federal Election Commission.

The Federal Election Campaign Act of 1971, as amended, prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the party being investigated has agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Because there has been no written agreement that the matter be made public, we are not in a position to release any information at this time.

We appreciate your attention to this matter and will notify Mr. Waldman as soon as the Commission takes final action on his complaint. We cannot, of course, advise Mr. Waldman concerning his contemplated action pursuant to 2 U.S.C. § 437g(a)(8).

Sincerely,

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

Helen J. Kim  
Attorney

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SECRETARIAT

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

**SENSITIVE**

**FIRST GENERAL COUNSEL'S REPORT**

MURs 3428 and 3435  
DATE COMPLAINT RECEIVED  
BY OGC: October 4, 1991  
October 21, 1991  
DATE OF NOTIFICATION TO  
RESPONDENTS: October 8, 1991  
October 23, 1991  
STAFF MEMBER: Helen J. Kim

**COMPLAINANTS:**

Michael Waldman, Director of  
Public Citizen's Congress Watch

Bob Barnett, Executive Director  
of The Democratic Party of  
Pennsylvania

**RESPONDENTS:**

Kirkpatrick & Lockhart

Thornburgh for Senate Committee and  
Raymond P. Dimuzio, as treasurer

Richard L. Thornburgh

**RELEVANT STATUTES:**

2 U.S.C. § 431(8)(A)(i)  
2 U.S.C. § 441a(a)(1)(A)  
2 U.S.C. § 441a(f)  
2 U.S.C. § 441c(a)(1)  
2 U.S.C. § 441c(a)(2)  
11 C.F.R. § 100.7(a)(1)(iii)(A)  
11 C.F.R. § 110.10

**INTERNAL REPORTS CHECKED:**

Public Record

**FEDERAL AGENCIES CHECKED:**

None

**I. GENERATION OF MATTER**

These matters arose from two complaints, submitted to the Commission on October 4, 1991 by Michael Waldman, Director of Public Citizen's Congress Watch, and on October 21, 1991 by Bob Barnett, Executive Director of The Democratic Party of

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Pennsylvania. The complaints allege that Kirkpatrick & Lockhart violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), by making prohibited contributions to Richard Thornburgh's campaign. The complaints also allege that Richard L. Thornburgh, Thornburgh for Senate Committee ("Committee") and Raymond P. Dimuzio, as treasurer, violated provisions of the Act by accepting prohibited contributions.

The respondents were notified of the complaints by letters dated October 8, 1991 and October 23, 1991. Mr. Thornburgh and the Committee were given a twenty day extension of time to respond to the complaints. The Commission granted Kirkpatrick & Lockhart a thirty-nine day extension of time to respond. Mr. Thornburgh and the Committee submitted responses on November 19, 1991. Kirkpatrick & Lockhart submitted its response on December 10, 1991.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Background

Richard L. Thornburgh was a candidate in the November 5, 1991 special election for the U.S. Senate from Pennsylvania.<sup>1</sup> Before entering the race, Mr. Thornburgh resigned as Attorney General of the United States on August 15, 1991 and joined Kirkpatrick & Lockhart as a partner on August 19, 1991. Shortly after his arrival at the firm, Mr. Thornburgh announced his candidacy for the Senate on August 29, 1991.

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1. Mr. Thornburgh lost the special election.

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Mr. Thornburgh first joined Kirkpatrick & Lockhart as an associate in 1959. Ten years later, Mr. Thornburgh left the firm to become U.S. Attorney for Western Pennsylvania. He then rejoined the firm in 1977 as a partner and departed two years later when he was elected Governor of Pennsylvania. After serving eight years as Governor, he returned to Kirkpatrick & Lockhart as a partner in 1987 and resigned a year later in 1988 when he was appointed Attorney General of the United States.

Upon his return to Kirkpatrick & Lockhart in 1991, Mr. Thornburgh's compensation as a partner with the firm was based on the projected annual distribution share of the firm's proceeds which was made available to him in monthly accruals of 1/12 of the annual projected share. The annual projected share for Mr. Thornburgh was . According to Mr. Thornburgh's response, Mr. Thornburgh actually withdrew only \$5000 as compensation during his campaign.

#### B. THE LAW

The Act defines "contribution" as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person to influence any election for federal office. 2 U.S.C. § 431(8)(A)(i). For purposes of the Act, "anything of value" includes all in-kind contributions. 11 C.F.R. § 100.7(a)(1)(iii)(A). The use of a candidate's personal funds for campaign purposes is not considered to be a contribution. See 11 C.F.R. § 110.10(a). "Personal funds" includes salary and other income from bona fide employment. 11 C.F.R. § 110.10(b)(2).

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Commission regulations permit extensions of credit provided that such credit is not extended for a length of time beyond normal business or trade practices. 11 C.F.R. § 100.7(a)(4). If, however, credit is extended beyond such time, then the extension of credit is a contribution unless the creditor has made a commercially reasonable attempt to collect the debt. Id.

The Act prohibits persons from making contributions in excess of \$1,000 to any candidate and her authorized political committees with respect to a federal election. 2 U.S.C. § 441a(a)(1)(A). "Person" includes partnerships as well as individuals. See 2 U.S.C. § 431(11). Candidates and political committees may not knowingly accept contributions prohibited by Section 441a. 2 U.S.C. § 441a(f).

Any person who enters into any contract with the United States, or any department or agency thereof, for the performance of personal services is prohibited from directly or indirectly making any contribution of money or other things of value to any committee or candidate for public office. 2 U.S.C. § 441c(a)(1). The prohibition applies only if the payment for the performance of such contract is to be made in whole or in part from funds appropriated by Congress. Id. The Act also prohibits any person from knowingly soliciting a contribution from a federal contractor as defined by Section 441c(a)(1). 2 U.S.C. § 441c(a)(2).

#### C. ANALYSIS

##### 1. Contributions Made by Kirkpatrick & Lockhart

The complaints claim that Kirkpatrick & Lockhart made a contribution to Mr. Thornburgh's campaign by compensating

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Richard Thornburgh as a partner and allowing his campaign to use the firm's office space, equipment, and support staff. The complaints also claim Kirkpatrick & Lockhart is a government contractor because it has contracts with the Federal Deposit Insurance Corp. ("FDIC") and the Resolution Trust Corp. ("RTC"). Thus, the complaints allege that Kirkpatrick & Lockhart violated 2 U.S.C. § 441c(a)(1) which prohibits government contractors from contributing to candidates for public office. The complaints also allege that the value of the contributions exceeds the \$1,000 limit and thus, Kirkpatrick & Lockhart violated 2 U.S.C. § 441a(a)(1)(A).

a. Compensation as Contribution

The main issue presented by the complaints is whether compensation paid to a partner in a law firm while he is a candidate for federal office is a contribution by the law firm to the candidate's campaign. The complaints claim that the compensation paid to Richard Thornburgh is a contribution by Kirkpatrick & Lockhart because Mr. Thornburgh may not be performing any services in return for his salary. The complaints argue that the demands of an intense special election campaign would not allow Mr. Thornburgh to meet the demands of a partner's usual workload.

(1). Applicability of Advisory Opinions

In their responses to the complaints, respondents cite Advisory Opinions in which the Commission addressed the issue of whether compensation paid to partners of a law firm, who were either candidates for federal office or who volunteered their

services to political campaigns, was a contribution by the law firm. The respondents argue that the compensation arrangement between Mr. Thornburgh and Kirkpatrick & Lockhart is indistinguishable from those situations in which the Commission concluded that salary paid to a partner who was involved in political activity was not a contribution by the law firm.

In Advisory Opinion 1978-6, the requester was a partner in a law firm and was also a candidate for the United States Senate. Because of his added campaign activities, he had expected to reduce the number of hours that he worked for the firm. The firm, however, did not adjust his compensation to reflect the decrease in the number of hours worked for the firm during the campaign. He asked the Commission whether his compensation as a partner would be considered a contribution from his law firm.

The Commission advised that, to the extent the candidate's compensation from the law firm is not reduced to reflect the decrease in the number of hours worked for the firm because of his candidacy, the amount of the difference between the full amount paid and the amount reflecting the reduction in hours worked is a contribution by the partnership. In reaching its conclusion, the Commission relied on Advisory Opinion 1977-68 in which it concluded that salary earned by a candidate does not qualify as a contribution from the employer to the extent that: (1) the requisite bona fide employment relationship exists between the candidate and his employer, for purposes genuinely independent of his candidacy; and (2) provided that any compensation paid to the

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candidate is exclusively in consideration of employment services performed by him.

In Advisory Opinion 1978-6, the Commission reasoned that insofar as the compensation paid to the candidate is paid according to the same compensation scheme followed before the partner's candidacy, the compensation is not a contribution because there exists a bona fide employment relationship between the partner and the firm. However, since the firm's policy was to compensate based partially upon the number of billable hours, the compensation paid must be reduced to reflect the decrease in the partner's workload.

Advisory Opinion 1979-58 involved a senior partner in a law firm who asked the Commission whether a partner in a law firm may volunteer his services to a campaign committee without causing the partnership to make a contribution to the campaign. The firm's compensation policy regarding this senior partner was not tied to the number of billable hours, but was based on his proprietary interest in the firm which reflected a number of factors including the partner's stature in the Bar, ability to attract clients, and problem solving and counseling skills.

The Commission concluded that the compensation paid to this partner was not a contribution by the law firm. It concluded that this situation was distinguishable from the one in Advisory Opinion 1978-6 because the compensation in that case depended on the number of hours worked. The Commission reasoned that since this compensation scheme was not tied to the number of hours worked for the firm, the partner's time was his own. Thus, if he

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spent hours away from the firm for reasons that were not related to political activity, his income would not be reduced accordingly.

In sum, if the partner's compensation was based at all on the number of billable hours, then a reduction in the number of billable hours must be reflected by a reduction in salary; otherwise, the compensation is a contribution. See Advisory Opinion 1978-6; see also Advisory Opinion 1980-115. On the other hand, if the partner's compensation was based entirely on his proprietary interest in the firm and other intangible factors such as the partner's stature in the bar, experience, and ability to draw clients, then any compensation would not be considered a contribution. See Advisory Opinion 1979-58; see also Advisory Opinion 1980-107.

When Mr. Thornburgh returned to Kirkpatrick & Lockhart in 1991, his projected annual distributive share was , resulting in a monthly accrual of . Respondents claim that Mr. Thornburgh's distributive share was not based on the number of hours he billed, but on other factors such as his professional standing, legal skills, distinguished public service, ability to attract clients, and problem solving and counseling abilities.

Although the stated basis for compensation may be indistinguishable from the opinions cited by the respondents, there is a difference between the employment relationships contemplated in the opinions and the employment relationship in the present matter. In each of these opinions, a continuous

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relationship had already existed between the law firms and the partners before the onset of the partners' political activity. As long as the partner was being compensated in the same manner as he was before the onset of political activity, there would be no contribution. The underlying rationale in those Advisory Opinions was that the continuity of the employment relationship evidenced that the employment was independent of political activity.

Mr. Thornburgh, however, had no continuous employment with Kirkpatrick & Lockhart. He had rejoined the firm in 1987, resigned to become Attorney General for the United States in 1988, and then returned to the firm in 1991 for only ten days before announcing his candidacy. The Advisory Opinions on law firm partners discussed above, did not address the situation in which an individual joined a law firm immediately before becoming a candidate. Thus, the opinions cited by the respondents are not directly on point.

#### (2). Salary From Bona Fide Employment

Because the Advisory Opinions on law firm partners are distinguishable from the facts in the present matter, whether a bona fide employment relationship existed between Mr. Thornburgh and Kirkpatrick & Lockhart must be examined. As noted above, candidates may use their personal funds for campaign purposes. Salary and other income from bona fide employment qualify as "personal funds." Certain aspects of Mr. Thornburgh's campaign and his return to Kirkpatrick & Lockhart, however, raise the question of whether there was a bona fide employment relationship between Mr. Thornburgh and the firm.

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The unique circumstances of the November 1991 special election raise doubts as to whether Mr. Thornburgh actually rendered any services for Kirkpatrick & Lockhart in exchange for his compensation. In an affidavit, Edward Craig, Chairman of the Management Committee of Kirkpatrick & Lockhart, stated without detail that Mr. Thornburgh "fulfilled the Firm's expectations . . . by meeting with individual Firm clients and consulting with Firm lawyers on certain client matters." Attachment 1 at p. 19. Upon his return to the firm, however, Mr. Thornburgh had only two months to campaign for the U.S. Senate special election. It is unlikely that the tight schedule of an intense two month campaign would allow Mr. Thornburgh to conduct a substantial amount of activity for the firm.<sup>2</sup>

2. Indeed, statements made by Mr. Thornburgh himself question the level of activity he conducted for Kirkpatrick & Lockhart. It appears that the firm's clients include some hazardous waste management companies. This representation drew protests from environmental groups concerned with the possibility that Mr. Thornburgh's relationship with the firm may have given these clients an advantage in obtaining operating licenses from the local government. In a news account submitted with the complaints, Mr. Thornburgh attempted to distance himself from involvement with these firm clients to defend his environmental record:

"I don't represent them. If [Kirkpatrick & Lockhart] does represent them, it has no connection with me." . . .

Thornburgh attempted to downplay his overall involvement with Kirkpatrick. But his effort left his actual level of involvement with the firm and its clients open to debate.

"My representation is confined to advising my partners in matters that they are handling." . . .



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The respondents' main argument is that Mr. Thornburgh's compensation was based on his proprietary interest in Kirkpatrick & Lockhart which reflected a number of intangible factors, and not on the number of hours he billed. Mr. Craig stated that each time the firm had elected Mr. Thornburgh as partner, it did so based on the belief that Mr. Thornburgh's unique qualifications would benefit the firm by enhancing its professional standing and ability to attract clients. Mr. Craig also stated that Mr. Thornburgh had always received a full partnership draw, even though the number of hours he billed was negligible.

That argument, however, is not corroborated by other representations made by the respondents. For example, Mr. Thornburgh's attorney stated that Mr. Thornburgh received a single draw payment of \$5000 during the two and one-half month campaign even though an entire amount of over                      apparently was available to him for that period.<sup>3</sup> In a telephone conversation with staff, counsel explained that Mr. Thornburgh had determined the \$5000 was adequate compensation for services rendered for the period in question. This runs counter to respondents' assertion that Mr. Thornburgh's compensation was based on his ability to attract clients rather than the number of hours he worked. Furthermore, if he was only available on such a

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(Footnote 2 continued from previous page)

"Thornburgh's Cushy Deal," Legal Times, at Attachment 3, p. 2.

3. As discussed above, according to the responses, Mr. Thornburgh's monthly accrual was based on a projected annual distribution share of                      per month.

limited basis, arguably his ability to attract new clients would have been minimal. Finally, respondents' admission that, in 1987, Mr. Thornburgh's partnership compensation was reduced by the amount of the salary he received from the Kennedy School for Government while he concurrently served as Director of that institution further contradicts their claim that his partnership compensation was based on his ability to attract clients regardless of how many hours Mr. Thornburgh worked.

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The timing of Mr. Thornburgh's return to Kirkpatrick & Lockhart also casts doubts on the nature of his employment with the firm by raising the inference that his re-election as partner was not independent of his candidacy. Although Mr. Thornburgh did not formally announce his candidacy until ten days after returning to Kirkpatrick & Lockhart, it appears that from the first day of his return, the firm considered Mr. Thornburgh to be campaigning for office.<sup>4</sup> For example, his decision to leave the Department of Justice to campaign was reported as early as June. See Saper, "Thornburgh to Run for Heinz's Senate Seat," Wash. Times, June 5, 1991, at A1. Indeed, a news account submitted along with the complaint reports that near the time of his return to the firm, Mr. Thornburgh was heavily favored to win the November special election. See "Wofford Closing in, Polls Show," Philadelphia Inquirer, at Attachment 3, p. 6. Thus, it appears that not only

4. As discussed below, the firm billed Mr. Thornburgh's campaign committee for the use of office space, equipment, and support staff. One of the invoices was for services rendered for the period beginning with August 19, 1991, the date that Mr. Thornburgh first returned to the firm.

was Kirkpatrick & Lockhart aware of Mr. Thornburgh's intentions to run for U.S. Senate when it rehired him, it did so with the expectation that Mr. Thornburgh may not continue with the firm after the election.<sup>5</sup>

In conclusion, the Advisory Opinions addressing the compensation of law firm partners who engage in political activity do not apply to the unique circumstances surrounding Mr. Thornburgh's return to Kirkpatrick & Lockhart. The questionable level of services rendered by Mr. Thornburgh for Kirkpatrick & Lockhart together with the timing of his return, suggests that a bona fide employment relationship may not have existed between the firm and Mr. Thornburgh. Moreover, the arguments and representations made by respondents fail to clarify the circumstances of Mr. Thornburgh's employment with the firm. Thus, further inquiry into Mr. Thornburgh's employment with Kirkpatrick & Lockhart is necessary to determine whether compensation paid to Mr. Thornburgh was a contribution by the firm.

**b. Other Contributions**

The complaints also claim that the use of the Kirkpatrick & Lockhart's office space, equipment, and support staff, was an in-kind contribution by the firm. The respondents submitted affidavits from both the treasurer of the Committee, Raymond P. Dimuzio, and Edward Craig of the firm, stating that the Committee

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5. On March 2, 1992, the Secretary General of the United Nations appointed Richard Thornburgh Undersecretary General in charge of administration and management of the United Nations.

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reimbursed Kirkpatrick & Lockhart for the cost of the use of office space, equipment, and support staff. Also, the firm submitted two invoices billing the Committee for these services.<sup>6</sup> The invoices are detailed in Chart 1 below:

CHART 1

| <u>Invoice Date</u> | <u>Coverage Dates</u>     | <u>Charges</u>                       | <u>Amount</u> |
|---------------------|---------------------------|--------------------------------------|---------------|
| 17-OCT-91           | 19-AUG-91 to<br>15-OCT-91 | Secretarial Services<br>and Overtime | \$3,496.19    |
|                     |                           | Document Preparation                 | \$643.43      |
|                     |                           | Communication Costs                  | \$546.34      |
|                     |                           | Transportation and<br>Refreshments   | \$29.68       |
|                     |                           | Total                                | \$4,715.64    |

| <u>Invoice Date</u> | <u>Coverage Dates</u>     | <u>Charges</u>                       | <u>Amount</u> |
|---------------------|---------------------------|--------------------------------------|---------------|
| 15-NOV-91           | 16-OCT-91 to<br>31-OCT-91 | Secretarial Services<br>and Overtime | \$1,100.00    |
|                     |                           | Document Preparation                 | \$745.00      |
|                     |                           | Communication Costs                  | \$151.40      |
|                     |                           | Total                                | \$2,016.40    |

6. According to the firm's response, it billed the Committee 100 percent of the value of secretarial services for Mr. Thornburgh as a precautionary measure to ensure that there would be no contribution.

These invoices were marked paid on October 18, 1991 and November 25, 1991, one day after the first invoice was issued and ten days after the second invoice was issued.

The October 17, 1991 invoice shows that expenses were first incurred on August 19, 1991, eight weeks before the firm issued the invoice. The second invoice covered a much shorter, two week period for October 16 through October 31 1991. It is unclear as to what accounts for this difference in billing. This Office notes that no invoice had been issued before the complaint was filed, and apparently, the first invoice was prepared (and paid one day later) after the receipt of the complaint notification which was mailed on October 8, 1991. The delay in and timing of billing raises the possibility that Kirkpatrick & Lockhart's billing of the Committee was only prompted by the filing of the complaint. Thus, Kirkpatrick & Lockhart may have made a contribution by failing to bill the Committee in a timely manner.

In any event, Kirkpatrick & Lockhart may have made a contribution by extending credit to the Committee. As noted above, an extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business. If credit is extended in the ordinary course, then the terms must be substantially similar to extensions of credit to nonpolitical debtors. In the absence of evidence indicating that Kirkpatrick & Lockhart normally extended credit in leasing office space or the use of office equipment or support services, it appears that the firm did not extend credit to the Committee in the ordinary course of its business.

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## 2. Possible Violations

The compensation paid to Mr. Thornburgh and the amount of credit extended exceeds the \$1,000 contribution limit for partnerships. Therefore, this Office recommends that the Commission find reason to believe Kirkpatrick & Lockhart violated 2 U.S.C. § 441a(a)(1)(A). Furthermore, this Office recommends that the Commission find reason to believe Richard L. Thornburgh, the Thornburgh for Senate Committee, and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. § 441a(f).

In the alternative, Kirkpatrick & Lockhart may have been prohibited entirely from making a contribution in connection with a federal election. The complaint alleges that Section 441c of the Act prohibited the firm from making a contribution to Mr. Thornburgh's campaign because it had contracts with the FDIC and the RTC. According to the Commission's determination in Advisory Opinion 1990-20, contracting with the FDIC and RTC would confer federal contractor status on the contractor if that person was being compensated in part with congressionally appropriated funds. If, in representing the FDIC and RTC, Kirkpatrick & Lockhart was being exclusively compensated from funds paid by entities such as insured banks or savings institutions, then it would not be a federal contractor for purposes of Section 441c. See Advisory Opinion 1990-20.

In its response, Kirkpatrick & Lockhart admitted to having contracts with the federal government, but the firm did not disclose the details of the source of the funds used to compensate it for representing the federal entities noted above. Thus,

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further inquiry is needed to determine the firm's federal contractor status. Therefore, this Office recommends that the Commission find reason to believe Kirkpatrick & Lockhart violated 2 U.S.C. § 441c(a)(1).

Although there is no direct evidence indicating that Richard L. Thornburgh and the Committee were aware that Kirkpatrick & Lockhart had contracts with the federal government, Mr. Thornburgh's close association with the firm raises the inference that he was aware of the firm's federal contracts. Therefore this Office recommends that the Commission find reason to believe that Richard L. Thornburgh, the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. § 441c(a)(2). This Office intends to inquire into the understanding of the parties regarding Mr. Thornburgh's return to Kirkpatrick & Lockhart, Mr. Thornburgh's activities on behalf of the firm, and whether the firm was a federal contractor.

### III. RECOMMENDATIONS

1. Merge MUR 3435 with MUR 3428.
2. Find reason to believe that Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441a(a)(1)(A) and 441c(a)(1).
3. Find reason to believe that Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441c(a)(2).
4. Approve the appropriate letters and attached Factual and Legal Analyses.

Date

5/29/92

Lawrence M. Noble  
General Counsel

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Attachments

1. Kirkpatrick & Lockhart's Response to Complaints
2. Committee's Response to Complaints
3. News Articles
4. Factual and Legal Analyses (2)

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

DATE: JUNE 5, 1992

SUBJECT: MURs 3428 & MUR 3435 - FIRST GENERAL COUNSEL'S REPORT  
DATED MAY 29, 1992

The above-captioned document was circulated to the  
Commission on MONDAY, JUNE 1, 1992 at 4:00 P.M.

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

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

This matter will be placed on the meeting agenda  
for TUESDAY, JUNE 9, 1992

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

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BEFORE THE FEDERAL ELECTION COMMISSION

|                                 |   |              |
|---------------------------------|---|--------------|
| In the Matter of                | ) |              |
|                                 | ) | MUR 3428 and |
| Kirkpatrick & Lockhart;         | ) | MUR 3435     |
| Thornburgh for Senate Committee | ) |              |
| and Raymond P. Dimuzio, as      | ) |              |
| treasurer;                      | ) |              |
| Richard L. Thornburgh.          | ) |              |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 23, 1992, do hereby certify that the Commission took the following actions with respect to MUR 3428 and MUR 3435:

1. Failed in a vote of 3-2 to pass a motion to
  - a) Merge MUR 3435 with MUR 3428.
  - b) Find reason to believe that Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441a(a)(1)(A) and 441c(a)(1) based on the possibility of an advance for services by the law firm to the campaign, but take no further action.
  - c) Find reason to believe that Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441c(a)(2) based on the possibility of an advance for services made by the law firm to the campaign, but take no further action.

(continued)

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- d) Direct the Office of General Counsel to send appropriate letters and appropriate Factual and Legal Analyses based on the above findings.
- e) Close the file.

Commissioners McDonald, McGarry, and Thomas voted affirmatively for the motion; Commissioners Aikens and Elliott dissented; Commissioner Potter recused himself from consideration of these matters and was not present.

2. Decided by a vote of 4-1 to

- a) Merge MUR 3435 with MUR 3428.
- b) Find no reason to believe that Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441a(a)(1)(A) and 441c(a)(1).
- c) Find no reason to believe that Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441c(a)(2).
- d) Close the file.

(continued)

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Federal Election Commission  
Certification for MURS 3428  
and 3435  
June 23, 1992

Page 3

- e) Direct the Office of General Counsel  
to send appropriate letters pursuant  
to the above actions.

Commissioners Aikens, Elliott, McDonald, and McGarry  
voted affirmatively for the decision; Commissioner  
Thomas dissented; Commissioner Potter recused  
himself from consideration of these matters and was  
not present.

Attest:

6-24-92  
Date

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

92040921632





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 7, 1992

E. Mark Braden  
Baker & Hostetler  
1050 Connecticut Avenue  
Suite 1100  
Washington, D.C. 20036

RE: MURs 3428 and 3435  
Richard L. Thornburgh  
Thornburgh for Senate  
Committee and Raymond P.  
Dimuzio, as treasurer

Dear Mr. Braden:

On October 8, 1991 and October 23, 1991, the Federal Election Commission notified your clients, of complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 23, 1992, the Commission determined to merge MUR 3435 with MUR 3428. You should now refer to this matter as MUR 3435. In addition, the Commission found, on the basis of the information in the complaints and information provided by your clients, that there is no reason to believe Richard L. Thornburgh and the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441a(f) and 441c(a)(2). Accordingly, on June 23, 1992, the Commission closed its file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials,

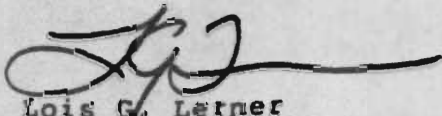
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E. Mark Braden  
Page 2

any permissible submissions will be added to the public record  
upon receipt.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: Lois G. Lerner  
Associate General Counsel

Enclosures  
General Counsel's Report  
Certification of Commission Action

92040921634



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 7, 1992

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Paul R.Q. Wolfson  
Public Citizen Litigation Group  
Suite 700  
2000 P Street, N.W.  
Washington, D.C. 20036

RE: MUR 3428

Dear Mr. Wolfson:

On June 23, 1992, the Federal Election Commission reviewed the allegations of the complaint filed by Michael Waldman dated October 3, 1992. On this date, the Commission determined to merge MUR 3435 with MUR 3428. You should now refer to this matter as MUR 3435.

On the basis of the information provided in Mr. Waldman's complaint and information provided by the respondents, the Commission found no reason to believe that Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441c(a)(1) and 441a(a)(1)(A) and no reason to believe that Richard L. Thornburgh and the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441c(a)(2) and 441a(f). Accordingly, on June 23, 1992, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow.

The Federal Election Campaign Act of 1971, as amended ("the Act") allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosures  
General Counsel's Report  
Certification of Commission Action

92040921635





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 7, 1992

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bob Barnett  
Executive Director  
The Democratic Party of  
Pennsylvania  
510 North Third Street  
Harrisburg, Pennsylvania 17101

RE: MUR 3435

Dear Mr. Barnett:

On June 23, 1992, the Federal Election Commission reviewed the allegations of your complaint dated October 1, 1991. On the basis of the information provided in your complaint and information provided by the respondents, the Commission found no reason to believe that Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441c(a)(1) and 441a(a)(1)(A) and no reason to believe that Richard L. Thornburgh and the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, violated 2 U.S.C. §§ 441c and 441a(f). Accordingly, on June 23, 1992, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow.

The Federal Election Campaign Act of 1971, as amended ("the Act"), allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosures  
General Counsel's Report  
Certification of Commission Action

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 7, 1992

**CLOSED**

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

RE: MURs 3428 and 3435  
Kirkpatrick & Lockhart

Dear Mr. Baran:

On October 8, 1991 and October 23, 1991, the Federal Election Commission notified your client, of two complaints alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On June 23, 1992, the Commission determined to merge MUR 3435 with MUR 3428. You should now refer to this matter as MUR 3435. In addition, the Commission found, on the basis of the information in the complaints and information provided by your client, that there is no reason to believe Kirkpatrick & Lockhart violated 2 U.S.C. §§ 441a(a)(1)(A) and 441c(a)(1). Accordingly, on June 23, 1992, the Commission closed its file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials,

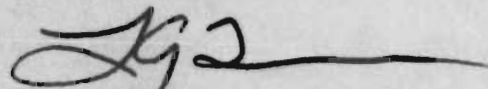
92040921637

Jan W. Baran  
Page 2

any permissible submissions will be added to the public record  
upon receipt.

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosures  
General Counsel's Report  
Certification of Commission Action

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3435

DATE FILMED 8-12-92 CAMERA NO. 4

CAMERAMAN E.E.J.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

☒ Microfilm  
☐ Public Records  
☐ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3428/3435

8/17/92

92040923330



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 14, 1992

Paul R.Q. Wolfson  
Public Citizen Litigation Group  
Suite 700  
2000 P Street, Northwest  
Washington, D.C. 20036

RE: MUR 3435

Dear Mr. Wolfson:

By letter dated July 7, 1992, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, and Kirkpatrick & Lockhart. Enclosed with that letter were the General Counsel's Report and the Certification of Commission Action.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe. This document will be placed on the public record as part of the file of MUR 3435.

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

Sincerely,

Helen J. Kim  
Attorney

Enclosure  
Statement of Reasons

CLOSED

9204092331





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 14, 1992

E. Mark Braden  
Baker & Hostetler  
1050 Connecticut Avenue  
Suite 1100  
Washington, D.C. 20036

RE: MUR 3435

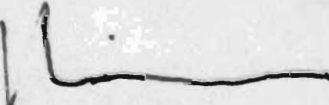
Dear Mr. Barnett:

By letter dated July 7, 1992, the Office of the General Counsel informed you of determinations made with respect to your clients Richard L. Thornburgh and the Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer. Enclosed with that letter were the General Counsel's Report and the Certification of Commission Action.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe. This document will be placed on the public record as part of the file of MUR 3435.

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

Sincerely,

  
Helen J. Kim  
Attorney

Enclosure  
Statement of Reasons

9204092332



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 14, 1992

Bob Barnett  
The Democratic Party of Pennsylvania  
510 North Third Street  
Harrisburg, Pennsylvania 17101

RE: MUR 3435

Dear Mr. Barnett:

By letter dated July 7, 1992, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against Richard L. Thornburgh, Thornburgh for Senate Committee and Raymond P. Dimuzio, as treasurer, and Kirkpatrick & Lockhart. Enclosed with that letter were the General Counsel's Report and the Certification of Commission Action.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe. This document will be placed on the public record as part of the file of MUR 3435.

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

Sincerely,

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

Helen J. Kim  
Attorney

Enclosure  
Statement of Reasons

9204092333



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 14, 1992

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

RE: MUR 3435

Dear Mr. Baran:

By letter dated July 7, 1992, the Office of the General Counsel informed you of determinations made with respect to your client Kirkpatrick & Lockhart. Enclosed with that letter were the General Counsel's Report and the Certification of Commission Action.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe. This document will be placed on the public record as part of the file of MUR 3435.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Helen J. Kim", is written over a light-colored background.

Helen J. Kim  
Attorney

Enclosure  
Statement of Reasons

9204092334