



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20461

THIS IS THE BEGINNING OF MUR # 3455

DATE FILMED 7/26/93 CAMERA NO. 4

CAMERAMAN E.E.J.

93040951346

06-C 3439

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

JAMES D. HOGAN, JR., P.C.

ATTORNEY AT LAW

91 NOV 18 PM 1:23

404-427-1500
404-426-1809 Fax

1800 PARKWAY PLACE
SUITE 730
MARIETTA, GEORGIA 30067

November 6, 1991

MUR 3455

CERTIFIED/RETURN RECEIPT

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 NOV 18 PM 3:31

Dear Mr. Noble:

It now appears that the key candidates for the Republican U.S. Senate campaign in Georgia will be Bob Barr, the former United States Attorney for the Northern District of Georgia and Paul Coverdell, the former Peace Corps Director.

On September 17, 1991 you were informed that apparent campaign law violations had been made by the Coverdell campaign. At that time, substantial fund raising activity was allegedly being conducted by them prior to the filing of appropriate documents with the Federal Election Commission establishing Mr. Coverdell's intent to be a candidate.

Amid published media statements declaring that the Coverdell campaign will be "*the meanest campaign ever*", there appears to be continuing violations of Federal law regarding fund raising. The Coverdell campaign is allowing its chief fund raiser, Joe W. Rogers, Jr., to solicit campaign donations on his corporate letterhead. This is not the first such example of these violations.

The enclosed mail piece was sent to more than 4,000 Republican activists in Georgia who know of Joe Rogers. This conduct is not permissible nor sanctioned under any exception of 11 CFR §§114.1(a) or 114.2(b), *et seq.*

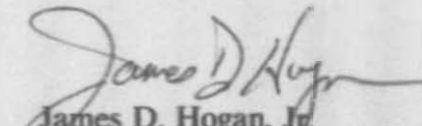
We expect and demand that the "*Coverdell Senate Committee*" be held to the same standard that other candidates follow in this race.

23040951347

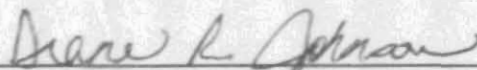
Lawrence M. Noble, Esq.
November 6, 1991
Page Two

Again, we respectfully request that the Federal Election Commission investigate these violations and require Mr. Coverdell to correct the same.

Very truly yours,


James D. Hogan, Jr.

Sworn to and subscribed before me
this 6th day of November, 1991.


Notary Public Notary Public, Cobb County, Georgia
My Commission Expires Aug. 31, 1992

JDH:drj
cc: Bob Barr
enclosures

23040951348

WAFFLE HOUSE

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091

(404) 729-5700

October 25, 1991

Dear Friend:

All of us shout for good people in public office. When this person comes along, we should support him. Paul Coverdell is one of those good people willing to sacrifice to bring strong leadership and sound management to the public sector. Paul is a successful businessman, who has 18 years of experience in the Georgia State Senate and 3 years of world-wide experience as the United States Peace Corps Director. Paul is a man who understands the direction that the United States needs to go.

1992 is the right time for Paul Coverdell to be elected to the United States Senate. His opponent, Wyche Fowler, is out of touch with Georgia voters and continues to head in the wrong direction. To this day, Fowler believes that Michael Dukakis should be President of the United States and that the U.S. should not have fought in the Middle East.

Because 1992 is a Presidential election year, and because Georgia will probably have five highly contested Congressional races, in addition to this Senate race, voter turnout in Georgia will be a record. The majority of the "new votes" that will turn out in '92 will be available to the Republican candidate, if we have the right Republican and a well-funded campaign. Paul Coverdell is the right Republican. He will make the best Senator, he will run the best campaign, and HE WILL WIN!

The most important money in any campaign is the "early money" that gets things started. Will you consider supporting Paul with a contribution? Please fill out the enclosed disclosure form, and mail it along with you check to me at: Post Office Box 6450; Norcross, Georgia 30091. Checks should be made payable to "Coverdell Senate Committee".

Please remember that under Federal Election Rules, contributions are limited to \$1,000 per individual and \$5,000 per PAC during the Primary and the same for the General Election. Corporate contributions are not acceptable.

Paul is putting his career on the line-- for us. Those of us who care should reciprocate with an "early investment". Thanks for your consideration.

Sincerely,

Joe W. Rogers, Jr.
President

The following information is required by the Federal Election Commission. Please mail it, along with your check made payable to "Coverdell Senate Committee", to the address below. Contact Sherri Fallin at 729-5700 if you have any questions.

Joe W. Rogers, Jr.
Post Office Box 6450
Norcross, Georgia 30091

Name _____

Address _____

Phone (h) _____ (o) _____

Occupation _____

Employer _____

Enclosed is my contribution of \$_____ to help elect Paul Coverdell to the U.S. Senate.

Paid for by Coverdell Senate Committee: Marvin Smith, Treasurer
Contributions are not tax deductible and Corporate Contributions are prohibited by law.

93040951350

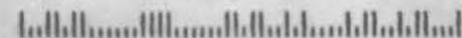
9 3 0 4 0 9 - 5 1 3 5 1

WAFFLE HOUSE.

"GOOD FOOD FAST"
P.O. BOX 6450 • NORCROSS, GEORGIA 30091-6450



GAIL G STAHL
5305 INDIGO CT
ACWORTH, GA 30101





Bill Shipp's Georgia

A Weekly Newsletter on Government and Business

Volume 5, No. 10
November 4, 1991

■ House Minority Whip Newt Gingrich's planned move from his old 6th district met with some unhappy responses. His former campaign manager, Randy Evans, wrote Gingrich an angry letter after Gingrich named Cobb countian Matt Towery as his new campaign mastermind. Evans also sent along a paid-up invoice for \$60,000 for "free" services rendered in the congressman's past campaigns.

■ In the midst of an appropriations subcommittee meeting last week, state Rep. Billy McKinney, D-Atlanta, cursed Atty. Gen. Mike Bowers. "Don't b— s— me," McKinney snapped at Bowers. When Bowers objected to McKinney's language, other legislators called upon the attorney general to calm down. The ruckus started when McKinney demanded to know who had authorized the attorney general to spend \$1 million defending the state against Rep. Tyrone Brooks' lawsuit aimed at overturning Georgia's majority-vote election laws. Bowers advised McKinney to get the laws changed if he did not want them defended in court.

■ The Georgia Council of Machinists (AFL-CIO) has endorsed David Worley (D) for election to Congress from the third district. With the help of the machinists, mostly Eastern Airline workers, Worley came within a whisker of beating House Minority Whip Newt Gingrich in 1990.

■ President Bush's endorsement of the new civil rights bill may have removed from the GOP arsenal its most effective weapon in trying to defeat such Democrats as Sen. Wyche Fowler. Bush had lambasted the bill as a "quota" measure supported by liberal Democrats. Just as Republican contenders were ready to use the "quota" issue against the Democrats, Bush switched positions and announced his support of the bill.

■ Georgia Republicans have turned glum. After victory in the Persian Gulf War, President Bush's coattails looked a yard-long. Republicans expected

attention.

■ "He would make a good secretary-general of the U.N.," Gov. Zell Miller quipped in a conversation about Bush's globe-trotting agenda.

■ Former Transportation Commissioner Hal Rives is angling for a job as transportation consultant for the 1996 Olympics. The deal is not sealed yet. Perhaps that is why Rives, on his last day in office, refused to release a transportation report, indicating Atlanta's highway infrastructure cannot support the crowds that will be generated by the 1994 Super Bowl in the Georgia Dome or the 1996 games.

■ The collapse of security at the parade honoring the Atlanta Braves was not the only slipup in last week's festivities. Parade activities were scheduled to end at City Hall with a luncheon/reception for the team's players, coaches and their families. Insiders report that upon arrival, the Braves discovered that Mayor Maynard Jackson's cronies and associates had polished off all the food. And members of the Braves' families were shunted aside as guests at the City Hall soiree mobbed players for autographs and photo opportunities. Many of the Braves departed in disgust.

■ Look for the Miller administration to take legal action on environmental grounds to try to stop the scheduled restarting of a nuclear reactor in January at the Savannah River Site in South Carolina. Miller believes the nuclear plant may be contaminating Georgia's ground water.

■ Reliable GOP sources say former Peace Corps Director Paul Coverdell is laying plans for "the meanest campaign ever" in trying to unseat Democratic Sen. Wyche Fowler next year. Coverdell's campaign manager is Tom Perdue, the no-holds-barred director of Gov. Joe Frank Harris' victorious 1982 campaign.

93040951352



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 21, 1991

James D. Hogan, Jr.
1800 Parkway Place
Suite 730
Marietta, GA 30067

RE: MUR 3455

Dear Mr. Hogan:

This letter acknowledges receipt on November 18, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Coverdell Senate Committee and Marvin Smith, as treasurer, and the Waffle House, Inc. The respondents will be notified of this complaint within five days.

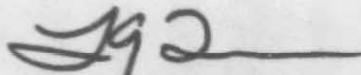
You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3455. 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

93040951353



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 21, 1991

Joe W. Rogers, Jr., President
Waffle House, Inc.
Executive Offices
5986 Financial Drive
Norcross, GA 30071

RE: MUR 3455

Dear Mr. Rogers:

The Federal Election Commission received a complaint which alleges that the Waffle House, Inc. ("Corporation") 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 3455. 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 Corporation 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.

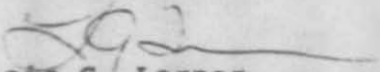
930409513554

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

93040951355



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 21, 1991

Coverdell Senate Committee
Marvin Smith, Treasurer
1724 Kodiak Circle
Atlanta, GA 30345

RE: MUR 3455

Dear Mr. Smith:

The Federal Election Commission received a complaint which alleges that the Coverdell 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 3455. 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.

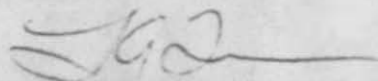
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

93040951356

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

93040951357



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 26, 1991

Joe W. Rogers, Jr.
3053 Habersham Rd, NW
Atlanta, GA 30305-2855

RE: MUR 3455

Dear Mr. Rogers:

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 3455. 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.

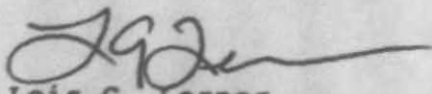
93040951358

Joe W. Rogers, Jr.
Page 2

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

93040951359

ABC 3647

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
SECTION COMMISSION
MAIL ROOM

MUR 3455

91 DEC -6 AM 10:41

NAME OF COUNSEL: Tim Perry

ADDRESS: Alston + Bird
One Atlantic Center
1201 W. Peachtree St.

TELEPHONE: Atlanta GA 30309-3424
404/ 581-7000

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL
91 DEC -6 PM 2:38

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

12/2/91
Date

Marrin H. Smith
Signature

RESPONDENT'S NAME: Coverdell Senate Committee
Marrin H. Smith

ADDRESS: 1790 N.E. Expressway
Atlanta, GA 30329

HOME PHONE: 404/636-6445

BUSINESS PHONE: 404/329-7277

93040951360

06-C3681

WAFFLE HOUSE

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 DEC -9 AM 11:19

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091

(404) 729-5700

December 5, 1991

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

Re: MUR 3455

Dear Mr. Noble:

Thank you for your letters of November 26, 1991, to Joe W. Rogers, Jr., both as President of Waffle House, Inc. and individually. We are pleased to see that the system involving complaints of possible violations of the Federal Election Campaign Act of 1971 does work.

As to the merits of the complaint, let me assure you that there have been no violations by Waffle House, Inc. or Joe W. Rogers, Jr., individually. 11CFR Paragraphs 114.1(a) or 114.2(b) as referenced in Mr. Hogan's complaint letter have to do solely with corporate violations. Therefore, I am not sure how Mr. Rogers could have individually violated these sections by signing a letter endorsing Paul Coverdale. Surely Mr. Rogers' endorsement of a candidate for the U. S. Senate is still protected under the First Amendment just like any other citizen.

As to the complaint concerning Waffle House, Inc., again, the particular sections cited by Mr. Hogan in his letter specifically refer to a violation by a corporation in incurring direct expenses in the endorsement of a political candidate for federal office. For there to be a violation, Waffle House, Inc. would have had to incur such an expense in some endorsement of Paul Coverdale. This is simply not the case.

The complaint seems to be that since Mr. Rogers signed his letter on Waffle House, Inc. stationery that this conduct was not permissible in that Waffle House, Inc. must have incurred some expense in the cost of the paper and envelopes

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 DEC -9 AM 3:13

Mr. Lawrence M. Noble, Esq.
December 5, 1991
Page Two

and possibly in the preparation and mailing of the letter. Enclosed you will find the following documents which show that the Coverdale Senate Committee actually paid for all of these items:

1. Invoice dated October 25, 1991, for three boxes of white letterhead stationery totaling \$64.07.

2. Invoice dated November 1, 1991, for three boxes of white letterhead stationery totaling \$63.00.

3. Invoice dated October 29, 1991 for three boxes of white stationery totaling \$63.00.

4. Invoice dated October 15, 1991 for six boxes of envelopes in the amount of \$50.40.

5. Invoice dated October 11, 1991, for two boxes of letterhead stationery and four boxes of envelopes for a total price of \$76.31.

(You will note that accompanying each invoice is a letter from Sherri Fallen to Paige Walls of Coverdale's Senate Committee asking for payment to Waffle House, Inc.)

6. Check #136 dated November 8, 1991, in the total amount of \$316.78 payable from Coverdale's Senate Committee to Waffle House, Inc. This pays all of the above invoices.

As to the expenses for actually printing the letters and the actual cost to mail the letters, you will find attached the following:

1. Invoice dated 10/29/91 from Minuteman Press for the printing of 3,000 letterheads and 3,500 second sheets. Total price was \$214.30. You will note that it says that this was paid by check #105. Also, enclosed you will find a copy of check #105 in the amount of \$214.30 from the Coverdale Senate Committee.

2. Invoice dated 11/1/91 for printing of 1,200 letters. The total price was \$37.59 and the invoice shows that the invoice was paid by check #107. Also enclosed is a copy of Coverdale's Senate Committee's check #107 in the amount of \$37.59 as payment for this invoice.

93040251362

Mr. Lawrence M. Noble, Esq.
December 5, 1991
Page Three

3. Expense voucher dated 10/31/91 from the Coverdale Campaign in the amount of \$1,450.00 for 5,000 stamps. You will note that there is an annotation that this was paid by check #106. Enclosed is a copy of check #106 from the Coverdale Senate Committee in the amount of \$1,450.00 to the U. S. Postal Service.

4. Coverdale Campaign expense voucher dated 10/21/91 in the amount of \$1,450.00 for 5,000 stamps. You will note that this was shown as paid by check #86 as a reimbursement to Molly Dye. Please note that this expense voucher, and the previous expense voucher dated 10/31/91 both reference that they are for letters involving "Rogers" or "JR letter." The "JR" references Joe Rogers.

This information should clear up any misconception that Waffle House has sustained any expense in producing the letter which was signed by Joe W. Rogers, Jr. and referenced in Mr. Hogan's complaint of November 6, 1991. If you have any further questions on this matter, please feel free to contact me.

Sincerely,

J. Michael Upton

J. Michael Upton
Vice President/Secretary
General Counsel

JMU:dp
Enclosures

cc: Joe W. Rogers, Jr.

23040951363

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 29, 1991
RE: Invoices

Attached is the invoice totalling \$64.07 for the Waffle House stationary used for Joe's letters to the Delegates and Alternates. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Picked By _____

Checked By _____

Received By _____

Returned By _____

WAFFLE HOUSE

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5835

Inv. No. J0243851

Inv. Date 10/25/91

Control No. 311185

INVOICE

Any shortages noted & reported to Food Division will be redelivered within 24hrs or else they are Free

Sold To:

WAFFLE HOUSE INC.

Ship To:

JACKIE VAN DUJVEN

Type Sale:

COMPANY

Ship By:

PICKED

NORCROSS, GA 30071

Customer No.: 99

Customer Name: WAFFLE HOUSE INC.

Tax Rate: 000000000

Route No.:

Cube _____ Wt. _____

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	3	STATIONARY W/ FILTER & AD	3.05	20.34	61.02
		SUB TOTAL			\$61.02
FILE COPY					
** DIRECT CHARGE		** DO NOT RUN THRU FORM 4			
H-0061-673-000					
INVOICE SUBTOTAL					61.02
TAXABLE AMOUNT					61.02
SALES TAX					3.05
DELIVERY CHARGE					.00
INVOICE TOTAL					64.07

UNIT FILE

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: November 4, 1991
RE: Invoices

Attached is the invoice totalling \$63.00 for the Waffle House stationary used for Joe's letters to Johnny Isakson's \$1,000 and above list. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Checked By _____

Received By _____

Returned By _____

FOOD DIVISION

5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0244630

Inv. Date 11/01/91

Control No. 312781

INVOICE Any shortages noted & reported to
and Division will be redelivered
within 24hrs or else they are Free

Sold To:

Ship To:

Type Sale:

Ship By:

WAFFLE HOUSE INC.

JACKIE V.

LUTHER, ARMY

PICKED

NORCROSS, GA 30071

TaxRate)00000000

Customer No.: 49

Route No.:

Customer Name: FLE HOUSE INC.

Cube _____ Wt. _____

ATTACH TO FORM 4

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 30, 1991
RE: Invoices

Attached is the invoice totalling \$63.00 for the Waffle House stationary used for Joe's letters to the Delegates and Alternates. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Picked By _____
 Checked By _____
 Received By _____
 Returned By _____

**WAFFLE
HOUSE**
 FOOD DIVISION
 5984B FINANCIAL DRIVE
 NORCROSS, GEORGIA 30071
 (404) 729-5895

Inv. No. J0244358
 Inv. Date 10/29/91
 Control No. 312226

INVOICE Any shortages noted & reported to Food Division will be redelivered within 24hrs or else they are Free

Sold To: WAFFLE HOUSE INC.
 NORCROSS, GA 30071
 Customer No.: 99
 Customer Name: WAFFLE HOUSE INC.

Ship To: JACKIE
 COMPANY
 U P S

Type Sale:
 Ship By:

Tax Rate: 000000000
 Route No.:
 Cube _____ Wt. _____

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	3	STATIONARY WH LETTERHEAD	3.00	20.00	60.00
		SUB TOTAL			\$60.00
** DIRECT CHARGE ** DO NOT RUN THRU FORM-4 D-0061-673-000					
INVOICE SUBTOTAL TAXABLE AMOUNT SALES TAX DELIVERY CHARGE INVOICE TOTAL					60.00 60.00 3.00 .00 63.00



ATTACH TO FORM 4

73040951369

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 21, 1991
RE: Invoices

Attached is the invoice totalling \$50.40 for Waffle House envelopes that the campaign picked up on October 15, 1991. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Picked By _____
 Checked By _____
 Received By _____
 Returned By _____

**WAFFLE
HOUSE**
 FOOD DIVISION
 5984B FINANCIAL DRIVE
 NORCROSS, GEORGIA 30071
 (404) 729-5895

Inv. No. J0242696
 Inv. Date 10/15/91
 Control No. 308724

INVOICE Any shortages noted & reported to
 Food Division will be redelivered
 within 24hrs or else they are Free

Sold To: **WAFFLE HOUSE INC.** Ship To: **JACKIE VANHOVEN** Type Sale: **COMPANY** Ship By: **PICKED**
 NORCROSS, GA 30071 Tax Rate: 0000000000
 Customer No.: 99 Route No.:
 Customer Name: **WAFFLE HOUSE INC.** Cube: Wt. 35.000

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7214	4	ENVELOPE, WAFFLE HOUSE	2.40	12.00	48.00
		SUB TOTAL			\$48.00
FILE COPY					
** DIRECT CHARGE ** DO NOT RUN THRU FORM-4					
D-0051-573-000					

INVOICE SUBTOTAL	48.00
TAXABLE AMOUNT	48.00
SALES TAX	2.40
DELIVERY CHARGE	.00
INVOICE TOTAL	50.40



UNIT FILE

93040951371

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 14, 1991
RE: Invoices

Attached is the invoice totalling \$76.31 for Waffle House stationary and envelopes that the campaign picked up on October 11, 1991. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Picked By _____
Checked By _____
Received By _____
Returned By _____

WAFFLE HOUSE

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0242355
Inv. Date 10/11/91
Control No. 308022

INVOICE

Any shortages noted & reported to
Food Division will be redelivered
within 24hrs or else they are Free

Sold To: WAFFLE HOUSE INC.
NORCROSS, GA 30071
Customer No.: 99
Customer Name: WAFFLE HOUSE INC.

Ship To: JACKIE VAN DIJCKEN
COMPANY
PICKED

Type Sale:

Ship By:

Tax Rate: 0000000000
Route No.:
Cube _____ Wt. 26.000

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	2	STATIONARY W/ LETTERHEAD	2.03	20.34	40.68
7214	4	ENVELOPE, WAFFLE HOUSE	1.60	8.00	32.00
		SUB TOTAL			\$72.68
** DIRECT CHARGE ** DO NOT RUN THRU FORM-4 D-0041-673-000					
INVOICE SUBTOTAL					72.68
TAXABLE AMOUNT					72.68
SALES TAX					3.63
DELIVERY CHARGE					.00
INVOICE TOTAL					76.31

ATTACH TO FORM 4

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0136

64-1/610

8 November 1991

PAY
TO THE
ORDER OF

Waffle House, Inc.

\$ 316.78

Three hundred sixteen + 78/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30303

FOR

stationery, etc. letterhead

Paige L. Wells
Don K. Boudie

000136 061000010 18 734 434

93040951374

rd
ck.#
106

EXPENSE VOUCHER
COVERDELL CAMPAIGN

NUMBER _____ DATE 10-31-91 AMOUNT \$1450
PAYEE U.S. Postmaster EST. PAYMENT DATE 10-31-91
DESCRIPTION 5000 STAMPS
jr letter
REQUESTED BY Purnis APPROVED BY gmw

CHECK TENDERED \$ 11.60
CHECK TENDERED \$ 1450.00

*** U.S. POSTAL SERVICE ***
EXECUTIVE PARK BR
ATLANTA, GA 30347-9998

CLERK #01
DATE: 10/31/91 12:34:46 PM

090 POSTAGE 1450.00

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** THANK YOU ***

93040951375

EXPENSE VOUCHER
COVERDELL CAMPAIGN

NUMBER _____ DATE 10/21/91 AMOUNT \$1,450.00

PAYEE U.S. Post Office EST. PAYMENT DATE _____

DESCRIPTION 5,000 - 294 stamps
for Persons & Rogers letter

REQUESTED BY Molly Dye APPROVED BY TKR

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** U.S. POSTAL SERVICE ***
BROADVIEW STATION
ATLANTA, GA 30324-9998

CLERK #07
DATE: 10/21/91 01:23:52 PM

090 POSTAGE 1450.00

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** THANK YOU ***

5,000 stamps
ck #86
Reimbursement
to Molly Dye

93040951376

NAME Waffle House

ADDRESS _____

TELEPHONE 329-7277

FAX # _____

ORDERED BY Dixie PurvisORDERTAKE Book INVOICE No 1402

PURCHASE ORDER # _____

DATE ORDERED M T W T F S 10/31/91 AM PMDATE DUE M T W T F S 11/1/ AM PM

DATE BILLED _____

☐ PICK UP ☐ DELIVERY ☒ CALL WHEN READY

PREPARATION TYPESET PASTE-UP STATS RED/ENLARGE HALFTONES SCREENS NEGATIVES METAL PLATES

PREP TOTAL

PROOF REQUIRED ☒ YES ☐ NO CUSTOMER'S SIGNATURE _____

PRINTING

PAPER STOCK

QUANTITY	DESCRIPTION	TYPE	COLOR	WGHT	FINISH SIZE	INK	PRICE
1200	cust supplied stock	1S			8 1/2 x 11	Blk	35.80
		1S					
		2S			X		
	(1500 skts supplied)	1S			X		
	SAVE OVERS - DO NOT PRINT	1S			X		

SPECIAL INSTRUCTIONS

PRINT TOTAL

BINDERY CUT # _____ DRILL: #HOLES _____ FOLD: 1/2 Z LETTER DBL PARALLEL PERF BINDERY TOTAL

STAPLE: SIDE CORNER SADDLE NUMBER: COLOR _____ START # _____ LAMINATE SCORE

COLLATE WRAP BOX GBC/VELO PAD: # OF SHEETS _____

COPYING

COPYING TOTAL

PAYMENT ☒ BILL CASH CHECK # 0107DATE 11-1-91

ACCEPTED BY _____

PLEASE PAY BY THIS INVOICE

3326 BUFORD HIGHWAY
ATLANTA, GA 30329
633-6153
FAX: 634-0575SUBTOTAL 35.80TAX 1.79TOTAL 37.59DEPOSIT PAIDBALANCE ck # 107

THANK YOU FOR YOUR BUSINESS!

NAME

NAFFLE-HOSE

ORDERTAKEN BY

LEWIS

INVOICE

No

1365

ADDRESS

CONGRESSIONAL SENATE
COMMITTEE

PURCHASE ORDER #

DATE ORDERED

M T W Th F S 10/28/91 AM

DATE DUE

M T W Th F S 10/29/91 AM

DATE BILLED

ASAP

☐

PICK UP

☐

DELIVERY

☒

CALL WHEN READY

FAX #

ORDERED BY

PAIGE WALLS

PREPARATION

TYPESET

PASTE-UP

STATS

RED/ENLARGE

HALFTONES

SCREENS

NEGATIVES

METAL PLATES

PREP TOTAL

PROOF REQUIRED

☐

YES

☐

NO

CUSTOMER'S SIGNATURE

PRINTING

PAPER STOCK

QUANTITY

DESCRIPTION

TYPE

COLOR

WGHT

FINISH

SIZE

INK

PRICE

APPROXIMATELY

3,000

LETTERHEAD

1S

2S

3,500

(2ND) SIZE

1S

2S

20# BOND WHITE

8 1/2 x 11

K

130.80

1S

2S

1S

2S

X

X

X

SPECIAL INSTRUCTIONS

PRINT TOTAL

204.10

BINDERY

CUT #

DRILL: #HOLES

FOLD: 1/2

Z

LETTER DBL PARALLEL

PERF

BINDERY TOTAL

STAPLE: SIDE CORNER SADDLE NUMBER: COLOR

START #

LAMINATE

SCORE

COLLATE

WRAP

BOX

GBC/VELO

PAD: # OF SHEETS

COPYING

COPYING TOTAL

PAYMENT

BILL

CASH

CHECK

0105

X

DATE

10-29-91

ACCEPTED BY

PLEASE PAY BY THIS INVOICE

SUBTOTAL

204.10

TAX

10.20

TOTAL

214.30

DEPOSIT

BALANCE

214.30 PAID

THANK YOU FOR YOUR BUSINESS!



3326 BUFORD HIGHWAY
ATLANTA, GA 30329
633-6153
FAX: 634-0575

WR LETTER CK # 105

35040951378

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0105

84-1/810

PAY
TO THE
ORDER OF

Minuteman Press

10/29 1951

\$ 214.30

Two hundred fourteen & 30/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

ok letter

Paige L. Walls

Sam K. Berdine

⑈000105⑈ ⑆⑈06⑈0000⑈0⑈ 18 734 434⑈

⑈0000021430⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0106

84-1/810

PAY
TO THE
ORDER OF

U.S. Postal Service

329-7277

10/31/ 1951

\$ 1450.00

One thousand four hundred fifty dollars and 00/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

5000 stamps

Paige L. Walls

Sam K. Berdine

⑈000106⑈ ⑆⑈06⑈0000⑈0⑈ 18 734 434⑈

⑈0000145000⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0107

84-1/810

PAY
TO THE
ORDER OF

Minute Man Press

11/1 1951

\$ 37.59

Thirty-seven & 59/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

ok letter

Paige L. Walls

Sam K. Berdine

⑈000107⑈ ⑆⑈06⑈0000⑈0⑈ 18 734 434⑈

⑈0000003759⑈

PAY TO THE ORDER OF
THE CITIZENS & SOUTHERN
NATIONAL BANK ATLANTA, GA.
061000052
FOR DEPOSIT ONLY

DO NOT SIGN BELOW THIS LINE
FOR DEPOSIT ONLY

05502138
05502138
05502138

3 0 41.5 Postal Service 3 8 04
FOR DEPOSIT ONLY
LATE FEE

DO NOT SIGN BELOW THIS LINE
FOR DEPOSIT ONLY

05502138
05502138
05502138

05502138

05502138

05502138
05502138
05502138

PAY TO THE ORDER OF
THE CITIZENS & SOUTHERN
NATIONAL BANK ATLANTA, GA.
061000052
FOR DEPOSIT ONLY

DO NOT SIGN BELOW THIS LINE
FOR DEPOSIT ONLY

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05502138

06C 3696

ALSTON & BIRD

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 DEC 10 AM 9:32

One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
404-881-7000
Fax: 404-881-7777 Telex: 54-2996

Timothy S. Perry
Direct Dial: 404-881-7543

December 9, 1991

VIA FEDERAL EXPRESS

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

Re: MUR 3455

Dear Ms. Kim:

On behalf of the Coverdell Senate Committee, Inc. and its Treasurer, Marvin Smith, I enclose information that you requested. This information has been provided to me by representatives of the Coverdell Senate Committee, Inc. ("Committee")

With regard to the mailing in question the Committee paid for the following:

1. Stationery and envelopes purchased from Waffle House, Inc. for \$316.78 (see Committee's check 0136);
2. Copying of the letter by Minute Man Press in the total amount of \$251.89 (see Committee's checks 0105 and 0107); and
3. Postage in the amount of up to \$2,900 for this and other mailings (see Committee's checks 0086 and 0106).

Volunteers stuffed the envelopes and completed the mailing.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 DEC 10 PM 2:56

93040951381

Ms. Helen Kim
December 9, 1991
Page 2

All of the expenditures in connection with this mailing were paid for by the Committee. The mailing itself states that.

The Committee knows of no corporate expenditure here which could form the basis for any complaint.

If you have any questions or need any further information, I would be happy to help.

Cordially,



Timothy S. Perry

1PERRY/mva
Enclosures

cc: Mr. Marvin Smith (w/encls.)

93040951382

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0136

64-1/610

PAY
TO THE
ORDER OF

Naffee House, Inc.

8 November 19*91*

\$ *316.78*

Three hundred sixteen + 78/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30303

D-61-673

Paige L. Wallis

Don K. Bendure

FOR

stationery or letterhead

⑈000136⑈ ⑆061000010⑆ 18 734 434⑈ ⑈0000031678⑈

93040

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0105

64-1/810

PAY
TO THE
ORDER OF

Minuteman Press

10/29 1991

\$ 214.30

Two hundred fourteen & 30/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Paige L. Walls

Don K. Berdine

FOR

Sk Letter

⑈000105⑈ - ⑆061000010⑆ 18 734 434⑈ ⑈0000021430⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0107

64-1/810

PAY
TO THE
ORDER OF

Minute Man Press

11/1 1991

\$ 37.59

Thirty-seven & 59/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Paige L. Walls

Don K. Berdine

FOR

Sk letter

⑈000107⑈ - ⑆061000010⑆ 18 734 434⑈ ⑈0000003759⑈

Coverdell Senate Committee
1730 NE Expressway
2nd floor
Atl. Ga 30329

0086

64-1/610

PAY TO THE
ORDER OF

Molly Dye

\$ 1450.⁰⁰

One thousand four hundred fifty + ⁰⁰/₁₀₀ DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

Stamp reimbursement

⑈000086⑈ ⑆061000010⑆ 18 734 434⑈ ⑈0000145000⑈

Pargi L. Walls
Tom K. Berdine

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0106

64-1/610

329-7277

PAY
TO THE
ORDER OF

U.S. Postal Service

10/31/ 1991

\$ 1450.00

One thousand four hundred fifty dollars and ⁰⁰/₁₀₀ DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

5000 stamps

⑈000086⑈ ⑆061000010⑆ 18 734 434⑈ ⑈0000145000⑈

Pargi L. Walls
Tom K. Berdine

40951365

00-03738

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

STATEMENT OF DESIGNATION OF COUNSEL

91 DEC 12 AM 11:35

MUR 3455

NAME OF COUNSEL:

J. Michael Upton

ADDRESS:

P.O. Box 6450

Norcross, Ga. 30091

TELEPHONE:

404-729-5782

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

12/10/91

Signature

Joseph W. Rogers, Jr.

RESPONDENT'S NAME:

Joseph W. Rogers, Jr., individually and
as President of Waffle House, Inc.

ADDRESS:

P.O. Box 6450

Norcross, Ga. 30091

HOME PHONE:

BUSINESS PHONE:

729-5700

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 DEC 12 AM 3:52

93040951306

RECEIVED
F.E.C.
SECRETARIAT

92 MAY 29 PM 2:41

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR # 3455
DATE COMPLAINT RECEIVED
BY OGC: November 18, 1991
DATE OF NOTIFICATION TO
RESPONDENTS: November 21, 1991
November 26, 1991
STAFF MEMBER: Helen J. Kim

COMPLAINANT: James D. Hogan, Jr.

RESPONDENTS: Waffle House, Inc.

Coverdell Senate Committee and
Marvin Smith, as treasurer

Joe W. Rogers, Jr.

RELEVANT STATUTES: 2 U.S.C. § 441b(a)
2 U.S.C. § 441b(b)(2)
11 C.F.R. § 100.7(a)(3)
11 C.F.R. § 114.9(a)(1)

INTERNAL REPORTS CHECKED: Year End Report for the
Coverdell Senate Committee

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on November 18, 1991. The complaint alleges that Joe W. Rogers, Jr., Waffle House, Inc., the Coverdell Senate Committee and Marvin Smith, as treasurer, violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

Waffle House, Inc. and the Coverdell Senate Committee and Marvin Smith, as treasurer ("Committee"), were notified of the complaint on November 21, 1991. Joe W. Rogers, Jr. was notified on November 26, 1991. Waffle House, Inc. and Mr. Rogers responded

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to the complaint on December 9, 1991, and the Committee responded on December 10, 1991.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

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The subject of the complaint is a fundraising letter signed by Joe W. Rogers, Jr., the President of Waffle House, Inc., written on Waffle House's stationery.¹ Waffle House is a Georgia corporation in the business of operating and franchising coffee shop restaurants. According to the complaint, the letter was sent to over 4,000 Republican activists "who know of Joe Rogers." The letter solicited contribution checks payable to Paul D. Coverdell's campaign for U.S. Senate and directed the recipient to send the checks "to [Joe Rogers] at: Post Office Box 6450; Norcross, Georgia, 30091." This post office box belongs to Waffle House and is displayed underneath the corporate logo on the letterhead.

The second page of the letter carried a disclaimer stating that the solicitation letter was paid for by the Coverdell Senate Committee and listed Sherri Fallin as the person to contact for more information. Sherri Fallin is a Waffle House employee and the phone number listed is also displayed on the corporate letterhead.

The complaint alleges that Waffle House made a contribution to the Committee by allowing the Committee to use its corporate

1. For this report, "stationery" will refer to the entire piece of paper including the printed heading and "letterhead" will refer only to the printed heading itself.

93040951389
letterhead. The respondents claim that the Committee paid for all direct expenses associated with the solicitation and that Waffle House made no corporate expenditures. Waffle House submitted five invoices for stationery and envelopes and copies of Committee checks that were used to pay for the items. Accompanying each invoice was a letter from Sherri Fallin of Waffle House to Paige Walls of the Committee requesting payment. Waffle House also submitted Committee expense vouchers for postage showing that the Committee paid for 5,000 stamps for the "JR letter" and 5,000 stamps for the "Persons & Rogers letter."

Waffle House also submitted two paid invoices from MinuteMan Press for printing letters along with copies of Committee checks used to pay MinuteMan Press. Waffle House's name, however, appears on the "name" line of the printing invoices, and the name of a Committee representative is listed on the "ordered by" line.

Counsel for the Committee also stated that the Committee paid for all expenses in connection with the mailing in question. The Committee submitted copies of checks made to Waffle House in the amount of \$316.78 for stationery and envelopes, to MinuteMan Press in the total amount of 251.89 for copying the letter, and for postage in the total amount of \$2,900. Furthermore, counsel also stated that volunteers prepared and completed the mailing.

B. Statutory and Regulatory Provisions

The Act prohibits corporations from making a contribution or expenditure in connection with any federal election. 2 U.S.C. § 441b(a). It also prohibits officers or directors of a corporation from consenting to any contribution or expenditure by

the corporation. Id. In addition, candidates, political committees, or other persons may not knowingly accept or receive any contribution prohibited by this section. Id. "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any service, or anything of value to any candidate or her campaign committee in connection with a federal election. 2 U.S.C. § 441b(b)(2).

Although the Act broadly prohibits corporations from supporting federal candidates, stockholders or employees of a corporation engaged in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). Commission regulations define "occasional, isolated, and incidental use" to include any activity that does not exceed more than one hour per week regardless of whether the activity takes place during or after normal working hours. 11 C.F.R. § 114.9(a)(1)(iii). If, however, an employee of a corporation is not engaged in volunteer activity, then compensation paid by a corporation to the employee for services rendered without charge to a political committee for any purpose, is a contribution. 11 C.F.R. § 100.7(a)(3).

C. Analysis

The documents submitted by Waffle House and the Committee show that the Committee paid for the stationery, preparation, and postage for the solicitation. A further review of these documents and the solicitation itself, however, indicate that Waffle House

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may have given other "things of value" to the Committee for which Waffle House was not reimbursed.

The documents submitted by Waffle House suggest that corporate employee services may have been used in connection with the solicitation letter. The second page of the solicitation lists Sherri Fallin, a Waffle House employee, as the person to contact if the recipient of the letter had any questions. Because all the contributions were collected by Waffle House, this raises the inference that Ms. Fallin was also responsible for collecting the contributions received and the forwarding them to the Committee. Furthermore, Ms. Fallin wrote the letters attached to the invoices for the stationery to a Committee representative requesting payment for the stationery. This suggests that she may have also acted as the contact person in the corporation for the Committee.

In addition to corporate employee involvement, certain aspects of the solicitation itself suggest that the solicitation used the corporate endorsement of Waffle House to enhance the fundraising appeal of Paul Coverdell's campaign. Most significantly, the solicitation was printed on stationery bearing Waffle House's letterhead and was signed by Joe W. Rogers, as President of Waffle House. Also, the letter directed the recipient to send a contribution to Mr. Rogers at Waffle House's address and to call the corporate phone number for more information. Indeed, the letterhead not only displays Waffle House's name, it displays Waffle House's logo which is a registered trademark. By registering its trademark, Waffle House

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secured legal recognition of its exclusive ownership rights for the use of its logo and its ability to enjoin others from unauthorized use.² The desire for such legal recognition of its trademark suggests that Waffle House placed a value on the corporate logo itself.

Moreover, Waffle House's franchise operations suggest that not only does Waffle House attach a value to its logo, it may quantify it in the course of its business transactions with potential franchisees. As part of its business operations, Waffle House sells restaurant franchises. Generally, as part of a franchise agreement, a franchisor grants the use of its trademark and the privilege of operating under the franchise system in exchange for royalty or franchise fees. See generally G. Hadfield, Problematic Relations: Franchising and the Law of Incomplete Contracts, 42 Stan. L. Rev. 927, 932-38 (1990). Thus, in allowing the Committee to use its corporate letterhead, Waffle House gave something "of value" to the Committee.

In sum, the complaint and the responses reveal the deliberate use of Waffle House's corporate letterhead to enhance a fundraising appeal conducted under the aegis of Waffle House's president; the uncompensated use of Waffle House's corporate logo for which the corporation would normally charge; and the use of a corporate employee to coordinate the activity. Thus, this

2. A certificate of registration is prima facie evidence of the exclusive right to use the mark. 15 U.S.C.A. § 1057(b). Under Section 1114(1) of Title 15, the unauthorized users of a registered trademark are liable to the registrant for remedies.

indicates that the Committee was accorded a benefit which was something "of value" prohibited by Section 441b.³

In addition to the benefits given to the Committee, the documents submitted by the respondents also raise a number of questions regarding the details of the solicitation which may require further inquiry. Although the complaint claims at least 4,000 letters were sent, the invoices that Waffle House submitted from the printer and the costs for postage suggest that more letters may have been printed.⁴ Furthermore, the letters attached to the invoices for the stationery suggest that there were at least two mailing lists.⁵ The existence of two mailing lists

3. The Commission has addressed the issue of the use of corporate stationery in previous enforcement matters. Most recently in MURs 3066 and 3105, this Office argued that although the corporation was reimbursed for the cost of the stationery, such payment did not account for the intrinsic value of the corporate name or logo itself. In both these matters, the Commission was unable to agree that the intrinsic value of the corporate name or logo was "something of value" recognized by the Act.

4. One invoice showed that 1,200 letters were printed with customer supplied stock and another invoice showed that 3,000 letters were printed on letterhead. As noted above, Waffle House submitted two Committee expense vouchers for postage. One showed that the Committee purchased 5,000 stamps for "[Joe Rogers] letter" and the other stated that the Committee purchased another 5,000 stamps for "Persons and Rogers letter."

5. The letters dated October 29, 1991 and October 30, 1991, attached to the invoices dated October 25, 1991 and October 29, 1991, respectively, stated that the boxes of stationery were used for "Joe's letters to the Delegates and Alternates." The letter dated November 4, 1991 attached to the invoice dated November 1, 1991, stated that the boxes of stationery were used for "Joe's letters to Johnny Isakson's \$1,000 and above list."

The responses to the complaint do not mention the source of the lists or who paid for them. The Committee's Year End Report lists two separate disbursements for mailing lists-- one on November 7, 1991 to Direct Mail Systems, Inc. and another on

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raises the question of whether there was another solicitation sent that was different from the one submitted along with the complaint.

Based on the foregoing discussion, this Office recommends that the Commission find reason to believe Waffle House, Inc. violated 2 U.S.C. § 441b(a). This Office also recommends that the Commission find reason to believe that Joe W. Rogers, Jr., as an officer of Waffle House, Inc., violated 2 U.S.C. § 441b(a) for consenting to Waffle House's contributions to the Committee. Furthermore, this Office recommends that the Commission find reason to believe that the Coverdell Senate Committee and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a) for knowingly accepting corporate contributions. This Office intends to inquire into the details of the activities conducted in connection with the fundraising solicitation and into Waffle House's licensing of its registered trademark. Because of the likely sensitivity of this latter information, this Office recommends the approval of a subpoena to Waffle House.

III. RECOMMENDATIONS

1. Find reason to believe that Waffle House, Inc. violated 2 U.S.C. § 441b(a).
2. Find reason to believe that Joe W. Rogers, Jr. violated 2 U.S.C. § 441b(a).

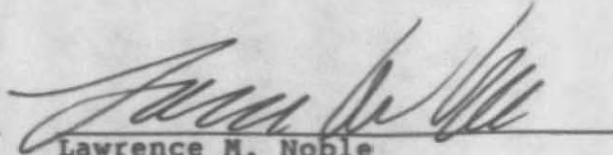
(Footnote 5 continued from previous page)
October 14, 1991 to the Georgia Republican Party. It is not clear, however, from the disclosure report whether these disbursements were made for the lists mentioned in the letters accompanying the invoices.

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3. Find reason to believe that the Coverdell Senate Committee and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a).
4. Approve the appropriate letters, attached Factual and Legal Analyses, and the attached subpoena and order to Waffle House.

Date

5/29/92


Lawrence M. Noble
General Counsel

Attachments

1. Solicitation letter
2. Waffle House Response to Complaint
3. Committee Response to the Complaint
4. Factual and Legal Analyses (2)
5. Subpoena and Order to Waffle House

93040951395



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: JUNE 5, 1992

SUBJECT: MUR 3455 - FIRST GENERAL COUNSEL'S REPORT
DATED MAY 29, 1992.

The above-captioned document was circulated to the
Commission on MONDAY, JUNE 1, 1992 at 11:00 A.M.

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

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

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

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

93040951396

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Waffle House, Inc.; Coverdell) MUR 3455
Senate Committee and Marvin Smith,)
as treasurer; Joe W. Rogers, Jr.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 9, 1992, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3455:

1. Find reason to believe that Waffle House, Inc. violated 2 U.S.C. § 441b(a).
2. Find reason to believe that Joe W. Rogers, Jr. violated 2 U.S.C. § 441b(a).
3. Find reason to believe that the Coverdell Senate Committee and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a).

(continued)

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4. Approve the appropriate letters, the Factual and Legal Analyses, and the subpoena and order to the Waffle House, as recommended in the General Counsel's report dated May 29, 1992, subject to amendment of the Factual and Legal Analyses to delete reference to the use of the letterheads, and subject to modification of the subpoena as agreed during the meeting discussion.

Commissioners Aikens, Elliott, McDonald, Potter, and Thomas voted affirmatively for the decision; Commissioner McGarry was not present.

Attest:

6-10-92
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 23, 1992

Tim Perry
Alston & Bird
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309

RE: MUR 3455
Coverdell Senate Committee
and Marvin Smith, as
treasurer

Dear Mr. Perry:

On November 21, 1991, the Federal Election Commission notified your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on June 9, 1992, found that there is reason to believe the Coverdell Senate Committee and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Coverdell Senate Committee and Marvin Smith, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be

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Tim Perry
Page 2

pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Questions
Factual & Legal Analysis

93040951400

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3455
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: Marvin Smith, Treasurer
Coverdell Senate Committee
1730 N.E. Expressway
Second Floor
Atlanta, Georgia 30329

93040951401

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

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from August 1, 1991 to the present.

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

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DEFINITIONS

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

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

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

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

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

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

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

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BEFORE THE FEDERAL ELECTION COMMISSION

MUR 3455

Questions and Request for Documents
to Marvin Smith and Coverdell Senate Committee

1. In connection with the solicitation letter written by
Joe Rogers on behalf of Paul Coverdell's campaign:

- a. State whether there were versions of solicitation letters written by Joe Rogers on behalf of Paul Coverdell's campaign different from the letter dated October 25, 1991, that was submitted with the complaint. If so, then produce a copy of such letter(s).
- b. State the total number of letters that were prepared and sent.
- c. State the number of responses to the solicitation that Waffle House received. Also, state the total amount of contributions received by Waffle House which were forwarded to the Coverdell Senate Committee.
- d. In addition to costs for stationery, printing, and postage, state all costs involved with the solicitation letter, including the value of the use of Waffle House's post office box. Identify and produce all documents, including copies of invoices, checks, and check register entries, relating to such costs.

2. State the number of mailing lists used in connection with the solicitation letters.

- a. Identify all persons or entities that purchased the mailing lists.
- b. Identify all persons or entities from whom the mailing lists were purchased.
- c. Identify and produce all documents, including copies of checks, check register entries, and invoices, relating to the purchase of such mailing lists.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Coverdell Senate Committee
and Marvin Smith, as treasurer

MUR: 3455

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on November 18, 1991. The complaint alleged certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with a fundraising letter sent on behalf of the Coverdell Senate Committee ("Committee").

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

The subject of the complaint is a fundraising letter signed by Joe W. Rogers, Jr., the President of Waffle House, Inc., written on Waffle House's stationery. Waffle House is a Georgia corporation in the business of operating and franchising coffee shop restaurants. According to the complaint, the letter was sent to over 4,000 Republican activists "who know of Joe Rogers." The letter solicited contribution checks payable to Paul D. Coverdell's campaign for U.S. Senate and directed the recipient to send the checks "to [Joe Rogers] at: Post Office Box 6450; Norcross, Georgia, 30091." This post office box belongs to Waffle

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House and is displayed underneath the corporate logo on the letterhead.

The second page of the letter carried a disclaimer stating that the solicitation letter was paid for by the Coverdell Senate Committee and listed Sherri Fallin as the person to contact for more information. Sherri Fallin is a Waffle House employee and the phone number listed is also displayed on the corporate letterhead.

Counsel for the Committee stated that the Committee paid for all expenses in connection with the mailing in question. The Committee also submitted copies of checks made to Waffle House in the amount of \$316.78 for stationery and envelopes, to MinuteMan Press in the total amount of 251.89 for copying the letter, and for postage in the total amount of \$2,900.

Documents obtained from Waffle House included five invoices for stationery and envelopes and copies of Committee checks that were used to pay for the items. Accompanying each invoice was a letter from Sherri Fallin of Waffle House to Paige Walls of the Committee requesting payment. The documents also included Committee expense vouchers for postage showing that the Committee paid for 5,000 stamps for the "JR letter" and 5,000 stamps for the "Persons & Rogers letter." Two paid invoices from MinuteMan Press for printing letters along with copies of Committee checks used to pay MinuteMan Press were also included in the documents obtained from Waffle House. Waffle House's name appears on the "name" line of the printing invoices, and the name of a Committee representative is listed on the "ordered by" line.

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B. Statutory and Regulatory Provisions

The Act prohibits candidates and political committees from knowingly accepting or receiving a corporate contribution or expenditure in connection with any federal election. 2 U.S.C. § 441b(a). "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any service, or anything of value to any candidate or her campaign committee in connection with a federal election. 2 U.S.C. § 441b(b)(2).

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Although the Act broadly prohibits corporations from supporting federal candidates, stockholders or employees of a corporation engaged in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). Commission regulations define "occasional, isolated, and incidental use" to include any activity that does not exceed more than one hour per week regardless of whether the activity takes place during or after normal working hours. 11 C.F.R. § 114.9(a)(1)(iii). If, however, an employee of a corporation is not engaged in volunteer activity, then compensation paid by a corporation to the employee for services rendered without charge to a political committee for any purpose, is a contribution. 11 C.F.R. § 100.7(a)(3).

Corporations, which are prohibited from making contributions or expenditures in connection with a federal election, are prohibited from acting as a conduit for contributions earmarked

for candidates or their authorized committees. 11 C.F.R. § 110.6(b)(2)(ii). Other than through its separate segregated fund, a corporation may not facilitate the making of contributions to a candidate or political committee. See Explanation and Justification of Regulations, H.R. Doc. No. 95-44 at 104 (Jan. 12, 1977)(Explanation and Justification accompanying 11 C.F.R. § 114). See also Advisory Opinion 1987-29.

C. Analysis

The documents obtained from Waffle House and the Committee show that the Committee paid for the stationery, preparation, and postage for the solicitation. A further review of these documents and the solicitation itself, however, indicate that the Committee may have nonetheless violated section 441b(a).

The documents obtained from Waffle House suggest that corporate employee services may have been used in connection with the solicitation letter. The second page of the solicitation lists Sherri Fallin, a Waffle House employee, as the person to contact if the recipient of the letter had any questions. Because all the contributions were collected by Waffle House, this raises the inference that Ms. Fallin was also responsible for collecting the contributions received and then forwarding them to the Committee. Furthermore, Ms. Fallin wrote the letters attached to the invoices for the stationery to a Committee representative requesting payment for the stationery. This suggests that she may have also acted as the contact person in the corporation for the Committee.

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In addition to corporate employee involvement, one aspect of the solicitation itself suggests that Waffle House facilitated the fundraising effort for Paul Coverdell's campaign. The solicitation directed the recipient to send a contribution to Mr. Rogers at Waffle House's post office box address and to call the corporate phone number for more information. Thus, Waffle House may have acted as a conduit for the contributions to the Committee. As a corporation prohibited from making contributions and expenditures in connection with a federal election, Waffle House is also prohibited from acting as a conduit.

In sum, the complaint and the documents from Waffle House and the Committee reveal that Waffle House facilitated the fundraising efforts of the Committee by acting as a conduit for the earmarked contributions and allowing a corporate employee to coordinate the activity. Thus, this indicates that the Committee was accorded a benefit which was something "of value" prohibited by Section 441b.

The documents submitted by the respondents also raise a number of questions regarding the details of the solicitation which may require further inquiry. Although the complaint claims at least 4,000 letters were sent, the invoices obtained from Waffle House for the cost of printing and the costs for postage suggest that more letters may have been printed.¹ Furthermore,

1. One invoice showed that 1,200 letters were printed with customer supplied stock and another invoice showed that 3,000 letters were printed on letterhead. As noted above, documents obtained from Waffle House submitted two Committee expense vouchers for postage. One showed that the Committee purchased 5,000 stamps for "[Joe Rogers] letter" and the other stated that

the letters attached to the invoices for the stationery suggest that there were at least two mailing lists.² The existence of two mailing lists raises the question of whether there was another solicitation sent that was different from the one submitted along with the complaint.

Based on the foregoing discussion, it appears that the Coverdell Senate Committee knowingly accepted a corporate contribution. Therefore, there is reason to believe that the Coverdell Senate Committee and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a).

(Footnote 1 continued from previous page)
the Committee purchased another 5,000 stamps for "Persons and Rogers letter."

2. The letters dated October 29, 1991 and October 30, 1991, attached to the invoices dated October 25, 1991 and October 29, 1991, respectively, stated that the boxes of stationery were used for "Joe's letters to the Delegates and Alternates." The letter dated November 4, 1991 attached to the invoice dated November 1, 1991, stated that the boxes of stationery were used for "Joe's letters to Johnny Isakson's \$1,000 and above list."

The Committee's response to the complaint does not mention the source of the lists or who paid for them. The Committee's Year End Report lists two separate disbursements for mailing lists-- one on November 7, 1991 to Direct Mail Systems, Inc. and another on October 14, 1991 to the Georgia Republican Party. It is not clear, however, from the disclosure report whether these disbursements were made for the lists mentioned in the letters accompanying the invoices.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1992

J. Michael Upton
Waffle House, Inc.
5986 Financial Drive
Norcross, Georgia 30071

RE: MUR 3455
Waffle House, Inc. and
Joe W. Rogers, Jr.

Dear Mr. Upton:

On November 21, 1991, the Federal Election Commission notified your clients, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on June 9, 1992, found that there is reason to believe Waffle House, Inc. and Joe W. Rogers, Jr., violated 2 U.S.C. § 441b(a), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against Waffle House, Inc. and Joe W. Rogers, Jr. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed subpoena within 30 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

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

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

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J. Michael Upton
Page 2

Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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

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

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

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Subpoena
Factual & Legal Analysis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
) MUR 3455
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Waffle House, Inc.
5986 Financial Drive
Norcross, Georgia 30071

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

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WHEREFORE, the Chairman of the Federal Election Commission
has hereunto set her hand in Washington, D.C. on this 22nd day
of June, 1992.

Joan D. Aikens
Joan D. Aikens
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Waffle House, Inc. and
Joe W. Rogers

MUR: 3455

I. GENERATION OF MATTER

This matter arose from a complaint submitted to the Commission on November 18, 1991. The complaint alleged certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with a fundraising letter sent on behalf of the Coverdell Senate Committee ("Committee").

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

The subject of the complaint is a fundraising letter signed by Joe W. Rogers, Jr., the President of Waffle House, Inc., written on Waffle House's stationery. Waffle House is a Georgia corporation in the business of operating and franchising coffee shop restaurants. According to the complaint, the letter was sent to over 4,000 Republican activists "who know of Joe Rogers." The letter solicited contribution checks payable to Paul D. Coverdell's campaign for U.S. Senate and directed the recipient to send the checks "to [Joe Rogers] at: Post Office Box 6450; Norcross, Georgia, 30091." This post office box belongs to Waffle House and is displayed underneath the corporate logo on the letterhead.

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The second page of the letter carried a disclaimer stating that the solicitation letter was paid for by the Coverdell Senate Committee and listed Sherri Fallin as the person to contact for more information. Sherri Fallin is a Waffle House employee and the phone number listed is the corporation's phone number.

The respondents claimed that the Committee paid for all direct expenses associated with the solicitation and that Waffle House made no corporate expenditures. Waffle House submitted five invoices for stationery and envelopes and copies of Committee checks that were used to pay for the items. Accompanying each invoice was a letter from Sherri Fallin of Waffle House to Paige Walls of the Committee requesting payment. Waffle House also submitted Committee expense vouchers for postage showing that the Committee paid for 5,000 stamps for the "JR letter" and 5,000 stamps for the "Persons & Rogers letter."

Waffle House also submitted two paid invoices from MinuteMan Press for printing letters along with copies of Committee checks used to pay MinuteMan Press. Waffle House's name, however, appears on the "name" line of the printing invoices, and the name of a Committee representative is listed on the "ordered by" line.

Representatives of the Committee also stated that the Committee paid for all expenses in connection with the mailing in question. Documents obtained from the Committee included copies of checks made to Waffle House in the amount of \$316.78 for stationery and envelopes, to MinuteMan Press in the total amount of 251.89 for copying the letter, and for postage in the total amount of \$2,900.

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B. Statutory and Regulatory Provisions

The Act prohibits corporations from making a contribution or expenditure in connection with any federal election. 2 U.S.C. § 441b(a). It also prohibits officers or directors of a corporation from consenting to any contribution or expenditure by the corporation. Id. "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any service, or anything of value to any candidate or her campaign committee in connection with a federal election. 2 U.S.C. § 441b(b)(2).

Corporations are also prohibited from acting as a conduit for contributions earmarked for candidates or their authorized committees. 11 C.F.R. § 110.6(b)(2)(ii). Other than through its separate segregated fund, a corporation may not facilitate the making of contributions to a candidate or political committee. See Explanation and Justification of Regulations, H.R. Doc. No. 95-44 at 104 (Jan. 12, 1977)(Explanation and Justification accompanying 11 C.F.R. § 114). See also Advisory Opinion 1987-29.

Although the Act broadly prohibits corporations from supporting federal candidates, stockholders or employees of a corporation engaged in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). Commission regulations define "occasional, isolated, and incidental use" to include any activity that does not exceed more than one hour per week regardless of whether the activity takes place during or after

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normal working hours. 11 C.F.R. § 114.9(a)(1)(iii). If, however, an employee of a corporation is not engaged in volunteer activity, then compensation paid by a corporation to the employee for services rendered without charge to a political committee for any purpose, is a contribution. 11 C.F.R. § 100.7(a)(3).

C. Analysis

The documents obtained from Waffle House and the Committee show that the Committee paid for the stationery, preparation, and postage for the solicitation. A further review of these documents and the solicitation itself, however, indicate that Waffle House may have given other "things of value" to the Committee in violation of section 441b(a).

The documents submitted by Waffle House suggest that corporate employee services may have been used in connection with the solicitation letter. The second page of the solicitation lists Sherri Fallin, a Waffle House employee, as the person to contact if the recipient of the letter had any questions. Because all the contributions were collected by Waffle House, this raises the inference that Ms. Fallin was also responsible for collecting the contributions received and then forwarding them to the Committee. Furthermore, Ms. Fallin wrote the letters attached to the invoices for the stationery to a Committee representative requesting payment for the stationery. This suggests that she may have also acted as the contact person in the corporation for the Committee.

In addition to corporate employee involvement, one aspect of the solicitation itself suggests that Waffle House facilitated the

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fundraising efforts for Paul Coverdell's campaign. The solicitation directed the recipient to send a contribution to Mr. Rogers at Waffle House's post office box and to call a corporate employee at the corporate phone number for more information. This indicates that Waffle House may have collected the contributions and then forwarded them to the Committee. Thus, Waffle House may have acted as a conduit for the contributions to the Committee.

In sum, the complaint and the documents from Waffle House and the Committee reveal that Waffle House facilitated the fundraising efforts of the Committee by acting as a conduit for the earmarked contributions and allowing a corporate employee to coordinate the activity. Thus, this indicates that the Committee was accorded a benefit which was something "of value" prohibited by Section 441b.

The documents submitted by the respondents also raise a number of questions regarding the details of the solicitation which may require further inquiry. Although the complaint claims at least 4,000 letters were sent, the invoices that Waffle House submitted from the printer and the costs for postage suggest that more letters may have been printed.¹ Furthermore, the letters attached to the invoices for the stationery suggest that there

1. One invoice showed that 1,200 letters were printed with customer supplied stock and another invoice showed that 3,000 letters were printed on letterhead. As noted above, Waffle House submitted two Committee expense vouchers for postage. One showed that the Committee purchased 5,000 stamps for "[Joe Rogers] letter" and the other stated that the Committee purchased another 5,000 stamps for "Persons and Rogers letter."

were at least two mailing lists.² The existence of two mailing lists raises the question of whether there was another solicitation sent that was different from the one submitted along with the complaint.

Based on the foregoing discussion, it appears that Waffle House may have made a corporate contribution to the Coverdell Senate Committee. Furthermore, Joe W. Rogers, Jr., as President of Waffle House, may have consented to the making of a corporate contribution. Therefore, there is reason to believe that Waffle House, Inc. violated 2 U.S.C. § 441b(a) and that Joe W. Rogers, Jr., as an officer of Waffle House, Inc., violated 2 U.S.C. § 441b(a).

2. The letters dated October 29, 1991 and October 30, 1991, attached to the invoices dated October 25, 1991 and October 29, 1991, respectively, stated that the boxes of stationery were used for "Joe's letters to the Delegates and Alternates." The letter dated November 4, 1991 attached to the invoice dated November 1, 1991, stated that the boxes of stationery were used for "Joe's letters to Johnny Isakson's \$1,000 and above list."

The responses to the complaint do not mention the source of the lists or who paid for them. The Committee's Year End Report lists two separate disbursements for mailing lists-- one on November 7, 1991 to Direct Mail Systems, Inc. and another on October 14, 1991 to the Georgia Republican Party. It is not clear, however, from the disclosure report whether these disbursements were made for the lists mentioned in the letters accompanying the invoices.

93040951420

ALSTON & BIRD

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUL 27 10 05 AM '92

One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
404-881-7000
Fax: 404-881-7777 Telex: 54-2996

Timothy S. Perry
Direct Dial: 404-881-7543

July 24, 1992

VIA FEDERAL EXPRESS

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

RE: MUR 3455

Dear Ms. Kim:

On behalf of the Coverdell Senate Committee, Inc. and its Treasurer, Marvin Smith, I enclose the Affidavit of Paige Walls, Finance Director of the Coverdell Senate Committee, Inc. This is in response to your letter dated June 23. Our response is being submitted within thirty (30) days of receipt of your letter.

With this information and with the information which we understand Waffle House, Inc. is also submitting, we believe the Commission should conclude that no violation of any aspect of the Federal Election Campaign Act has occurred. In essence, what we have here is two mailings of the same letter. The Committee paid for the stationery and envelopes, paid for the copying of the letter, paid for the postage, and had volunteers stuff and complete the mailings. An individual volunteer, Ms. Fallin, made legitimate and perfectly legal use of the post office box of Waffle House, Inc. for her convenience to assemble approximately forty (40) responses contributing approximately \$15,400.00. The various Affidavits and materials presented speak for themselves in supporting these observations.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JUL 27 PM 3:39

Ms. Helen Kim
Office of the General Counsel
Federal Election Commission
Washington, D. C. 20463

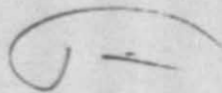
Page 2

July 24, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 27 PM 3:39

If you have any questions or need any further information, I would be happy to help.

Cordially,



Timothy S. Perry

TSP/jm/000/1
Enclosure

CRANE & CREST

93040951422

AFFIDAVIT OF PAIGE WALLS
IN MUR 3455 RESPONDING TO QUESTIONS AND
FOR DOCUMENTS TO MARVIN SMITH AND
COVERDELL SENATE COMMITTEE BEFORE THE FEDERAL ELECTION COMMISSION
DATED JUNE 23, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 27 PM 3:39

Personally appeared before the undersigned PAIGE WALLS, who, after being duly sworn, deposes and states as follows:

I.

My name is PAIGE WALLS. I am over 18 years of age and competent to make this Affidavit which is made on personal knowledge. I serve as Finance Director of The Coverdell Senate Committee, Inc. (the "Committee").

II.

The following responses are numbered to match the questions which were asked.

1. (a) There was one version of the solicitation letter. A copy is attached. The same letter was sent to two (2) mailing lists. The larger mailing list is a list of the larger contributors to the most recent Republican Candidate for Governor in Georgia (the "Larger List"). The other mailing list is a list of the Alternates and Delegates to the most recent Republican Convention in Georgia (the "Alternates and Delegates List").

(b) I am not certain of the exact number of letters prepared and sent, but believe the two mailings combined would be between 6,000 and 8,000 letters.

(c) I am informed by Ms. Fallin that Waffle House received approximately forty (40) responses to the solicitation letter containing approximately \$15,400.00 of contributions.

(d) The principal costs of the mailings were the costs of stationery, printing, and postage which were paid for by the Committee. The Committee also purchased the Alternates and Delegates List for \$100.00 (please see Invoice dated October 14, 1991). Two sets of mailing labels were purchased at that time with only one of those sets being used for the solicitation letter here in question. As the Commission noted in its earlier materials, this expenditure was reported by the Committee on its regular reports to the Commission. The use of the post office box of Waffle House, Inc. was of no particular value to the Committee, but was a convenience to Ms. Fallin as a volunteer. I attach copies of all the materials we have been able to gather that are responsive to your request for documents.

93040951423

2. (a) The Coverdell Senate Committee paid \$100.00 for the Alternates and Delegates List as described above. The Larger List is merely a compilation of information publicly available in the campaign reports of the previous Republican candidate for Governor of Georgia, and it was not necessary to purchase that compilation.

(b) The Alternate and Delegate Mailing List was purchased from the Georgia Republican Party. The Larger List was not purchased.

(c) I attach the Invoice from the Georgia Republican Party dated October 14, 1991, together with Committee check in payment.

FURTHER, Deponent saith not.

This 24th day of July, 1992.

Paige L. Walls

PAIGE WALLS
Finance Director

Sworn to and subscribed
before me this 24th day
of July, 1992.

[Signature]
Notary Public

My Commission Expires:
Notary Public, DeKalb County, Georgia
My Commission Expires Jan. 16, 1994

93040951424

WAFFLE HOUSE

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091

(404) 729-5700

October 25, 1991

Dear Friends:

All of us shout for good people in public office. When this person comes along, we should support him. Paul Coverdell is one of those good people willing to sacrifice to bring strong leadership and sound management to the public sector. Paul is a successful businessman, who has 18 years of experience in the Georgia State Senate and 3 years of world-wide experience as the United States Peace Corps Director. Paul is a man who understands the direction that the United States needs to go.

1992 is the right time for Paul Coverdell to be elected to the United States Senate. His opponent, Wyche Fowler, is out of touch with Georgia voters and continues to head in the wrong direction. To this day, Fowler believes that Michael Dukakis should be President of the United States and that the U.S. should not have fought in the Middle East.

Because 1992 is a Presidential election year, and because Georgia will probably have five highly contested Congressional races, in addition to this Senate race, voter turnout in Georgia will be a record. The majority of the "new votes" that will turn out in '92 will be available to the Republican candidate, if we have the right Republican and a well-funded campaign. Paul Coverdell is the right Republican. He will make the best Senator, he will run the best campaign, and HE WILL WIN!

The most important money in any campaign is the "early money" that gets things started. Will you consider supporting Paul with a contribution? Please fill out the enclosed disclosure form, and mail it along with you check to me at: Post Office Box 6450; Norcross, Georgia 30091. Checks should be made payable to "Coverdell Senate Committee".

Please remember that under Federal Election Rules, contributions are limited to \$1,000 per individual and \$5,000 per PAC during the Primary and the same for the General Election. Corporate contributions are not acceptable.

Paul is putting his career on the line-- for us. Those of us who care should reciprocate with an "early investment". Thanks for your consideration.

Sincerely,

Joe W. Rogers, Jr.
President

The following information is required by the Federal Election Commission. Please mail along with your check made payable to "Coverdell Senate Committee", to the address below. Contact Sherri Fallin at 729-5700 if you have any questions.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN 27 PM 3:40

Joe W. Rogers, Jr.
Post Office Box 6450
Norcross, Georgia 30091

Name _____

Address _____

Phone (h) _____ (o) _____

Occupation _____

Employer _____

Enclosed is my contribution of \$_____ to help elect Paul Coverdell to the U.S. Senate.

Paid for by Coverdell Senate Committee: Marvin Smith, Treasurer
Contributions are not tax deductible and Corporate Contributions are prohibited by law.

93040951426

- I N V O I C E -

Please remit to:

Georgia Republican Party
3091 Maple Dr.
Suite 315
Atlanta, GA 30305
(404)365-7700
Attn: Don Bolia

INVOICE NUMBER: 99999

DATE: 10/14/91

BILL TO: Coverdell Senate Comm.
1730 NE Expressway
Atlanta, Georgia 30329

ATTN: Eric Tannenblat

ITM	QTY	DESCRIPTION	PRICE	TOTAL
1	2	State Committee and County Chair List	10.00	20.00
2	2	1991 State Convention Alternate and	100.00	200.00

PAGE -
OK to Pay
TKP

pd.
10/13/91
pw

INVOICE NUMBER: 99999

TOTAL 220.00

Thanks! Do keep a copy for your records.

ORIGINAL

93040951428

HARLAND 313

Coverdell Senate Committee
1730 N.E. Expressway
2nd floor
Atlanta, Ga. 30329

0082

10/16

19 91

64-1/610

PAY TO THE
ORDER OF

Georgia Republican Party

\$ 220.⁰⁰

Two hundred twenty + no/100

DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

FOR

mailing labels

Paige L. Wallis
Don K. Berdine

⑈000082⑈ ⑆061000010⑆ 18 734 434⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0136

64-1/610

PAY
TO THE
ORDER OF

Napple House, Inc.

8 November 1991

\$ *316.78*

Three hundred sixteen + 78/100

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

J-61-673

Paige L. Walls

Sam K. Berdine

FOR *stationery, etc. letterhead*

⑈000136⑈ - ⑈061000010⑈ 18 734 434⑈

⑈0000031678⑈

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF SECRETARY
JUL 27 1991 3:39 PM

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0105

64-1/610

PAY
TO THE
ORDER OF

Minuteman Press

10/29 1991

\$ *214.30*

Two hundred fourteen + 30/100

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Paige L. Walls

Sam K. Berdine

FOR *1k letter*

⑈000105⑈ - ⑈061000010⑈ 18 734 434⑈

⑈0000021430⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

0107

64-1/610

PAY
TO THE
ORDER OF

Minute Man Press

11/1 1991

\$ *37.59*

Thirty-seven + 59/100

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Paige L. Walls

Sam K. Berdine

FOR *1k letter*

⑈000107⑈ - ⑈061000010⑈ 18 734 434⑈

⑈0000003759⑈

COVERDELL SENATE COMMITTEE
1730 N.E. EXPRESSWAY 2ND FLOOR
ATLANTA, GA 30329

329-7277

0106

64-1/610

PAY
TO THE
ORDER OF

U.S. Postal Service

10/31/ 1991

\$ 1450.00

One thousand four hundred fifty dollars and ³⁷/₁₀₀ DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Pargi L Walls

Don K Berdine

FOR 5000 stamps

⑈000106⑈ ⑆1061000010⑆ 18 734 434⑈

⑈0000145000⑈

Coverdell Senate Committee
1730 NE Expressway
2nd floor
Atl. Ga 30329

0086

10/21 1991 64-1/610

PAY TO THE
ORDER OF

Molly Dye

\$ 1450.00

One thousand four hundred fifty + ³⁷/₁₀₀ DOLLARS

WACHOVIA

Wachovia Bank of Georgia, N.A.
Atlanta, GA 30383

Pargi L Walls

Don K Berdine

FOR Stamp Reimbursement

⑈000086⑈ ⑆1061000010⑆ 18 734 434⑈

⑈0000145000⑈

23040051430

EXPENSE VOUCHER
COVERDELL CAMPAIGN

NUMBER _____ DATE 10/21/91 AMOUNT \$1,450.00
PAYEE U.S. Post Office EST. PAYMENT DATE _____

DESCRIPTION 5,000 - 294 stamps
for Persons & Rogers letter

REQUESTED BY Molly Dye APPROVED BY TKR

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** U.S. POSTAL SERVICE ***
BROADVIEW STATION
ATLANTA, GA 30324-9998

CLERK #07
DATE: 10/21/91 01:23:52 PM

090 POSTAGE 1450.00

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** THANK YOU ***

5,000 stamps
ck #86
Reimbursement
to Molly
Dye

COVERDELL Senate Comm
1730 N.E. Expressway
2nd floor
Atlanta, Ga. 30329

PAY TO THE ORDER OF U.S. Post Office

WACHOVIA
Wachovia Bank of Georgia, N.A.
Atlanta, GA 30303

FOR Stamps

#000084# -061000010: 18

pd
ck #
106

EXPENSE VOUCHER
COVERDELL CAMPAIGN

NUMBER _____ DATE 10-31-91 AMOUNT \$ 1450
PAYEE U.S. Post master EST. PAYMENT DATE 10-31-91
DESCRIPTION 5000 STAMPS
JK letter
REQUESTED BY Purnis APPROVED BY gmw

2 3 0 4 0 5 1 4 3 2

CHECK TENDERED \$ 11.60
CHECK TENDERED \$ 1450.00

*** U.S. POSTAL SERVICE ***
EXECUTIVE PARK BR
ATLANTA, GA 30347-9998

CLERK #01
DATE: 10/31/91 12:34:46 PM

090 POSTAGE 1450.00

TOTAL: \$ 1450.00
CHECK TENDERED \$ 1450.00

*** THANK YOU ***

NAME

WAFLE-HOUSE

ORDER TAKEN BY

LEWIS

INVOICE

No

1365

ADDRESS

CONGRESSIONAL SENATE
COMMITTEE

PURCHASE ORDER #

TELEPHONE

329-7277

DATE ORDERED

M T W Th F S

10/28/91

AM

DATE DUE

M T W Th F S

10/29/91

AM

FAX #

DATE BILLED

ASAP

ORDERED BY

PAIGE WALLS

☐

PICK UP

☐

DELIVERY

☒

CALL WHEN READY

PREPARATION

TYPESET

PASTE-UP

STATS

RED/ENLARGE

HALFTONES

SCREENS

NEGATIVES

METAL PLATES

PREP TOTAL

PROOF REQUIRED

☐

YES

☐

NO

CUSTOMER'S SIGNATURE

PRINTING

PAPER STOCK

QUANTITY

DESCRIPTION

TYPE

COLOR

WGHT

FINISH

INK

PRICE

APPROXIMATELY
3,000

LETTERHEAD

1S

2S

K

330

3,500

(SECOND) SHEET

20# BOND WHITE

8 1/2 x 11

K

130.80

SPECIAL INSTRUCTIONS

PRINT TOTAL

204.10

BINDERY

CUT #

DRILL: #HOLES

FOLD: 1/2

Z

LETTER DBL PARALLEL

PERF

BINDERY TOTAL

STAPLE: SIDE CORNER SADDLE NUMBER: COLOR

START #

LAMINATE

SCORE

COLLATE

WRAP

BOX

GBC/VELO

PAD:

OF SHEETS

COPYING

COPYING TOTAL

PAYMENT

BILL

CASH

CHECK #

0105

DATE

10-29-91

ACCEPTED BY

PLEASE PAY BY THIS INVOICE

SUBTOTAL

\$204.10

TAX

10.20

TOTAL

\$214.30

DEPOSIT

BALANCE

\$214.30 PAID

THANK YOU FOR YOUR BUSINESS!



3326 BUFORD HIGHWAY

ATLANTA, GA 30329

633-6153

FAX: 634-0575

JR letter ck # 105

NAME WAFFLE House
ADDRESS _____
TELEPHONE 329-7277
FAX # _____
ORDERED BY Dixie Purvis

ORDER TAKEN BY Beck INVOICE No 1402
PURCHASE ORDER # _____
DATE ORDERED M T W Th F S 10/31/91 AM
DATE DUE M T W Th F S 11/1/91 AM
DATE BILLED _____
☐ PICK UP ☐ DELIVERY ☒ CALL WHEN READY

PREPARATION TYPESET PASTE-UP STATS RED/ENLARGE HALFTONES SCREENS NEGATIVES METAL PLATES

PREP TOTAL

PROOF REQUIRED ☒ YES ☐ NO CUSTOMER'S SIGNATURE _____

PRINTING

PAPER STOCK

QUANTITY	DESCRIPTION	TYPE	COLOR	WGHT	FINISH SIZE	INK	PRICE
1200	cust supplied stock	1S			8 1/2 x 11	BLK	35.80
		1S					
		2S			X		
	(1500 sheets supplied)	1S			X		
	SAVE OVERS - DO NOT PRINT	1S			X		

SPECIAL INSTRUCTIONS

PRINT TOTAL

BINDERY

CUT # _____ DRILL: #HOLES _____ FOLD: 1/2 Z LETTER DBL PARALLEL PERF
STAPLE: SIDE CORNER SADDLE NUMBER: COLOR _____ START # _____ LAMINATE SCORE
COLLATE WRAP BOX GBC/VELO PAD: # OF SHEETS _____

BINDERY TOTAL

COPYING

COPYING TOTAL

PAYMENT

BILL CASH

CHECK #

0107

DATE

11-1-91

ACCEPTED BY

PLEASE PAY BY THIS INVOICE

SUBTOTAL

35.80

TAX

1.79

TOTAL

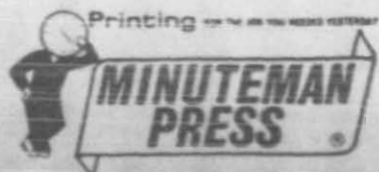
37.59

DEPOSIT

BALANCE

ck #107

THANK YOU FOR YOUR BUSINESS!



3326 BUFORD HIGHWAY
ATLANTA, GA 30329
633-6153
FAX: 634-0575

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: November 4, 1991
RE: Invoices

Attached is the invoice totalling \$63.00 for the Waffle House stationary used for Joe's letters to Johnny Isakson's \$1,000 and above list. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

total - 316.78
od. 11/8/91
M

Picked By _____
Checked By _____
Received By _____
Returned By _____

Waffle House

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0244630

Inv. Date 11/01/91

Control No. 312781

INVOICE

...reported to
...delivered
...they are Free

Sold To: _____ Ship To: _____ Type Sale: _____ Ship By: _____
Waffle House Inc. _____ PICKED

Customer No.: _____ Tax Rate: _____
Customer Name: _____ Route No.: _____
Cube _____ Wt. _____

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
					60.00 \$60.00
<i>Shane Fuller</i> FILE COPY					

INVOICE SUBTOTAL	60.00
TAXABLE AMOUNT	60.00
SALES TAX	3.00
DELIVERY CHARGE	.00
INVOICE TOTAL	63.00



WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 30, 1991
RE: Invoices

Attached is the invoice totalling \$63.00 for the Waffle House stationary used for Joe's letters to the Delegates and Alternates. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

WAFFLE HOUSE

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0244358

Inv. Date 10/29/91

Control No. 312226

INVOICE

Any shortages noted & reported to Food Division will be redelivered within 24hrs or else they are Free

Sold To:

Ship To:

Type Sale:

Ship By:

WAFFLE HOUSE INC.

JACKSON

TERMINAL

U P S

NORCROSS, GA 30071

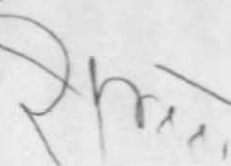
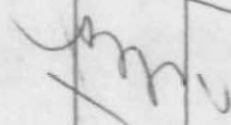
Tax Rate: 000000000

Customer No.: 57

Route No.:

Customer Name: WAFLE HOUSE INC.

Cube _____ Wt. _____

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	3	STATIONARY WH LIT L REAR	2.00	20.00	60.00
		SUB TOTAL			\$60.00
FILE COPY  					
INVOICE SUBTOTAL TAXABLE AMOUNT SALES TAX DELIVERY CHARGE INVOICE TOTAL					60.00 60.00 3.00 .00 63.00

** DIRECT CHARGE ** ** DELIVERY CHARGE **

UNIT FILE

93040251438

WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 29, 1991
RE: Invoices

Attached is the invoice totalling \$64.07 for the Waffle House stationary used for Joe's letters to the Delegates and Alternates. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

Picked By _____

Checked By _____

Received By _____

Returned By _____

**WAFFLE
HOUSE**FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0243851

Inv. Date 10/25/91

Control No. 311185

INVOICEAny shortages noted & reported to
Food Division will be redelivered
within 24hrs or else they are Free

Sold To:

Ship To:

Type Sale:

Ship By:

WAFFLE HOUSE INC.

JACQUE VANHOVEN

COMPANY

PICKED

NORCROSS, GA 30071

Tax Rate: 00000000

Customer No.: 99

Route No.:

Customer Name: WAFFLE HOUSE INC.

Cube _____ Wt. _____

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	3	STATIONARY WH LITTEHEAD	3.05	20.34	61.02
		SUB TOTAL			\$61.02
** DIRECT CHARGE ** DO NOT RUN THRU FORM 4 D 0061 673 000					
INVOICE SUBTOTAL TAXABLE AMOUNT SALES TAX DELIVERY CHARGE INVOICE TOTAL					61.02 61.02 3.05 .00 64.07



ATTACH TO FORM 4

93040251440



"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 21, 1991
RE: Invoices

Attached is the invoice totalling \$50.40 for Waffle House envelopes that the campaign picked up on October 15, 1991. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

93040951441

Sold By _____

Checked By _____

Received By _____

Returned By _____

WAFFLE HOUSE

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. J0242696

Inv. Date 10/15/91

Control No. 308724

Any shortages noted & reported to Food Division will be redelivered within 24hrs or else they are Free

INVOICE

Sold To:

Ship To:

Type Sale:

Ship By:

WAFFLE HOUSE INC.

JACKIE VANHOVEN

COMPANY

PICKED

NORCROSS, GA 30071

Tax Rate: 00000000

Customer No.: 99

Route No.:

Customer Name: WAFLE HOUSE INC.

Cube _____ Wt. 35.000

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7214	6	ENVELOPE, WAFFLE HOUSE	2.40	8.00	48.00
		SUB TOTAL			\$48.00
10/18 Sherrin - envelopes - reimbursement due from Catering <i>[Signature]</i>					
** DIRECT CHARGE ** DO NOT RUN PERI FORM-4 D-0051-573-000					
INVOICE SUBTOTAL TAXABLE AMOUNT SALES TAX DELIVERY CHARGE INVOICE TOTAL					48.00 48.00 2.40 .00 50.40



WAFFLE HOUSE.

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450

(404) 729-5700

TO: Paige Walls
FROM: Sherri Fallin
DATE: October 14, 1991
RE: Invoices

Attached is the invoice totalling \$76.31 for Waffle House stationary and envelopes that the campaign picked up on October 11, 1991. Please make the check payable to Waffle House, Inc. If you have any questions, give me a call.

Thanks!

WAFFLE HOUSE

FOOD DIVISION
5984B FINANCIAL DRIVE
NORCROSS, GEORGIA 30071
(404) 729-5895

Inv. No. 102423
Inv. Date 10/11/
Control No. 308022

By _____
Checked By _____
Received By _____
Returned By _____

INVOICE

Any shortages noted & reported to Food Division will be delivered within 24hrs or else they are Free

Sold To: WAFLE HOUSE INC.
NORCROSS, GA 30071
Customer No.:
Customer Name: WAFLE HOUSE INC.

Ship To: JACKIE VANBUREN
Type Sale: CREDIT
Ship By: PICKED

Tax Rate: 0.000000
Route No.:
Cube: Wt:

ITEM CODE	QUANTITY	PACK / SIZE DESCRIPTION	SALES TAX	UNIT PRICE	EXTENDED AMOUNT
7212	2	STATIONARY MTLT DOSEAD	2.00	20.34	40.68
7214	4	ENVELOPE, WAFLE HOUSE	1.50	8.00	32.00
		TOTAL			\$72.68
*** DIRECT CHARGE *** DO NOT RETURN THIS INVOICE 000-579-1200-4					
INVOICE SUBTOTAL TAXABLE AMOUNT SALES TAX DELIVERY CHARGE INVOICE TOTAL					72.68 72.68 3.63 .00 76.31

FILE COPY

Jackie VanBuren



33040751444

WAFFLE HOUSE

"GOOD FOOD FAST"

P.O. Box 6450 • Norcross, Georgia 30091-6450
(404) 729-5700

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JUL 28 9 25 AM '92

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 28 AM 10:29

July 20, 1992

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

Re: MUR 3455

Dear Mr. Noble:

Enclosed is the response of Waffle House, Inc. and Mr. Joe W. Rogers, Jr. to the Subpoena to Produce Documents and Order to Submit Written Answers to the above referenced Complaint of Violations of the Federal Election Campaign Act of 1971.

As stated in my letter of December 5, 1991, we are pleased to see that the Complaint System works and are happy to cooperate with the commission but, we were shocked and surprised that the commission could reach a conclusion that there was reason to believe that Waffle House, Inc. and Joe W. Rogers violated the Federal Election Campaign Act of 1971 by contributing "something of value" to the Paul Coverdell campaign. You really have to stretch the facts of this situation to reach such a conclusion.

The response of December 5, 1991 shows that all costs of stationery, envelopes and stamps were paid by the Coverdell Campaign. The minimal time spent by Ms. Fallin to collect the 40 pieces of mail received in response to the letters signed by Mr. Rogers does not represent any value and the value of allowing the responses to the letters to be sent to the Waffle House post office box is practically non-existent if there is any value at all. As indicated by Ms. Fallin, using the post office box was for her convenience so she could keep up with who responded - it contributed nothing to the campaign.

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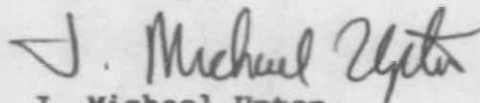
As to the question raised in the "Factual and Legal Analysis (hereinafter call "the Analysis") of more letters being printed than sent - neither Waffle House or Mr. Rogers had any control over the letters. It is reasonable to assume that more may have been printed than would be used - printing is usually done in even multiples of 100. Only the Campaign knows how many letters were not used due to poor printing, accidents such as coffee spills on letters or just plain discarded as unused.

As to the fact that the original invoices stated "Waffle House," you have to recall that the stationery used was Waffle House stationery and it is reasonable that the printer seeing that stationery would record "Waffle House" on the invoice to make sure the stationery presented for the printing was properly used. The controlling factor is that the Coverdell Campaign paid for the printing as evidenced by the documentation presented in our December 5, 1991 response. The fact that the letters were on Waffle House stationery creates no violation since the stationery was paid for by the Coverdell Campaign.

It is also important to note that all mailings were made by the Coverdell Campaign. All mailing lists were the property of the Campaign. Mr. Rogers simply signed a letter on behalf of Mr. Coverdell for the campaign to use. No violation was created by that act.

Based on these facts and the affidavit of Ms. Fallin, only one logical, reasonable conclusion can result - there was no violation of the Federal Election Campaign Act of 1971 and we trust the Commission will reach this conclusion.

Sincerely,



J. Michael Upton
Vice President/Secretary
General Counsel

JMU:jb
enclosure

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF

MUR 3455

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 28 AM 10:29

RESPONSE TO SUBPOENA TO PRODUCE DOCUMENTS
AND ORDER TO SUBMIT WRITTEN ANSWERS

COMES NOW WAFFLE HOUSE, INC. and JOE W. ROGERS, JR. and responds to the SUBPOENA TO PRODUCE DOCUMENTS AND ORDER TO SUBMIT WRITTEN ANSWERS.

I. Joe W. Rogers, Jr. can testify as to this Interrogatory.

A. There were no different versions of a solicitation letter written by Joe Rogers. Mr. Rogers did sign a "Dear Friend" letter dated October 25, 1991 to be sent to the delegates and alternates that attended the 1991 GA State Republican Convention. This letter was also paid for and sent by the Coverdell Campaign with no expense incurred by Waffle House. The invoices for stationery, stamps and printing were included in the Waffle House response of December 5, 1991. A copy of the "Dear Friend" letter is attached to this response.

B. Waffle House, Inc. and Joe W. Rogers are unaware of the exact number of letters prepared and sent as this task was performed by the Coverdell Campaign, however it is believed that the October 25th letter was sent to all

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delegates and alternates who attended the 1991 GA State Republican Convention.

As to the letter to which you describe as a "solicitation letter", again the Coverdell campaign was responsible for mailing this letter and neither Waffle House, Inc., or Joe W. Rogers, Jr. is aware of exactly how many letters were mailed. It is believed that the letter dated November 4, 1991 was sent by the Coverdell Campaign to the "Johnny Isakson \$1,000 + List".

C. Waffle House, Inc. did not receive any responses to any letter signed by Joe W. Rogers, Jr. There were 40 responses forwarded to the Waffle House Post Office Box and collected by Sherri Fallin as part of her voluntary activities on behalf of the Coverdell Campaign. The total time spent by Ms. Fallin to accomplish this task was approximately 10 minutes over several weeks. The responses included contributions totaling \$15,400.00.

D. All costs of stationery, printing and postage were borne by the Coverdell Campaign as outlined and documented by Waffle House response of December 5, 1991. There were no other costs and the value of the use of the Waffle House Post Office Box was practically zero, if not zero.

1. The cost of the Post Office Box is \$405.00 annually. Approximately 200,000 pieces of mail are processed through the box each year or a value of \$.002 per piece of mail. The 40 responses had a value of \$.08.

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2. But a more practical way of looking at the value of the Post Office Box would be to acknowledge that the cost of the box is a "sunk cost" to Waffle House. The box is already paid for in the general course of business. Since the costs are already incurred whether or not any piece of mail goes through the box, there is just no value given or expense incurred by Waffle House to allow the 40 responses to go to the box.

II. Neither Waffle House, Inc. or Joe W. Rogers, Jr. is aware of all mailing lists used by the Coverdell Campaign. It is believed that the only lists used by the Coverdell Campaign for letters signed by Mr. Rogers were the list of delegates and alternates that attended the 1991 GA State Republican Convention and the "Johnny Isakson 1000 +" list.

a. and b. Neither Waffle House, Inc. or Joe W. Rogers, Jr. purchased any mailing list or is aware specifically of who may have purchased mailing lists. It is believed that the Coverdell Campaign procured the delegate and alternate delegate list from the State Republican Party but whether or not it was purchased is unknown by Waffle House, Inc. and Mr. Rogers. The "Johnny Isakson \$1,000 +" list is just a list of people that gave \$1,000 or more to Johnny Isakson's campaign for Governor of Georgia. Waffle House, Inc. and Mr. Rogers believe this list was made available to the Coverdell Campaign by volunteers or staffers that worked on both campaigns and that no list purchase was necessary.

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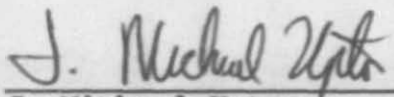
c. Neither Waffle House, Inc. or Joe W. Rogers purchased any mailing lists and therefore no documents are available. Perhaps, the Coverdell Campaign can provide this information.

3. Sherri Fallin

a. According to Ms. Fallin's affidavit which is attached, she spend approximately 2 1/2 hours in activities related to the Coverdell campaign over a 4 to 5 week period, the majority of which was after normal business hours and away from the offices of Waffle House, Inc.

b. Ms. Fallin obtained the stationery and envelopes which were sold to the Coverdell Campaign. She received the responses to the letter and passed these to the campaign on her way home from work. Her affidavit indicates she passes the campaign office each day in her commute to work. It is interesting to note that Ms. Fallin received no phone responses or inquiries resulting from the letters sent by Mr. Rogers.

c. Ms. Fallin is paid an annual salary of \$22,000.00.


J. Michael Upton
Vice President, Secretary
General Counsel

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AFFIDAVIT OF SHERRI ANN FALLIN

Personally appeared before the undersigned SHERRI ANN FALLIN, who, after being duly sworn, deposes and states as follows:

I.

My name is SHERRI ANN FALLIN. I am over eighteen years of age and competent to make this Affidavit, which is made on personal knowledge.

II.

I have been actively involved in GOP Activities since the fall of 1986 when I worked as a intern at the Georgia State Republic Party while Paul Coverdell was Chairman. In January, 1987, I went to work for Mr. Coverdell as his Legislative Aide and worked in that position until May, 1989 when he became Director of the Peace Corps and moved to Washington, DC. I then went to work for Waffle House, Inc. When Mr. Coverdell came back to Georgia to run for the US Senate, I volunteered my time to his campaign. I also serve on his Steering Committee.

III

When Joe W. Rogers, Jr. agreed to sign a letter personally endorsing Mr. Coverdell, I asked that I be listed as the contact person so I could keep up with exactly who responded. Mr. Rogers likes to send a personal note to

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those who respond and it is hard to keep up with those who respond unless he has first hand knowledge. I also felt that some people receiving the letter might have a question and I wanted them to be able to reach me. I did not actually receive any phone calls concerning the letters sent under Mr. Rogers' signature. Including my phone number was for my convenience, not to benefit the Coverdell Campaign.

IV

As to the time I actually spend on the Coverdell Campaign related to the letters signed by Mr. Rogers, it was extremely minimal - probably only 2 to 2 1/2 hours over a 4 to 5 week period for everything I did. I picked up the stationery and envelopes from the Waffle House Distribution Center and carried them to the Campaign Headquarters on my way home from work and handled billing the Campaign for the items. When the responses came into the post office box, I collected them and gave them to the Campaign. This probably took 10-15 minutes total to collect the responses. All deliveries to the Campaign were made on my way home from work since I pass the Campaign Office every day going to and from work. I was the only person from Waffle House, Inc. that spent any time on the Campaign and all that time was in my capacity as a volunteer.

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V

Waffle House, Inc. did not purchase any mailing list for the Campaign. The Campaign purchased the delegate and alternate delegate list to the 1991 GA State Republican Convention directly from the GA Republican Party. A "Dear Friend" letter dated October 25, 1991 and signed by Mr. Rogers was sent to this group totally at the Campaign's expense. The letter dated November 4, 1991 was sent to a list of people that gave \$1,000 or more to Johnny Isakson's Campaign for Governor of Georgia. I had a copy of that list, as did Paige Walls, and we gave it to the Coverdell Campaign. Only 40 responses totaling \$15,400 resulted from the letters.

FURTHER, deponent saith not. This 20 day of July, 1992.

Sherri Ann Fallin
Sherri Ann Fallin

Sworn to and subscribed before me this
20th day of July, 1992.

Lianne J. Post
Notary Public
My Commission Expires:

Notary Public, Gwinnett County, Georgia
My Commission Expires May 2, 1995

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 1, 1992

J. Michael Upton
Waffle House, Inc.
5986 Financial Drive
Norcross, Georgia 30071

RE: MUR 3455
Waffle House, Inc.
Joe W. Rogers, Jr.

Dear Mr. Upton:

On July 28, 1992, the Federal Election Commission received the response of Waffle House, Inc. and Joe W. Rogers, Jr., to the Subpoena and Order to Submit Written Answers in the above captioned matter. The affidavit of Sherri Ann Fallin which was attached to the response was also received.

In ¶ III of her affidavit, Ms. Fallin stated that "Mr. Rogers likes to send a personal note to those who [responded to the 'Dear Friend' letter]." This Office requests a copy of the personal note that Mr. Rogers sent. Also, state the number of notes sent; identify all Waffle House employees who were involved in the production and mailing of the note and describe the activity conducted by each employee in connection with the note; and state all costs attendant to the production and mailing of the note, including the costs for stationery, postage, and time spent by Waffle House employees. Where appropriate, statements should be submitted under oath. Please submit responses to these questions within 15 days of receipt of this letter.

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

Sincerely,

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

Helen J. Kim
Attorney

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93 JUN -8 AM 10: 00

SENSITIVE

Waffle House, Inc.
Joe W. Rogers
Coverdell Senate Committee
and Marvin Smith, as
treasurer

MUR 3455

I. BACKGROUND

This matter arose from a complaint submitted to the Commission on November 18, 1991, alleging that Joe W. Rogers, Jr., Waffle House, Inc., the Coverdell Senate Committee ("Committee") and Marvin Smith, as treasurer, violated provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). On June 9, 1992, the Commission found reason to believe that Waffle House, Inc. violated 2 U.S.C. § 441b(a); that Joe W. Rogers, Jr., violated 2 U.S.C. § 441b(a); and that the Coverdell Senate Committee ("Committee") and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a). On that date, the Commission also approved a subpoena and order to submit written answers and to produce documents to Waffle House, Inc. This Office also sent interrogatories to the Committee. This report analyzes the results of the investigation and makes recommendations regarding the disposition of this matter.

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II. ANALYSIS

A. Applicable Law

The Act prohibits corporations from making a contribution or expenditure in connection with any federal election. 2 U.S.C. § 441b(a). It also prohibits officers or directors of a corporation from consenting to any contribution or expenditure by the corporation. Id. "Contribution or expenditure" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any service, or anything of value to any candidate or her campaign committee in connection with a federal election. 2 U.S.C. § 441b(b)(2).

Corporations are also prohibited from acting as a conduit for contributions earmarked for candidates or their authorized committees. 11 C.F.R. § 110.6(b)(2)(ii). Other than through its separate segregated fund, a corporation may not facilitate the making of contributions to a candidate or political committee. See Explanation and Justification of Regulations, H.R. Doc. No. 95-44 at 104 (Jan. 12, 1977)(Explanation and Justification accompanying 11 C.F.R. § 114). See also Advisory Opinion 1987-29.

Although the Act broadly prohibits corporations from supporting federal candidates, stockholders or employees of a corporation engaged in volunteer activity may make occasional, isolated or incidental use of corporate facilities in connection with a federal election without causing the corporation to make a contribution. 11 C.F.R. § 114.9(a)(1). Commission regulations define "occasional, isolated, and incidental use" to include any activity that does not exceed more than one hour per week

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regardless of whether the activity takes place during or after normal working hours. 11 C.F.R. § 114.9(a)(1)(iii). If, however, an employee of a corporation is not engaged in volunteer activity, then compensation paid by a corporation to the employee for services rendered without charge to a political committee for any purpose, is a contribution. 11 C.F.R. § 100.7(a)(3).

B. Discussion

The subject of the complaint concerned a letter written by Joe W. Rogers, the president of Waffle House, Inc., soliciting funds for Paul D. Coverdell's campaign for U.S. Senate. The letter was written on Waffle House letterhead, listed Sherri Fallin, a Waffle House employee, as a contact person for questions regarding the solicitation, and directed the addressees to send the contributions to Waffle House's post office box.

Because it appeared that Waffle House facilitated the fundraising efforts of the Committee by acting as a conduit for the earmarked contributions and by allowing one of its employees to coordinate the activity, the Commission found reason to believe that the respondents violated 2 U.S.C. § 441b(a) and authorized an investigation into this matter. This Office originally recommended findings based on the use of Waffle House's corporate letterhead, employee time, and conduit activities. See General Counsel's Report dated May 29, 1992. The Commission, however, determined to address the corporate letterhead issue in the context of rulemaking. Thus, the discovery requests focused on the extent of corporate employee involvement in the mailings and the use of corporate resources for the activity.

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In its subpoena response, Waffle House included an affidavit of Sherri Fallin detailing her activities relating to the solicitation. According to her affidavit, Sherri Fallin was a volunteer for the Coverdell campaign and spent approximately two hours over a 4-5 week period on the campaign related activities in question. Affidavit of Sherri Fallin, Attachment 1, at pp. 7-9. These activities mostly included obtaining stationery, delivering it to the Committee, and billing the Committee for it. Ms. Fallin also stated that most of this activity was conducted after normal business hours and that she spent a total of ten minutes collecting the forty contributions totaling \$15,400 from Waffle House's post office box. According to Waffle House's response, the cost of using the Waffle House post office box was approximately \$.08. (Attachment 1).

The responses to the discovery requests also stated that the Committee paid for all costs associated with the solicitation, including all mailing lists. The original responses to the complaint indicated that two mailing lists were used--a list of Alternates and Delegates to the 1991 State Republican Convention and a list of contributors to Johnny Isakson's campaign for Governor of Georgia. According to the responses from the Committee and Waffle House, the Committee purchased the Alternates and Delegates list from the Georgia Republican Party, and according to her affidavit, Ms. Fallin gave a copy of the Johnny Isakson list to the Committee. The Committee's response to

interrogatories confirms this statement and adds that the Johnny Isakson list was a compilation of public information.¹ (Attachment 2).

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The investigation reveals that the actual physical resources of Waffle House used were comparatively small. According to the responses, the extent of corporate involvement in the solicitation was limited to allowing the contributions to be sent to the corporate post office box, and allowing one employee, a volunteer of the Committee, to spend a few hours on some of the activity. Probably the most valuable corporate resource available to the Committee was the apparent corporate endorsement of the fundraising activity through the use of corporate letterhead containing Waffle House's registered trademark. Absent the corporate letterhead issue, however, the investigation has revealed that the balance of this matter is relatively insubstantial. Thus, an admonishment would be a sufficient sanction for this matter.

Therefore, in view of these factors and the Commission's enforcement priorities, this Office recommends that the Commission exercise its prosecutorial discretion and take no further action against Waffle House, Joe W. Rogers, Jr., and the Coverdell Senate Committee and Marvin Smith, as treasurer, and close the file.

1. These responses raise a question of whether Ms. Fallin may have made an excessive contribution by giving the Committee the Johnny Isakson list. It does not appear, however, that the value of the list exceeds \$1,000 and a review of the Committee's disclosure reports reveal that Ms. Fallin had not previously made a contribution to the Committee. Thus, this Office makes no recommendations concerning this transaction.

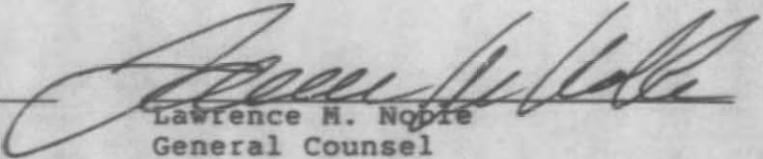
This Office will send appropriate letters of admonishment to the respondents.

III. RECOMMENDATIONS

1. Take no further action against Waffle House, Inc. and Joe W. Rogers, Jr.
2. Take no further action against the Coverdell Senate Committee and Marvin Smith, as treasurer.
3. Approve the appropriate letters.
4. Close the file.

Date

6/7/93


Lawrence M. Nobile
General Counsel

Attachments

1. Waffle House Response
2. Committee Response

Staff Assigned: Helen J. Kim

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS 
COMMISSION SECRETARY

DATE: JUNE 11, 1993

SUBJECT: MUR 3455 - GENERAL COUNSEL'S REPORT
DATED JUNE 7, 1993.

The above-captioned document was circulated to the
Commission on Tuesday, June 8, 1993 at 11:00 a.m..

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

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

This matter will be placed on the meeting agenda
for Tuesday, June 22, 1993.

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)
)
Waffle House, Inc.;) MUR 3455
Joe W. Rogers;)
Coverdell Senate Committee and)
Marvin Smith, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 17, 1993, the Commission decided by a vote of 6-0 to take the following actions in MUR 3455:

1. Take no further action against Waffle House, Inc. and Joe W. Rogers, Jr.
2. Take no further action against the Coverdell Senate Committee and Marvin Smith, as treasurer.
3. Approve the appropriate letters, as recommended in the General Counsel's Report dated June 7, 1993.

(continued)

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4. Close the file.

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

Attest:

6-18-93
Date

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

Received in the Secretariat:	Tues., June 08, 1993	10:00 a.m.
Circulated to the Commission:	Tues., June 08, 1993	11:00 a.m.
Deadline for vote:	Fri., June 11, 1993	4:00 p.m.
Objection Received:	Fri., June 11, 1993	3:09 p.m.
Placed on Agenda for:	Tues., June 22, 1993	
Objection Withdrawn:	Thurs., June 17, 1993	4:54 p.m.
Withdrawn from Agenda		

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUNE 24, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James D. Hogan
1800 Parkway Place
Suite 730
Marietta, Georgia 30067

RE: MUR 3455

Dear Mr. Hogan:

This is in reference to the complaint you filed with the Federal Election Commission on November 18, 1993, concerning allegations of possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

Based on that complaint, on June 9, 1992, the Commission found that there was reason to believe Waffle House, Inc., Joe Rogers, Jr., the Coverdell Senate Committee, and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Act, and instituted an investigation of this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against Waffle House, Inc., Joe Rogers, Jr., the Coverdell Senate Committee and Marvin Smith, as treasurer, and closed the file in this matter on June 17, 1993. This matter will become part of the public record within 30 days. The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact me at (202) 219-690.

Sincerely,

Helen J. Kim
Attorney

Enclosure
General Counsel's Report

93040951464



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

JUNE 24, 1993

Timothy S. Perry
Alston & Bird
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

RE: MUR 3455
Coverdell Senate Committee and
Marvin Smith, as treasurer

Dear Mr. Perry:

On June 23, 1992, you were notified that the Federal Election Commission found reason to believe that your clients, the Coverdell Senate Committee ("Committee") and Marvin Smith, as treasurer, violated 2 U.S.C. § 441b(a). On July 27, 1992, your clients submitted a response to the Commission's reason to believe findings. After considering the circumstances of the matter, the Commission determined on June 17, 1993, to take no further action against the Committee and Marvin Smith, as treasurer, and closed the file in this matter.

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

The Commission reminds you that using corporate resources to enhance the Committee's fundraising activity in connection with a federal election appears to be a violation of 2 U.S.C. § 441b(a). Your clients should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

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

Helen J. Kim
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

JUNE 24, 1993

J. Michael Upton
General Counsel
Waffle House, Inc.
P.O. Box 6450
Norcross, Georgia 30091-6450

RE: MUR 3455
Waffle House, Inc.
Joe Rogers, Jr.

Dear Mr. Upton:

On June 23, 1993, you were notified that the Federal Election Commission found reason to believe that Waffle House, Inc. and Joe Rogers, Jr., violated 2 U.S.C. § 441b(a). On July 20, 1992, your clients submitted a response to the Commission's reason to believe findings. After considering the circumstances of the matter, the Commission determined on June 17, 1993, to take no further action against Waffle House, Inc. and Joe Rogers, Jr., and closed the file in this matter.

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

The Commission reminds you that allowing the use of Waffle House corporate resources in connection with the fundraising activities of the Coverdell Senate Committee appears to be a violation of 2 U.S.C. § 441b(a). Your clients should take immediate steps to insure that this activity does not occur in the future.

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 horizontal line.

Helen J. Kim
Attorney

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3455

DATE FILMED 7/26/93 CAMERA NO. 4

CAMERAMAN E.E.S.

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