



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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**BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES OF AMERICA**

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In the Matter of:

MUR 3852

Congresswoman Marjorie Margolies-Mezvinsky,)
Friends of Marjorie Margolies- Mezvinsky,)
Betty Klein, Treasurer)
Congressional Institute for the Future,)
Rod McCord, Executive Director)

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COMPLAINT

NOW COMES, the National Republican Congressional Committee by its Executive Director, Maria Cino, whose principal office is located at 320 First Street, S.E., Washington, D.C. 20003 hereinafter referred to as "NRCC" to file this Complaint pursuant to 2 U.S.C. 437g(a)(1) and 11 C.F.R. 111.4 relative to certain activity of Congresswoman Marjorie Margolies-Mezvinsky, her principal campaign committee, Friends of Marjorie Margolies-Mezvinsky, Betty Klein, Treasurer, whose address is P.O. Box 157, Narberth, Pennsylvania 19072, hereinafter referred to as "Mezvinsky" and the Congressional Institute for the Future, Rod McCord, Executive Director, whose principal place of business is The Washington Center, 409 Third Street, S.W., Suite 204, Washington, D.C. 20024 hereinafter referred to as "Institute."

VIOLATION

The payments made for the purpose of convening the conference "Future for Entitlements" sponsored by Congresswoman Marjorie Margolies-Mezvinsky and the Congressional Institute for the Future are in reality poorly disguised payments for the purpose of supporting the re-election of Congresswoman Margolies-Mezvinsky. Said payments are impermissible corporate contributions in violation of 11 C.F.R. 114.2(a) and (b).

These actions represent intentional and willful attempts to violate the Federal Election Campaign Finance Act of 1971, as amended.

FACTS

NRCC pursuant to the provisions of the Federal Election Campaign Finance Act of 1971, as amended, (The Act) and the Federal Code of Regulations hereby state the following facts:

1. Marjorie Margolies-Mezvinsky is the incumbent Democrat Congresswoman from the 13th District of Pennsylvania.
2. The Friends of Marjorie Margolies-Mezvinsky is registered with the Federal Election Commission as the principal campaign committee for Congresswoman Marjorie Margolies-Mezvinsky.

3. The Congressional Institute for the Future is a non-profit corporation registered in the District of Columbia.

4. Rob McCord is the Executive Director for the Congressional Institute for the Future.

5. In 1992, Congresswoman Margolies-Mezvinsky was elected to the U.S. House of Representatives by a narrow 1,004 vote margin in what is considered a conservative district.

6. In early 1993, Congresswoman Mezvinsky announced her opposition to the Clinton tax package.

7. Congresswoman Margolies-Mezvinsky changed her position and voted for the package on final passage. It is reported in the Washington Times that she admitted that she bartered her vote on the tax package for a commitment from the President to appear at the conference in her district. See Exhibit B.

8. On Monday, December 13, President Clinton is scheduled to appear at a "Future of Entitlements" Conference at Bryn Mawr College.

9. Two former high level Margolies-Mezvinsky 1992 campaign workers are substantially involved in the staging and promotion of the conference, to wit:

A. Rob McCord, former Treasurer of the Margolies-Mezvinsky Campaign Committee, is the Executive Director of the Institute which is the sponsoring entity for the conference.

B. According to the Philadelphia Inquirer, Kenneth Saunkler, 1992 Campaign Manager of the Margolies-Mezvinsky Campaign Committee, is being paid with Mezvinsky's campaign funds to coordinate the event on her behalf. The amount reported is \$3,000 - \$5,000. See Exhibit A.

10. Congresswoman Margolies-Mezvinsky's opportunity for re-election has been damaged by her reversal of her position and subsequent support of the Clinton tax package - a package which passed the House by one vote.

11. The Philadelphia Inquirer reported that McCord has acknowledged that "those efforts [Future of Entitlements Project] could serve to buttress Margolies-Mezvinsky's somewhat tenuous standing in her district." See Exhibit A.

12. McCord has acknowledged that the project will include mailings, two polls (at least one in the district), publications, videos and two additional Washington meetings and mailings. Specifically he said " [M]uch of the activity . . . would be centered in and around Margolies-Mezvinsky's district." See Exhibit A. The total proposed cost of the first year of operation of the project is \$524,536. See Exhibit D.

13. An article in the Washington Times indicates that one organization, The Heritage Foundation, has declined to participate citing that to do so may " . . . lead to the appearance that Heritage Foundation . . . is participating in a political event." See Exhibit B.

14. Margolies-Mezvinsky is clearly identified as the person who approached the Institute. She has sent fundraising appeals on behalf of the conference/project. See Exhibit C.

15. Rob McCord acknowledges that the conference was proposed by and coordinated with Congresswoman Margolies-Mezvinsky. See Exhibit A.

16. It was reported in the Washington Post on December 9, 1993, that "about a dozen corporations and hospitals have contributed." It was estimated that approximately \$175,000 had been given thus far. Estimates range from \$50,000-\$100,000 on the amount to be used solely for the conference. See Exhibits A and E.

DISCUSSION OF LAW

The Institute has made or intends to make substantial prohibited corporate contributions to the Mezvinsky Committee through the establishment of the Entitlements Conference and subsequent project. The total budget for the first year appears to be \$524,536. The Act specifically prohibits any corporation from making a contribution or expenditure in connection with election for Federal office. 11 C.F.R. 114.2(a) and (b).

It is clear the motivating factor for making a deal with the President to appear at this conference was to repair the anticipated political damage which Mezzvinsky would suffer as a result of her decision to reverse her position and cast the deciding vote for the Clinton tax package. The topic of this conference is apparently contrived for the purpose of demonstrating her concern for cutting the Federal budget after she voted to increase taxes.

Why else would the conference be convened and the majority component of the ensuing project be conducted in the home district of the Congresswoman? If the sole goal of the conference is to develop policy, it could be held anywhere in the United States. It could have been held where the Institute has its principal office - Washington, D.C. Many of the speakers listed on the program are Cabinet Members and a D.C. location would not have required travel - presumably at public expense. The answer is that her home district is the only location providing the maximum political return to the Congresswoman. The political value of the Congresswoman appearing with the President and Members of the Cabinet were acknowledged by her in the Philadelphia Inquirer. See Exhibit A.

The political motivation of this conference is further confirmed by the fact that the Conference is being sponsored by an organization whose Executive Director, Rob McCord, was the 1992 Campaign Treasurer for Mezvinsky. The Executive Director, McCord, has acknowledged the political benefit of this conference/project to Mezvinsky. Additionally, the Congresswoman has recognized the political benefit of this event and authorized the use her current committee campaign funds to help in coordination. She obviously feels that the event has a political value in order to authorize the use of those funds.

In summary, the respondents recognize the political value of this Conference/project to the rehabilitation of the Margolies-Mezvinsky's image with Pennsylvania voters. The payments made for the purpose of convening the conference and subsequent project sponsored by Congresswoman Marjorie Margolies-Mezvinsky and the Congressional Institute for the Future are in reality poorly disguised payments for the purpose of supporting the re-election of Congresswoman Margolies-Mezvinsky. Said payments are impermissible corporate contributions in violation of 11 C.F.R. 114.2(a) and (b).

PRAYER FOR RELIEF

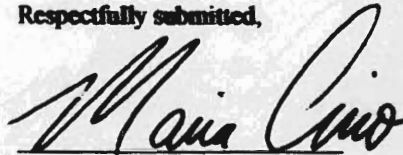
Therefore, the NRCC respectfully requests, that the Federal Election Commission investigate the above facts and make the following conclusion as appropriate:

(1) The Institute for the Future has made or plans to make expenditures for purposes of the "Future of Entitlements" conference/project. Said payments are made for the purpose of influencing the election of Marjorie Margolies-Mezvinsky in her re-election to the U.S. House of Representatives. Said corporate contributions are impermissible and prohibited by the provisions of 11 C.F.R. 114.2(a) and (b).

The NRCC further requests that the Federal Election Commission assess all appropriate penalties for said wilful and knowing violation of the above provisions in accordance with 2 U.S.C. 437g(a)(B)(C).

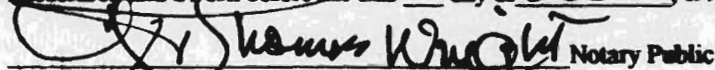
The above statements are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,



Maria Cino
Executive Director

Subscribed and Sworn before me this 21st day of Dec., 1993.



Notary Public

G. THOMAS WRIGHT
Notary Public, District of Columbia

My Commission Expires: ~~My Commission Expires~~ **May 14, 1998**

Clinton parley here is a golden payback

COMPLAINTS from A1 Margolis-Mezvinsky's behalf have led some to question the value of the conference as a serious attempt to look at the issue of entitlements.

"This isn't a serious debate; it's a one-day soapbox," said Patrick Burns, a spokesman for the National Council of Senior Citizens, a group not invited to the conference. "And the interesting thing is you have to pay for the soapbox."

The one-day conference on entitlement programs such as Social Security and Medicare will feature appearances by Clinton, Health and Human Services Secretary Donna Shalala, Budget Director Leon E. Panetta, past and present members of Congress, and 2,000 private citizens, many from Montgomery County.

The conference is also to serve as the opening event for a planned two-year "future of entitlements project," being run by CIF, a congressional think tank whose executive director, McCord, is a longstanding friend of Margolis-Mezvinsky's and her 1992 campaign treasurer.

To fund both the conference and the entitlements project, Margolis-Mezvinsky and McCord sent letters to 27 foundations and corporations, McCord said. Letters from McCord asked for \$50,000 contributions.

Confirmed contributors include the Hospital Association of Pennsylvania (\$30,000), AT&T (\$25,000), Mercy Health Corp. (\$25,000), Merck & Co. (\$25,000), Sun Co. (\$25,000) and General Motors Foundation (\$25,000), according to CIF.

Of the 27 groups approached, 15 organizations with a specific stake in the outcome of the entitlements debate — senior citizen advocacy groups, insurance firms and health-care providers — received a letter in which McCord promised a "high profile role" to "supporters" who contributed \$50,000.

"Our strategy is to approach a few key players who could come through for Margolis and the other legislators who care about entitlement issues..." McCord wrote in one letter. "We are planning to give supporters the opportunity to participate directly in a panel discussion during the conference."

The appeal from CIF was accompanied by a letter from Margolis-Mezvinsky — also on institute letterhead — urging the recipient "to get deeply involved" in the project.

"We were asked to make a contribution and told if we contributed, we would be involved in the program," said William R. Ritz of the National Committee to Preserve Social Security and Medicare, which was asked to ante up \$50,000.

"We were uncomfortable with this," said Ritz, whose group declined to contribute \$50,000. To date, Ritz's committee has not been invited.

The powerful American Association of Retired Persons (AARP), which represents 34 million Americans over the age of 50, declined an appeal from McCord to contribute, but was invited anyway.

"I considered it being asked to pay for our ticket," said John Fisher, AARP's legislative affairs director. "We thought we had the ability to say no, and still get invited. They needed us."

Margolis-Mezvinsky denied there was an intent to link participation in the conference with contributions to McCord's project.

"They misinterpreted it (the letter)," she said. "There was no quid pro quo. There are people on our panels who did not pay, and people who paid who are not on the panels."

McCord dismissed the complaints from the National Committee to Preserve Social Security and Medicare as sour grapes from a group "that is professionally angry for a living."

"I wasn't selling panel seats," McCord said. "Was I fund-raising aggressively? Yes."

Of the money to be raised, about \$100,000 is budgeted by the CIF for the conference itself, to cover meals, transportation for participants and hotel accommodations. Bryn Mawr College is providing the facilities and other support services.

Kenneth Sneider, Margolis-Mezvinsky's former campaign manager and congressional aide, will be paid "between \$3,000 and \$5,000" for helping to coordinate the event, McCord said.

Also included in the "projected" \$525,000 budget are funds for the first year of CIF's entitlement project for staffing, polling, publications, video, follow-up meetings, two additional Washington meetings and advertising. Much of the activity, McCord said, would be centered in and around Margolis-Mezvinsky's district.

"Ideally, I'd like to do a county-wide project in Montgomery County," he said. "Publications, advertising and follow-up polling."

McCord acknowledged that these efforts could serve to bolster Margolis-Mezvinsky's somewhat tenuous standing in her district.

"It's possible that the things we do would be of indirect benefit to Margolis," he said. "But right now, we can only pay for about one-third of this."

McCord said he was concerned that his project's follow-up efforts in Montgomery County not be seen as an attempt to exploit the conference for her political benefit.

"We may not do it if it doesn't pass the straight-face test," McCord said. "If people say I'm doing too much in the district, I will back off."

Margolis-Mezvinsky, however, said that it was important that follow up to the conference be done in her district.

"Several thousand people will be here listening to this event, so it's very important that we follow up," she said. "I told the President he didn't need to come here, but we've got to start the conversation outside the Beltway."

"What some may interpret as publicity (for me) is what I understand you do with such panels," she said. "The follow-up will also be done elsewhere, but it will start here."

Inquirer staff writer Peter Lantry contributed to this report.

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Margolies-Mezvinsky seizes the day for funding own project.

Clinton parley: Golden payback



Rob McCord is seeking project funds.

By Steve Goldstein

PHILADELPHIA BUREAU

WASHINGTON — Casting the decisive vote for President Clinton's budget last summer provided a golden opportunity for U.S. Rep. Margolies-Mezvinsky — the chance to lure a grateful Clinton to her district for a high-profile conference on federal entitlements.

A closer look has shown just how golden an opportunity the conference may be for the first-term suburban Philadelphia Democrat.

Corporations, foundations and activist groups invited to the event Monday at Bryn Mawr College have been asked to contribute to a \$25,000

project run by Margolies-Mezvinsky's former campaign treasurer, Rob McCord. Included in the proposed budget for the two-year project are opinion polls, newsletters, advertising and follow-up mailings — all in Margolies-Mezvinsky's 13th Congressional District.

At least two groups solicited saw the funding request as an attempt to force them to pay for a voice at the conference, a charge denied by Margolies-Mezvinsky and McCord, director of the Congressional Institute for the Future (CIF).

The fund-raising attempts and the potential political use of the funds in
See CONFERENCE on A 10

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The one-day conference on entitlement programs such as Social Security and Medicare will feature appearances by Clinton, Health and Human Services Secretary Donna Shalala, Budget Director Leon E. Panetta, past and present members of Congress, and 2,000 private citizens, many from Montgomery County.

The conference is also to serve as the opening event for a planned two-year "future of entitlements project," being run by CIF, a congressional think tank whose executive director, McCord, is a longstanding friend of Margolles-Mezvinsky's and her 1992 campaign treasurer.

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"Our strategy is to approach a few key players who could come through for Marjorie and the other legislators who care about entitlement issues . . ." McCord wrote in one letter. "We are planning to give supporters the opportunity to participate directly in a panel discussion during the conference."

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Inquirer staff writer Peter Landry contributed to this report.

Entitlement panelist pulls out over 'payola'

By Major Garrett
THE WASHINGTON TIMES

At least one participant has withdrawn from a conference featuring President Clinton amid reports that corporate sponsors paid money to secure key roles at the event.

The Heritage Foundation backed out of the conference to discuss entitlement spending, saying it does not "participate in political fundraisers" and was unaware of the sponsorship arrangement.

What's more, conference organizers said that sponsors who paid for access to the meeting, set for Monday at Bryn Mawr College, are being removed from panel discussions in response to criticism.

Mr. Clinton agreed to attend the conference on entitlement spending in exchange for support of his budget by Rep. Marjorie Margolies-Mezvinsky, Pennsylvania Democrat and a conference organizer.

Mrs. Margolies-Mezvinsky reversed her earlier "no" vote to spare the White House a debilitating legislative defeat over Mr. Clinton's \$496 billion economic package.

At that time, she said winning the president's promise to attend the conference meant that she had bartered for something of substance, instead of trading her vote for a pork-barrel project.

On Wednesday, the Philadelphia Inquirer reported that 27 corporations, foundations and activist groups invited to the one-day conference were asked to contribute \$50,000 to a special political fund overseen by Mrs. Margolies-Mezvinsky's former campaign treasurer.

Of those, 15 have a specific stake in the outcome of entitlement reforms, the Inquirer said.

Rob McCord, director of the Congressional Institute for the Future, which is organizing the conference, promised potential donors a "high profile" in the event.

Funds solicited from participants in the conference will pay for opinion polls, newsletters, advertising and follow-up meetings in Mrs. Margolies-Mezvinsky's suburban Philadelphia district.

Merck Corp., American Telephone & Telegraph Co and Mercy Health Corp. of Southeastern Pennsylvania are among about a dozen companies that have put nearly \$200,000 to-

ward the conference and a two-year follow-up study.

A statement released by Lawrence Smedley, executive director of the National Council of Senior Citizens, said that "the whole solicitation bid smacks of payola" that implied, "If you pay, you play."

Edwin J. Feulner Jr., president of the Heritage Foundation, told Mrs. Margolies-Mezvinsky that his group could not attend because it "could lead to the appearance that Heritage Foundation ... is participating in a political event."

Another conservative group, Americans for Tax Reform, asked Tom Kean, former Republican governor of New Jersey, to cancel his plans to attend.

Grover Norquist, president of the tax group, said in a letter to Mr. Kean that the conference "is nothing more than a scripted attempt to present Bill Clinton in a good light and to raise funds to reverse [Mrs. Margolies-Mezvinsky's] sagging political fortunes."

Representatives for Merck, Mercy Health and the Hospital Association of Pennsylvania were scheduled to participate in panel discussions. Mr. McCord said those companies will be withdrawn from the panels; Merck and the association said there were no plans to cancel their donations.

John Tappert, spokesman for Mrs. Margolies-Mezvinsky, said the Congressional Institute for the Future will conduct no clandestine political work for her re-election bid next year.

According to a conference itinerary, Mr. Clinton will be joined by several Cabinet officials, including Donna E. Shalala, secretary of health and human services, Labor Secretary Robert Reich, and Alice Rivlin, deputy director of the Office of Management and Budget.

In another development, Rep. Timothy J. Penny, a Minnesota Democrat and leader of an effort to cut \$90 billion from the deficit that the White House narrowly defeated, was moved off a panel to be moderated by Miss Shalala.

Mr. Penny was to have been on a panel to discuss retirement programs but was moved to the last panel of the day, which will discuss the "next step" in deficit reduction.

• This article is based in part on wire service reports.

Our plan is to build the daylong conference around a total of three panel discussions — addressing issues related to retirement policy, health care, and welfare reform respectively. We are planning to give supporters, the opportunity to participate directly in a panel discussion during the conference. We can, of course, discuss details regarding the conference and specifics of the National Committee to Preserve Social Security and Medicare involvement.

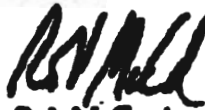
The Congressional Institute for the Future is a bipartisan 501(c)(3) educational organization which was founded by legislators, including former Senators Al Gore and John Heinz, to help Members of Congress consider the long term implications of current policy choices and emerging economic, technological, and demographic trends. The Institute has enjoyed a broad variety of successes — addressing issues and forecasts surrounding environmental protection, education, communications policy, technology assessment, and energy policy among others. Enclosed for your review are some background materials about the Institute as well as materials outlining our Future of Endowments Project.

In the right-hand panel of the enclosed folder, please find an outline of the tasks we expect the Endowments Project to perform during its first year of operation. Also enclosed for your review is the projected budget for the conference and the first year of the project. This budget outlines our plans as well as our fiscal expectations. In addition, I am enclosing a background memo about the project and the importance of endowment spending issues. Thus, the enclosed materials outline the Institute's background and its specific plans for our Future of Endowments Project as well as more general substantive background on the issues we plan to address.

Obviously, timely support is absolutely essential. I will contact you again by phone, so that we might follow up as quickly as possible.

Again, thank you very much for your consideration and interest.

Sincerely,


Rob McCord
Executive Director

Enclosures

Congressional Institute for the Future
PROJECTED BUDGET — ENTITLEMENT PROJECT COSTS
 (First Year)

CONFERENCE:**A. Conference Travel**

- Airline service @ \$1,000/person x 50	\$90,000
- Hotel accommodations @ \$150/night x 50	7,900
- Staff (motorliner and hotel)	2,136
Total Conference Travel	\$99,836

B. Conference Meals

- Breakfast @ \$15/person x 300	\$4,500
- Lunch @ \$25/person x 300	7,500
- Dinner @ \$35/person x 300	10,800
Total Conference Meals	\$22,800

C. Conference Printing and Mailing

- Conference binders	\$11,750
- Conference agenda	1,000
- Briefing papers	1,250
- Clip reprints	500
Total Conference Printing and Mailing	\$14,500

D. Polling

- Staff compensation	\$13,000
- Commissioned work (one district survey and one national survey)	50,000
Total Polling	\$63,000

E. Publications (before and after conference)

- Two 12-page journals (50,000 copies each)	\$45,000
- Eight Emerging Issues briefs and/or Forecast Critiques (50,000 copy distribution)	18,000
Total Publications	\$63,000

F. Video Crew and Editing

- Staff compensation	\$15,400	
- Commissioned work	<u>40,000</u>	
Total Video		\$55,400

G. Targeted Follow-up Mailings (approx. 2,000)

- Postage	\$ 800	
- Staff Compensation	<u>2,040</u>	
Total Targeted Follow-up Mailings		\$2,840

H. Staff Salaries for Conference and first year of Project

- 4 CIF staff	\$37,200	
- 2 full-time staff equivalents	<u>119,560</u>	
Total Staff Costs		\$156,760

I. Additional briefings/meetings

- 2 informal, machine, DC-based conference		\$50,000
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J. Advertising

- Sample radio ad		\$40,000
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K. Other Conference Costs

- Equipment	\$1,000	
- Telephone and communication	<u>900</u>	
- Supplies	<u>400</u>	
Total Other Costs		\$1,900

TOTAL COSTS

\$524,536

President Alters Role in Entitlement Meeting

White House Rebuffs Suggestions Contributions Would Bring Access

By Ann Devroy and Kevin Marjic
Washington Post Staff Writers

President Clinton last night altered the terms of his attendance at a Pennsylvania conference Monday on federal entitlement spending after senior White House aides learned that the gathering was being underwritten by corporations who were told that large contributions would ensure a seat at the presidential conference table.

Clinton had promised Rep. Marjorie Margolis-Morvinsky (D-Pa.) that he would attend a conference in her district on entitlements, such as Medicare and Social Security, when she agreed to cast the decisive—and for her, politically risky—vote for his budget package last summer. Besides Clinton's three-hour participation, the conference also will attract top policymakers and Cabinet members.

Corporations, foundations and activist groups invited to Margolis-Morvinsky's conference were asked to contribute to a \$200,000 project being run by her former campaign treasurer, according to an account yesterday in the Philadelphia Inquirer. The project is underwriting the conference and the cost of two years of newsletters, advertising and mailings in the district related to the conference.

Margolis-Morvinsky said in a telephone interview yesterday that a fund-raising letter sent to more than two dozen corporations and interest groups seeking contributions of up to \$25,000 was not an attempt to sell access to the conference—and thus to the president and many of his top aides.

One letter, however, promised a "high-profile role" in the conference to "supporters" who contributed \$25,000. Another, written by Margolis-Morvinsky's former campaign treasurer, Rob McCord, said, "Our strategy is to approach a few key players who could come through for Marjorie and the other legislators who care about entitlement issues. . . . We are planning to give supporters the opportunity to participate directly in a panel discussion during the conference."

Margolis-Morvinsky said, "We looked at the conference, and one thing became infinitely clear. We weren't going to use public dollars when we were talking about deficit reduction . . . so the alternative was to go to corporate sponsors. And I think that's exactly what we should have done."

She said decisions on who would participate in panel discussions were not based on contributions.

Contributors will be on the panel in which the president is participating," Geeman said the same rule applies to other administration officials. He added that Margolis-Morvinsky had been informed.

According to the Inquirer, about a dozen corporations and hospitals have contributed, and 15 of the 27 solicitation letters were to organizations and firms with a "direct stake" in entitlement issues. About \$175,000 has been given by companies, and McCord estimated \$25,000 will be used for the conference.

"This whole solicitation by means of payola," said Lawrence T. Smadley, director of the National Council of Senior Citizens. "I think the not-so-subtle message of the letter and phone calls was that if you pay, you play."

Margolis-Morvinsky said she did not consult the White House about the fund-raising details for the conference but believes someone from her staff or McCord did. "I'm virtually certain they knew," she said. "I would state anything on it."



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 12, 1994

Maria Cino, Executive Director
National Republican Congressional Committee
320 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3852

Dear Ms. Cino:

This letter acknowledges receipt on January 4, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by The Honorable Marjorie Margolies-Mezvinsky, Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, the Congressional Institute for the Future and Rod McCord, as Executive Director, American Telephone and Telegraph Co., Hospital Association of Pennsylvania, Bryn Mawr College, Sun Company, Inc., Mercy Health Corporation, Merck and Co., Inc., and the General Motors Foundation, 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 3852. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosure
Procedures

34043593046



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1994

The Honorable Marjorie Margolies-Mezvinsky
House of Representatives
Washington, D.C. 20515

RE: MUR 3852

Dear Ms. Margolies-Mezvinsky:

The Federal Election Commission received a complaint which indicates 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 3852. 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.

94043593047

The Honorable Marjorie Margolies-Mezvinsky
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

94043593048



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

January 12, 1994

Betsy Klein, Treasurer
Friends of Marjorie Margolies-Mezvinsky
P.O. Box 157
Narberth, PA 19072

RE: MUR 3852

Dear Ms. Klein:

The Federal Election Commission received a complaint which indicates that the Friends of Marjorie Margolies-Mezvinsky ("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 3852. 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.

94043593049

**Betsy Klein, Treasurer
Friends of Marjorie Margolies-Mezvinsky
Page 2**

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosures

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

9 4 0 4 3 5 9 3 0 5 0



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1994

Red McCord, Executive Director
Congressional Institute for the Future
The Washington Center
409 Third Street, S.W., Suite 204
Washington, D.C. 20024

RE: MUR 3852

Dear Mr. McCord:

The Federal Election Commission received a complaint which indicates that the Congressional Institute for the Future and you, as Executive Director, 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 3852. 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 Congressional Institute for the Future and you, as Executive Director, 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.

24043593051

Rod McCord, Executive Director
Congressional Institute for the Future
Page 2

If you have any questions, please contact Joan McEnery at
(202) 219-3400. For your information, we have enclosed a brief
description of the Commission's procedures for handling
complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593052



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 12, 1994

John D. Zeglis, Senior Vice President for
Government Affairs and General Counsel
American Telephone and Telegraph Co.
32 Avenue of the Americas
New York, NY 10013

RE: MUR 3852

Dear Mr. Zeglis:

The Federal Election Commission received a complaint which indicates that the American Telephone and Telegraph Company ("Company") 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 3852. 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 Company 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.

24043593053

John D. Zeglis, Senior Vice President for
Government Affairs and General Counsel
American Telephone and Telegraph Company
Page 2

If you have any questions, please contact Joan McNery at
(202) 219-3400. For your information, we have enclosed a brief
description of the Commission's procedures for handling
complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593054



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

January 12, 1994

Executive Director
Hospital Association of Pennsylvania
P.O. Box 608
Camphill, PA 17011

RE: MUR 3852

Dear Madam or Sir:

The Federal Election Commission received a complaint which indicates that the Hospital Association of Pennsylvania 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 3852. 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 Hospital Association of Pennsylvania 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.

94043593055

**Executive Director
Hospital Association of Pennsylvania
Page 2**

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

**Mary L. Taksar, Attorney
Central Enforcement Docket**

Enclosures

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

94043593056



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

January 12, 1994

Mary McPerson, President
Bryn Mawr College
Bryn Mawr, PA 19010

RE: MUR 3852

Dear Ms. McPerson:

The Federal Election Commission received a complaint which indicates that the Bryn Mawr College 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 3852. 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 Bryn Mawr College 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.

94043593057

Mary McPerson, President
Bryn Mawr College
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593058



FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

January 12, 1994

Jack L. Foltz, Senior Vice President and
General Counsel
Sun Company, Inc.
Ten Penn Center, 1801 Market Avenue
Philadelphia, PA 19103-1699

RE: MUR 3852

Dear Mr. Foltz:

The Federal Election Commission received a complaint which indicates that the Sun Company, Inc. 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 3852. 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 Sun Company, Inc. 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.

94043593059

Jack L. Folts, Senior Vice President and
General Counsel
Sun Company, Inc.
Page 2

If you have any questions, please contact Joan McEnery at
(202) 219-3400. For your information, we have enclosed a brief
description of the Commission's procedures for handling
complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593060



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1994

President
Mercy Health Corporation
of Southeast Pennsylvania
Landsdown Avenue and Baily Road
Darby, PA 19023

RE: MUR 3852

Dear Madam or Sir:

The Federal Election Commission received a complaint which indicates that the Mercy Health Corporation of Southeast Pennsylvania 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 3852. 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 Mercy Health Corporation of Southeast Pennsylvania 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.

94043593061

President
Mercy Health Corporation
of Southeast Pennsylvania
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593062



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1994

Mary M. McDonald
Vice President and General Counsel
Merck and Co., Inc.
126 East Lincoln Avenue
Rahway, N.J. 07065

RE: MUR 3852

Dear Ms. McDonald:

The Federal Election Commission received a complaint which indicates that Merck and Co., Inc. 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 3852. 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 Merck and Co., Inc. 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.

24043593063

Mary N. McDonald
Vice President and General Counsel
Merck and Co., Inc.
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

34043593064



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 12, 1994

J.E. Minchi, President
General Motors Foundation, Inc.
13-145 General Motors Bldg.
3044 West Grand Blvd.
Detroit, MI 48202-3091

RE: MUR 3852

Dear Mr. Minchi:

The Federal Election Commission received a complaint which indicates that the General Motors Foundation, Inc. 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 3852. 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 General Motors Foundation, Inc. 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.

24043593065

J.E. Minchi, President
General Motors Foundation, Inc.
Page 2

If you have any questions, please contact Joan McNery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

Enclosures

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

24043593066



COLLEGE COUNSEL

BRYN MAWR COLLEGE
BRYN MAWR, PENNSYLVANIA 19010

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

FEB 2 10 30 AM '94

January 24, 1994

Mary L. Taksar
Central Enforcement Docket
Federal Election Commission
Washington, D.C. 20463
FAX: 202-219-3923

RE: MUR 3852

Dear Mary Taksar:

On behalf of Bryn Mawr College I am requesting an extension of two weeks for responding to your notice of January 12, 1994.

Bryn Mawr College received this notice of a complaint filed against us on January 17. This would give us until February 1 to respond. The President of the College, Mary Patterson McPherson, has been out of the country in Antarctica. Our response will include an affidavit from President McPherson. I am therefore requesting an extension of the response deadline until February 15, 1994. If this extension is granted, I would appreciate notification as soon as the decision is made. Thank you.

Sincerely yours,

Phyllis S. Lachs
College Counsel

PSL:nn
enclosure

94 FEB -2 PM 3: 18

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FEDERAL ELECTION COMMISSION

24043593067

OHC 0812

SIDLEY & AUSTIN

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1722 EYE STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202: 736-8000
TELEX 89-463
FACSIMILE 202: 736-8711

CHICAGO
LOS ANGELES
NEW YORK

LONDON
SINGAPORE
TOKYO

125th
Anniversary
1866-1991

WRITER'S DIRECT NUMBER

January 25, 1994

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FEDERAL ELECTION COMMISSION
94 JAN 25 PM 12:13

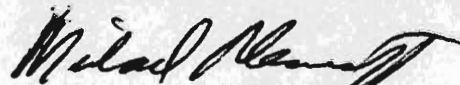
Joan McEnery, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. McEnery:

As we discussed, we are counsel to American Telephone & Telegraph Company, Inc. in MUR 3852. We were asked by AT&T to represent it on January 21, 1994, and we did not receive the Commission's letter until January 24, 1994. We understand that the 15 day period for responding to the Commission's letter expires January 31, 1994. Because of the shortness of time, we request a reasonable extension to permit us to investigate the facts and to respond. We believe that we will be prepared to respond by February 11, 1994, and we respectfully request that the Commission extend AT&T's time to respond in MUR 3852 until that date.

Attached to this letter is the Statement of Designation of Counsel executed by AT&T. If you have any questions, please do not hesitate to contact me.

Sincerely,


Michael A. Nemeroff

cc: Karen L. Itzkowitz, Esq.

24043593068

STATEMENT OF DESIGNATION OF COUNSEL

NUR 3852

NAME OF COUNSEL: Mike Nemeroff, Sidley & Austin

ADDRESS: Sidley & Austin

1722 Eye Street, N.W.

Washington, DC 20006

TELEPHONE: (202) 736-8235

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 25 PM 12:13

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

1/24/94
Date

by: John D. Zealis
Signature
Mark C. Rosenblum, Vice President-Law

RESPONDENT'S NAME: American Telephone & Telegraph Co.
Mark C. Rosenblum, Vice President-Law

ADDRESS: American Telephone & Telegraph Co.
Legal Department
Room 325261

295 N. Maple Avenue, Basking Ridge, N.J. 07920

TELEPHONE: HOME () N/A

BUSINESS (908) 221-3539

94043593069



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FFBRIJARY 3, 1994

Michael A. Nemeroff, Esq.
Sidley and Austin
1722 Eye Street, N.W.
Washington, D.C. 20006

MUR 3852

Dear Mr. Nemeroff:

This is in response to your letter dated January 25, 1994, requesting an extension until February 11, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on February 11, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

24043593070

Dart I. Weinstein
Assistant General Counsel

Merck & Co., Inc.
One Merck Drive
P.O. Box 100, W530-35
Whitehouse Station NJ 08889-0100
Fax 908 423 1501
Tel 908 423 4000



January 26, 1994

Via Fax: 202-819-3923

Ms. Joan McEnery
Federal Election Commission
999 "E" Street, NW
Washington, DC 20463

Dear Ms. McEnery:

Thank you very much for taking the time to answer my questions in connection with the Commission's investigation of a complaint, MUR 3852.

This confirms that Merck's General Counsel, Mary McDonald, received the Commission's January 12th notification on January 20th (presumably delayed by the week of very bad winter conditions), copy attached for your reference.

With need to confer and obtain information from Merck's Washington and other sites, prepare affidavits, and compile other responsive information, we request a one-week extension of time to respond. Based on actual receipt of the Commission's notice on January 20th, our calculation of the date for submission of Merck's response would have been February 4th. Accordingly, we respectfully request that the Commission grant an additional week for Merck to respond in view of the foregoing, so that Merck's response would be submitted on or before Friday, February 11th.

Thank you very much.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Dart I. Weinstein'.

Att.

kah:fedelec\1

24043593071



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEBRUARY 3, 1994

Bert I. Weinstein, Esq.
Assistant General Counsel
Merck & Co., Inc.
One Merck Drive
Whitehouse Station, NJ 08889-0100

MUR 3852

Dear Mr. Weinstein:

This is in response to your letter dated January 26, 1994, requesting an extension until February 11, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on February 11, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

24043593072

OGC 0855

LAW OFFICES

HOLLAND & KNIGHT

RECEIVED
FEDERAL ELECTION COMMISSION

94 JAN 28 PM 1:28

WASHINGTON, D.C.
FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH

888 SEVENTEENTH STREET, N.W.

SUITE 900

WASHINGTON, D.C. 20006

TELEPHONE (202) 955-5550

FAX (202) 955-5564

SPECIAL COUNSEL

SHAW, LICHTA,
PARENTE, EBERNIO
& SCHWARTZ, P.C.

GARDEN CITY, NY
NEW YORK, NY

January 27, 1994

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

Re: MUR #3852

Dear Mr. Noble:

Sun Company, Inc. has received notification from the Commission that it may have violated the Federal Election Campaign Act with respect to its participation, as a sponsor, in a public policy forum undertaken by the Congressional Institute for the Future on December 13, 1993. The complaint, which does not name Sun Company, Inc., was received on January 18, 1994.

I have been retained by Sun Company, Inc. to represent them in this matter. Because my representation began today and because the issues underlying the Complaint are both varied as to jurisdiction, and complex as to the facts, I must request the maximum possible extension of time to file a response for my client. Absent an extension, a response would be due no later than February 2, 1994. I therefore respectfully request an extension until March 11, 1994 for the filing of our response in this matter.

Sincerely,

HOLLAND & KNIGHT


William B. Canfield, III

24043593073

MUR 3852

NAME OF COUNSEL: William B. Canfield, III

ADDRESS: Holland & Knight

888 17th Street, N.W., Suite 900

Washington, D.C. 20006

TELEPHONE: (202) 862-5960

94 JAN 28 PM 1:28

RECEIVED
FEDERAL ELECTION COMMISSION

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.

Jan. 27, 1994
Date

[Signature]
Signature

RESPONDENT'S NAME: Sun Company, Inc.

ADDRESS: Ten Penn Center

1801 Market Street

Philadelphia, PA 19103-1699

Attn: Q. Todd Dickinson, Esq.

TELEPHONE: HOME()

BUSINESS(215) 977-3142

24043593074



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEBRUARY 7, 1994

William B. Canfield, III, Esq.
Holland & Knight
888 Seventeenth Street, N.W.
Washington, D.C. 20006

MUR 3852

Dear Mr. Canfield:

This is in response to your letter dated January 27, 1994, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the extension. Accordingly, your response is due by the close of business on February 22, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

24043593075

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3852

NAME OF COUNSEL: Lyn Utrecht

ADDRESS: Oldaker, Ryan & Leonard

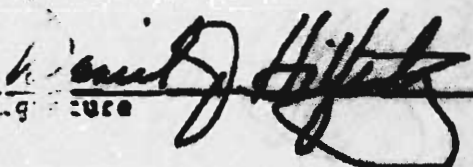
818 Connecticut Ave., N.W., Suite 1100

Washington, DC 20006

TELEPHONE: (202) 728-1010

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

1/31/94
DATE


Signature

RESPONDENT'S NAME: Mercy Health Corporation of Southeast Pennsylvania

ADDRESS: Lansdown Avenue and Berry Road

Darby, PA 19023

TELEPHONE: HOME (610) 446-8212

BUSINESS (610) 666-7450

74043593076

PERKINS COIE

A LAW FIRM INCORPORATED IN THE DISTRICT OF COLUMBIA
607 FORTYSEVENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 494-1690

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 31 PM 4:43

January 31 1994

Ms. Mary L. Taksar
Office of the General Counsel
Federal Election Commission
999 E Street NW
Washington, D.C. 20463

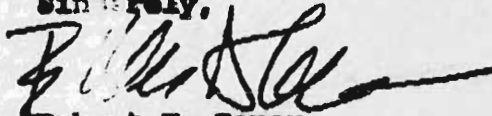
Re: NUR 3852- Congresswoman Marjorie Margolies-
Marvinsky, Friends of Marjorie Margolies-
Marvinsky, and Betsy Klein, Treasurer

Dear Ms. Taksar:

On behalf of Congresswoman Marjorie Margolies-Marvinsky, Friends of Marjorie Margolies-Marvinsky, and Betsy Klein, Treasurer, we request an extension of time to respond to the complaint filed by the National Republican Campaign Committee.

Due to the recent designation of Perkins Coie as counsel (attached), we do not have an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our clients, collect factual information and prepare a comprehensive response. Therefore, we are requesting a 20 day extension until February 18.

Sincerely,



Robert F. Bauer
B. Billy Schadler

BHS:bhs

Attachments

[09901-9700/DAB40810.043]

94043593077

STATEMENT OF DESIGNATION OF COUNSEL

NUM 3852

NAME OF COUNSEL: Robert F. Bauer and Holly Schadler

ADDRESS: Perkins Coie

607 14th Street, NW, Suite 800

Washington, DC 20005-2011

TELEPHONE: (202) 434-1602

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

1/28/94

DATE

Marjorie Marvinsky
SIGNATURE

RESPONDENT'S NAME: Congresswoman Marjorie Marvinsky

ADDRESS: 1 Presidential Boulevard

Suite 200

Bella Cynwyd, PA 19004

TELEPHONE: HOME ()

BUSINESS ()

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94 JAN 31 PM 4:43

RECEIVED
FEDERAL ELECTION COMMISSION

STATEMENT OF DESIGNATION OF COUNSEL

NO. 3852

NAME OF COUNSEL: ROBERT F. SCHADLE, Esq.
B Holly Schadle

ADDRESS: Perkins Coie
607 14th St. NW - Suite 800
Washington DC 20005-2011

TELEPHONE: (202) 434-1602

RECEIVED
FEDERAL ELECTION COMMISSION
96 JAN 31 PM 4:43

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

1/29/84
Date

[Signature]
for Friends of mine

RESPONDENT'S NAME: FRIENDS Maryanne Maryanne Moczymsky

ADDRESS: PO Box 157
Narberth PA 19055

TELEPHONE: HOME ()
BUSINESS (215) 6164 5846

94043593079



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEBRUARY 7, 1994

B. Holly Schadler, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005

MUR 3852

Dear Ms. Schadler:

This is in response to your letter dated January 31, 1994, requesting an extension until February 18, 1994 to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on February 18, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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Ifshin & Friedman
ATTORNEYS AT LAW

888 16th Street, N.W.
Washington, D.C. 20006
(202) 293-4175 Fax (202) 296-8791

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

JAN 28 11 50 AM '94

January 28, 1994

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

Re: MUR 3852

Dear Ms. McEnery:

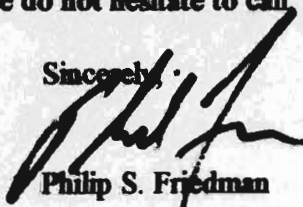
We have been retained today by Rob McCord and the and the Congressional Institute for the Future (the "Institute") to represent them in the above referenced matter. Enclosed please find an executed Designation of Counsel form. Please note that the Executive Director of the Institute is Rob (not Rod) McCord.

As I was unable to reach you by telephone today, the purpose of this letter is to request an extension of time to file a responsive brief. As the allegations concern events that took place in Pennsylvania several weeks ago and the individuals with the most knowledge of the events described in the complaint are currently engaged in pressing business affairs, the Institute and Mr. McCord need additional time to inspect their records and to interview appropriate individuals connected with the events set forth in the complaint.

Accordingly, the Institute and Mr. McCord request an additional 20 day over the 15 days in which they are required to file a responsive brief. We respectfully request and extension of time to March 4, 1994.

Thank you for your cooperation and understanding in granting this extension. If you have any questions or concerns, please do not hesitate to call

Sincerely,



Philip S. Friedman

Enclosure
cc: Rob McCord

RECEIVED
FEDERAL ELECTION COMMISSION
94 JAN 31 PM 3:45

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STATEMENT OF DESIGNATION OF COUNSEL

NUR 3852

NAME OF COUNSEL: Philip Friedman, Esq.

ADDRESS: IFehin & Friedman
888 16th St, NW, Suite 300
Wash. DC 20006

TELEPHONE: (202) 293-4175

91 JAN 31 PM 3:45

RECEIVED
FEDERAL ELECTION COMMISSION

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

1/27/94
Date

[Signature]
Signature
ROBERT MCLORD

RESPONDENT'S NAME: ROBERT MCLORD

ADDRESS: 40 Congressional Institute For the Future
409 Third St, SW
Suite 204
Wash DC 20024

TELEPHONE: HOME (215) 1660-0496

BUSINESS (202) 863-1700

Respondent #2: Congressional Institute for the Future

Address: 409 3rd St, SW, Suite 204, Wash DC 20024

Tel: (w): 202/863-1700

[Signature]
Executive Director: Robert ("Rob") McLord

24043593082



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

FEBRUARY 15, 1994

Philip S. Friedman, Esq.
Ifshin & Friedman
888 16th Street, N.W.
Washington, DC 20006

MUR 3852

Dear Mr. Friedman:

This is in response to your letter dated January 28, 1994, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the extension. Accordingly, your response is due by the close of business on February 22, 1994.

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

Sincerely,

Mary L. Taksar

Mary L. Taksar, Attorney
Central Enforcement Docket

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OGC 0907
FEDERAL ELECTION COMMISSION
94 FEB -2 AM 11:56

GENERAL MOTORS FOUNDATION
3044 WEST GRAND BOULEVARD
DETROIT, MICHIGAN 48202
(313) 556-6517

DEBORAH I. DINGELL
PRESIDENT

February 2, 1994

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

Attn: Mary L. Taksar, Attorney

Re: MUR 3852

This letter is submitted in response to the Commission's letter of January 12, received January 19, to the General Motors Foundation, Inc. (the "GMF") regarding the Project on the Future of Entitlement Programs (the "Project") sponsored by the Congressional Institute for the Future (the "CIF").

The letter states that the Commission has received a complaint that "indicates that the General Motors Foundation, Inc. may have violated the Federal Election Campaign Act of 1971, as amended (the Act)." The letter refers to a complaint filed with the Commission by the National Republican Congressional Committee, which alleges that payments made for the purpose of convening the "Future for Entitlements" conference (the "Conference") sponsored by the CIF were impermissible corporate contributions in violation of 11 C.F.R. §§ 114.2(a) and (b). We submit that neither the GMF nor General Motors Corporation has violated the Act or 11 C.F.R. §§ 114.2(a) or (b).

Section 114.2(a) prohibits national banks and corporations organized by authority of federal law from making contributions, as defined in 11 C.F.R. § 114.1(a), in connection with elections to political office. Neither the GMF nor General Motors Corporation is a national bank or a corporation organized by authority of federal law. The GMF is a corporation organized under Michigan law, and General Motors Corporation is a Delaware corporation. Therefore, § 114.2(a) does not apply to the GMF or General Motors Corporation.

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Federal Election Commission
Page 2
February 2, 1994

Section 114.2(b) prohibits corporations from making contributions, as defined in 11 C.F.R. § 114.1(a), in connection with any federal election. Section 114.1(a) defines the term "contribution and expenditure" to mean, in summary, any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value in connection with a federal election. Despite press reports to the contrary, to the best of my knowledge after a search of records conducted under my direction, neither the GMF nor General Motors Corporation has disbursed any funds or made any payments in-kind to the CIF or other third parties in connection with the Project or the Conference. We therefore assert that because there was no contribution, there was no violation of 11 C.F.R. 114.2(b).

(We note that the CIF has solicited a contribution from the GMF, and that discussions have taken place between the CIF and representatives of General Motors regarding a contribution. But neither a solicitation nor discussions of contributions constitute contributions as defined in the Act or the regulations.)

In view of the erroneous press reports of a contribution to the CIF by the GMF, we make the following comments to dispel any appearance of impropriety. On several occasions, the Commission has approved corporate payments in connection with events materially indistinguishable from the Conference as we understand its purpose and the events reported to have transpired at it. In its Advisory Opinion 1980-22, the Commission approved corporate payments sponsoring a series of town meetings to discuss the future of the steel industry, provided the meetings were free of communications expressly advocating the nomination, election, or defeat of a federal candidate, and free of campaign contributions or solicitations for campaign contributions. The Commission reaffirmed this position in Advisory Opinion 1981-37, when it said, "Where the purpose of the activity is not to influence the

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Federal Election Commission
Page 3
February 2, 1994

nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder, the Commission has consistently held that no contribution or expenditure results under the Act."

Advisory Opinion 1981-37 dealt with a series of public affairs forums moderated by a Congressman. The Commission recognized that the Congressman's participation in the forums could leave the public with a favorable impression that would assist the Congressman's re-election efforts. Nonetheless the Commission did not prohibit corporate support of the forums. The Commission said, "Although it is possible that [the Congressman's] involvement in the public affairs programs may indirectly benefit future campaigns, the Commission concludes that the major purpose of the activity contemplated by the above proposed agreement would not be the nomination or election of you or any other candidate to Federal office."

The Conference appears to fall squarely within these precedents and not those opinions, such as Advisory Opinion 1992-5, that suggest contributions would be impermissible if direct electioneering were involved. In this matter, contribution solicitation materials appended to the complaint show the CIF to be an organization with an advisory board consisting of Republicans and Democrats. They state that the CIF is a 501(c)(3) corporation, which by law is prohibited from engaging in partisan political activity. They describe the Conference as the kind of event for which the Commission approved corporate contributions in Advisory Opinion 1980-22: A conference of public officials and private citizens, including both Republicans and Democrats, convened to study an issue of great public importance. Although press reports of the Conference speculated as to the meaning of circumstances under which the Conference was convened, they also described an

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Federal Election Commission

Page 4

February 2, 1994

event that was free of express advocacy of any federal candidacy, as express advocacy has been defined in cases interpreting the Federal Election Campaign Act and Commission regulations. (See, e.g., Federal Election Commission v. National Organization for Women, 713 F. Supp. 428, 433 (D.D.C. 1989.) For example, a December 14, 1993, Associated Press report described the Conference as "a daylong, box-lunch, policy-wonk, pie-chart session."

For the reasons set forth above, we suggest that no action against the GMF or General Motors Corporation would be appropriate in this matter. If the Office of General Counsel does not agree with this assessment, we would appreciate an opportunity to discuss the matter further before any additional action is taken.

Sincerely,

Deborah I. Dingell

Deborah I. Dingell

24043593087

STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED
FEDERAL ELECTION COMMISSION

94 FEB -2 AM 11:58

MUR 3852

NAME OF COUNSEL: Gregory K. Merryman and Michael J. Robinson

ADDRESS: P.O. Box 33122
Detroit, MI 48232

TELEPHONE: (313) 974-1694 (Gregory K. Merryman)
(313) 974-1461 (Michael J. Robinson)

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.

2/2/94
Date

Deborah I. Dwyer
Signature

RESPONDENT'S NAME: GM Foundation, Inc.

ADDRESS: 3044 West Grand Boulevard
Detroit, MI 48202

TELEPHONE: HOME()
BUSINESS(313) 556-6517

24043593088



BRYN MAWR COLLEGE
BRYN MAWR, PENNSYLVANIA 19010

January 31, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
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COLLEGE COUNSEL

Mary L. Taksar
Central Enforcement Docket
Federal Election Commission
Washington, D.C. 20463
FAX: 202-219-3923

94 FEB - 7 AM 10:25

RECEIVED
FEDERAL ELECTION COMMISSION

RE: MUR 3852

Dear Mary Taksar:

This communication responds to the Federal Election Commission's letter and supporting documents of January 12, 1994, informing Bryn Mawr College that a complaint has been filed which charges that the College may have violated the Federal Election Campaign Act of 1971, as amended ("the Act").

Bryn Mawr College denies that it has in any way violated the Act. Bryn Mawr College also denies that it has in any way engaged in any of the prohibited activities specified in C.F.R. 11 section 114.2(a) and (b). Bryn Mawr College's sole role in the conference of December 13, 1993 sponsored by the Congressional Institute for the Future was to serve as the site of a bipartisan educational conference. Bryn Mawr College participated in no fund raising efforts for the conference and contributed none of its own funds to the Congressional Institute for the Future nor to any of the participants in the conference. Furthermore, Bryn Mawr College has played no role in any financial contribution to or an endorsement of Congresswoman Marjorie Margolies-Mezvinsky nor any other person running for local, state, or federal office in any election.

Bryn Mawr College, as an institution of higher education, appropriately provided the forum for a discussion of serious issues affecting our nation.

Enclosed with this letter is an affidavit signed by Mary Patterson McPherson, President of Bryn Mawr College, which describes the role of the College in the December 13, 1993 conference on the "Future for Entitlements," as well as a copy of President McPherson's opening remarks.

As Bryn Mawr wants this matter to remain confidential, the College is not authorizing any public statements relating to it. The Statement of Designation of Counsel is enclosed.

Sincerely yours,

Phyllis S. Lachs
College Counsel

PSL:nn
enclosures

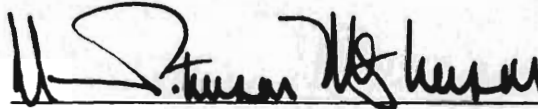
24043593039

**AFFIDAVIT OF
MARY PATTERSON MCPHERSON**

I, Mary Patterson McPherson, being duly sworn according to law, state:

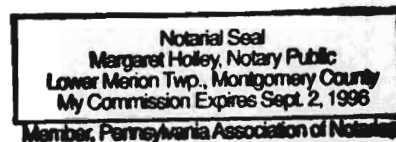
1. I am President of Bryn Mawr College and I have held that position since 1978.
2. I am familiar with the arrangements made for the bipartisan Conference on the "Future for Entitlements" held at Bryn Mawr College on December 13, 1993.
3. The said conference was sponsored by the Congressional Institute for the Future.
4. Bryn Mawr College made no financial contribution to the Congressional Institute for the Future nor to any participant in the conference.
5. Bryn Mawr College made no financial contribution to Marjorie Margolies-Mezvinsky in connection with the conference nor at any other time.
6. Bryn Mawr College has endorsed no candidate for local, state, or federal office in any election, and has made no financial contribution to any such candidate.
7. Bryn Mawr College's role in connection with the conference was to provide the forum for the discussion of serious issues affecting our nation.
8. The only support provided to the bipartisan conference was unpaid volunteer assistance provided by students, faculty and staff.
9. I enclose a copy of my remarks made at the opening of the Conference.

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


Mary Patterson McPherson

Sworn to and
subscribed before me
this 25 day of January, 1994.

Margaret Holley, January 25, 1994
Notary Public



24043593090

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3852

NAME OF COUNSEL: Phyllis S. Lachs

ADDRESS: Bryn Mawr College

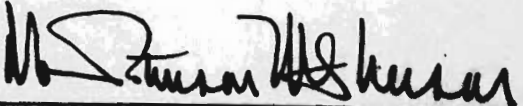
101 N. Merion Avenue

Bryn Mawr, Pennsylvania 19010-2899

TELEPHONE: (610) 526-5260

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.

Jan 25 '94
Date


Signature

RESPONDENT'S NAME: President Mary Patterson McPherson

ADDRESS: Bryn Mawr College

101 N. Merion Avenue

Bryn Mawr, Pennsylvania 19010-2899

TELEPHONE: HOME()

BUSINESS(610) 526-5155

24043593091

Mary Patterson McPherson

Conference on the Future of Entitlements

December 13, 1993

Congresswoman Margolies-Mezvinsky, distinguished panelists, and our neighbors, the citizens of the 13th Congressional District:

On behalf of the Bryn Mawr College community, I am pleased to welcome you to our campus for this day of what planners hope will be a useful conversation on an issue important to all of us here and to our fellow citizens -- the future funding of what have come to be known as our entitlement programs.

It seems important to note that this public, bipartisan discussion is taking place on a college campus, which decision must signal the educational purposes of the day. Educational institutions -- colleges and universities -- are places that encourage the rational consideration of the complex and difficult issues facing our society. We thrive on a rich mix of views and plan for our students to consider a variety of positions, to base their opinions on facts, and to develop a set of beliefs on which they can act.

Today's program should work very much like the seminars that go on every day in colleges and universities. You will be part of a thoughtful consideration of the future of our entitlement programs, about which there is healthy disagreement, strong belief, and passionate concern. In the spirit of debates at Bryn

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Mawr College, I invite you to participate today fully,
passionately, and civilly.

Having made you honorary students of Bryn Mawr College for
the day, let me tell you very briefly about your college. Bryn
Mawr was founded by a Quaker physician, Joseph Taylor, in 1885,
to give women an education equivalent to the best then being
offered to men. The first woman's college, and one of the first
institutions in the country, to offer the Ph.D. to women -- Bryn
Mawr today is composed of an undergraduate college for 1200 women
and two coeducational graduate schools in arts and sciences and
in social work and social research. Our students come from all
fifty states, Puerto Rico, Washington D.C., and sixty-one foreign
countries.

Our brother college, Haverford, a mile away, is with us
today as part of our college audience and has joined with the
five hundred faculty, staff, and student volunteers from Bryn
Mawr working for the conference today, and a special word of
thanks to each of them.

And a special welcome home to a number of our alumnae who
are an important part of this event -- and most visibly Alice
Mitchell Rivlin, Deputy Director of the Office of Management and
Budget -- and Senator from Pennsylvania Harris Wofford, my
distinguished predecessor as President of Bryn Mawr from 1970-
1978.

24043593093

It is my great pleasure now to introduce the Executive Director of the bipartisan Congressional Institute for the Future, Rob McCord.

24043593094

Bert I. Weinstein
Assistant General Counsel

OGC 0042

Merck & Co., Inc.
One Merck Drive
P.O. Box 100, WS38-35
Whitehouse Station NJ 08889-0100
Fax 908 423 1501
Tel 908 423 4586



February 11, 1994

BY HAND DELIVERY

Mary L. Taksar, Esq.
Central Enforcement Docket
Federal Election Commission
999 "E" Street, NW
Washington, DC 20463

Re: MUR 3852 - Complaint of National Republican
Congressional Committee Against Congresswoman
Marjorie Margolies-Mezvinsky, Congressional
Institute for the Future, et al.

Dear Ms. Taksar:

This letter constitutes the response of Merck & Co., Inc. ("Merck" or the "Company") to the Commission's January 12th letter, and demonstrates that no action should be taken with regard to Merck concerning a complaint received by the Commission naming Congresswoman Marjorie Margolies-Mezvinsky, the Congressional Institute for the Future, and others (Merck is not named in the complaint). Thank you for granting the Company's request for an extension of time until February 11th to submit this response.

Consistent with the Commission's rules of practice and procedure, the Company requests that this response, together with

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all associated attachments, be accorded confidential treatment.

The allegation of the complaint is that certain unspecified corporate contributions to the Congressional Institute for the Future (the "Institute") were "poorly disguised payments" in the nature of "impermissible corporate contributions." With respect to Merck, that allegation is not true.

Merck is a worldwide organization engaged primarily in the business of discovering, developing, producing, and marketing products and services for the maintenance or restoration of health. Over 100 years in business, Merck is the world's largest pharmaceutical company, and is at the forefront of pharmaceutical research and development, with important vaccines, and cardiovascular, anti-ulcerant, and antibiotic prescription pharmaceuticals, to name but a few. Enclosed is a copy of the Company's 1992 Annual Report, our latest one, for your ready reference.

The Company will demonstrate beyond any shadow of a doubt that --

- (1) the \$25,000 donated by the Company to the Institute (a bipartisan 501(c)(3) organization) was intended for a bona fide public policy initiative, and there was no intent, inkling, or otherwise to make a prohibited contribution or expenditure;

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- (2) the Company has a long-standing tradition of substantial contributions of cash and medicines to education, community health, social services, civic agencies, and public policy initiatives, including support since 1991 of the Institute and its GLOBE environmental project; and
- (3) the Company has a written and widely promulgated Corporate Policy "not to contribute any corporate funds or other assets in connection with political campaigns at the federal, state, or local levels anywhere in the United States," and that each year, Company managers must certify in writing their compliance with such Policy.

On the basis of the facts and evidence presented, the Commission should find there is no reason to believe that a violation has been committed by Merck with regard to the subject complaint.

Attached as Exhibit I is the affidavit of R. Teel Oliver, Vice President, Government Relations, of Merck. Ms. Oliver's affidavit is submitted to provide the background of Merck's support of the Institute since 1991 -- long prior to its Future for Entitlements Project -- including support for the Institute's GLOBE environmental program (to improve the global environment through the legislative process). Ms. Oliver relates that as a pharmaceutical company and leader in vaccine research and development, Merck was concerned in 1993 about a particular

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Clinton Administration entitlement initiative, whereby the federal government would become the purchaser of all pediatric vaccines. In Merck's view, having the federal government purchase all such vaccines is not the solution to obtaining higher childhood immunization rates. The real challenge is to improve distribution, especially to low-income children in the inner-cities. Ms. Oliver relates that during a September 2, 1993 visit by the Congresswoman to Merck's West Point, Pennsylvania vaccine research and production facility, which is within her district, one of her staffers asked in general terms if Merck had any interest in participating in an entitlement conference. Ms. Oliver relates how Mr. McCord of the Institute thereafter contacted her to discuss the Institute's Future for Entitlements program, and that everything she had heard or seen involving the Institute or this program convinced her that it was a bona fide public policy initiative appropriate for a Merck contribution. There was no suggestion of any improper corporate political expenditure.

Merck and its Merck Company Foundation, a 501(c)(3) organization, are very active and substantial contributors of cash and medicines. In 1992, for example (the most recent year for which a report is available), more than \$21 million was contributed to projects and programs in education, healthcare policy, and community service. Of that amount, nearly \$2 million was donated for public policy programs. In addition, the Company donated medicines valued at more than \$47 million, such as in

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support of the Company's commitment to donate free supplies of its medicine, Mectizan, to victims of river blindness, a tropical disease affecting nearly 100 million people in Africa and Latin America.

The Company has a formal written Corporate Policy governing its contributions efforts, a copy of which is enclosed. The policy lays down the specific operating principles and other guidelines for Company contributions. One of the three contributions priorities is for "Public Policy and Health":

"Support for university-based and independent centers engaged in research concerning public policy issues important to the Company, which expands public understanding of such issues as health economics, innovation, the regulatory process, and various health education issues closely linked to the Company's public affairs strategies." (Corporate Policy No. 6 - Exhibit II)

Attached as Exhibit III are recent Contributions Reports, showing the high levels of giving by Merck and by its Foundation from 1989-1992. In particular, it will be noted that public policy contributions to leading universities and institutes accounted for \$1.85 million in 1992, \$1.83 million in 1991, \$1.92 million in 1990, and \$1.94 million in 1989. These Contributions Reports, which are widely circulated to employees and to the public, detail on an individual basis all contributions, including particular public policy programs supported by Merck.

24043593099


Merck has a very strict written policy against any corporate political contributions in the United States. Attached as Exhibit IV is a copy of Merck's Corporate Policy No. 21 dealing with political contributions. The Policy states:

"In the United States it is unlawful for any corporation to make a contribution or direct expenditure in connection with any Federal election or with any primary election, political convention, or caucus held to select candidates for such election. It is the policy of Merck & Co., Inc. not to contribute any corporate funds or other assets in connection with political campaigns at the Federal, state, or local levels anywhere in the United States or its territories and possessions."

Strict compliance with this Policy is required, and each year the Company requires all of its directors and managers to certify in writing that he or she has reviewed and adhered to this Policy, as well as other Company policies on conflicts of interest, insider trading, and ethical business practices. A copy of the survey materials used in 1993, including the certificate, Chairman's letter, and copies of the policies and instructions sent to over 1,560 employees, is attached as Exhibit V.

Accordingly, for the foregoing reasons, the Commission should find there is no reason to believe a violation has been committed by Merck with regard to the subject complaint.

Very truly yours,



Encs.

kah:fecresp

24043523100

Before
the
Federal Election Commission

R. TEEL OLIVER, being duly sworn, deposes and says:

1. I am Vice President, Government Relations, for Merck & Co., Inc. ("Merck" or "the Company"). I am in charge of Merck's Washington office, and have responsibility for the Company's important federal government relations, public policy, and legislative initiatives. I am providing this Affidavit in connection with the Federal Election Commission's inquiry involving the Congressional Institute for the Future ("the Institute"), and in particular, with regard to a \$25,000 contribution made by Merck to fund the Institute's Project on the "Future for Entitlements."

2. It is important to appreciate that Merck has worked with the Institute on other public policy oriented projects, and that we have supported them with contributions because they are a bona-fide, bi-partisan public policy institute. Merck first became involved with the Institute when Senator Heinz and Representative Scheuer, founders and members of the Institute's bi-partisan Congressional Advisory Board, wrote to the Chairman of Merck, Dr. Roy Vagelos, seeking his support of the Institute (see attached October 1, 1990 letter, Exhibit A-1). The Institute's accompanying October 1, 1990 letter, copy attached (Exhibit A-2), presented the benefits of membership in the

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Institute, a 501(c)(3) tax-exempt organization. Highlighted in the Institute's letter was the Institute's newly launched GLOBE-U.S. Project (Global Legislators for a Balanced Environment) which was to serve as part of "an international clearinghouse to help legislators and other leaders address global environmental issues." In view of Merck's leadership in the environmental area, the Company contributed \$5,000 to the Institute (see attached October 1, 1990 invoice of the Institute - Exhibit A-3; \$5,000 check payable to the Institute - Exhibit A-4; January 10, 1991 memorandum - Exhibit A-5; and January 23, 1991 letter - Exhibit A-6).

3. In early 1992, Merck was invited to increase its involvement and participate on the Board of Advisors of GLOBE-U.S. Attached as Exhibit B is a copy of a January 29, 1992 internal memorandum relating the background and recommending approval of Merck's joining the GLOBE-U.S. Advisory Board. In particular, I refer you to the bottom of page 2 through the top of page 3 which highlights the basis for inviting Merck to so participate: the Company's very strong environmental commitment; contributions in support of the National Institute of Biodiversity, an effort in which Merck contributed funds for preservation of Costa Rican rain forests; and Merck's status as "America's Most Admired Company." (Merck has been so voted for

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seven years by Fortune magazine's annual poll.) Merck contributed \$25,000 in support of GLOBE-U.S. for 1992.

2 4 0 4 3 5 9 3 1 0 3

4. Merck is one of the world's leading vaccine developers, with important vaccines for prevention of diseases, including pediatric diseases such as mumps, measles, rubella, Haemophilus Influenza B, and Hepatitis B. In 1993, the Clinton Administration introduced a legislative proposal to create a billion dollar entitlement program whereby the federal government would become the purchaser of all childhood vaccines. This entitlement program was of great concern to Merck. In our view, the low immunization rates of children in this country have little to do with the cost of vaccines and everything to do with a failed national delivery system. Children, especially children in the inner-cities, are not being vaccinated because clinics and other delivery means are not working well. The cost is not an issue, because the vaccines are being given for free to these children in any event.

5. On September 2, 1993, Congresswoman Margolies-Mezvinsky was visiting the Company's West Point, Pennsylvania vaccine laboratory and manufacturing facilities, which is located in her congressional district.

6. I attended along with Congresswoman Margolies-Mezvinsky, and during that visit, one of her staff people, whose name I do not recall, asked if Merck would be interested in helping to sponsor a conference on entitlements. This was of important interest to Merck because of our experience with the new vaccine entitlement program. Subsequently, my conversation with her staffer was followed up by Mr. Rob McCord who is the Executive Director for the Institute. Since I had worked with Rob McCord and the Institute for a period of years with regard to the GLOBE Project, I had terrific respect for the integrity and value of the Institute's work. There was no suggestion, implicit or explicit, that support of the Institute's entitlements program would result in any campaign contribution or expenditure. There was no hint that this contribution, or any of the Company's prior contributions to the Institute, was for anything but a bipartisan public policy initiative. I am attaching some background materials I received from the Institute on its entitlements program: the Institute's October 6, 1993 letter - Exhibit C-1; a Project Outline - Exhibit C-2; a memorandum of the Institute dated October 6, 1993 - Exhibit C-3; and a Projected Budget for the conference - Exhibit C-4. It will be noted that the Projected Budget for the program -- to which Merck's \$25,000 contribution was directed -- refers only to conference expenses, with no suggestion of any political or other objectives.

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7. As a result of our respect for the Institute and concerns about vaccine and other entitlements programs, Merck committed to contribute \$25,000 to support the Institute's Future for Entitlements conference. Attached is a copy of the Institute's December 10, 1993 invoice - Exhibit D-1, and a copy of Merck's \$25,000 check payable to the Institute - Exhibit D-2.

8. At no time was a check or other Merck funds or thing of value given to Congresswoman Margolies-Mezvinsky in connection with this conference, nor did I at the time of our contribution or since then ever believe or understand in any manner whatsoever that any Merck funds paid to the Institute would be used for or in connection with a political campaign or expenditure.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

R. Teel Oliver
R. Teel Oliver

Sworn to before me this
14th day of February, 1994.

Michael D. Boerner
Notary

MICHAEL D. BOERNER
NOTARY PUBLIC DISTRICT OF COLUMBIA
kah:affdvt MY COMMISSION EXPIRES APRIL 30, 1998

24043593105

24043593106

*Give
my interest*

CONGRESSIONAL
INSTITUTE

P. ROY VAGELOS
File
OCT 22 1990
2/22/90

RECEIVED
OCT 25 1990
DR. G. M. CROOKS
October 1, 1990

FOR THE FUTURE

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John Heinz, Cochair
James H. Scheuer, Cochair
Tom Tauke, Cochair

P. Roy Vagelos
Chief Executive Officer
Merck
PO Box 2000
Rahway NJ 07065-0909

~~A. D. ANGEL~~
~~OCT 24 1990~~

Lindy Boggs
Richard Bryan
William F. Clinger
William S. Cohen
Jim Cooper
Christopher J. Dodd
Dante B. Facelli
Hamilton Fish, Jr.
Thomas S. Foley
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Edward Markey
Norman Y. Mineta
Stephen L. Neal
Clayborne Pell
Thomas E. Petri
Charlene Schneider
Bruce F. Vento
Henry A. Waxman
Timothy E. Wirth
Roe Wytren

Dear Mr. Vagelos,

Many prominent Americans argue our country needs more frequently to base action on foresight and long-term commitments. With that need in mind, we thought you might be one of the leaders interested in the Congressional Institute for the Future.

The Institute serves leaders who are convinced opportunities can be seized and crises avoided through the identification and careful analysis of emerging issues and forecasts. We urge you to review the enclosed letter and materials outlining the Institute's products and the benefits new Corporate Associate Members will receive.

We hope you will find the Institute's work worthy of your support.

With every warm wish,

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DIRECTOR
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John Heinz
U.S. Senator

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U.S. Representative

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October 1, 1990

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Henry A. Waxman

Timothy E. Wirth

Bon Wyden

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Warren Leide

EXECUTIVE
DIRECTOR

Rob McCord

P. Roy Vagelos
Chief Executive Officer
Merck
PO Box 2000
Rahway, NJ 07065-0909

Dear Mr. Vagelos,

On behalf of the Congressional Advisory Board and the Board of Directors of the Congressional Institute for the Future, I invite your corporation to become a Corporate Associate Member of the Institute. By joining the Institute, Corporate Associate Members register a commitment to foresight in government and industry, receive substantial benefits, and support the Institute's ongoing work.

During the last several years, the Institute has received large grants from corporations and foundations, such as the Carnegie Corporation and the German Marshall Fund. Now, for the first time, the Institute is offering a program for Corporate Associate Members who would like to assist the Institute's work but wish to offer support on a level more modest than that offered by the Institute's initial sponsors.

Focusing on emerging economic, demographic, and technological trends, the Institute regularly addresses issues affecting productivity, the fruitful application of new technologies, and the reasoned protection of our global environment. Political and business leaders turn to the Institute for handy summaries of new issues and for summaries -- and skeptical reviews -- of forecasts.

Corporate Associate Members are asked to make a tax-deductible contribution of \$5,000 to the Institute (which is a 501(c)(3) tax-exempt organization). In addition to supporting important work,

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Corporate Associate Members of the Institute will enjoy a variety of benefits. These benefits include:

- o The TALKING POINT CARD SERVICE. Our hypercard-driven data base offers handy cards with data and prose useful for speeches and writing. Facts, forecasts, statistics, metaphors, summaries, and even jokes are printed on easy-to-handle 5"x 8" cards. A selection of cards will be offered to Corporate Associate Members each quarter.
- o An ANNUAL CONGRESSIONAL EVENT about "The Future of Corporate America." At the meeting, Members of Congress, Corporate Associate Members, key Congressional staff, and experts will candidly discuss the long-range implications of major political trends and issues influencing the nation's business sector. Membership entitles two representatives from each organization to attend this annual event.
- o The PUBLICATION SERIES. The quarterly series includes five separate publications: Emerging Issues briefs, Forecast Critiques, Facts and Trends briefs, What's Next newsletters, and Transcripts of select Congressional briefings.
- o TAILORED TRAINING PACKAGES AND CONFERENCES on trends and emerging issues. Under special arrangements, training can be designed to suit the specific needs of an organization. Training includes dynamic, thoughtful presentations by expert policy analysts on a wide variety of emerging demographic, economic, and technological issues.

The Institute's briefs and newsletters are timely, pithy, and extremely useful. They offer vital statistics, insightful summaries, and new ideas needed by those who develop plans for action in uncertain times. Similarly, our talking point cards serve active leaders who need dramatic, speech-worthy bullets of information about new forecasts and emerging issues.

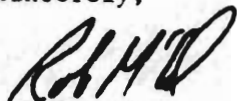
Those who are already supporting the Institute have expressed particular enthusiasm about the usefulness of the Institute's briefs, videos, and television programming, and many have described our projects as timely and innovative. For example, foundations and corporations are strongly backing our newly launched GLOBE Project. With the help of corporate leaders and legislators from a variety of countries, the Institute established GLOBE -- Global Legislators for a Balanced Environment -- as an international clearinghouse to help legislators and other leaders address global environmental issues and identify promising experiments with potential solutions. GLOBE is just one of the many projects on long-term issues currently conducted by the Institute.

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Business analysts warn organizations will operate in conditions marked by growing uncertainty throughout the 1990s. In those conditions, contingency planning and scenario-building will become basic tools, and the Institute could prove invaluable to you. Please look over the enclosed packet of information about the Institute and consider how your organization would benefit from the Institute's services.

I hope you will decide to support and work with the Institute as a Corporate Associate Member.

Sincerely,



Rob McCord
Executive Director

Enclosures

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CONGRESSIONAL

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FOR THE FUTURE

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Matthew Lesko

**EXECUTIVE
DIRECTOR**

Rob McCord

Date: October 1, 1990

To: P. Roy Vagelos
Chief Executive Officer
Merck
PO Box 2000
Rahway, NJ 07065-0909

From: Congressional Institute for the Future
The Capitol Hill Office Building
412 First Street, S.E.
Lobby Level
Washington, D.C. 20003

Tax Exempt Number: 8922-0011626-001

Tax ID Number: 52-1153313

Description:

Annual Corporate Membership Contribution.....\$5,000.00

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WASHINGTON, DC 20003

(202) 863-1700

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MERCK & CO., INC.

No. C 2216640

INVOICE NO	DATE	PUR ORD NO	RELEASE	MICRO	GROSS AMOUNT	NET AMOUNT
	1231	00099999	000000	57361151	5,000.00	5,000.00
TOTALS		GROSS AMOUNT		ADJUSTMENTS	DISCOUNT	NET AMOUNT
		5,000.00			.00	5,000.00

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MERCK & CO., INC.

62-23
311

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PAYEE NO.	CHECK DATE	PAY	AMOUNT
900597	01-04-91	*****\$5,000.00	*****\$5,000.00

FIVE THOUSAND AND NO/100 DOLLARS *****

MORGAN BANK—DELAWARE
WILMINGTON, DELAWARE
OPERATING ACCOUNT
CHECK VOID AFTER SIX MONTHS

TO THE
ORDER OF

CONGRESSIONAL INSTITUTE FOR
THE FUTURE

AUTHORIZED SIGNATURE
M. H. [Signature]
AUTHORISED SIGNATURE

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈ 2216640⑈ ⑆031100238⑆ 230 01 565⑈

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M E M O

TO: DR. G. M. CROOKS

MAIL CODE: RY32-614

FROM: C. R. HOGEN, JR.

MAIL CODE: WBF-120

SUBJECT: CONGRESSIONAL INSTITUTE FOR THE FUTURE

DATE: 01/10/1991

As requested, attached is a Merck & Co., Inc. contribution of \$5,000 to the Congressional Institute for the Future representing our support of the Institute's research and reports focusing on long-range policy choices facing Congress.

We would appreciate a copy of your transmittal letter to complete our files.


C.R.H.

/pa
Attachment

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24043593118

MERCK & CO., INC.

P. O. BOX 2000
RAHWAY, NEW JERSEY 07065-0900

SEARCHED INDEXED ASST. FILE

CONTRIBUTIONS DEPT.
JAN 24 1991

GLENN M. CROOKS, PH.D.
EXECUTIVE DIRECTOR
PUBLIC POLICY MANAGEMENT

(800) 594 6876

January 23, 1991

Mr. Rob McCord
Executive Director
Congressional Institute
for the Future
The Capitol Hill Office Building
412 First Street, S.E.
Washington, D.C. 20003

Dear Mr. McCord:

Enclosed please find our check in the amount of \$5,000 which is Merck's contribution to the Congressional Institute for the Future, representing our support of the Institute's research and reports focusing on long-range policy choices facing Congress.

We wish you continued success in your endeavors.

Sincerely,

[Handwritten Signature]

/rsk
Attachment

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RFT - please consult with Brian H. [unclear] get Stan F. A. D. ANGEL + others of your clients per [unclear] + advice
J&T - please discuss with RFT
AL

* (121 LEFT/DB) [unclear]

MEMO

TO: ALBERT D. ANGEL

DEPT: PUBLIC AFFAIRS

MAIL CODE: NJ

FROM: ISABELLE CLAXTON

DEPT: GOVERNMENT RELATIONS

MAIL CODE: DC

SUBJECT: INVITATION TO BE MEMBER OF GLOBE U.S. ADVISORY BOARD

DATE: 01/29/92

Merck has been invited to participate on the Board of Advisors of GLOBE U.S.. The following memo outlines the issue and provides the rationale for a Merck seat on the Board.

BACKGROUND ON GLOBE

Global Legislators Organized for a Balanced Environment (GLOBE) was created in 1989 by parliamentarians from the European Community (EC) and the United States. Legislators from the Japanese Diet joined shortly thereafter, followed most recently by legislators from the Union of Sovereign States. GLOBE expects to expand membership to other countries in 1992, with expressions of interest from several South American, African and Australian legislators.

GLOBE is unique among environmental groups in that it is comprised solely of legislators. GLOBE's stated objective is to improve the global environment through the legislative process—simultaneous introduction of legislation, for example—and other means. GLOBE E.C., GLOBE Japan and GLOBE U.S. are autonomous member organizations of GLOBE International. Headquarters for GLOBE International and GLOBE E.C. are in Brussels. GLOBE Japan and GLOBE U.S. headquarters are in Tokyo and Washington, D.C., respectively. Senator Al Gore began a two-year stint as President of GLOBE International in 1991. Congressman Gerry Studdert serves as President of GLOBE U.S.

GLOBE INTERNATIONAL ACTIVITIES/ACCOMPLISHMENTS

GLOBE International organizes and underwrites two General Assembly conferences a year where members review international developments and adopt policy action items for GLOBE initiatives. Seven current policy areas include biodiversity, forests, trade and the environment, toxic waste and the 1992 United Nations Conference on the Environment and Development (UNCED).

At the July 1991 General Assembly in Tokyo, GLOBE legislators packaged initiatives to halt commercial mining in Antarctica and limit large-scale drift-net fishing and drafted the world's first working text for forest conservation.

At its December 1991 meeting, the General Assembly focused on global warming and national plans to reduce carbon dioxide, nitrogen oxide and methane emissions. Also on the table were international trade treaties and potential conflict with national environmental laws and planning for GLOBE's delegation to UNCED.

Agenda items for the February 3-5, 1992 General Assembly in Washington, D.C., include an address by GATT Secretary-General Arthur Dunkel on trade and environment issues; the proposed UNCED Biodiversity Document and other UNCED issues; financing international environmental initiatives, such as debt for nature swaps and environmental accounting; and the U.S. Cleanwater Act. An international conference of GLOBE legislators and East and West environmental ministers is scheduled for 17-20 May 1992 in Strasbourg, France.

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Additionally, GLOBE offers its members a regular series of issue briefings on proposed legislation and environmental regulation cost comparisons. Ongoing projects include efforts to organize an international convention on forests (biodiversity) and a treaty to protect the Bering Sea Ecosystem.

WHO'S WHO ON GLOBE

GLOBE U.S.'s 20-member roster is fairly impressive. In addition to Gore and Sikorski, Senators Mitchell, Chafee, Jeffords and Fowler and Congressmen Foley, Gephardt, Scheuer, Morella and Waxman are listed. Gore is building a reputation as an aggressive, informed and politically savvy environmentally concerned legislator. He spent the last year writing *EARTH IN THE BALANCE*, a book just released by Houghton Mifflin and favorably reviewed in the press.

GLOBE E.C. membership is a mix of conservative and liberal "Green" politicians and includes several internationally-known legislators (Biegbert Alber: MEP Portugal; Mary Benotti: MEP Ireland; Thomas Spencer: MEP United Kingdom). Hammo Muntingh (MEP Netherlands) is president.

GLOBE JAPAN legislators primarily represent the liberal democratic faction currently in control of the Diet. Noboru Takashita is President.

GLOBE FINANCING

GLOBE U.S. is a project of the Congressional Institute for the Future, a non-profit 501(c)(3). Funding comes from the Board of Advisors, which includes individuals, foundations and corporations.

GLOBE E.C. funding comes from the public sector; GLOBE Japan's from the private sector. GLOBE International is funded by individual membership fees paid by the member organizations and the International Fund for Animal Welfare.

ABOUT THE U.S. ADVISORY BOARD

Current members are the German Marshall Fund, W. Alton Jones Foundation, Waste Management, Inc., the International Fund for Animal Welfare (IFAW) and C. Moh and Company (America), Inc.

[We did a little background research on IFAW. It's an international organization with about 500,000 members in 30 countries, founded in 1969. According to Bob Fromling, other than in 1989, when IFAW focused on cosmetic testing, the organization's main concerns have been with saving whales, elephants, seals, etc. with no initiatives around lab testing.]

The Board meets quarterly with GLOBE U.S. legislators to review issues and draft the agendas for the international conferences. Board members may attend all GLOBE conferences and will be part of the GLOBE delegation to UNCED in Rio De Janeiro in June 1992. Briefings by Congressional staff and environmental experts on legislative and regulatory issues, small informal dinners with Members and periodic GLOBE publications on member countries' environmental regulatory policies are among the other benefits offered to Board members.

GLOBE U.S. ON MERCK

GLOBE U.S.'s courtship of Merck for membership on the Advisory Board is based on an appreciation of the Company's commitment to the environment. We were approached by GLOBE U.S. Director Lisa Jordan and former Gore AA Peter Knight, Esq., who is helping develop the Board.

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Both Jordan and Knight are familiar with the April 1990 Company policy statement on the environment and the Costa Rican rain forest arrangement with the National Institute of Biodiversity. [Jordan called Merck's Costa Rican agreement a "unique example of balancing environment and economics." She felt a GLOBE-sponsored site visit to Costa Rica by an international group of legislators could provide invaluable hands-on background on the economics of biodiversity. We could arrange such a trip ourselves, of course, but there are obvious advantages in having Gore etc. do it.]

GLOBE U.S. also recognizes the snowball value of having America's Most Admired on the Advisory Board. Merck membership would be the catalyst for other companies of similar stature to sign up.

RECOMMENDATION

Merck should join the Advisory Board of GLOBE U.S. for at least five reasons, each of which has a public affairs and a public policy component.

First, GLOBE International, albeit a new player in the environmental arena, boasts a sound mix of legislators, the honest potential for pro-active interventions in national and international policymaking, and a focus on an integrated economic/environmental approach to development.

Second, Advisory Board membership for Merck seems a natural extension of Roy Vagelos's commitment to continuous environmental improvement. On a national policy level, Board membership provides a legitimate forum to spotlight the Company's comprehensive long-term goals for reducing the waste production and enhancing recycling capabilities and potentially to incorporate the underlying economic and public interest assumptions in future legislation. PRV's membership on the President's Council on Environmental Quality (CEQ) gives Merck an active presence in Executive branch decisionmaking in this area. Board membership provides a complimentary voice in the legislative/regulatory process.

If PRV's plate is too full to add this commitment, the seat seems suited for Stan Fidelman or you.

Third, Membership provides an avenue for developing international relationships--and thus influencing policy--at the highest level, through legislators and embassies. Concrete examples are the upcoming General Assembly meetings in Washington, D.C., which Corporate, MCMD and MPMD representatives could attend, and France, to which representatives from Merck's International Division would be invited. The Brussels office indicates an interest among EC Members in learning more about the Costa Rica initiative. As a Board member, we could reserve a slot on the Strasbourg agenda for a formal presentation. (And the environmental ministers have been invited to attend this session.) Obviously, these relationships would be useful for negotiations/ inquiries on issues beyond the environment as well.

A role in GLOBE's delegation to UNCED falls in this category of developing relationships. The Administration's position on UNCED is still murky, but next month's fourth and final preconference meeting in New York should resolve many of the outstanding issues. UNCED is nicknamed the "Earth Summit" and will be the most important international environmental gathering ever held. The Principles adopted by delegates will frame the parameters for environmental discussions well into the 21st century.

Susan Crowley indicates that several Merck people (she specifically mentioned Dr. George Albers-Schonberg) would be interested in going to Rio. The GLOBE delegation is an attractive option. We need to do some fast-track self-educating on UNCED here on staff, and the GLOBE Washington office has offered themselves as a resource.

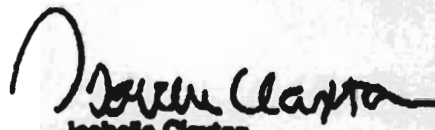
Fourth, ADA's 1992 Performance Plan includes an objective (7) to gain recognition for Merck environmental achievements, including expanded recognition of the INBio agreement. GLOBE U.S. offers the potential for moving both the broad and the specific objective.

Fifth, GLOBE staff and the staffs of member legislators are an invaluable resource for developing and moving Merck's environmental legislative agenda.

THE BOTTOM LINE

GLOBE U.S. is asking \$50,000 for an initial two-year seat on the Advisory Board. They prefer the two-year commitment from a planning perspective. We've negotiated the option for a one-year, \$25,000 investment as an alternative, with the understanding that we would evaluate the benefits of Advisory Board status before committing to a second year.

I ran this memo by Dick Trabert for his input: he has no problems with the recommendations. I also asked Dorothy Bowers to review it. I've talked to several people on Dorothy's staff, including Mayda Martinez. In researching this proposal and they are enthusiastic. Unfortunately, Dorothy and Mayda are both in Puerto Rico until Monday and I won't be able to get a response to the actual memo until then. Since timing is important here in terms of making a decision, it seemed prudent to get this to you now. If this is a go, we would want to: get in on the February meeting in D.C.; give ourselves the option in terms of GLOBE planning to make a Strasbourg presentation; and, if we want to actively pursue a delegate role at UNCED, do the necessary background research, planning etc. to make that investment of resources pay off.


Isabelle Claxton
202-839-8205

cc: Robin Hogen

2 4 0 4 3 5 9 3 1 2 4

24043593125

Teel
Approved by ADA.
Pls ask for invoice.
Will be paid from ADA
contingency - not Merck
Foundation.
CZH
October 6, 1993

CONGRESSIONAL
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FOR THE FUTURE

Ms. Teel Oliver
Vice President, Government Relations
Merck and Co., Inc.
601 Pennsylvania Avenue, NW
North Building, Suite 1200
Washington, DC 20004

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EXECUTIVE DIRECTOR

Rob McCord

Dear Ms. Oliver,

Thank you for taking the time to talk with me at length on Wednesday. It was a pleasure.

As we discussed, the Congressional Institute for the Future is working with Congresswoman Marjorie Margolies-Mezvinsky — at a *rapid* pace — to develop a project on the future of entitlement spending, and we are eager to get you and your colleagues at Merck to support this project and the conference which will be the project's important first task.

We have been working with Congresswoman Marjorie Margolies-Mezvinsky to craft constructive ideas for the planned upcoming conference in Montgomery County, Pennsylvania, on the future of entitlement spending. Marjorie will also lead related preceding and follow-up efforts. As you know, we expect this conference to involve participation by the President, Cabinet officers, leading Members of Congress, and some key private sector leaders. The conference should attract important attention, and we will provide substantial follow-up work, including additional briefings, publications, polling, and sessions with competing interest groups.

As you may know (from Merck's previous work with us on our GLOBE Project), the Congressional Institute for the Future is a bipartisan 501(c)(3) educational organization which was founded by legislators, including former Senators Al Gore and John Heinz, to help Members of Congress consider the long term implications of current policy choices and emerging economic, technological, and demographic trends. The Institute has enjoyed a broad variety of successes — addressing issues and forecasts surrounding environmental protection, education, communications policy, technology assessment, and energy policy among others. Enclosed for

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your review are some background materials about the Institute as well as materials outlining our Future for Entitlements Project.

In the right-hand panel of the enclosed folder, please find an outline of the tasks we expect the Entitlement Project to perform during its first year of operation. Also enclosed for your review is the projected budget for the conference and the first year of the project. This budget outlines our plans as well as our fiscal expectations. In addition, I am enclosing a background memo about the project and the importance of entitlement spending issues. Thus, the enclosed materials outline the Institute's background and its specific plans for our Future of Entitlements Project as well as more general substantive background on the issues we plan to address.

Of course, the reason our fundraising needs are particularly acute lies in the fact that we will host a conference involving the President of the United States in a matter of weeks. Our strategy is to approach a few key players who could come through for Marjorie and the other legislators who care about entitlement issues rapidly and substantially. The Institute is asking these key players — like you — to provide \$50,000 of support for the Future of Entitlements Project.

The supporters who provide this urgently needed "early money" will certainly be involved in the conceptional and tactical architecture for the project. In addition to helping us find helpful private sector, academic, and political leaders to involve in the project, we would assure that these supporters have an opportunity to play a high profile role in the kickoff conference.

We are planning to give supporters the opportunity to participate directly in a panel discussion during the conference. Our plan is to build the daylong conference around a total of three panel discussions — addressing issues related to retirement policy, health care, and welfare reform respectively. We can, of course, discuss details regarding the conference and the specifics of Merck's involvement.

Obviously, timely support is absolutely essential. I will contact you by phone, so that we might follow up as quickly as possible.

Again, thank you very, very, much for your consideration and interest.

Sincerely,



Rob McCord
Executive Director

Enclosures

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Congressional Institute for the Future Entitlement Project Outline (First Year)

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Matthew Leko

EXECUTIVE DIRECTOR

Rob McCord

- I. Coordinate conference scheduling, location, and choreography with White House, OMB, and other Executive Office Branches as well as Congressional leadership (from both parties) and selected groups and corporations.
- II. Provide advance work for conference discussions, meals, press coverage, and information services.
- III. Produce and publish briefings papers summarizing entitlements issues for conference participants and interested parties around U.S.A.
- IV. Provide literature search and prepare comprehensive binders for conference participants and other key players.
- V. Run conference and coordinate with White House, Secret Service, university staff, and others.
- VI. Provide early follow-up for conference. (e.g., mailing thank you letters and conference summaries and working with press).
- VII. Produce follow-up journal about conference and related issues and analysts comments.
- VIII. Write and publish a series of single-page briefing papers and talking-point cards on a variety of entitlement issues.
- IX. Organize DC-based conferences (with experts, competing national constituencies, Executive Branch leaders, and a bipartisan group of legislators) to discuss promising reform proposals.
- X. Provide summaries of follow-up conferences, the proposals discussed, and the areas of consensus and dissent.
- XI. Commission public opinion research to test ideas, arguments, and proposals, developed or highlighted during conference and related activities.
- XII. Test themes (which prove promising in public opinion research) with radio ads and follow up with further polling.

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OCTOBER 6, 1993

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MEMO TO: POTENTIAL SUPPORTERS OF PROJECT ON THE FUTURE OF ENTITLEMENTS

FROM: ROB MCCORD, DIRECTOR, CONGRESSIONAL INSTITUTE FOR THE FUTURE

RE: BACKGROUND ABOUT ENTITLEMENT PROGRAMS AND THE INSTITUTE'S FUTURE OF ENTITLEMENTS PROJECT

THE WASHINGTON OFFICE CENTER
409 THIRD STREET, S.W., SUITE 204
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I. Project Goal

The Institute's Future of Entitlements Project is designed to push entitlement program reform into the media spotlight and onto the legislative agenda. The project aims to help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, Medicaid, farm support and federal, military, and civilian pensions.

II. Methods

The President of the United States will help kick off this ambitious project at a high profile national conference. Clearly, legislators concerned about the issues surrounding entitlement spending understand meaningful progress will involve substantial ground work. Distrusting interest groups, nervous individual voters, innovative experts, business leaders, and motivated legislators need to get together repeatedly — in collegial, non-threatening settings (unlike the ordinary Congressional hearing!) — to address entitlement issues and related economic trends and policy choices.

These individuals and groups will need briefing papers, personal briefings, budgeting forecasts, and other background materials. They will also need public opinion research and tailored outreach efforts to find out which proposals — among the many reasonable but difficult options — are actually politically feasible. The Institute designed its Future of Entitlement Project to meet these needs.

III. Need for Entitlement Program Reform

Any objective review of the Federal Budget suggests significant long-term Federal deficit reduction principally depends on the success of efforts to limit entitlement spending. Indeed, entitlement spending — currently at \$738 billion per year — now amounts to 49 percent of all federal expenditures. And the growth rate for entitlement programs is staggering; since 1964, spending on entitlements has risen steadily by an average of 12 percent each year.

Concerns about entitlement spending are tied both to the goal of increasing productivity *and* to the goal of reducing Federal deficits. Many analysts have pointed out the varying roles of public spending programs. In particular, they highlight differences between investment programs (which yield returns and increase the total wealth of society) and income transfer programs (which merely shift existing wealth). Most analysts concerned about long-term growth in U.S. productivity are urging policy makers to channel a higher portion of public revenues into productive investments. Unfortunately, few entitlement programs are even designed to be productivity enhancing investments. Instead they function as income transfer programs — sometimes taxing the less affluent to provide benefits to the relatively wealthy.

VI. Obstacles to Reform

Certainly, proposals to slow the growth of entitlement programs face steep political and technical hurdles. Efforts to reduce the growth rate of entitlement spending are

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often collectively perceived as a political "third rail:" step on it and you die! The largest entitlement programs are nearly sacred to many key American political constituencies. These programs include Social Security, Medicare, Medicaid, price supports for farmers, and federal, military, and civilian pensions.

As a technical budgeting matter, entitlement programs have enormous momentum. Unlike other programs in the Federal Budget, entitlement programs are not subject to specific Congressional review, authorization, and appropriation. Entitlement programs are instead put on "automatic pilot," with benefit formulas which are written into law and simply multiplied by the number of eligible recipients. Ordinarily, these formulas include automatic inflation adjustment. Thus, entitlement spending has continued to grow both because of general inflation and because of specific growth in the number of people who qualify for particular entitlement programs. Yet many other vital public programs — such as those providing investments in public infrastructures, environmental protection efforts, defense, and education — have kept pace neither with inflation nor with population growth.

Proposals for curbs on entitlement spending usually face stiff resistance from well organized constituencies. Affluent voters often object to cuts in benefits which would flow to them. And many advocates for poor voters worry the consensus to provide any social insurance will disappear if entitlements cease to be generous to the middle class and the affluent. Further, many moderates worry voters will view entitlement reform as a "broken covenant," since some voters believe they have "prepaid" for all their entitlement benefits (even though this perception is, on

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average, inaccurate).

Given the political and fiscal momentum of entitlement programs, it is easy to see how and why the recently enacted \$496 billion five-year deficit package cut projected entitlement spending by only 2 percent.

V. Possibilities for Progress

Thus, both deficit reductions and productivity increases depend on efforts to reform entitlement programs. This suggests U.S. society — as a whole — has enormous interests in curbing the growth of entitlement spending. Yet there are many political and fiscal obstacles to entitlement reform. Will this general public interest compete successfully with the specific interests of groups which now handsomely benefit from rapid growth in federal entitlement programs? Will legislators take political risks to curb programs which benefit people who are unusually active in politics? Can political innovation lead policy makers to some broadly agreeable reforms?

Encouragingly, despite the obvious political risks, some Members of the House and Senate — including some who have traditionally championed growth in entitlement spending — used the budget debates to call for new constraints on entitlement programs. Indeed, some of the Democratic legislators who decided only at the last minute to support the proposed budget did so only with agreement that the current Administration would openly and rapidly take on the dangerous task of entitlement reform.

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Some controversial proposals are already undergoing quiet review. Possible reforms include reductions in the cost-of-living adjustments for more affluent retirees and mandates for retirees to pay a larger share of their health care costs. Others have suggested farm price supports should be limited, with consideration given to caps on the total revenues given to any one farm or family. And the Administration's own recent health care proposal calls for more than \$200 billion in cuts of projected spending for Medicare and Medicaid.

Political obstacles are also prompting Institute analysts to search for possible voluntary "win-win" approaches. Such approaches could, for example, allow seniors to exchange their social security cost-of-living adjustments (COLAs) for fuller long-term health care insurance. Seniors who pursued this option would be "spending" their COLAs to hedge their risks. Seniors would gain the option of procuring additional insurance, while the federal government — using appropriate actuarial calculus — would save money by increasing spending on a few seniors while reducing spending on many others.

Clearly, these and other options must be vigorously explored — and tested — in the public domain.

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Congressional Institute for the Future
PROJECTED BUDGET — ENTITLEMENT PROJECT COSTS
(First Year)

CONFERENCE:

A. Conference Travel

- Airline service @ \$1,000/person x 50	\$50,000
- Hotel accommodations @ \$150/night x 50	7,500
- Staff (metroliner and hotel)	<u>2,136</u>
Total Conference Travel - - - - -	\$59,636

B. Conference Meals

- Breakfast @ \$15/person x 300	\$4,500
- Lunch @ \$25/person x 300	7,500
- Dinner @ \$35/person x 300	<u>10,500</u>
Total Conference Meals - - - - -	\$22,500

C. Conference Printing and Mailing

- Conference binders	\$11,750
- Conference agenda	1,000
- Briefing papers	1,250
- Clip reprints	<u>500</u>
Total Conference Printing and Mailing - - - - -	\$14,500

D. Polling

- Staff compensation	\$13,000
- Commissioned work (one district survey and one national survey)	<u>50,000</u>
Total Polling - - - - -	\$63,000

E. Publications (before and after conference)

- Two 12-page journals (50,000 copies each)	\$45,000
- Eight Emerging Issues briefs and/or Forecast Critiques (50,000 copy distribution)	13,000
Total Publications - - - - -	\$58,000

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F. Video Crew and Editing

- Staff compensation	\$15,400	
- Commissioned work	<u>40,000</u>	
Total Video - - - - -		\$55,400

G. Targeted Follow-up Mailings (approx. 2,000)

- Postage	\$ 800	
- Staff Compensation	<u>2,040</u>	
Total Targeted Follow-up Mailings - - - - -		\$2,840

H. Staff Salaries for Conference and first year of Project

- 4 CIF staff f	\$37,200	
- 2 full-time staff equivalents	119,560	
Total Staff Costs - - - - -		\$156,760

I. Additional briefings/meetings

- 2 informal, mealttime, DC-based conference- - - - -		\$50,000
---	--	----------

J. Advertising

- Sample radio ad- - - - -		\$40,000
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K. Other Conference Costs

- Equipment	\$1,000	
- Telephone and communication	500	
- Supplies	<u>400</u>	
Total Other Costs - - - - -		\$1,900

TOTAL COSTS

\$524,536
=====

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Invoice

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December 10, 1993

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TO: Teel Oliver
Vice President, Government Relations
Merck & Company
601 Pennsylvania Avenue, NW
North Building, Suite 1200
Washington, DC 20004

Description	Amount
Support for the Future of Entitlements Project of the tax-exempt 501(c)(3) nonprofit, nonpartisan Congressional Institute for the Future	\$25,000

Federal ID No. 52115-3313

EXECUTIVE DIRECTOR
Rob McCord

Check (s) should be made payable to:

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M. P. [Signature]

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(202) 736-8235

February 14, 1994

Joan McEnery, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

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FEDERAL ELECTION COMMISSION

Re: MUR 3852 -- Response of American Telephone and
Telegraph Company

Dear Ms. McEnery:

On behalf of American Telephone and Telegraph Company ("AT&T"), we hereby respond to the Complaint filed by the National Republican Congressional Committee ("NRCC") in MUR 3852. Although AT&T was notified of the Complaint by letter dated January 12, 1994, the time for AT&T's response was extended to February 11, 1994. Because the Commission was closed that day by a snow emergency, we are responding today.

The NRCC Complaint asserts that AT&T and others made "impermissible" corporate contributions in violation of the Federal Election Campaign Act ("FECA") because they donated funds to the Congressional Institute for the Future (the "Institute") for the purpose of convening the Future of Entitlements Conference at Bryn Mawr College on December 13, 1993 (the "Conference") and conducting follow-up activities. The Conference was organized by the Institute with the assistance of Congresswoman Marjorie Margolies-Mezvinsky. The attendance of the President of the United States and senior members of his Administration provided national press attention and, in the NRCC's estimation, a political benefit to the Congresswoman. Consequently, the Complaint was filed. As this Response shall show, the NRCC's allegations are baseless and without merit.

The NRCC Complaint alleges that the Conference was conceived, organized, and conducted to bolster Congresswoman Margolies-Mezvinsky's re-election prospects by "demonstrating her

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Joan McEnery, Esq.
February 14, 1994
Page 2

concern for cutting the Federal budget after she voted to increase taxes." According to the NRCC, the Conference was held in her home district because it was "the only location providing the maximum political return to the Congresswoman." Follow-up activities, including opinion polls and newsletters are alleged to be focused upon the Congresswoman's district and, therefore, election related. The Complaint also alleges that the involvement of two former campaign workers of the Congresswoman -- Rob McCord, the Executive Director of the Institute and Kenneth Smuckler, who is currently a congressional employee of the Congresswoman¹ -- is contrary to FECA. Based on these allegations and the perceived benefit of the Conference to the Congresswoman, the Complaint alleges that contributions made by AT&T and others "are in reality poorly disguised payments for the purpose of supporting the re-election of Congresswoman Margolies-Mezvinsky" in violation of FECA.

The legal standard applied by the Commission to determine whether events like the Conference are subject to FECA is clear and well-established. Nothing in the Complaint or the facts, as understood by AT&T, violates this standard. Therefore, there is no "reason to believe" that AT&T may have violated any provision of FECA (2 U.S.C. § 437g(a)(2)), and the Commission should dismiss this Complaint without further action.

I. Statement of Facts

The Institute is a bi-partisan, educational organization exempt from taxation pursuant to I.R.C. § 501(c)(3). It was founded by Senators Al Gore and John Heinz to "help Members of Congress consider the long term implications of current policy choices...." Section 501(c)(3) organizations are prohibited from engaging in any political campaign activity. The Institute has conducted numerous briefings on important policy issues with the assistance of many Members of Congress from both political parties. AT&T, and approximately 80 business corporations and other organizations have supported the Institute's programs in the past.

In September, 1993, the Institute organized the Future of Entitlements Project ("Entitlements Project") with the goal of examining policy choices concerning entitlements spending. As part of its efforts to organize and implement the Entitlements Project, the Institute contacted AT&T to determine if it was interested in helping to sponsor the Entitlements Project. AT&T decided to contribute \$50,000 to the Entitlements Project in

¹ Although the Complaint alleges that Mr. Smuckler was paid with campaign funds, the Complaint merely cites a newspaper article which supports the amount of the payment but does not indicate the source of the funding.

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Joan McEnery, Esq.
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Page 3

light of the important public policy issues the project was designed to address. A copy of AT&T's check to the Institute, dated October 20, 1993, and the Institute's correspondence to AT&T are attached hereto. Sponsorship of the Institute and the Entitlements Project is consistent with AT&T's policy of contributing to worthwhile, charitable organizations that engage in programs or address issues of local, state or national importance.

AT&T was informed by the Institute that the Entitlements Project would include a one day conference on entitlements spending to be attended by President Clinton and senior members of his Administration and follow-up activity. Although the Institute's solicitation of AT&T's support offered "the opportunity to participate in a panel discussion during the conference," AT&T immediately declined such participation. However, three AT&T employees with government relations responsibilities ranging from entitlements issues to those affecting Pennsylvania attended the Conference on December 13, 1993. They were present at the morning session along with approximately 1000 other guests and at a luncheon attended by approximately 300 guests. No special consideration was asked for, or received, by the AT&T employees as a consequence of AT&T's support for the Conference.

During the Conference and the luncheon, the AT&T employees observed no election activity whatsoever. No one endorsed the Congresswoman's re-election or the election of any other candidate or officeholder, and no one solicited contributions to any political campaign. No campaign literature, placards, or buttons of any kind were observed by any of the AT&T employees. All of the speeches and remarks of the participants focused on the policy issues under discussion, not election issues. CNN broadcast the highlights of the Conference. The observations by the AT&T employees are supported by the CNN videotape of the Conference.

There simply was no attempt at the Conference by anyone to advocate the Congresswoman's re-election or to solicit any contribution for any campaign. The non-political nature of the Conference is shown by its bi-partisan participants. In addition to the President and senior members of his Administration, several prominent Republicans participated including Tom Kean, former Governor of New Jersey, former Senator Warren Rudman, and former Secretary of Commerce, Peter Peterson.

The non-political nature of the Conference also is demonstrated by the NRCC Complaint through its glaring failure to cite to any campaign activity which allegedly occurred. Moreover, there is no indication whatsoever that any follow-up activity planned by the Institute will involve any campaign related activities. Although the Complaint and attached

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February 14, 1994
Page 4

newspaper stories speculate that follow-up activities planned by the Institute, including opinion polls and newsletters will focus on the Congresswoman's district, there is no information to support these charges. Nothing in the Institute's correspondence suggests that follow-up activities will focus on the Congresswoman's district or in any way relate to her campaign for reelection. For example, during discussions with the Institute concerning AT&T's donation, AT&T learned that follow-up activities would be national in scope with additional briefings planned for Washington, D.C.

The Institute has a long history of promoting discussions of timely public policy issues, the Entitlements Project constitutes one of these efforts, and the Conference itself focused on the important issue of entitlements spending with no reference whatsoever to the election or campaign of any candidate. It is inescapable, therefore, that the Entitlements Project is a non-political, bi-partisan program to promote the exchange of views on important policy questions, and not an election-related activity.

II. Statement of the Law

FECA prohibits any corporation from making "a contribution or expenditure in connection with any election" for any Federal office. 2 U.S.C. § 441b(a). For purposes of this statute a "contribution or expenditure" includes "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value ... to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section...." (Emphasis added) 2 U.S.C. § 441b(b)(2). In addition, FECA also defines contribution and expenditure as "anything of value" paid "for the purpose of influencing any election for Federal office...." 2 U.S.C. §§ 431(8) and (9).

Neither FECA, nor the Commission's regulations, define when a corporate donation is "in connection with" or "for the purpose of influencing" a Federal election. For many years, the courts have construed FECA and its predecessor statutes narrowly to preserve First Amendment rights by prohibiting only corporate donations intended to elect candidates. Buckley v. Valeo, 424 U.S. 1, 23 n.24 (1976) ("courts have given that phrase ['for the purpose of influencing'] a narrow meaning"). FECA is construed "to apply only to committees soliciting contributions or making expenditures, the major purpose of which is the nomination or election of candidates." U.S. v. National Campaign for Impeachment, 469 F.2d 1135, 1141 (2d. Cir. 1972), quoted in American Civil Liberties Union, Inc. v. Jennings, 366 F. Supp. 1041, 1057 (D.D.C. 1973). Thus, Congress' goal in enacting FECA was to preclude "the use of corporation or union funds to

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February 14, 1994
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influence the public at large to vote for a particular candidate or a particular party." U.S. v. International Union Auto Workers, 352 U.S. 567, 589 (1957).

In Buckley, the Supreme Court construed many provisions of FECA to protect First Amendment rights. Thus, the Court limited FECA's regulation of independent expenditures to the express advocacy of a clearly identified candidate. A broader interpretation would be impermissibly vague because "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application." Id. at 42. Candidates, especially incumbents are "intimately tied to public issues" and discussions of those issues "tend naturally and inexorably to exert some influence on voting at elections." Id. Consequently, the Court concluded that the Commission could regulate only communications that included "explicit words of advocacy of election or defeat of a candidate." Id. at 43.

The Supreme Court's analysis in Buckley was adopted by the Commission to separate permissible from prohibited corporate support of events which "exert some influence on voting at elections." Since 1977, Commission Advisory Opinions and Matters Under Review have applied an objective test based on whether the event receiving corporate support was political or non-political. The test used by the Commission is set forth in Orloski v. Federal Election Commission, 795 F.2d 156, 160 (D.C. Cir. 1986), which upheld the Commission's dismissal of a complaint under circumstances similar to those alleged in the NRCC Complaint:

"An event is non-political if (1) there is an absence of any communication expressly advocating the nomination or election of the congressman appearing or the defeat of any other candidate, and (2) there is no solicitation, making, or acceptance of a campaign contribution for the congressman in connection with the event."

In Orloski, the incumbent Congressman Donald L. Ritter organized a picnic 38 days before the election sponsored by the Lehigh Valley Senior Citizens Advisory Committee with services donated by three corporations. Ritter's opponent, Orloski, filed a complaint at the Commission claiming that extensive campaigning occurred at the picnic. Ritter, in response, denied that any campaign activity occurred, and the Commission sided with Ritter. Applying this two-prong test, the Commission found "no reason to believe" that FECA had been violated. Orloski appealed first to the district court and then to the court of appeals after the district court upheld the Commission. The court of appeals also

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Joan McEnery, Esq.
 February 14, 1994
 Page 6

upheld the Commission, noting that its test was reasonable (Id. at 164-165, 167), and that it had been consistently applied for many years. Id. at 166.

Since Orloski, the Commission has applied the same two-prong test on a number of occasions. While other factors have sometimes been considered as well -- especially for events involving candidates and occurring close to an election -- the test reviewed in Orloski has remained the principal guide to the Commission's analysis.

Most recently, the Commission issued an Advisory Opinion which concluded that Vanderbilt University could pay a presidential candidate's travel expenses and an honorarium to deliver a speech at the University in Nashville about one month before the Tennessee presidential primary. A.O. 1992-1, CCH Fed. Elec. Camp. Fin. Guide, ¶ 6044 (February 14, 1992). The Commission repeated the test set forth in Orloski, and advised that Vanderbilt could compensate the candidate to speak as long as he made no campaign-related remarks at his speech. Commissioners Aikens and Potter wrote concurring opinions to stress the concern that FECA not infringe the First Amendment rights of candidates that make speeches at non-political forums on an important issue and of non-profit educational organizations that sponsor such events. Commissioner Potter wrote:

I continue to believe the Commission should grant the widest possible latitude to organizations like Vanderbilt University (a Section 501(c)(3) not for profit educational institution prohibited by law from engaging in political activities), so that universities or their students can continue such traditional university activities as sponsorship, on a non-partisan basis, of open forums and speeches by political candidates at university facilities."

² In A.O. 1988-27, CCH Fed. Elec. Camp. Fin. Guide, ¶ 5934 (July 15, 1988), Commissioner Elliott authored a scholarly concurring opinion which analyzes Commission precedent. She concluded that the Orloski test has always been applied to activities of an officeholder and that this test is a proper application of FECA principles. Because the Conference at issue here is clearly an officeholder activity as explained by Commissioner Elliott, it is appropriate to apply the two-prong test to the activities alleged by the NRCC.

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Joan McEnery, Esq.
 February 14, 1994
 Page 7

Commissioners Aikens' and Potter's First Amendment concerns are of significant weight here. The Conference was sponsored by two non-profit educational institutions -- the Institute and Bryn Mawr College -- to elicit debate on the crucial public policy issue of entitlements spending and its effect on the nation's budget. Such speech should not be prohibited merely because a Member of Congress is involved in addressing such issues.³

III. The Commission Should Dismiss This Complaint

When the Commission applies the two-prong test to the facts in this MUR, it must conclude that there is "no reason to believe" that AT&T violated FECA. The Complaint does not allege that either part of the two-prong test was violated at the Conference, nor are there any facts to support that conclusion. No campaign fundraising occurred in connection with the Conference, nor did any speaker endorse or oppose any candidate for Federal office. To AT&T's knowledge, no campaign activity of any kind occurred, and NRCC fails to point to a single fact or event at the Conference that would suggest otherwise. Moreover, the Conference was held eleven months before the next general election and five months before the May 10 Pennsylvania primary. Thus, there is no basis for "further scrutiny" in this case.

AT&T made a donation to the Institute, a tax-exempt non-political organization. Because the Institute is a section 501(c)(3) organization, it may not engage in any political activity, and the same restriction applies to Bryn Mawr College. The Institute's invitation and accompanying literature makes no mention of any campaign purpose. The participation of prominent Democrats and Republicans on the Conference panels also strongly supports the conclusion that the Conference was a non-partisan event consistent with the analysis in Orloski.

The Complaint asserts that the Conference was staged to buttress Congresswoman Margolies-Mezvinsky's political future because her election prospects were damaged by her vote in favor of the Clinton budget package. Even if that were true (which it is not), that would not violate the law. FECA does not prohibit -- and since Buckley may not prohibit -- corporate financed communications that benefit a candidate unless there is express advocacy of a clearly identified candidate as defined by the two-

³ In addition to the two-prong test, A.O. 1992-6 also applied "further scrutiny to determine campaign relatedness" because the speech in question was being delivered about one month before an election in which the speaker was a candidate. The "further scrutiny" test has no applicability here because the Conference did not occur near an election.

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Joan McNery, Esq.
February 14, 1994
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prong test in Orloski. As the Orloski court stated "nowhere in the Act did Congress expressly limit an incumbent's right to communicate with his constituency or a corporation's right to fund 'congressional events' even in an election year." Orloski v. Federal Election Commission, 795 F.2d at 163. Even if Congresswoman Margolies-Mezvinsky may have received some intangible, indirect political benefit from the Conference, such benefit would be legally irrelevant because the alleged activities simply do not constitute the type of behavior required under FECA to prohibit AT&T's donation. As the Commission has stated:

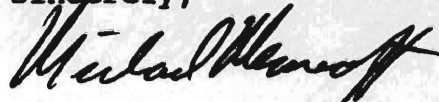
"... events in which Federal officeholders participate in the performance of their duties as officeholders are not campaign-related simply because the officeholders may be candidates for election or reelection to Federal office, and payments or donations associated with the expenses of such events are not contributions to that officeholder's campaign, absent any campaign-related activity at the event."

A.O. 1988-27, CCH Fed. Elec. Camp. Fin. Guide, ¶ 5934 (July 15, 1988).

IV. Conclusion

For the foregoing reasons, the Commission should dismiss the NRCC Complaint.

Sincerely,


Michael A. Nemeroff



J. Michael Schweder
Director
Government Relations

Suite 1000
1120 30th St. NW
Washington, DC 20036
202 457-2060

October 21, 1993

Mr. Rob McCord
Executive Director
Congressional Institute for the Future
409 Third St., S.W., Suite 204
Washington, D.C. 20024

Dear Rob:

Enclosed please find an AT&T check in the amount of \$50,000. This check is given toward the President's day to be spent in Montgomery County with Congresswoman Marjorie Margolies-Mezvinsky.

I am very pleased that AT&T was able to be of assistance and to serve as a sponsor for this very worthwhile endeavor.

Sincerely,

Mike Schweder

J. Michael Schweder

Enclosure

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64-1327-611



Wachovia Bank of Georgia, N.A.
Augusta, GA 30903
Account Number 07503797

Check No. 50246393
Payable Mo. Day Yr. 10 | 20 | 93
EPPS

FIFTY THOUSAND DOLLARS AND NO CENTS IN US DOLLARS

PAY TO THE ORDER OF CONGRESSIONAL INSTITUTE FOR FU
409 3RD ST SW SUITE 204
WASHINGTON DC 20024

\$*****50,000.00

VENDOR NO. SHE32001 INVOICE NO. 092793CONGRE EPPSC

S. Pendergast
PLEASE CASH PROMPTLY
Authorized Signature

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of background materials about the Institute. I hope you will call on me as you have questions related to the Institute in general or our emerging Future of Endowment Spending Project in particular.

I am also enclosing for your review, an outline of the projected budget for the planned conference and the entire first year of the Future of Endowment Project. This budget outlines our plans as well as our fiscal expectations. In addition, I am enclosing a background memo about the importance of endowment spending issues. Thus, the enclosed materials outline the Institute's background, and its specific plans for our future endowment project, as well as more general substantive background on the issues we plan to address.

Of course, the reason our fundraising needs are particularly acute, lies in the fact that we will host a conference involving the President of the United States in a matter of weeks! Our strategy is to approach a few key players who could come through for Minjars and the other legislators who care about this issue deeply and substantially. The Institute is asking these key players — like you — to provide \$50,000 of support for the Future of Endowment Project.

The supporters who provide this urgently needed "early money" will certainly be involved in the conceptual and tactical maintenance for the project. In addition to helping us find helpful private sector, academic, and political leaders to involve in the project, we would expect that these supporters play a high profile role in the kickoff conference. We are planning on providing supporters with the opportunity to participate directly in a panel discussion during the conference and we are also guaranteeing attendance of the President at the Institute and a significant presence in the conference. We can, of course, discuss details regarding the conference. . . .

As we discussed, timely support is absolutely necessary at this time. I will contact you by phone, so that we might follow-up as quickly as possible.

Thank you very much for your consideration and interest.

Sincerely,

Bob Michael
Executive Director

Enclosures

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P. 0/23

CONGRESSIONAL

INSTITUTE

FOR THE FUTURE

September 29, 1993

**MEMO TO: POTENTIAL SUPPORTERS OF PROSPECT ON THE
FUTURE OF ENTITLEMENTS**

**FROM: BOB MOORE, ^{INT}DIRECTOR, CONGRESSIONAL INSTITUTE
FOR THE FUTURE**

**RE: BACKGROUND DISCUSSION ABOUT ENTITLEMENT
PROGRAMS**

Any objective review of the Federal Budget suggests significant long-term federal deficit reduction ultimately depends on the success of efforts to limit entitlement spending. Indeed, entitlement spending — currently at \$736 billion per year — has been something of an Elephant Dunny in federal budgeting: the costs just keep growing and growing and growing... Since 1964, spending on entitlements has risen steadily by an average of 13 percent each year, and in Fiscal Year 1994, entitlement spending will absorb 49 percent of all federal expenditures.

THE WASHINGTON OFFICE CENTER
409 THIRD STREET, S.W., SUITE 300
WASHINGTON, D.C. 20034
TEL (202) 641-1700 FAX (202) 679-9667

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Concerns about entitlement spending are tied to concerns about productivity as well as the need to reduce federal deficits. Many analysts have pointed out the varying roles of public spending programs. Some programs function as insurance "safety nets." Other federal programs invest in public systems and infrastructures which should "pay for themselves" in an acceptable period of time. Still others, like the defense programs, arise because individual producers are unable to provide an adequate system by themselves. And finally, some programs function as income transfers (which are not necessarily based on need). Most analysts who are concerned about long-term growth in U.S. productivity suggest public policy actions should channel public revenues into productive "investments."

Unfortunately, few entitlement programs are even designed to spur long-term productivity. Instead they function as insurance programs and as income transfer programs — essentially taxing less affluent people to provide benefits to more affluent people!

Thus, both deficit concerns and concerns about productivity suggest the American society — as a whole — has enormous interests in curbing the growth of entitlement spending. Will this general public interest compete successfully with the many specific interests of individuals and groups who now handsomely benefit from the rapid growth in federal entitlement programs?

Certainly, proposals to slow the inflation of spending on entitlement programs face steep political and technical hurdles.

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Efforts to reduce the growth rate of entitlement spending are often collectively perceived as a political third rail: step on it and you die! Certainly, the top entitlement programs are nearly sacred to every lay American political constituency. These programs include Social Security, Medicare, Medicaid, price supports for farmers, and federal, military, and civilian pensions. As a technical budgeting matter, entitlement programs have enormous momentum. Unlike other programs in the Federal Budget, entitlement programs are not subject to specific Congressional review, authorization, and appropriation. Entitlement programs are instead put on "automatic pilot," with benefit formulas which are written into law and simply multiplied by the number of eligible recipients. Ordinarily, part of these formulas include automatic inflation adjustments. Thus, entitlement spending continues to grow both because of inflationary forces and because of demographic forces even when other vital public programs — investment in public infrastructure, environmental protection efforts, defense, and education, — have not kept pace with inflation or population growth.

Given the political and fiscal momentum of entitlement programs, it is easy to see how and why the recently enacted \$496 billion five-year deficit package cut projected entitlement spending by only 2 percent. Yet many Members of the House and Senate — including Democrats who have traditionally championed growth in entitlement spending — used the budget debates to call for new constraints on entitlement programs. Indeed, some of the Democratic legislators who decided only at the last minute to support the proposed budget did so only with agreement that the current Administration would openly and rapidly take on the dangerous task of entitlement reform.

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Some controversial proposals are already undergoing quiet review. Possible reforms include reductions in the cost-of-living adjustments for more affluent retirees and mandating for retirees to pay a larger share of their health care costs. Others have suggested that price supports should be limited, with consideration given to cap on the total revenues given to any one firm or family. And the Administration's own recent health care proposal calls for more than \$200 billion in cuts of projected spending for Medicare and Medicaid.

Yet all of these proposals face stiff resistance from well organized constituencies. Further, some liberal legislators worry about potential collapse of the consensus to provide any social insurance — even for the needy — if entitlements cease to be generous to the middle class and the affluent. And many moderate wary voters will view entitlement reform as the "broken covenant," since many voters believe they have prepaid for all their benefits from entitlement programs (even though this perception is, on average, inaccurate). These obstacles and concerns are prompting policymakers to search for possible "win-win" approaches. Such approaches could, for example, allow seniors to exchange their social security cost-of-living adjustments for faster long-term health care insurance (i.e., seniors would be paying in order to hedge their risks).

Clearly, legislators concerned about the issues surrounding entitlement spending understand meaningful programs will involve substantial spade work. Dispersing interest groups, nervous individual voters, innovative experts, business leaders, and leary legislators need to get together repeatedly — and in provocative, non-

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forecasting savings (unlike the ordinary Congressional hearing). to address
endowment issues and the related economic trends and policy choices. These
individuals and groups will also need concise briefing papers, budgeting documents,
and other background materials as well as public opinion research and public
outreach efforts.

The Institute designed by Forum of Institutions Project to meet these needs.

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**Congressional Institute for the Future
PROJECTED SUBMIT/ENTITLEMENT PROJECT COSTS
(First Year)**

CONFERENCE COSTS:**A. Travel**

- Airline service @ \$1,500/person x 50	\$75,000
- Hotel accommodations @ \$150/night x 50	7,500
- Staff (meals and hotel)	2,156

Total Travel **\$84,656**

B. Conference Meals

- Breakfast @ \$15/person x 300	4,500
- Lunch @ \$25/person x 300	7,500
- Dinner @ \$55/person x 300	16,500

Total Conference Meals **28,500**

C. Publications, Printing and Mailing

- Conference books	11,750
- Conference agendas	1,000
- Binding papers	1,250
- City updates	500

Total Publications and Printing **14,500**

D. Staff Salaries

- 4 CIF staff full-time for 1 week	12,000
- 4 CIF staff half-time for 6 weeks	24,000

Total Staff Salaries **36,000**

E. Other Costs

- Equipment	300
- Telephone and communication	900
- Supplies	250

Total Other Costs **1,450**

SUBTOTAL **\$134,806**

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PREPARATION AND FOLLOW UP COSTS:

A. Publications

- 12-page journalingsales (50K copies)	220,000	
- Emerging Issues brief (3-issues, 1p. 50K copies)	1,000	
- Follow-up Journal	30,000	
Total Publications		251,000

B. Video Crew and Editing

- Staff compensation	15,400	
- Commercial work	20,000	
Total Video		35,400

C. Targeted Mailing System (2,000)

- Postage	900	
- Staff Compensation	2,000	
Total Targeted Mailing		2,900

D. Polling

- Staff compensation	19,000	
- Commercial work (see State survey and one national survey)	20,000	
Total Polling		39,000

E. Staff Compensation (3 full-time equivalents) 110,000

F. Additional Intellings/Meetings 2 informal, multiple, DC-based conferences 30,000

G. Advertising - sample radio ads 40,000

H. Other Follow Up Costs

- Equipment	300	
- Telephone and communications	200	
- Supplies	152	
Total Other Follow Up Costs		652

SUBTOTAL **532,052**

TOTAL CONFERENCE COSTS **824,536**

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UNITED STATES OF AMERICA

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BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF:

CONGRESSIONAL INSTITUTE FOR THE
FUTURE, ROB McCORD, EXECUTIVE
DIRECTOR, ET. AL.

MUR 3852

RESPONSE OF
CONGRESSIONAL INSTITUTE FOR THE FUTURE AND
ROB McCORD, EXECUTIVE DIRECTOR

On January 11, 1994 the National Republican Senatorial Committee by its Executive Director, Maria Cino (the "Complainant"), filed a complaint with the Federal Election Commission ("FEC" or "Commission") alleging that the Congressional Institute for the Future (the "Institute") and the Institute's Executive Director, Rob McCord, as well as other respondents, violated 11 C.F.R. 114.2(a) and (b) of the Commission's regulations by sponsoring an educational, issues conference on the "Future of Entitlements" at Bryn Mawr College in Pennsylvania on December 13, 1993.

Pursuant to 11 CFR 111.6, this memorandum sets forth the factual and legal basis upon with the Commission should find no reason to believe that the Respondents violated the Federal Election Campaign Act of 1971, as amended (hereafter "Act") or Commission regulations.

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FACTUAL BACKGROUND

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The Congressional Institute for the Future is a 501(c)(3) non-profit educational organization whose purpose is to provide information on emerging demographic, social and economic trends and to educate private and public policy leaders on the long-term impact of these issues. In addition to conducting research, publishing reports and briefing papers, and producing issue-oriented videos, the Institute also has a distinguished history of organizing and sponsoring issue-oriented conferences. See Exhibit A (attached hereto). Typically, these conferences feature leading experts on the issue being discussed and offer participants the opportunity to discuss the policy challenges associated with the topic at hand.¹

Consistent with its mission and past experience, the Institute agreed to sponsor an Entitlements Conference at Bryn Mawr College on December, 13, 1993, which featured President Clinton, Rep. Marjorie Margolies-Mezvinsky (D-PA), former Senator Warren Rudman (R-NH), Senator John Danforth (R-MO), former Nixon Administration Commerce Secretary Pete Peterson, and other prominent policy makers from both the public and private sector, representing a wide range of bipartisan political interests. In addition to sponsoring the actual conference, the Institute also designed an effort to sponsor follow-up D.C. based briefings, publications and public opinion research. The Institute made tentative plans to provide bipartisan polling (open to the press and Members

¹ Past issue-oriented conferences have included "Technology for Literacy," "The Future of Biotechnology," and "Challenging the Information Age." In addition, the Institute has sponsored several briefings on topical issues, such as the environment, health care, education and training, to name a few. See Exhibits A and B (attached hereto).

of Congress) both nationally and in the Philadelphia media market (where coverage of debates from the Entitlements Conference would be particularly high) to track citizen response to particular entitlement reform proposals. Such follow-up efforts were deemed critical to the Institute's mission "to employ innovative, in-depth, bipartisan survey methods to uncover the public's informed view about major policy issues." See Exhibits A and C (attached hereto).

The complaint alleges that the "Institute has made or intends to make substantial prohibited corporate contributions to the [Congresswoman Marjorie Margolies-Mezvinsky] Committee through the establishment of the Entitlements Conference and subsequent project." Complaint at p. 3. In support of this allegation, the Complaint contends, *inter alia*, that the Executive Director of the Institute, Rob McCord, was the former treasurer of the Margolies-Mezvinsky Campaign Committee (Complaint ¶ 9A), that the Institute coordinated the conference with Congressman Margolies-Mezvinsky (Complaint ¶ 16), and that the Institute's follow-up efforts will be "centered in and around Margolies-Mezvinsky's district." (Complaint ¶12).

The allegations have no merit. As a preliminary matter, the Complaint has failed to allege a single fact in which any corporation, person or other entity has made a contribution or expenditure in connection with a federal election, or any contribution or expenditure expressly advocating the election or defeat of a clearly identified candidate for federal office. In short, there has been no allegation made upon which the Commission could find a violation of the Act or Commission regulations. Accordingly, the

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Commission should find no reason to believe that the Institute or Rob McCord violated the Act.

DISCUSSION

The Complainants assert that the Respondents Rob McCord and the Institute, made impermissible corporate contributions to the Margolies-Mezvinsky Campaign Committee, by sponsoring a nonpartisan issues forum on the future of entitlements. This allegation defies a plain and common sense reading of the regulations and mocks the federal courts' repeated admonishments to the FEC of the well defined limitations of the Act. See e.g. FEC v. Central Long Island Tax Reform Committee, 616 F.2d 45, 55 (2nd Cir. 1980) (en banc); FEC v. Hall-Tyner Election Campaign Committee, et al., 678 F.2d 416, 424 (2nd Cir.) cert denied 459 U.S. 1145 (1983).

L THE STAGING OF AN ISSUES FORUM CANNOT RESULT IN CONTRIBUTIONS OR EXPENDITURES BEING MADE IN CONNECTION WITH A FEDERAL ELECTION.

Section 441b(a) of the Act provides that "[i]t is unlawful for any . . . corporation . . . to make a contribution or expenditure in connection with any election to any political office ..." 2 U.S.C. § 441b(a) (emphasis added). Section 441b(b)(2) additionally states that "[f]or purposes of this section . . . the term 'contribution or expenditure shall . . . include anything of value . . . to any candidate . . . in connection with any election." 2 U.S.C. § 441b(b)(2) (emphasis added).

In FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 249 (1986), the Supreme Court unanimously and unequivocally held that the Act's prohibition against corporate expenditures "in connection with an election" requires that the "expenditure must

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constitute 'express advocacy' in order to be subject to the prohibition of § 441b." MCFL, 479 U.S. at 249. Applying the only logical reading of MCFL, the court in FEC v. National Organization for Women ("NOW"), determined "that the standard 'in connection with an election' is not distinct from 'express advocacy,'" and further found that "only communications which contain explicit electoral messages can be prohibited by § 441b." FEC v. NOW, 713 F.Supp. 428, 433 (D.D.C. 1991) appeal withdrawn. Indeed, this interpretation of "in connection with" was most recently affirmed in FEC v. Colorado Republican Federal Campaign Committee, ___ F. Supp. ___ (D.C.Col. 1993), where the district court unequivocally held that "express advocacy" is required for an expenditure to be considered "in connection with a federal election."

In this instance, the Complainant has not made a single allegation that any person or entity allegedly involved in staging the Future of Entitlements Conference made any exhortation to vote for or against a specific candidate or solicited any funds for a candidate's campaign.. The Complainant has only alleged that the Institute and its director, a past treasurer of Congresswoman's Margolies-Mezvinsky campaign committee, worked to promote and organize the conference. There is no allegation that the Institute, Rob McCord, or anybody else expressly advocated or promoted the candidacy of Margolies-Mezvinsky, or any other candidate for federal office, or that Mr. McCord or anybody else associated with the Entitlements Conference solicited contributions for Congresswoman Margolies-Mezvinsky's campaign committee. In fact, the promotional literature for the December 13, 1993 event issued by the Institute specifically states that entitlements conference and follow-up project are:

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designed to push entitlement program reform into the media spotlight and onto the legislative agenda. The project aims to help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, Medicaid, farm support and federal, military and civilian pensions. See Exhibit D (attached hereto).

The express advocacy requirement, first announced by the Supreme Court in Buckley, seeks to limit the Act's potential to infringe on First Amendment rights by distinguishing the discussion of issues from the more pointed exhortations to vote for a particular candidate. See Buckley v. Valeo, 424 U.S. 1, 44, fn. 52 (1976); FEC v. NOW, 713 F.Supp. 428 (D.D.C. 1991); FEC v. Furgatch, 807 F.2d 857, 860 (9th Cir.) cert denied 484 U.S. 850 (1987). Indeed, in Fancher v. FEC, 928 F.2d 468 (1st Cir.) cert denied __ U.S. __ (1991), the First Circuit invalidated the FEC's voter guide restriction regulations on the grounds that the FEC had no authority to regulate matters involving issue advocacy.

Here, the FEC's regulations prohibiting contributions or expenditures by corporations (see 11 CFR §§ 114.1, 114.2) are again focused on the permissible and impermissible use of funds "in connection with a federal election," a use that by definition involves express advocacy. Thus, even if a determination could be made that the Entitlements Conference was in connection with a federal election, there is no possibility of finding that the Institute made an impermissible corporate contribution to Congresswoman Margolies-Mezvinsky. Expenditures by the Institute or any other corporate entity to promote and discuss issues -- rather than to expressly advocate the election or defeat of a candidate for federal office -- are not expenditures in connection with a federal election. The Complainant has simply failed to allege any violation of the

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Act or Commission regulations, or to allege facts which on their face are within the regulatory power of the FEC. Faucher v. FEC, 928 F.2d at 469. On the facts set forth in the complaint, there can be no reason to believe that Rob McCord or the Institute has violated the Act or Commission regulations.

II. THE ENTITLEMENTS CONFERENCE AND RELATED PROJECTS ARE FULLY CONSISTENT WITH COMMISSION ADVISORY OPINIONS.

The Commission has long recognized that where the purpose of an activity is not to influence the nomination or election of a candidate for federal office, but rather an activity held in connection with the duties of the officeholder, there can be no contributions or expenditures as defined by the Act.

For instance, in AO 1980-22, the Commission approved the sponsorship by the American Iron and Steel Institute of a series of "town meetings" or issue forums devoted to the future of the steel industry and its problems in certain specified areas, including the congressional districts or states of Congressmen and Senators invited to participate in the town meetings. Since the town meetings were limited to issues affecting the steel industry, and no remarks were made concerning campaign activity, the Commission recognized such activities fell outside the scope of the Act and Commission regulations. Here, the facts at issue are hardly distinguishable: the Entitlements Conference was limited to a discussion of entitlements and entitlement reform, and no remarks were made concerning campaign activity. See Exhibit E (selected articles on the Entitlements Conference)

Similarly, in AO 1992-5, the Commission determined that a Congressman may participate in a discussion program on cable television to discuss various issues concerning

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his congressional district without running afoul of any provisions of the FECA. In support of its findings, the Commission recognized that "in circumstances involving candidates serving as chairpersons of political, charitable and issue advocacy organizations," there can be no contributions or expenditures in connection with a federal election that might be prohibited by the FECA. See also AO 1981-37 (corporations and labor unions permitted to finance program moderated by a Member of Congress without making contributions or expenditures in connection with federal election); AO 1991-17 (corporations permitted to fund series of video tapes featuring Congressman in a discussion of Congress for the purpose of encouraging viewers to vote).

Again, the facts at hand are indistinguishable from those facts and circumstances set forth in the foregoing advisory opinions. The Institute sponsored an issues conference on entitlement reform. A Congresswoman, concerned about the issue of entitlements and their impact on her constituents, as well as the nation, introduced the event. The entitlements conference focused on the issues of entitlements and entitlement reform. At the conference, there were no expressions of advocacy for any candidate for federal office, nor were there any solicitations for contributions for any candidate for federal office.

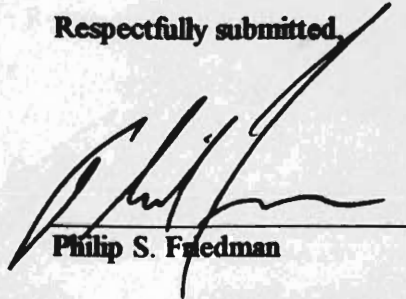
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CONCLUSION

For the foregoing reasons, the Commission should find no reason to believe that a violation of the Act or Commission regulations has occurred.

Date: February 18, 1994

Respectfully submitted,



Philip S. Friedman

Attorney for Respondents
The Congressional Institute
for the Future and its Executive
Director, Rob McCord

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CONGRESSIONAL

INSTITUTE

FOR THE FUTURE

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Seeking innovative

approaches to emerging

policy challenges

Congressional Institute for the Future
The Washington Office Center
409 Third Street, SW, Suite 204
Washington, DC 20024
(202) 863-1700 Fax (202) 479-9447

**"Many of the most serious
problems Congress faces
arise simply because we
as a nation have failed
to look ahead.**

**The Congressional
Institute for the Future
strengthens foresight by
confronting emerging
demographic, economic,
and technological
challenges."**

— Cofounders

Senator Albert Gore, Jr.

Senator John Heinz



**Albert Gore
U.S. Senator**



**John Heinz
(1938-1991)
U.S. Senator**

**C O N G R E S S I O N A L
I N S T I T U T E
F O R T H E F U T U R E**

The Congressional Institute for the Future is a Washington-based nonprofit organization that advances research and education about emerging issues. The Institute analyzes emerging demographic, social, and economic issues and focuses attention of policy leaders, in both the public and private sectors, on the long-term impact of these issues.

The Institute tracks research, trends, and forecasts from around the country. Working closely with the Congressional Office of Technology Assessment, many Congressional caucuses and committees, a broad variety of public agencies, independent think tanks, private strategic planning groups, and businesses, the Institute offers new information about emerging policy challenges.

Business leaders and academics — and more than 100 U.S. Representatives and Senators from both political parties — draw upon the educational products, events, and services of the Institute in a search for innovative policy approaches.

The Congressional Institute for the Future is a 501(c)(3) nonprofit organization.

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PRODUCTS

AND

SERVICES

The Institute conducts research, publishes reports and briefing papers, produces issue-oriented videos, and organizes events focusing on long-range policy challenges. All products and services are designed to meet the exceptional needs of public and private policymakers.

Walk-through Conferences

These issue-oriented conferences feature demonstrations of new technologies as well as briefings on related policy challenges. Members meet informally with leading experts and get direct hands-on experience with exciting and innovative new technologies. Sample conferences: "Technology for Literacy," "The Future of Biotechnology," and "Challenging the Information Age."

Emerging Issues Briefs

These single-page briefing papers quickly summarize emerging policy challenges and new information about developing trends and issues. Recent publications include: "Adolescent Violence;" "Workplace and Family: Competing Demands;" "Eldercare: A Growing Problem in the Workplace;" and "Global Climate Change." (over)

What's Next Newsletters

These quarterly newsletters offer flashes of information about new technological, demographic, and economic trends as well as summaries of recent research and of new forecasts. Gleaned from more than 100 publications, this information offers early signals of change.

Forecast Critiques

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To facilitate the rapid exchange of valuable information, GLOBE conducts workshops, compares and analyzes relevant legislation created by represented legislative bodies, and publishes information on global environment issues important for decisionmakers.

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The Institute staff works to create products which are both future-oriented and immediately useful to policymakers. In addition to publications, the Institute uses bipartisan opinion surveys, videos, technology displays, and provocative Congressional briefings to focus policymakers' attention on dramatic new trends, technologies, and issues.

With unusual products and services — and an unusual focus on emerging trends and their future implications — the Institute is helping leaders prepare for the tough challenges which lie ahead.

Rob McCord
Executive Director

Rob McCord has worked for a broad variety of Members of Congress, Congressional organizations, and nonprofit institutions, and he regularly briefs groups of business and political leaders. McCord received his BA from Harvard University and his MBA from the University of Pennsylvania's Wharton School.

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The Institute will include sets of talking point cards in its regular quarterly mailing. The Talking Point Card Service offers pithy information from a broad variety of sources. These cards provide statistics and arguments about emerging issues related to economics, demographics, and new technologies. The cards should help those who are building speeches around a vision of the future.

Health, Technology
Administrative tasks consumed nearly 20 percent of a nurse's time. If information technology linked to a central hospital system were available to access both at the patient bedside and at the nursing station, 25 to 28 percent of that time could be saved.

Health
Superconducting quantum interference device (SQUID) — which can superconductivity to detect the minute current generated by the body's magnetic fields — is the only method available for reported by hearing and monitoring body functions without respiratory surgery.

Health, Technology
A SQUID sensor is easily, with modern systems costing between \$2 and \$2.5 million dollars along with the additional cost of the staff — physicians, technicians, and others needed to interpret the results.

Health
Lenses have surgery — using a laser to clear tissue from the cornea — is being used experimentally to correct nearsightedness. Some scientists show laser eye surgery techniques involving eyeless corneas within the next ten years.

Health, Management
Changes in lifestyle and medical care could prevent nearly 20 million cases of coronary heart disease and stroke and 12 million deaths by the year 2000.

Health, Technology
Researchers in California are developing a "diffuse tomography" machine which can reconstruct a three-dimensional image from signals captured to infrared light rather than in a way which can damage tissue.

Health, Technology
Materials that had been designed for NASA have reduced the weight of a pair of leg braces from 44 lb (19.9 kg) to 12 lb (5.4 kg).

Health, Technology
"Computers, new materials and new attitudes have revolutionized our industry. If you can store one month in your body, weigh a gram or two as a capsule, we can design a switch to allow you to operate in your environment."
— according to
Joe Cohen, Director of assistive technology
at the National Rehabilitation Hospital in Washington

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TALKING POINT CONGRESSIONAL INSTITUTE FOR THE FUTURE

SUBJECT **Transportation/Infrastructure**

"A subway can carry 40,000 people per "lane" (track) per hour, while a highway handles just 2,000 people per hour.

On L.A.'s freeways during peak hours, drivers putter along at about 29 mph — a figure that is projected to drop to 17 mph by the year 2010."

SOURCE "L.A. Tries the Subway" May 1993

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Congressional Institute for the Future Entitlement Project Outline (First Year)

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- III. Produce and publish briefings papers summarizing entitlements issues for conference participants and interested parties around U.S.A.
- IV. Provide literature search and prepare comprehensive binders for conference participants and other key players.
- V. Run conference and coordinate with White House, Secret Service, university staff, and others.
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- VII. Produce follow-up journal about conference and related issues and analysts comments.
- VIII. Write and publish a series of single-page briefing papers and talking-point cards on a variety of entitlement issues.
- IX. Organize DC-based conferences (with experts, competing national constituencies, Executive Branch leaders, and a bipartisan group of legislators) to discuss promising reform proposals.
- X. Provide summaries of follow-up conferences, the proposals discussed, and the areas of consensus and dissent.
- XI. Commission public opinion research to test ideas, arguments, and proposals, developed or highlighted during conference and related activities.
- XII. Test themes (which prove promising in public opinion research) with radio ads and follow up with further polling.

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DATE: December 13, 1993

LOCATION: Bryn Mawr College

FEATURED LEADERS: President Bill Clinton and
Congresswoman Marjorie Margolies-Mezvinsky

TENTATIVE AGENDA (8 a.m. — 5 p.m.):

- I. Overview Discussion.
- II. Panel Discussion on Retirement Programs.
- III. Luncheon with President Clinton.
- IV. Panel Discussion on Effects of Healthcare Reform on Entitlement Programs (to be moderated by President Clinton).
- V. Panel Discussion on Possible Reform of Programs for the Needy.

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JANUARY 1994 NEWSBREAK

Social Security critics, allies clash at entitlement summit

A widening split in the way many top leaders perceive Social Security, Medicare and other entitlements exploded into public view during a heated, day-long "summit conference" on the federal deficit.

Representing a fast-growing viewpoint, Sen. John Danforth, R-Mo., declared, "There are no politicians who fail to see that entitlements are the problem [behind the deficit]."

Danforth was joined in this outlook by a number of other critics, including Sen. Bob Kerrey, D-Neb., and former Democratic Sen. Paul Tsongas of Massachusetts. Tsongas went one step further, warning, "What is coming, my friends, is generational war."

Tsongas, Danforth and other critics were challenged vigorously by Social Security defenders, including President Clinton, who contended Social Security wasn't driving the deficit. "The real culprit is health-care costs," Clinton said. "That's the portion of entitlement spending that's out of control."

The clash of opinion occurred during an unusual conference on the "future of entitlements" held in Bryn Mawr, Pa., outside Philadelphia last month. The gathering was

presided by Rep. Marjorie Margulies-Masvinsky, D-Pa., who cast the deciding vote in the House of Representatives for Clinton's budget bill last August.

In return for her vote, Margulies-Masvinsky indicated she wanted a meeting to spur a national debate on the federal deficit, the role of entitlements and their impact on future generations.

If nothing else, the conference provided a forum for a newly emerging group of critics, inside Congress and out, who want to scale back entitlements in order to eliminate the deficit. And it probably served as a preview of a new and intensified debate likely to develop soon over Social Security.

"Without entitlement reform, deficit elimination is impossible," said Kerrey, who, with Danforth, is co-chairman of the newly formed Bipartisan Commission on Entitlement Reform. The group was formed by Clinton to study ways to control all entitlement spending.

Focusing almost exclusively on Social Security, critics called for means-testing of the program

(cutting payments to those with incomes above a certain level). "I want to cut a different kind of welfare—welfare for the well off," said onetime Commerce Secretary Pete Peterson, now the author of a highly critical book on entitlements.

But Social Security's defenders charged that Peterson, Tsongas and others had misdiagnosed the economic problem, misunderstood Social Security and were prescribing the wrong medicine for the deficit.

Is Social Security driving the deficit? Not at all, said Treasury Department assistant secretary Alicia Munnell.

The system's spending "isn't out of control," she said. "[Social Security] outlays have been declining slightly as a percentage of gross domestic product."

"Social Security isn't [driving] the deficit," declared AARP legislative director John Butler, noting the system is now running a \$80 billion annual surplus. He faulted critics for "scapegoating the one federal program that's been run in a fiscally responsible way: Social Security."

Nor is Social Security enriching the wealthy, said former Social Security commissioner Robert Ball. "Single, high-paid workers [now retiring] will not quite get back what they and their employers paid [into the system]," he said.

That's why means-testing high earners wouldn't make sense, said Brookings Institution economist

Henry Aaron. Much of the money they pay into the system is transferred to low-income earners' benefit payments.

But if government means-tested high earners, Aaron cautioned, they'd try—and probably succeed—to opt out of the system, leaving less money for poor retirees.

AARP board chairwoman Judi Brown called on critics to heed Clinton's call to focus on skyrocketing health costs. "The number one issue is health care," Brown said.

Brown indicated the concerns of entitlement critics would ease if rising health costs were curbed. "Let's take this health-care [reform effort] through Congress and come out with a bill that will answer the questions [posed by entitlement critics]."



Kerrey: Critical



Brown: Support



Margulies-Masvinsky



AS WE SEE I

Medicare cuts: I tail wagging the

BY HERMAN B. DEETS

Abraham Lincoln once posed a trial, "How many legs would called its tail a leg?" The w would have five legs." "No,"

"Calling the tail a leg doesn't make. The same lesson applies to Medicare deficit reduction. Claiming this is it doesn't make it true. Our best chance is through comprehensive health care with systemwide cost containment: need to understand that and recognize and health-care reform are change; in fact, we can't do one with

There is no secret that Medicare the two biggest federal health-care major factors pushing up the deficit between now and the year 2000 are costs in these programs. But soon shows that taking the same old of cutting more from Medicare and let get the job done.

Over the last decade, nearly \$800 from Medicare. As a result, costs have shifted to the private sector and to beneficiaries, leaving business and individuals to pick up a growing portion of Medicare's tab. That restricts America's competitiveness and reduces federal revenues. It doesn't

lower the deficit—it may even make :

But there are still voices in Congress as usual. They want to cut further without reforming our health. Late last year, the House of Representatives defeated a move to cut another \$34 billion over and above the \$56 billion cut worked hard to defeat the plan because cuts could have severely undermined true health-care reform. And the bulk would have come directly from the poor care beneficiaries, which just wouldn't. Other efforts, like the Balanced Budget, still loom on the horizon and could more abrupt and arbitrary cuts in cost including Medicare.

As older Americans, we have to see quick fixes and constitutional gimmicks in the name of deficit reduction. We know that calling a tail a leg does. Only comprehensive health-care reform to solve the deficit problem for the long term is just the tail wagging the

Herman B. Deets is the AARP Executive Director

AARP BULLETIN January 1994 Volume XXXV, Number 1

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Clinton Lobbies for Lawmaker, Health Plan

President Tries to Build Support for Embattled Margolies-Mezvinsky at Pennsylvania Seminar

By Kenneth J. Cooper
Washington Post Staff Writer

BRYN MAWR, Pa., Dec. 13—President Clinton and top administration officials today conducted a layman's tutorial on the federal budget to build support for his health care plan and for a first-term lawmaker in political trouble for backing his budget package.

About 2,000 well-dressed outsiders piled into Bryn Mawr College's gymnasium and listened to complex budget debates at the day-long seminar hosted by Rep. Marjorie Margolies-Mezvinsky (D-Pa.). But one political analyst doubted that Margolies-Mezvinsky mollified many angry constituents in the affluent, Republican-leaning suburbs of Philadelphia that she represents.

"I don't think this solves the problem with her constituents," said G. Terry Madonna, a political science professor at Millersville University. "I think the damage has been done, politically."

In August, Margolies-Mezvinsky cast a decisive vote for Clinton's economic package—which included tax increases unpopular among many Republicans—in exchange for his administration's participation in today's conference on mandatory spending programs, whose beneficiaries range from the affluent elderly to poor children.

Many budget analysts and lawmakers maintain that growth in those entitlement programs must be curbed to reduce the annual budget deficit substantially.

Margolies-Mezvinsky said that the accumulated national debt of \$4.7 trillion would increase \$367 billion by the end of today's eight-hour conference.

In a half-hour lecture and a panel discussion that he moderated, Clinton argued that a health care plan like his would be required to rein in the fastest-growing entitlements: Medicaid for the poor and Medicare for the elderly and disabled.



President Clinton discusses entitlement spending during seminar at Bryn Mawr College in Pennsylvania hosted by Rep. Marjorie Margolies-Mezvinsky.

"I believe you don't get entitlement control, you don't get ultimate deficit control, unless you do something about Medicare and Medicaid," Clinton said, pointing to a chart that showed the two federally supported health programs jumped from 13 percent of entitlement spending in 1973 to 30 percent this year.

"I believe you don't get that done just by cutting Medicare and Medicaid, unless you want to hurt the private sector," he said. "Therefore, I think we have to have some sort of health plan."

Clinton also argued that Social Security and Medicare had lifted many elderly out of poverty. He said steep cuts in these programs would push many of these citizens out of the middle class.

Befitting an intellectual exercise on a college campus, Clinton and other officials defined budget terms. House Speaker Thomas S. Foley (D-Wash.) explained the meaning of "entitlements," which Clinton further subdivided "into contributory entitlements" available regardless of income and those solely for the poor.

A bit of politics spiced the dry budget talk during what Alice M. Rivlin, deputy director of the Office of Management and Budget, dubbed "a policy work day." Rivlin and Clinton defended Margolies-Mezvinsky, who has been under GOP attack in her district and in Washington. Rivlin called her "a gutsy lady who cares about the future."

"If Marge Mezvinsky hadn't voted for that budget, we wouldn't be here celebrating economic progress and talking about entitlements," Clinton said. "We'd still be back in Washington throwing mud balls at each other."

Clinton, who has named Sens. Bob Kerrey (D-Neb.) and John C. Danforth (R-Mo.) to head a commission to study entitlements, said he hoped "there will be a great national discussion of the issues that we discuss today and . . . that this will be the beginning of a debate that will carry through for the next several years."

Clinton criticized Republican radio ads running in the Philadelphia area that condemned Margolies-

Mezvinsky's "\$300 billion cost" reference to tax increases in Clinton's package. He said the ads "do not serve the public interest because they do not tell the truth."

Margolies-Mezvinsky also gave rare words of support from a Republican at the bipartisan conference.

"Some in my party fear that Democrats might get political benefits by hosting a conference on entitlements," Danforth said. "It isn't likely. If we are now at the point where speaking honestly about entitlements is a political plus, there's hope for America."

But even supporters acknowledged that Margolies-Mezvinsky still suffers politically from changing her position on Clinton's budget package at the last minute.

"When you waffle, you get hit," said Jim Edelman, a dentist who practices in West Chester.

Margolies-Mezvinsky, a former television reporter elected by 1.1 million votes in 1992, stirred further controversy when it was reported last week that conference organizers solicited contributions from insurance, hospital groups and union leaders to underwrite the entitlements conference. Organizers raised about \$175,000 to cover a \$50,000 cost of the conference: a two-year follow-up project.

The White House barred any contributors from appearing at the health panel with Clinton.

Prosecutions Unlikely in Passport Case

By Walter Pincus
Washington Post Staff Writer

One year after the appointment of independent counsel Joseph E. diGenova to look into the 1992 pre-election search of President Clinton,

Tamposi was fired by Bush shortly after the election, and Berry was demoted and transferred to another State Department position following Funk's report; Berry subsequently left the department.

Disclosure of information from

same information could not be used against Tamposi or the three former Bush aides also involved in the diGenova inquiry: James A. Baker III, who was White House chief of staff; Janet G. Mullins, who was

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Clinton's payback: Spending summit

By William M. Welch
USA TODAY

President Clinton delivers an unusual political payoff today, gathering top administration, congressional and business leaders for a conference on cutting the deficit by reining in federal benefits enjoyed by the vast middle class.

The day-long meeting in Bryn Mawr, Pa., outside Philadelphia, was the promise Clinton made to win a decisive vote for his tax bill last August from freshman Democratic Congresswoman Marjorie Margolies-Mezvinsky.

Margolies-Mezvinsky's vote allowed Clinton's bill to clear the House and become law.

Rather than demand a bridge or other pork-barrel payoff, Margolies-Mezvinsky told Clinton she wanted a meeting to encourage a national discussion of the long-term economic damage posed by mandatory spending programs. The programs increase automatically each year.

"This has never been done before," Margolies-Mezvinsky says. "People don't want to talk about entitlements because they're so politically incendiary. ... We are socking our kids with a debt they will never be able to pay."

The meeting has been overshadowed by a controversy over its financing.

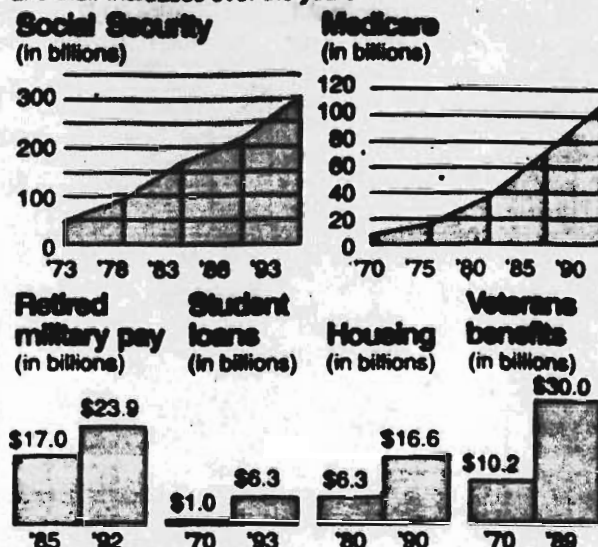
Late last week, the White House moved to limit Clinton's participation in panel discussions, which included representatives of corporations that contributed \$200,000 to sponsor the conference.

Those companies include drug manufacturers and hospitals that would be affected by limits on mandatory entitlements such as Medicare.

As a result, three contributors withdrew their officials from a panel discussion with Clinton. White House spokeswoman Dee Dee Myers said the move was "to eliminate the

Growth in required spending

Some of the government's mandatory spending programs and their increases over the years:



Sources: USA TODAY research,
Statistical Abstract of The United States (1993)

USA TODAY



AP
MARGOLIES-MEZVINSKY:
Conference on cutting deficit

appearance of impropriety."

The entitlement issue is politically explosive. Half of all federal spending goes for mandatory programs that reach virtually all Americans.

Social Security, military and civilian retirement systems, Medicare for the elderly, veterans' benefits, welfare and Medicaid for the poor, farm price supports and student loans are chief among them.

Money is distributed by formula, and only about one-fifth is based on need.

Proposals are circulating in Congress to apply a "means test" to Medicare — which benefits virtually all seniors — requiring affluent recipients to pay more for their benefits.

But only a few have had the political courage to suggest the same for Social Security.

Any changes in that program have been so politically charged that it has been called the "third rail" of American politics — touch it and you die.

"Our members come to this with a conviction to do something about the deficit, but also a fear we will be singled out," said Marty Corry of the American Association of Retired People, a senior citizens' lobby.

Other seniors groups have attacked the conference.

And Republicans have targeted Margolies-Mezvinsky in radio ads airing in her suburban Philadelphia district.

"I hope every taxpayer watches closely because it is costing them \$260 billion, the amount Margolies-Mezvinsky voted to raise your taxes," Republican National Chairman Haley Barbour says.

Her vote was widely viewed as approaching political suicide. She was elected by a narrow plurality in a traditionally Republican, affluent, conservative district.

Those joining Clinton include Health and Human Services Secretary Donna Shalala, budget director Leon Panetta, House Speaker Thomas Foley, and congressional sponsors of efforts to cut entitlements, Sen. Bob Kerrey, D-Neb., and Rep. Timothy Penny, D-Minn.

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The Philadelphia Inquirer

Tuesday, January 4, 1994

Entitlements conference is defended

In an eloquent post-Christmas piece, columnist Melissa Dribben said that media-sprayed accusations can "linger like cheap perfume" long after they are discredited. Though letters to the editor cannot remove the odor of front-page coverage, I write to correct the record.

Earlier, my picture and a less-than-flattering article appeared on The Inquirer's front page. I ran the nonprofit organization that sponsored the recent Bryn Mawr College conference on entitlements featuring President Clinton, Rep. Marjorie Margolies-Mervinsky, former Sen. Warren Rudman and others. By omitting essential background and context, this article and related pieces fueled unwarranted cynicism — and made innovative work on challenging issues read like "bad news."

The article implied that in my capacity as the conference sponsor, I was "selling" seats on the panels that constituted the daylong conference. Yet it failed to mention that 25 out of 28 planned panelists had provided no financial support, while most financial supporters had not been invited to serve on panels. Clear skepticism about sources would also have lent context. The organization that attacked me was suspect; it had been denied panel seats, was threatened by high-profile discussions about entitlement reform and stood to profit by lampooning the conference.

The article built its scandal-puffing momentum with a reference to my past role as Ms. Margolies-Mervinsky's campaign treasurer. By way of background, I ask this question: Should any past supporter of a politician be disqualified for work with that politician in any future non-campaign capacity? (If your answer is yes, prepare to vacate most current and past cabinet seats, ambassadorships and federal judgeships.)

The Inquirer subsequently detailed a partisan attack against the entitlements conference, suggesting the conference would be an "expensive political rally to support Ms. Margolies-Mervinsky." This article failed to mention featured appearances by high-profile Republicans such as Mr. Rudman, former Nixon administration Commerce Secretary Pete Peterson, Sen. John Danforth and former New Jersey Gov. Tom Kean.

If my organization had not raised funds, taxpayers would have picked up the tab. If we had made no plans for followup activity, our efforts would have had less potential to educate most policy-makers. By omitting these points, your paper sprayed good work with bad perfume.

Rob McCord
Director
Congressional Institute for the Future
Washington

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February 18, 1994

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FEDERAL ELECTION COMMISSION RECEIVED

Lawrence M. Noble, Esq.
Federal Election Commission
Office of General Counsel
999 E Street, NW
6th Floor
Washington, DC 20463

Re: MUR 3852 - Congresswoman Marjorie
Margolies-Mezvinsky; Friends of Marjorie
Margolies-Mezvinsky; and Betsy Klein, as Treasurer

Dear Mr. Noble:

This letter constitutes the response of Congresswoman Marjorie Margolies-Mezvinsky; Friends of Marjorie Margolies-Mezvinsky (the "Committee"); and Betsy Klein, as Treasurer (collectively referred to hereafter as "Respondents") to the complaint filed by the National Republican Campaign Committee ("NRCC").

THE COMPLAINT

The Complaint alleges that the costs of an issues conference sponsored by the Congressional Institute for the Future ("Institute") on December 13, 1993 at Bryn Mawr College constituted corporate contributions to the Committee in violation of the Federal Election Campaign Act, 2 U.S.C. §§ 431 et. seq. ("FECA"). Specifically, the NRCC alleges that the Institute's conference was organized "for the purpose of supporting the re-election of Congresswoman Margolies-Mezvinsky."

These are groundless assertions. Moreover, many of the facts Complainant relies on to make these allegations are inaccurate.

The Institute's issues conference was organized for the purpose of encouraging public debate about entitlement programs -- an issue of central concern to both the general public and Congresswoman Margolies-Mezvinsky. The Congresswoman's participation in the planning and implementation of the conference does not alter the character

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of the conference. It constituted issue advocacy -- and, therefore, the funds raised and expended to put on the conference were not subject to FECA regulation. Moreover, the Commission has uniformly ruled that elected officials or candidates may participate in issue-related activities without having the expenses for such activities constitute contributions or expenditures under the Act. The facts of the planning and implementation of the conference do not in any way support a finding that the conference constituted express advocacy.

FACTUAL BACKGROUND OF THE CONFERENCE

On August 5, 1993, prior to voting on the President's Revenue Reconciliation Act, Congresswoman Margolies-Mezvinsky met with her Congressional staff to discuss her position on the legislation. During that conversation, in which she decided to vote in favor of the Act, Congresswoman Margolies-Mezvinsky and her staff discussed the idea of encouraging the organization of a conference to discuss federal entitlement spending. See Smukler Letter dated February 10, 1994. The intention of the conference was to afford an opportunity for the general public to listen to and participate in a discussion of one of the key and most costly components of the federal budget entitlement programs. Congresswoman Margolies-Mezvinsky asked the President and he agreed to participate in a the conference.

The proposed conference had no relation in intent or fact to Congresswoman Margolies-Mezvinsky's re-election prospects. In fact, political advisors thought that her participation in such a conference would more than likely be detrimental to her politically. See Smukler Letter.

Representative Margolies-Mezvinsky met with representatives of the Congressional Institute for the Future about the idea of sponsoring a conference on entitlements. The Institute, a section 501(c)(3) organization, was organized by Vice President Gore and former Senator Heinz for the purpose of developing and distributing information about new approaches to demographic, social and economic issues. The entitlements conference was, therefore, very much in keeping with the Institute's mission and other programs. As a 501(c)(3) organization, the Institute is prohibited from conducting activities in support of a political campaign.

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The Institute hired Ken Smukler, a former member of Congresswoman Margolies-Mezvinsky's staff, to organize the conference. See Smukler Letter. Contrary to Complainant's allegations, Mr. Smukler was paid by the Institute, not the Committee, for his work on the conference. No campaign funds or staff were used to organize the conference. Mr. McCord, Executive Director of the Institute, in an abundance of concern with appearances, resigned as the Committee's treasurer when the Institute began planning the conference. This was not necessary as a matter of law: the fact that he might have served concurrently as Executive Director of the Institute and Treasurer of the Committee would not have had any bearing on the legal nature of the conference.

The program was planned to bring together a broad array of experts including current and former public officials, Cabinet Members and Republican and Democratic Members of Congress to discuss entitlement programs and ideas for cutting the federal budget. Consistent with its usual fundraising practices, the Institute approached national and regional corporations for this project as well as other programs it was planning.

Congresswoman Margolies-Mezvinsky supported the Institute's efforts for the conference signing a letter in support of the Institute's proposal.¹

From the beginning of the planning process, Congresswoman Margolies-Mezvinsky and her staff made it clear that no other political or campaign-related events were permitted to be planned or held in conjunction with the conference. Even a proposal by the local Democratic Party to invite certain conference speakers, while they were in the area, to help raise money for the Party's programs was rejected. While such an event would have had little or no benefit to the Committee and certainly would not have influenced Congresswoman Margolies-Mezvinsky's election, the conference planners did not allow or want any even remote association of the conference with partisan political activities.

¹Contrary to the NRCC's suggestion, her involvement in planning and fundraising for the conference does not convert an issues conference into an election-related event.

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The NRCC complaint is strikingly devoid of any factual support for its position that the conference was organized to support Congresswoman Margolies-Mezvinsky's re-election. The fact that she may have changed her position on the budget package is of no relevance to this inquiry. Nor do allegations that she may have "bartered her vote" for the President to attend an issues conference.²

THE LAW

1. Court Decisions

The Courts have distinguished between expenditures that "expressly advocate" the election or defeat of a candidate and those made for the purpose of issue discussion. See Buckley v. Valeo, 424 U.S. 1 (1976); FEC v. Massachusetts Citizens for Life, 479 U.S. 238 (1986); FEC v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1991); FEC v. Furgatch, 807 F.2d 857 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1991). "Funds spent to propagate one's views without expressly calling for the election or defeat of a clearly identified candidate are not covered by the FECA. Buckley, 424 U.S. at 43-44. The rationale for the express advocacy standard is particularly relevant in this matter:

the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various issues, but campaigns themselves generate issues of public interest.

Buckley, 424 U.S. at 42.

²If Complainant is suggesting that, as a matter of law, somehow a President's commitment to participate in a conference in return for support of a particular bill constitutes an election-related contribution, then every commitment to assist in building Air Force bases, post offices or water projects in a Member's district, would fall into the same category.

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Since Buckley, Courts have held that express advocacy is not necessarily restricted to communications that included precise phrases such as "vote for", but also a broader category of communications. See MCFL, 479 U.S. 238; Furgatch, 807 F.2d 857; NOW, 713 F. Supp. 428. The Court of Appeals in Furgatch proposed such a standard:

This standard can be broken into three main components. First, even if it is not presented in the clearest most explicit language, speech is 'express' for present purposes if its message is unmistakable [sic] and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed "advocacy" if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated.

Furgatch, 807 F.2d at 864.

In order to constitute express advocacy under the PECA, the communication "must, when read as a whole, and with limited reference to external events be susceptible of no other interpretation but as an exhortation to vote for or against a specific candidate." Id. at 864.

2. Commission Rulings

The Commission has also ruled in numerous Advisory Opinions that the costs of activities involving participation by a Member of Congress in issue-related events do not constitute "contributions" or "expenditures" under the Act. Advisory Opinions 1992-5 (a candidate may participate in a cable television program in his role as Congressman discussing issues of concern in his Congressional district); 1991-17 (corporation may finance series of videotapes featuring Members of Congress discussing the legislative process); 1981-37 (corporations and labor unions may buy tickets and advertising for public discussion program moderated by a Congressman); 1980-89 (donations of food and beverages to sponsor receptions for Congressman's advisory committee on the arts are not contributions); 1980-22 (no "contribution" or "expenditure" where trade associations and member companies sponsor series of town meetings at which Members of Congress participate to discuss issues); 1977-54 (funds contributed to

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campaign against Panama Canal treaty are not contributions despite Congressman's central role as chairman and chief spokesperson for the campaign); 1977-42 (no corporate contributions where candidate hosts radio interview programs funded by private sponsors).

Each of these opinions involve substantial participation by a Member of Congress in an issues program. Several of them also address circumstances where the Member acts as Chair of an event or program and plays a central role in its fundraising efforts. Moreover, in several cases the program or activity is centered in the Member's district where he or she is also a candidate for re-election. The Commission has ruled, in all of these circumstances, that so long as the activity does not involve "solicitations, making or acceptance of contributions to the candidate's campaign, or communications expressly advocating the nomination, election or defeat of any candidate" the activity is not covered under the FECA.

In Advisory Opinion 1992-5, involving facts analogous to those presented here, a Congressman appeared on a local television station in a series of public issue forums. No mention was made of the Congressman's campaign nor did the program display any promotional or solicitation materials. "The context of the program was strictly limited to issues before Congress or issues of relevance to the Congressman's district." On this basis, the Commission ruled that no "contributions" or "expenditures" were involved.

Similarly, in Advisory Opinion 1981-37, the Commission concluded that even though "it is possible that [a Congressman's] involvement in the public affairs program may indirectly benefit future campaigns, . . . the major purpose of the activity . . . would not be the nomination or election of you or any other candidate to Federal office." Thus, the expenses for the activity were not "contributions" or "expenditures" under the Act.

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DISCUSSION

1. The Entitlements Conference Did Not Constitute Express Advocacy

The Institute's conference constituted classic issue advocacy expressly protected under the First Amendment. The Complaint, as well as the circumstances surrounding the conference, provide no evidence to support a conclusion that the conference constituted regulated express advocacy of a candidate subject to the FECA.

A nonpartisan think tank in the business of sponsoring issue conferences organized the event. There was clearly no direct or indirect entreaty to participants vote for Congresswoman Margolies-Mezvinsky. The conference program and materials did not make any reference whatsoever to Congresswoman Margolies-Mezvinsky as a candidate or to her re-election. Exhibit 1. The fundraising solicitations were strictly seeking monies in support of the Institute's nonpartisan issue programs. Conference planners required that the conference be held isolated, not only from any Margolies-Mezvinsky Committee events, but any other political party events.

The Complaint cites Mr. McCord's statements that the entitlements project could "buttress Margolies-Mezvinsky's somewhat tenuous standing in her district" and that "much of the activity . . . would be centered in and around Congresswoman Margolies-Mezvinsky's district." A Member's concern with her "standing" with constituents does not itself create election-related activities subject to the FECA. Any such position is absurd. Members concerned about their "standing" hold town meetings, prepare frankable newsletters, increase their availability to news organizations for interviews and conduct many other similar activities. None of these justify application of FEC requirements. None constitutionally could do so.

In any court, mere speculation about the conference's potential impact on Congresswoman Margolies-Mezvinsky's political standing does not change the character of an issues conference to an election-influencing event. Any event could have an indirect influence on the campaign prospects of a candidate. The Commission has ruled that even if a program indirectly benefited a campaign, so long as it was not the

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major purpose of the activity, it would not constitute express advocacy. Advisory Opinion 1981-37.

The issues conference would not satisfy a single element of the test used in Furgatch:

- One Plausible Meaning: the message of the conference was unmistakably and unambiguously about the issue of entitlement programs, not about Congresswoman Margolies-Mezvinsky's election;
- Plea for Action: there was no plea for action related to an election; the conference was merely informative; and
- Clear What Action is Advocated: since there was no plea for action, this component could not be satisfied.

Even if the Commission, in accordance with the opinion in Furgatch, made limited "reference to external events," the express advocacy standard is not satisfied. Clearly, the timing of the conference indicates that it was not scheduled to influence the election. The conference was held one year before the election.

The location of the conference at Bryn Mawr College is also not an indicia of express advocacy. Complainant alleges that the only reason for having the conference in Pennsylvania, not Washington, D.C. or anywhere in the United States, was to benefit Congresswoman Margolies-Mezvinsky's electoral prospects. In fact, the reason for having it in her district was to involve precisely the people who need to join in the debate with a Congressman or Congresswoman over cutting the federal budget -- constituents.

2. **The Conference Falls Squarely within the Commission's Rulings on Issue Programs**

The Commission has consistently held that forums and similar issue programs that focus strictly on issues and do not advocate the election or defeat of a candidate or solicit campaign contributions, are not regulated under the FECA. The facts presented in this case are indistinguishable from those

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presented in the Commission's Advisory Opinions related to such programs.

Like the issue programs reviewed by the Commission, the Institute's entitlements conference was planned and executed solely for the purpose of fostering debate on public issues. As discussed above, no campaign related activities were conducted for Congresswoman Margolies-Mezvinsky at or even on the day of the conference. The Institute's solicitations for funds for the conference did not mention Congresswoman Margolies-Mezvinsky's campaign nor was there any request for campaign funds at the event. The solicitations were exclusively focused on raising money for the conference and any other related projects the Institute planned to sponsor. The promotional literature was exclusively "issue-oriented and devoid of campaign related material or content." See Advisory Opinion 1992-5; see also Exhibit 1.

Congresswoman Margolies-Mezvinsky's role assisting in the planning of the conference and her participation in the event is also consistent with the Commission's rulings on issue activities. In these cases, the fact that Representatives played central roles in the issue programs did not compromise their issue focus. See Advisory Opinions 1977-54 and 1978-15 (Congressmen as chairman of issues and fundraising campaign, respectively); 1977-42 (candidate acts as host of radio program).

Moreover, the fact that the conference was held in Congresswoman Margolies-Mezvinsky's district is also consistent with Commission rulings. See Advisory Opinions 1992-5; 1981-37; 1978-15; 1977-42. The fact that the issue-related events in which the Member of Congress participated occurred in his or her district was not -- and could not be -- determinative of express advocacy.

Finally, contrary to Complainant's allegations, the Institute's issue conference was not paid for by Committee funds. Congresswoman Margolies-Mezvinsky did not authorize her campaign funds to be used to plan or coordinate the conference. The Institute raised all of the funds used to organize the conference. That was the purpose of sending out the fundraising solicitations and appealing to prospective sponsors of the event. Again, contrary to Complainant's allegations, Mr. Smukler organized the conference as an independent consultant to the Institute. He had left the

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Margolies-Mezvinsky Congressional staff and formed a consulting firm, the Scismuk Group. The Institute paid Mr. Smukler for his services in coordinating the conference. See Exhibit 2.

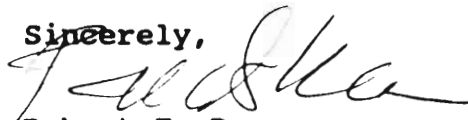
Where the Commission has ruled that an issue-related communication constitutes express advocacy, this conclusion has been largely based on the content and timing of the communication. In Advisory Opinion 1992-23, the Commission concluded that advertisements discussing Congressional pay, perquisites, travel and other House-related scandals as well as PAC contributions were express advocacy because they made specific reference to a candidate and the date of his election; they were run immediately before the election; and they were "similar" to the candidate's campaign commercials. Moreover, the advertisements included no request for action in connection with the issues addressed.

Here none of these factors are present. While Congresswoman Margolies-Mezvinsky initiated the idea of an entitlements conference, she was ultimately only one of many public officials participating in the conference. There was no imminent election. In fact, the election was almost one year away and the 1994 election was not mentioned at any point prior to or during the conference. Finally, the conference was organized for the very purpose of fostering continued public action and attention to a particular public policy issue.

CONCLUSION

As demonstrated above, the Complaint filed by the NRCC has no basis in law or in fact. Under both the court decisions and commission's own rulings, the Entitlements Conference constitute legitimate issue-related activity that is not regulated under the FECA. The Commission must dismiss this Complaint with no further action.

Sincerely,



Robert F. Bauer
B. Holly Schadler
Counsel to Respondents

BHS:dma

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**MEMO TO: POTENTIAL SUPPORTERS OF PROJECT ON THE
FUTURE OF ENTITLEMENTS**

**FROM: ROB MCCORD, DIRECTOR, CONGRESSIONAL INSTITUTE
FOR THE FUTURE**

**RE: BACKGROUND ABOUT ENTITLEMENT PROGRAMS AND
THE INSTITUTE'S FUTURE OF ENTITLEMENTS PROJECT**

EXECUTIVE DIRECTOR
Rob McCord

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WASHINGTON, D.C. 20024
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I. Project Goal

The Institute's Future of Entitlements Project is designed to push entitlement program reform into the media spotlight and onto the legislative agenda. The project aims to help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, Medicaid, farm support and federal, military, and civilian pensions.

II. Methods

The President of the United States will help kick off this ambitious project at a high profile national conference. Clearly, legislators concerned about the issues surrounding entitlement spending understand meaningful progress will involve substantial ground work. Distrusting interest groups, nervous individual voters, innovative experts, business leaders, and motivated legislators need to get together repeatedly — in collegial, non-threatening settings (unlike the ordinary Congressional hearing!) — to address entitlement issues and related economic trends and policy choices.

These individuals and groups will need briefing papers, personal briefings, budgeting forecasts, and other background materials. They will also need public opinion research and tailored outreach efforts to find out which proposals — among the many reasonable but difficult options — are actually politically feasible. The Institute designed its Future of Entitlement Project to meet these needs.

III. Need for Entitlement Program Reform

Any objective review of the Federal Budget suggests significant long-term Federal deficit reduction principally depends on the success of efforts to limit entitlement spending. Indeed, entitlement spending — currently at \$738 billion per year — now amounts to 49 percent of all federal expenditures. And the growth rate for entitlement programs is staggering; since 1964, spending on entitlements has risen steadily by an average of 12 percent each year.

Concerns about entitlement spending are tied both to the goal of increasing productivity *and* to the goal of reducing Federal deficits. Many analysts have pointed out the varying roles of public spending programs. In particular, they highlight differences between investment programs (which yield returns and increase the total wealth of society) and income transfer programs (which merely shift existing wealth). Most analysts concerned about long-term growth in U.S. productivity are urging policy makers to channel a higher portion of public revenues into productive investments. Unfortunately, few entitlement programs are even designed to be productivity enhancing investments. Instead they function as income transfer programs — sometimes taxing the less affluent to provide benefits to the relatively wealthy.

VI. Obstacles to Reform

Certainly, proposals to slow the growth of entitlement programs face steep political and technical hurdles. Efforts to reduce the growth rate of entitlement spending are

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often collectively perceived as a political "third rail:" step on it and you die! The largest entitlement programs are nearly sacred to many key American political constituencies. These programs include Social Security, Medicare, Medicaid, price supports for farmers, and federal, military, and civilian pensions.

As a technical budgeting matter, entitlement programs have enormous momentum. Unlike other programs in the Federal Budget, entitlement programs are not subject to specific Congressional review, authorization, and appropriation. Entitlement programs are instead put on "automatic pilot," with benefit formulas which are written into law and simply multiplied by the number of eligible recipients.

Ordinarily, these formulas include automatic inflation adjustment. Thus, entitlement spending has continued to grow both because of general inflation and because of specific growth in the number of people who qualify for particular entitlement programs. Yet many other vital public programs — such as those providing investments in public infrastructures, environmental protection efforts, defense, and education — have kept pace neither with inflation nor with population growth.

Proposals for curbs on entitlement spending usually face stiff resistance from well organized constituencies. Affluent voters often object to cuts in benefits which would flow to them. And many advocates for poor voters worry the consensus to provide any social insurance will disappear if entitlements cease to be generous to the middle class and the affluent. Further, many moderates worry voters will view entitlement reform as a "broken covenant," since some voters believe they have "prepaid" for all their entitlement benefits (even though this perception is, on

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average, inaccurate).

Given the political and fiscal momentum of entitlement programs, it is easy to see how and why the recently enacted \$496 billion five-year deficit package cut projected entitlement spending by only 2 percent.

V. Possibilities for Progress

Thus, both deficit reductions and productivity increases depend on efforts to reform entitlement programs. This suggests U.S. society — as a whole — has enormous interests in curbing the growth of entitlement spending. Yet there are many political and fiscal obstacles to entitlement reform. Will this general public interest compete successfully with the specific interests of groups which now handsomely benefit from rapid growth in federal entitlement programs? Will legislators take political risks to curb programs which benefit people who are unusually active in politics? Can political innovation lead policy makers to some broadly agreeable reforms?

Encouragingly, despite the obvious political risks, some Members of the House and Senate — including some who have traditionally championed growth in entitlement spending — used the budget debates to call for new constraints on entitlement programs. Indeed, some of the Democratic legislators who decided only at the last minute to support the proposed budget did so only with agreement that the current Administration would openly and rapidly take on the dangerous task of entitlement reform.

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Some controversial proposals are already undergoing quiet review. Possible reforms include reductions in the cost-of-living adjustments for more affluent retirees and mandates for retirees to pay a larger share of their health care costs. Others have suggested farm price supports should be limited, with consideration given to caps on the total revenues given to any one farm or family. And the Administration's own recent health care proposal calls for more than \$200 billion in cuts of projected spending for Medicare and Medicaid.

Political obstacles are also prompting Institute analysts to search for possible voluntary "win-win" approaches. Such approaches could, for example, allow seniors to exchange their social security cost-of-living adjustments (COLAs) for fuller long-term health care insurance. Seniors who pursued this option would be "spending" their COLAs to hedge their risks. Seniors would gain the option of procuring additional insurance, while the federal government — using appropriate actuarial calculus — would save money by increasing spending on a few seniors while reducing spending on many others.

Clearly, these and other options must be vigorously explored — and tested — in the public domain.

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DATE: December 13, 1993

LOCATION: Bryn Mawr College

FEATURED LEADERS: President Bill Clinton and
Congresswoman Marjorie Margolies-Mezvinsky

TENTATIVE AGENDA (8 a.m. — 5 p.m.):

- I. Overview Discussion.
- II. Panel Discussion on Retirement Programs.
- III. Luncheon with President Clinton.
- IV. Panel Discussion on Effects of Healthcare Reform on Entitlement Programs (to be moderated by President Clinton).
- V. Panel Discussion on Possible Reform of Programs for the Needy.

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Congressional Institute for the Future Entitlement Project Outline (First Year)

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- I. Coordinate conference scheduling, location, and choreography with White House, OMB, and other Executive Office Branches as well as Congressional leadership (from both parties) and selected groups and corporations.
- II. Provide advance work for conference discussions, meals, press coverage, and information services.
- III. Produce and publish briefings papers summarizing entitlements issues for conference participants and interested parties around U.S.A.
- IV. Provide literature search and prepare comprehensive binders for conference participants and other key players.
- V. Run conference and coordinate with White House, Secret Service, university staff, and others.
- VI. Provide early follow-up for conference. (e.g., mailing thank you letters and conference summaries and working with press).
- VII. Produce follow-up journal about conference and related issues and analysts comments.
- VIII. Write and publish a series of single-page briefing papers and talking-point cards on a variety of entitlement issues.
- IX. Organize DC-based conferences (with experts, competing national constituencies, Executive Branch leaders, and a bipartisan group of legislators) to discuss promising reform proposals.
- X. Provide summaries of follow-up conferences, the proposals discussed, and the areas of consensus and dissent.
- XI. Commission public opinion research to test ideas, arguments, and proposals, developed or highlighted during conference and related activities.
- XII. Test themes (which prove promising in public opinion research) with radio ads and follow up with further polling.

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Congressional Institute for the Future
PROJECTED BUDGET — ENTITLEMENT PROJECT COSTS
(First Year)

CONFERENCE:

A. Conference Travel

- Airline service @ \$1,000/person x 50	\$50,000
- Hotel accommodations @ \$150/night x 50	7,500
- Staff (metroliner and hotel)	<u>2,136</u>
Total Conference Travel - - - - -	\$59,636

B. Conference Meals

- Breakfast @ \$15/person x 300	\$4,500
- Lunch @ \$25/person x 300	7,500
- Dinner @ \$35/person x 300	<u>10,500</u>
Total Conference Meals - - - - -	\$22,500

C. Conference Printing and Mailing

- Conference binders	\$11,750
- Conference agenda	1,000
- Briefing papers	1,250
- Clip reprints	<u>500</u>
Total Conference Printing and Mailing - - - - -	\$14,500

D. Polling

- Staff compensation	\$13,000
- Commissioned work (one district survey and one national survey)	<u>50,000</u>
Total Polling - - - - -	\$63,000

E. Publications (before and after conference)

- Two 12-page journals (50,000 copies each)	\$45,000
- Eight Emerging Issues briefs and/or Forecast Critiques (50,000 copy distribution)	13,000
Total Publications - - - - -	\$58,000

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F. Video Crew and Editing

- Staff compensation	\$15,400	
- Commissioned work	<u>40,000</u>	
Total Video -----		\$55,400

G. Targeted Follow-up Mailings (approx. 2,000)

- Postage	\$ 800	
- Staff Compensation	<u>2,040</u>	
Total Targeted Follow-up Mailings -----		\$2,840

H. Staff Salaries for Conference and first year of Project

- 4 CIF staff f	\$37,200	
- 2 full-time staff equivalents	119,560	
Total Staff Costs -----		\$156,760

I. Additional briefings/meetings

- 2 informal, mealtime, DC-based conference-----		\$50,000
--	--	----------

J. Advertising

- Sample radio ad-----		\$40,000
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K. Other Conference Costs

- Equipment	\$1,000	
- Telephone and communication	500	
- Supplies	<u>400</u>	
Total Other Costs -----		\$1,900

TOTAL COSTS

\$524,536
=====

Recent Briefings sponsored by
the Congressional Institute for the Future

Speaker

Discussion led by

Environment and Global Issues

Mikhail Gorbachev, President, International Green Cross

Hon. Stephen L. Neal

Business and Economics

Peter Drucker, Clarke Professor of Social Science and Management, Claremont Graduate School
Austin Kiplinger, Chairman and President, The Kiplinger Washington Editors, Inc.
Robert Reich, U.S. Secretary of Labor
George Will, Political Commentator and syndicated Columnist, *The Washington Post*
Rosabeth Moss Kanter, Former Editor, *Harvard Business Review*

Hon. Hamilton Fish, Jr.
Hon. Tom Tauke
Hon. Jim Cooper
Senator John Heinz
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Dr. C. Everett Koop, Former U.S. Surgeon General
Dr. David Hamburg, President, Carnegie Corporation of New York
Alice Rivlin, Deputy Director, Office of Management and Budget
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Bill Lord, Vice President, ABC News
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Technology Displays and Briefings on Information Age Trends

Jim Dezell, Vice President and General Manager, IBM Educational Systems
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Briefings on Demographic and Emerging Public Opinion Trends

George Gallup, Jr., Cochairman, The Gallup Organization, Inc.
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Briefings on Urban Issues and Civil Rights Trends

Marian Wright Edelman, President, Children's Defense Fund
John Jacob, President and CEO, National Urban League, Inc.
Ellen Goodman, Journalist and Syndicated Columnist, *The Boston Globe*
William Julius Wilson, Author, *The Truly Disadvantaged*

Hon. Kweisi Mfume
Hon. Nancy Pelosi
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Senator Paul Simon

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The Future of Health Care: Can New Technologies Cut Costs?

Unconventional Volunteers: Strategies for the Future

Unconventional Cancer Treatments

Adolescent Health

Adolescent Violence: Long Term Public and Private Costs

Innovative Approaches to U.S. Manufacturing

Workplace and the Family: Competing Demands

Electromagnetic Fields

Energy Security: Alternatives to Oil

The Future of Volunteerism

Breast Cancer: Private Agony, Public Debate

Back Issue Newsletters

Mikhail Gorbachev, President of the International Green Cross, on Environmental Priorities of the 1990s

Walter Cronkite, Former CBS Newscaster, on the Future of the Press

Louis Harris, Louis Harris and Associates, Inc. Chairman, on Issues for the 1990s

John Jacob, National Urban League President, on the Future of Black America

C. Everett Koop, Former Surgeon General of the United States, on the Future of Health Care

Daniel Yankelovich, DYG Chair, on the Future of Public Opinion

Austin Kiplinger, The Kiplinger Washington Editors Inc. Chairman and President, on Economic Forecasts for the 1990s

George Gallup, the Gallup Organization, Inc. Cochair, on Social Change in the 1990's

Cathleen Black, American Newspaper Publishers Association President and CEO, on the Future of the Newspaper

Rosabeth Moss Kanter, Harvard Business Review Former Editor, on the Future of Corporations

Peter Drucker, Clarke Professor of Social Science and Management, on the New Realities

Back Issues

The Race and the Rewards (Biotechnology for Agriculture and Pharmaceuticals)

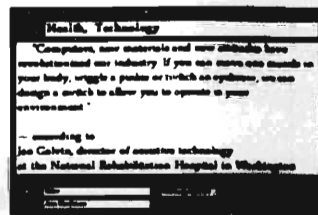
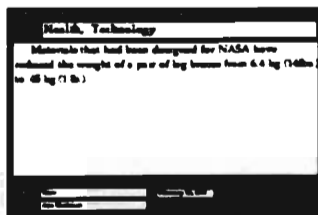
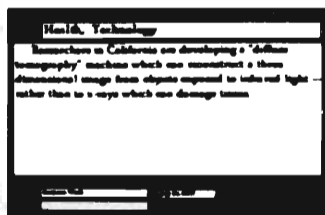
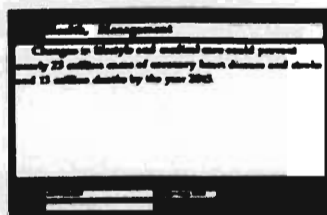
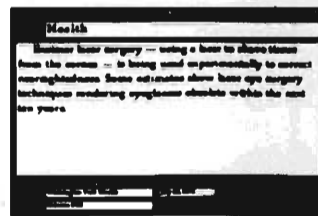
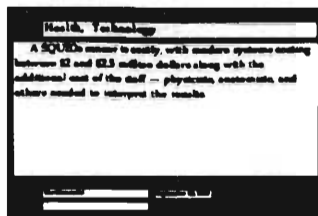
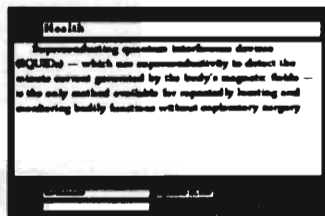
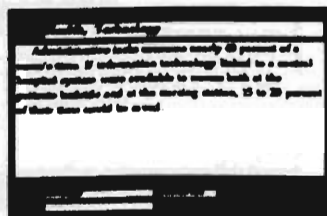
Global Environmental Issues with Mikhail Gorbachev

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Talking Point Card Service

The Talking Point Card Service is a hypercard-driven database that produces 5"x8" cards containing bullets of information. Whether you are searching for facts, statistics, metaphors, or summaries, the Talking Point Card service offers you useful speech-oriented information. Each card serves either as a final product or as a starting point for further research.

The Institute will include sets of talking point cards in its regular quarterly mailing. The Talking Point Card Service offers pithy information from a broad variety of sources. These cards provide statistics and arguments about emerging issues related to economics, demographics, and new technologies. The cards should help those who are building speeches around a vision of the future.



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TALKING POINT CONGRESSIONAL INSTITUTE FOR THE FUTURE

SUBJECT **Transportation/Infrastructure**

"A subway can carry 40,000 people per "lane" (track) per hour, while a highway handles just 2,000 people per hour.

On L.A.'s freeways during peak hours, drivers putter along at about 29 mph — a figure that is projected to drop to 17 mph by the year 2010."

SOURCE "L.A. Tries the Subway" May 1993

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Rob McCord

Rob McCord is Executive Director of the Congressional Institute for the Future, a bipartisan political think tank which focuses on the future implications of emerging trends, technologies, and policy decisions. The Institute was created at the recommendation of former Senators John Heinz (R-PA) and Al Gore (D-TN).

In his job, Mr. McCord works with more than 100 Members of the U.S. House and Senate and with leading policy makers from business and academia. On Capitol Hill, Mr. McCord has served as chief of staff, speechwriter, legislative analyst, and press secretary in a variety of Congressional offices and committees, and he has worked on legislation related to health care, taxation, immigration, and environmental protection.

Mr. McCord regularly offers commentary on television and radio shows, and he is a widely published writer. He also works with business and academic leaders in his capacity as a teacher, and as Director of the Business and Government Program at the University of Pennsylvania Wharton School. Mr. McCord has an M.B.A. from the Wharton School, and he earned his bachelor's degree with high honors from Harvard University.



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Executive Director



Rob McCord has addressed a wide variety of audiences, including those gathered by the:

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American Marketing Association
American Medical Association
American Paper Institute
American Petroleum Institute
American Public Welfare Association
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American Speech-Language-Hearing Association
Apple Computer, Inc.
Association of Management Consulting Firms (ACME)
AT&T
Arrowhead Regional Development Commission
Association for Investment Management & Research (AIMR)
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Blue Cross
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Business-Government Relations Council
California Law Enforcement Command College
Chicago Society for Association Executives
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C&P Telephone
Data Processing Management Association
Democratic Congressional Campaign Committee
Edison Electric Institute
Education Issues Forum (Satellite Consortium)
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IBM
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Institute for Representative Government
Institute for Social Justice
League of Women Voters
Long Island Forum for Technology
Long Term Care '88
Maine Development Foundation
Metropolitan Council
Michigan School Business Officers
Michigan Commission on Integrated Relations
Minnesota Bankers Association
Minnesota Hospital Association
Motorola Corporation

National Association of Housing and Redevelopment Officials
National Association of Physicians Recruiters
National Association of Women Business Owners
National College of Education
National Conference of Lieutenant Governors
National Conference of State Legislatures
National Emergency Training Center
National Governors Association
National Guard, Departments of the Army and the Air Force
National Institutes of Health
National Paper and Packaging Company
New Jersey Bureau of Research and Evaluation
Northeast Midwest Coalition
Northwest Michigan, Council of Governments
Northwestern University
NYNEX Meridian Systems
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Pacific Telesis
Pennsylvania Democratic Committee
Pennsylvania Department of Public Works
Pennsylvania State Education Association (PSEA)
Pharmaceutical Manufacturers Association
Philadelphia Center for the Aging
Presidential Management Program
President's Executive Exchange Association
Professional Insurance Mass Marketing Association
Public Affairs Council
Public Services Satellite Consortium
Regional Development Commission of Arrowhead Minnesota
Siemens Corporation
Southern Growth Policies Board
Southern Legislative Conference (SLC)
Stanford University
State Government of California
State Government of Minnesota
State of Oklahoma
State Government of Pennsylvania
State Government of Washington
Town of Bloomsburg, (PA)
Training Officers Program
Trinity College, Dublin
U.S. Department of Education
U.S. Department of Justice
United Community Services
United Way of America Urban Literacy Network
Utah Hospital Association
Voluntary Hospitals of America, Inc.
Washington State Institute for Public Policy
Wayne State University
Wharton School, University of Pennsylvania
Wisconsin Strategic Development Commission
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Women's Executive Club
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Memo Entitlements Project - Services rendered Oct-Dec 69

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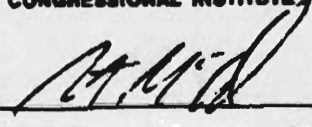
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Ken Smukler

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SCISMILK GROUP

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Bala Cynwyd, PA 19004
Telephone: 215/664-1161
Fax: 215/664-1160

February 10, 1994

Robert Bauer, Esq.
Managing Partner
Perkins Coie
607 14th Street, NW
Suite 800
Washington DC 20005

Dear Bob:

Please accept this letter as a response to your inquiries concerning the design and implementation of the Future of Entitlements Conference held at Bryn Mawr College on December 13, 1993.

The idea for a conference on federal entitlement spending came out of a discussion between Congresswoman Marjorie Margolies-Mezvinsky (MMM) and her staff on the evening of August 5, 1993. This discussion, at which I was present in my capacity as Policy Director, was in preparation for a conversation that MMM was to have with the President of the United States later that evening on the floor of the House of Representatives.

MMM raised the idea for such a conference with the President during this conversation and, at that time, requested his commitment to participate personally in such a conference as well as involve the highest levels of his administration in its design.

Following this discussion, and passage of the President's budget, MMM released a public statement briefly detailing her conversation as a request for the convening of a conference on entitlements outside of Washington in the fall of 1993. This conference was to include participants from the Cabinet as well as Congressional leadership.

In the weeks immediately following the vote, certain critical decisions concerning the conference were made:

(1) the conference would be the "kick-off" event for a multi-year project on federal entitlement spending;

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Page Two

(2) the conference would be hosted by Bryn Mawr College;

(3) both the conference and the on-going project would be sponsored by a bi-partisan, non-profit think tank based in Washington, DC called the Congressional Institute for the Future (CIF).

(4) the CIF would solicit private corporate contributions to defray the costs of both the conference and the on-going project. Such solicitations would be in conjunction with MMM and target corporations with a presence in Montgomery County.

On or around the October 1, 1993, CIF hired me, through the Scismuk Group, to consult on the design and implementation of the conference from October 1, 1993 through December 31, 1993.

All of the decisions concerning the sponsorship and participation in this conference were made with one goal in mind: to design a bi-partisan format for substantive policy discussions free from political partisanship.

This goal was achieved through the following:

- (1) participation of both Democrat and Republican panelists throughout the conference;
- (2) live gavel-to-gavel coverage on C-Span and the local Public Broadcasting Station (WHYY - Philadelphia);
- (3) the widespread editorial support which the conference received in its wake.

This empirical evidence should, I believe, be evidence alone to indicate that this conference was not, as MMM's political opponents have alleged, a political rally.

Indeed, the irony is that as a matter of purely political strategy, it is my opinion that nothing could have politically damaged MMM more than to conduct this conference in a partisan political manner.

If I can be of any further assistance to you in this matter, please do not hesitate to call.

Sincerely,



Ken Smukler
President

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LAW OFFICES

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(212) 338-0870

February 21, 1994

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

Re: MUR # 3852

Dear Mr. Noble:

This is in response to your letter of January 12, 1994 to Sun Company, Inc., ("Sun") which enclosed a copy of a complaint to the Commission from the National Republican Congressional Committee. That complaint alleged violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the principal campaign committee of Congresswoman Marjorie Margolies-Mezvinsky, "Friends of Marjorie Margolies-Mezvinsky"; the committee's treasurer; the Congressional Institute for the Future, an educational entity exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code; and the Institute's Executive Director.

As counsel to Sun in this matter, I think it important to note for the record that the complaint did not allege any violation of the Act by Sun.

In fact, the only reference to Sun appears in the materials appended to the complaint. It consisted of a single, brief factual reference in two newspaper articles reporting on a non-partisan public policy conference held by the Congressional Institute on the Future at Bryn Mawr College on December 13, 1993.

After a careful review of the facts surrounding its participation in the conference, as well as a review of the statute and relevant Advisory Opinions of the Commission, Sun believes that it did not violate any provision of the Act or of the Regulations of the Commission. Accordingly, Sun respectfully asks that this

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Lawrence Noble, Esq.
February 21, 1994
Page 2

complaint be dismissed and that no further action be taken against Sun Company, Inc. in MUR 3852.

Attached you will find a series of factual exhibits and sworn affidavits which will be specifically referred to throughout this response.

FACTS: On or about October 26, 1994, Sun received, through the mail, two unsolicited invitations from the Congressional Institute for the Future ("the Institute") to participate in a project and conference on the future of the entitlement programs of the federal government. One letter of invitation was signed by the Institute's Executive Director, Rob McCord, and the other was signed by Congresswoman Margolies-Mezvinsky. Both letters described the Institute as a tax-exempt, non-profit entity and indicated that the entitlements project and conference would be a bipartisan, educational undertaking (see Exhibit 1). This invitation was but one of the approximately twenty-five to thirty invitations of a substantially similar character which Sun receives from tax-exempt educational and charitable groups each year (see Affidavits B and C). For the most part, these invitations share a common purpose, to seek the participation of Sun as a financial sponsor for a specific, non-partisan public policy forum, meeting, project or program which will be undertaken by a tax-exempt group. As a company which has long prided itself on its historic commitment to corporate stewardship and philanthropy, Sun has agreed to participate in and sponsor a number of such endeavors in the recent past (see Exhibit 3).

The ultimate decision by Sun to accept any invitation of this type is based on a series of objective criteria. Important among these criteria are: (a) whether the group which seeks the company's sponsorship is a tax-exempt, educational or charitable entity; (b) whether the group had a previous relationship with the company in undertakings of this type; (c) whether the group is non-partisan or bipartisan in membership; (d) whether the proposed project or event may have a geographic relationship to either the State of Pennsylvania or the City of Philadelphia or its metropolitan region; and (e) whether the theme or purpose of the project or event suggests that it will be consistent with the corporate philosophy and general business interests of Sun (see Affidavit B). In any given year, the application of these objective criteria will eliminate the vast majority of the solicitations received by the company.

On first impression, the unsolicited invitations from the Congressional Institute for the Future appeared to meet most, if not all, of these criteria:

Lawrence Noble, Esq.
February 21, 1994
Page 3

•the letters from the Institute stated affirmatively that the group was a tax-exempt educational entity (see Exhibits 1 and 2);

•the letterhead listed a bipartisan group of Congressmen and Congresswomen who serve on the Institute's Advisory Board and its Board of Directors (see Exhibits 1 and 2) and one of its original founders, Senator John Heinz, R - Pa. had a long-standing relationship with Sun as the senior Senator from its home state;

•Sun executives, in the company's Washington office, believed that the Institute and Sun had a prior sponsorship relationship involving an event honoring the 20th anniversary of the Earth Day celebration in 1990 (see Affidavits A and B);

•the proposed event was to be held at Bryn Mawr College in a suburb of Philadelphia (see Exhibits 1 and 2); and

•the Chairman and Chief Executive Officer of Sun Company, Inc. had previously spoken out about the need for federal entitlement reform through opinion columns in major newspapers (see Exhibit 4) and in a meeting at the Aspen Institute.

Because the company's objective criteria were met in this instance, executives at Sun decided that the invitation had sufficient merit to warrant a follow-up meeting with the Executive Director of the Institute to discuss the proposal further.

In early November, 1993, a 45 minute meeting with Mr. Rob McCord was held at Sun headquarters in Philadelphia. In attendance were Mr. Joseph C. Swift, Vice President for Government Affairs and Communications and Thomas L. Wylie, Vice President for Government Relations (see Affidavits A and B). The purpose of the meeting was to establish the exact nature of the Bryn Mawr conference, the future of the Institute's multi-year project on entitlement reform, and the exact role to be played by Sun in the conference. At this meeting, Sun set forth its position that it preferred to participate as a corporate host for the conference rather than as a long-term corporate contributor to the Institute. This distinction was based on the location of the conference (Bryn Mawr College) and its specific policy focus (federal entitlement reform). Sun specifically told McCord that any participation by Sun must not be viewed by the public as either an endorsement of any particular entitlement reform proposal which might be offered at the conference or as support for or an endorsement of Congresswoman Margolies-Mezvinsky, in whose Congressional District the conference would be held (see Affidavits A and B). The

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Lawrence Noble, Esq.
February 21, 1994
Page 4

decision to hold the conference at Bryn Mawr College was explored. Sun executives gave their view that the site was both sufficiently neutral (not being associated with any political entity) and sufficiently prestigious to serve as the site for an appearance by the President on an issue of this type. Officials from Sun also informed McCord that, as a matter of internal policy, the company was not interested in being represented on any of the panels that would address the conference.

McCord stressed the bipartisan nature of the conference and stated that while President Clinton would be attending, so would former Senators Paul Tsongas (D - Mass.) and Warren B. Rudman (R - N.H.) founders of the Concord Coalition (whose policy focus has been entitlement reform), former Governor Tom Kean (R - N.J.), various members of the President's cabinet, and Senators Robert Kerry (D - Neb.) and John Danforth (R - Mo.), co-chairs of the Bipartisan Commission on Entitlement Reform. McCord also indicated that the conference would be covered by the C-SPAN television network.

At no time did McCord refer to the reelection campaign of the Congresswoman or imply that the conference was intended to benefit that reelection effort (see Affidavit A). At no time during this meeting did any official of Sun Company, Inc. have any discussion about either the Institute or the conference on entitlement reform with any person representing the Congresswoman's reelection committee (see Affidavit B).

After meeting with Mr. McCord, Messrs. Swift and Wylie concluded that, if sufficient financial resources could be found, a limited role as a corporate sponsor of the Bryn Mawr conference would make sense as a matter of corporate policy. They proposed to recommend sponsorship to the Chief Executive Officer of Sun Company, Inc., Mr. Robert H. Campbell, for a final determination. After receiving Mr. Campbell's formal approval, the Institute was notified that Sun would be a corporate sponsor. After the conference was held, a corporate sponsorship check was forwarded to the Institute with an attached transmittal letter setting forth the company's understanding about its role in the conference (see Exhibit 5). That transmittal letter reiterated the understandings previously discussed with Mr. McCord. In particular, the letter made clear that the company viewed its sponsorship of the conference as a non-partisan civic responsibility. The transmittal letter also asked the Institute to provide the company with a detailed quarterly accounting of all expenditures which utilized the funds donated by Sun for the entitlement reform conference (see Exhibit 5).

At the conference itself, which was attended by Mr. Campbell and other Sun executives, no campaign activities, fund

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Lawrence Noble, Esq.
February 21, 1994
Page 5

raising solicitations, or campaign signs or buttons supporting or opposing any federal candidate, including Congresswoman Margolies-Mezvinsky, were observed by company participants. In fact, Sun Company, Inc. participants are of the view that great efforts seem to have been made to encourage the bipartisan nature of the event, including the choice of panelists (see Exhibit 6), the use of materials on the role of entitlement spending on the federal deficit supplied by the Congressional Research Service of the Library of Congress (see Exhibit 7) as well as a Concord Coalition position paper on a "Zero Deficit Plan" for budgetary reform (see Exhibit 8). The CRS study and the Concord Coalition paper were provided to all conference attendees.

LAW: Over the years, the Federal Election Commission has had a number of opportunities to provide guidance to federal candidates and to the regulated community as to the circumstances under which corporate underwriting of a non-partisan or bipartisan public policy forum or program is permissible under the Act, notwithstanding the participation in the forum or program by a Member of Congress who has a principal campaign committee registered with the Commission. In such Advisory Opinions, the Commission has taken a very consistent approach in its determination to view such corporate underwriting of a public policy forum, sponsored by a non-profit/tax-exempt group, as neither a "contribution" nor an "expenditure", as those terms are defined at 2 U.S.C. 431(8) and (9), provided that two specific factual elements are absent from the facts underlying the corporate underwriting of the event in question, i.e., that (1) no campaign contributions for a federal candidate are solicited at the event and (2) no communication is made to attendees expressly advocating the election or defeat of any federal candidate.

This general rule was first adopted by the Federal Election Commission in Advisory Opinion 1978-4, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5293 (1978). The Commission determined that the general public sale of tickets (including, by implication, sales of tickets to corporate and labor union purchasers who would be specifically prohibited by the Act from making "contributions" or "expenditures" in connection with any federal election) by a non-profit, non-partisan host committee in connection with a banquet honoring a Member of Congress was not prohibited by the Act. Further, the Commission determined that the event would not be considered a campaign event "as long as (i) no political contributions are solicited, made, or received by any person in connection with the event and (ii) the event does not involve any communication addressed to the attendees as a group which expressly advocates Mr. Rhodes' nomination or election to Federal office or the defeat of any other Federal candidate." *Id.*

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Lawrence Noble, Esq.
February 21, 1994
Page 6

The reasoning established in AO 1978-4 has subsequently been specifically ratified by the Commission in AO 1977-54, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5301 (1978); AO 1978-15, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5404 (1978); AO 1978-19, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5312 (1978); AO 1980-16, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5474 (1980); AO 1980-22, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5479 (1980), whose factual predicate is nearly identical to that which is presented in the complaint at issue in MUR 3852; AO 1980-89, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5537 (1980); AO 1981-26, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5612 (1981); AO 1981-37, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5623 (1981), whose factual predicate is again nearly identical to that which is presented in the complaint at issue in MUR 3852; AO 1982-50, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5697 (1982); AO 1985-32, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5831 (1985); and AO 1986-37, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5875 (1986).

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In addition, the Commission's two-fold objective test for determining whether a corporate donation underwriting an event, involving a Member of Congress who is a candidate for reelection, constitutes a prohibited "contribution" or "expenditure" under the Act, as set forth in the Advisory Opinions cited above, was affirmed in Orloski v. Federal Election Commission, 795 F.2d 156 (D.C. Cir. 1986). That decision involved corporate donations of goods and services to help underwrite the costs of a picnic sponsored by the Lehigh Valley (Penna.) Senior Citizens Advisory Committee at which Congressman Don Ritter spoke about his commitment to Social Security. The United States Court of Appeals for the D.C. Circuit upheld the Commission's two-part, objective, "bright line" test for distinguishing between permissible and impermissible corporate donations. It found that an objective test "is required to coordinate the liabilities of donors and donees...[and] is necessary to enable donees and donors to easily conform their conduct to the law and to enable the FEC to take the rapid, decisive enforcement action that is called for in the highly-charged political arena" (Id. at 165). In dismissing the subjective standard advocated by Orloski, the Court also found that the Commission had consistently adhered to its interpretation and the application of an objective standard since 1977 and that the Congress, despite opportunity to do so, had not acted to amend the statute so as to alter the definition of a "contribution" and reverse those prior Commission interpretations which preceded Orloski.

CONCLUSION: At all times, from the initial receipt of the unsolicited funding request from the Congressional Institute for the Future, through the internal discussions within the company as to the likelihood of participating in the Bryn Mawr conference as a corporate underwriter, to the transmittal of the donation to

Lawrence Noble, Esq.
February 21, 1994
Page 8

contributions in support of the reelection of Congresswoman Margolies-Mezvinsky. As a consequence, neither of the twin prongs established by the Commission in Advisory Opinion 1978-4 to determine whether an public meeting or forum was a campaign event were present in this instance.

For the reasons set forth above, Sun Company, Inc., asks that the Commission determine that it has not violated any provision of the Federal Election Campaign Act, as amended, and that the Commission take no further action against Sun Company, Inc., with respect to MUR 3852. Sun Company, Inc. further requests that this matter, including this response and the attached affidavits and exhibits, continue to remain confidential, in accordance with 2 U.S.C. 437g(a)(4)(B) and 437g(a)(12)(A) and that it be notified in writing of the final disposition of MUR 3852.

Sincerely yours,

HOLLAND & KNIGHT



William B. Canfield III

MUR 3852

AFFIDAVITS

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that time, that Sun Company, Inc., and the Institute had a previous relationship, we decided to ask Rob McCord to meet with us about the details of the project and the conference.

5. At the meeting with Mr. McCord, we explained our view of our proposed participation and thoroughly explained that our company did not want its sponsorship of the conference to be misconstrued as either an endorsement for reelection of Congresswoman Margolies-Mezvinsky or any specific recommendations which might be agreed upon at the conference, but rather encouragement for bipartisan debate of deficit reduction issues, especially entitlements.

6. At no time did Mr. McCord mention the Congresswoman's reelection effort nor did he leave the impression that there was any connection between the Institute's conference and her reelection effort.

7. Once the staff concluded that it would make sense to underwrite some costs of the conference, a recommendation to participate in the event was made by the staff to Mr. Campbell.

8. In the exercise of his discretion and in the normal course of business, utilizing the internal corporate criteria which have been established for requests of this nature, Mr. Campbell authorized the participation of Sun Company, Inc., as a corporate host for the conference.

9. In transmitting our corporate check to the Institute, we attached a letter which set forth our understanding of the basis for our participation in the

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conference. This letter was explicit in its reiteration that the funds were not to be used for political or other purposes not permitted under federal election laws.

10. Had Sun Company, Inc., reason to believe that its participation with or corporate donation to the Institute might be used to assist a federal campaign, the request for participation would have been denied.

11. I hereby affirm, under penalties of perjury, that the foregoing is true to the best of my personal knowledge, information and belief.

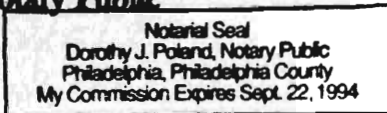
Sun Company, Inc.

By: Joseph C. Swift

Joseph C. Swift
Vice President for Government
Affairs and Communications

Subscribed and sworn to before me,
this 16th day of February, 1994.

Dorothy J. Poland
Notary Public



Member, Pennsylvania Association of Notaries

My Commission Expires: Sept. 22, 1994

year.

4. Because this invitation met our established corporate criteria for charitable funding requests and because we believed, at that time, that Sun Company, Inc., and the Institute had a previous relationship, we decided to ask Rob McCord to meet with us about the details of the project and the conference. After the conference concluded, we determined that our earlier belief that Sun Company, Inc., and the Institute had been participants in the twentieth anniversary celebration of Earth Day had been incorrect. However we also learned, after the completion of the conference, that Sun Company, Inc. had been approached by the Institute in 1986, through its co-founder Senator John Heinz, to participate, as a sponsor, in an adult literacy project then being undertaken by the Institute.

5. At the meeting with Mr. McCord, we discussed the Institute's proposed multi-year project on entitlement reform and the structure of the Bryn Mawr conference. We also carefully explained that our company did not want its sponsorship of the conference to be misconstrued as either an endorsement of either Congresswoman Margolies-Mezvinsky or of any specific policy recommendation or deficit reduction proposal that might be agreed upon at the conference.

6. At no time did Mr. McCord mention the Congresswoman's reelection effort nor did he leave the impression that there was

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any connection between the Institute's conference or the reelection effort.

7. Once a decision was made that sufficient funds could be made available to underwrite some costs of the conference, a recommendation to participate in the event was made by the staff to our Chairman and Chief Executive Officer, Robert H. Campbell.

8. In the exercise of his discretion and in the normal course of business, utilizing the internal corporate criteria which have been established for requests of this nature, Mr. Campbell authorized the participation of Sun Company, Inc., as a corporate host for the conference.


9. In transmitting our corporate check to the Institute, we attached a letter which set forth our understanding of the basis for our participation in the conference. This letter was explicit in its reiteration that our participation could not be construed as either an endorsement for any recommendation which might result from the conference or for any candidate or political philosophy.

10. Had Sun Company, Inc., reason to believe that its participation with or corporate donation to the Institute might be used to assist a federal campaign, the request for participation would have been denied.

11. I hereby affirm, under penalties of perjury, that the


foregoing is true to the best of my personal knowledge, information and belief.

Sun Company, Inc.

By: 

Thomas L. Wylie
Vice President, Government Relations

Subscribed and sworn to before me,
this 14th day of February, 1994.


Notary Public

My Commission Expires: My Commission Expires January 1, 1996

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criteria for charitable funding requests and because we believed, at that time, that Sun Company, Inc., and the Institute had a previous relationship, we decided to ask Rob McCord to meet with us about the details of the project and the conference.

5. At no time in my conversations with Mr. McCord concerning the conference, did Mr. McCord mention the Congresswoman's reelection effort to me nor did he leave the impression that there was any connection between the Institute's conference and the Congresswoman's reelection effort.

6. After this meeting and following further internal discussions, a recommendation to participate as a corporate host of the event was made to our Chief Executive Officer, Robert H. Campbell.

7. In the exercise of his discretion and in the normal course of business, utilizing the internal corporate criteria which have been established for requests of this nature, Mr. Campbell authorized the participation of Sun Company, Inc., as a corporate host for the conference.

8. In transmitting our corporate sponsorship check to the Institute, a letter was included which set forth our specific and detailed understanding of the basis for our participation in the conference. This letter was explicit in its reiteration that our participation could not be construed as either an endorsement for any policy recommendations which might result from the conference or for any candidate or political philosophy.

9. Had Sun Company, Inc., reason to believe that its

participation with or corporate donation to the Institute might be used for a federal election purpose, the request for participation would have been denied.

10. I hereby affirm, under penalties of perjury, that the foregoing is true to the best of my personal knowledge, information and belief.

Sun Company, Inc.
By: *Albert B. Knoll*

Albert B. Knoll
Senior Legislative Representative

*State of Maryland:
County of Baltimore*

Subscribed and sworn to before me,
this 21st day of February, 1994.

Robert L. L...
Notary Public

My Commission Expires: *Sept 1, 1997*

4043593240

MUR 3852

EXHIBITS

2 4 0 4 3 5 9 3 2 4 1

INSTITUTE

October 29, 1993

11/11

FOR THE FUTURE

TLW/ASK (by FAX) ^{3 pages} 11/13

What do you think?

Jac

Please return.

11/13/93

Robert H. Campbell
Chairman, CEO and President
Sun Company Inc.
1801 Market Street
10 Penn Center
Philadelphia, PA 19103

Dear Bob,

You have been a great friend, and I am writing today with hopes that I can involve you and Sun Company, Inc. in a project of absolutely vital interest to me. As you may know, I am working with the nonprofit Congressional Institute for the Future to develop a national project on the future of entitlements programs. I will kickoff this project with a conference featuring President Clinton on December 13, 1993, at Bryn Mawr College.

Certainly, no issues are more tightly related to federal deficits and the future economic health of our country than those which surround policy choices concerning entitlement spending. I believe the project we are planning will help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, and Medicaid, farm support and so on. Your help with this effort would prove invaluable.

Rob McCord— Executive Director of the nonprofit 501(c)(3) Congressional Institute for the Future — will be sending you information about our plans for a bipartisan, educational project. I hope you and your colleagues at Sun Company, Inc. will choose to get deeply involved. Of course, I also hope you will call on me and Rob when you have particular questions and ideas.

Again, thank you for your interest.

Yours with appreciation,

Marjorie Margolies-Mezvinsky

Marjorie Margolies-Mezvinsky
MEMBER OF CONGRESS

THE WASHINGTON OFFICE CENTER
409 THIRD STREET, S.W., SUITE 204
WASHINGTON, D.C. 20024
TEL (202) 863-1700 FAX (202) 479-9447

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EXECUTIVE DIRECTOR

Rob McCord

October 29, 1993

FOR THE FUTURE

Robert H. Campbell
 Chairman, CEO and President
 Sun Company Inc.
 1801 Market Street
 10 Penn Center
 Philadelphia, PA 19103

Dear Mr. Campbell,

U.S. Representative Marjorie Margolies-Mezvinsky strongly recommended I write to you. The Congressional Institute for the Future is working with Congresswoman Margolies-Mezvinsky — at a *rapid* pace — to develop a project on the future of entitlements spending, and we are eager to get you and your colleagues at Sun to support this project and the conference which will be the project's important first task.

The Institute has helped Congresswoman Margolies-Mezvinsky craft constructive ideas for the conference about the future of entitlements spending (on December 13th at Bryn Mawr College in Pennsylvania). Marjorie will also lead related preceding and follow-up efforts. This conference will involve participation by the President, Cabinet officers, leading Members of Congress, and some key private sector leaders. As a result, the conference should attract important attention, and we will provide substantial follow-up work, including additional briefings, publications, polling, and sessions with competing interest groups.

Of course, fundraising needs for the Institute's Future of Entitlements Project are particularly acute because we will host a conference involving the President of the United States in a matter of weeks (it took months to secure a date from the White House). Our strategy is to approach a few key players who could come through for Marjorie and the other legislators who care about entitlement issues rapidly and substantially. The Institute is asking these key players — like you — to provide \$50,000 of support for the Future of Entitlements Project.

The supporters who provide this urgently needed "early money" will certainly be involved in the conceptional and tactical architecture for the project. In addition to helping us find helpful private sector, academic, and political leaders to involve in the project, we would assure that these supporters have an opportunity to play a high profile role in the kickoff conference.

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EXECUTIVE DIRECTOR

Bob McCord

Our plan is to build the daylong conference around a total of three panel discussions — addressing issues related to retirement policy, health care, and welfare reform respectively. We are planning to give supporters the opportunity to participate directly in a panel discussion during the conference. We can, of course, discuss details regarding the conference and specifics of Sun's involvement.

The Congressional Institute for the Future is a bipartisan 501(c)(3) educational organization which was founded by legislators, including former Senators Al Gore and John Heinz, to help Members of Congress consider the long term implications of current policy choices and emerging economic, technological, and demographic trends. The Institute has enjoyed a broad variety of successes — addressing issues and forecasts surrounding environmental protection, education, communications policy, technology assessment, and energy policy among others. Enclosed for your review are some background materials about the Institute as well as materials outlining our Future of Entitlements Project.

In the right-hand panel of the enclosed folder, please find an outline of the tasks we expect the Entitlements Project to perform during its first year of operation. Also enclosed for your review is the projected budget for the conference and the first year of the project. This budget outlines our plans as well as our fiscal expectations. In addition, I am enclosing a background memo about the project and the importance of entitlement spending issues. Thus, the enclosed materials outline the Institute's background and its specific plans for our Future of Entitlements Project as well as more general substantive background on the issues we plan to address.

Obviously, timely support is absolutely essential. I will contact Albert B. Knoll here in DC to follow up as quickly as possible. Of course, I hope you and your staff will call me if you have any questions, and I hope to have the honor of working with you.

Thank you very much for your consideration.

Sincerely,



Rob McCord
Executive Director

Enclosures

cc: Albert B. Knoll

SUPPORT TO PUBLIC POLICY ORGS., 1983 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.
TAX FOUNDATION, INC. (PUBLIC POLICY)	WASHINGTON	DC 1993 OPERATING	93	5000.00
#				
VOTE AMERICA FOUNDATION (WASHINGTON)	WASHINGTON	DC OPERATING SUPPORT	88	5000.00
		OPERATING SUPPORT	90	5000.00
		1991 OPERATING SUPPORT	91	5000.00
		92 OPERATING SUPPORT	92	5000.00
#				
WOMEN EXECUTIVES IN STATE GOVERNMENT	WASHINGTON	DC GENERAL OPERATING SUPPORT	84	2000.00
		CORPORATE CONTRIBUTORSHIP	85	7500.00
		RECEPTION FOR PA.WESB	86	1500.00
		OPERATING GRANT	86	3000.00
		GENERAL OPERATING	87	5000.00
		1988 GENERAL SUPPORT	88	3000.00
#				
56Z LEAGUE: PHILA. WOMEN'S POLITICAL COALITION	PHILADELPHIA	PA OCT. 10 - 56Z RALLY	91	5000.00
#				

4043593245

SUPPORT TO PUBLIC POLICY ORGS., 1983 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.
PRIVATE SECTOR COUNCIL	WASHINGTON	DC GENERAL OPERATING SUPPORT	84	2000.00
PROJECT FOR COMPREHENSIVE CAMPAIGN REFORM, INC. (PUB.PD)	WASHINGTON	DC CAMPAIGN REFORM STUDY	89	1000.00
PUBLIC AFFAIRS COUNCIL (PUBLIC POLICY)	WASHINGTON	DC GRASSROOTS TRAINING FILM 5/24/89 RECEPTION	88 89	2000.00 1500.00
PUBLIC POLICY EDUCATION FUND	GROVE CITY	PA GENERAL OPERATING SUPPORT GENERAL OPERATING SUPPORT OPERATING GRANT	83 84 85	1000.00 1000.00 1000.00
RISK AND DECISION PROCESSES CENTER (PUBLIC POLICY/U OF	PHILADELPHIA	PA CORP. ASSOC. MEMBERSHIP	92	3500.00
STATE LEGISLATIVE LEADERS FOUNDATION (PUBLIC POLICY)	CENTERVILLE	VA SEMINAR AT BOSTON U. GENERAL OPERATING SUPPORT SPONSOR OF LAMP PROGRAM OPERATING SUPPORT OPERATING SUPPORT OPERATING SUPPORT OPERATING 1990 MEMBERSHIP 1991 MEMBERSHIP 1992 MEMBERSHIP LEG. HANDBK. AD (NY RING) 1993 MEMBERSHIP	83 84 85 85 86 87 88 89 90 91 91 92	5000.00 5000.00 5000.00 5000.00 5000.00 7500.00 7500.00 7500.00 7500.00 15000.00 1500.00 6000.00
TAX FOUNDATION, INC. (PUBLIC POLICY)	WASHINGTON	DC GENERAL OPERATING GENERAL OPERATING SUPPORT OPERATING GRANT OPERATING SUPPORT OPERATING SUPPORT LUNCHEON SPONSORSHIP 1988 OPERATING 1989 OPERATING 1990 OPERATING 1991 OPERATING 1992 OPERATING	83 84 85 86 87 87 88 89 90 91 92	12000.00 12000.00 12000.00 8500.00 7500.00 750.00 7500.00 7500.00 7500.00 7500.00 5000.00

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ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.
NATIONAL CHAMBER FOUNDATION (PUBLIC POLICY)	WASHINGTON	DC STUDY: COST OF FED. RECS.	92	1000.00
NATIONAL CHAMBER LITIGATION CENTER (PUBLIC POLICY)	WASHINGTON	DC 1991 MEMBERSHIP	90	2500.00
NATIONAL LEGAL CENTER FOR THE PUBLIC INTEREST	WASHINGTON	DC GENERAL OPERATING SUPPORT	83	2000.00
		GENERAL OPERATING	84	2000.00
		OPERATING SUPPORT	85	2000.00
NATIONAL RESEARCH COUNCIL (PUBLIC POLICY)	WASHINGTON	DC ACADEMY INDUSTRY PROGRAM	83	15000.00
		ACADEMY INDUSTRY PROGRAM	84	15000.00
		ACADEMY INDUSTRY PROGRAMS	85	25000.00
		ACADEMY INDUSTRY PROGRAM	86	20000.00
		ACADEMY INDUSTRY PROGRAM	87	20000.00
		ACADEMY INDUSTRY PROGRAM	88	20000.00
NATIONAL WOMEN'S POLITICAL CAUCUS	WASHINGTON	DC NPWC CONVENTION	93	500.00
NEW ENGLAND LEGAL FOUNDATION	BOSTON	MA OPERATING SUPPORT	85	1000.00
PACIFIC INSTITUTE FOR PUBLIC POLICY RESEARCH	SAN FRANCISCO	CA GENERAL OPERATING SUPPORT	83	3000.00
PENNSYLVANIA CIVIL JUSTICE COALITION (PUBLIC POLICY)	HARRISBURG	PA OPERATING SUPPORT	89	8000.00
PENNSYLVANIA ECONOMY LEAGUE (PUBLIC POLICY)	PHILADELPHIA	PA MEMBERSHIP	89	22000.00
		MEMBERSHIP	90	22000.00
		1991 MEMBERSHIP	91	22000.00
		1992 MEMBERSHIP	92	16500.00
		NOVEMBER 18 DINNER	93	639.00
		NOVEMBER 18 DINNER	93	323.00
		NOVEMBER 18 DINNER	93	6000.00
PENNSYLVANIA LEGISLATIVE BLACK CAUCUS	HARRISBURG	PA 1988 CONFERENCE	88	1500.00

4043593247

SUPPORT TO PUBLIC POLICY ORGS., 1983 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. FD.	AMT. PD.
LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA	HARRISBURG	PA LEGISLATIVE INFO. CENTER	83	5000.00
		MUNICIPAL/JUDICIAL ELECTN	85	2000.00
		11/90 DINNER	90	1500.00
		1990 GUBERNATORIAL DEBATE	90	5000.00
		10/91 TRIBUTE DINNER	91	1500.00
		TRIBUTE DINNER, 10/28/92	92	3500.00
		TRIBUTE DINNER, 10/28	93	550.00
		TRIBUTE DINNER, 10/28	93	3000.00
		TRIBUTE DINNER, 10/28	93	2500.00
		10/28 TRIBUTE DINNER	93	1800.00
LEAGUE OF WOMEN VOTERS OF PHILADELPHIA	PHILADELPHIA	PA IN-HOUSE PRINTNG/DIRECTORY	89	0.00
		IN-HOUSE PRINTING	91	0.00
LEAGUE OF WOMEN VOTERS-RADNOR TWP.ED.FD.	RADNOR	PA RADNOR TWP GUIDEBOOK	90	1500.00
LINCOLN INSTITUTE FOR RESEARCH & EDUCATION	WASHINGTON	DC GENERAL OPERATING SUPPORT	83	5000.00
MANHATTAN INSTITUTE FOR POLICY RESEARCH (PUBLIC POLIC	NEW YORK	NY GENERAL	83	2000.00
		PUBLICATION OF REPORT	84	5000.00
		OPERATING GRANT	85	2000.00
		OPERATING SUPPORT	86	1800.00
		OPERATING SUPPORT	87	1000.00
		OPERATING SUPPORT	88	1000.00
		JUDICIAL STUDIES PROCH	89	1000.00
JUDICIAL STUDIES PROGRAM	90	1000.00		
NATIONAL CENTER FOR LEGISLATIVE RESEARCH	WASHINGTON	DC MAG. PUBLISHING SUPPORT	83	10000.00
		RESEARCH PUBLICATIONS	84	10000.00
NATIONAL CENTER FOR POLICY ANALYSIS (PUBLIC POLICY)	DALLAS	TX 1992 OPERATING SUPPORT	92	1000.00
NATIONAL CENTER FOR PUBLIC POLICY RESEARCH	WASHINGTON	DC OPERATING SUPPORT	84	5000.00

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SUPPORT TO PUBLIC POLICY ORGS., 1903 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.	
FRIEND'S COMMITTEE	WASHINGTON	DC BLACK CAUCUS EDUC. PROG.	87	2500.00	
GENERAL FEDERATION OF WOMEN'S CLUBS (NATIONAL)	WASHINGTON	DC LEADERSHIP DEVLPTSEMINARS	84	5000.00	
GREATER PHILADELPHIA CHAMBER OF COMMERCE	PHILADELPHIA	PA MGMT & PRODUCTIVITY PROGM	92	5000.00	
HARVARD UNIVERSITY	CAMBRIDGE	MA JFK SCH OF GOV'T	90	25000.00	
		JFK SCH OF GOV'T	90	25000.00	
		JFK SCH OF GOV'T	91	25000.00	
HASTINGS CENTER	PRINCETON	NJ GENERAL OPERATING	83	5000.00	
		GENERAL OPERATING SUPPORT	84	5000.00	
		OPERATING SUPPORT	85	5000.00	
HERITAGE FOUNDATION	(WASHINGTON)	WASHINGTON	DC GENERAL OPERATING	83	25000.00
			OPERATING GRANT	84	25000.00
			OPERATING SUPPORT	85	30000.00
			OPERATING SUPPORT	86	15000.00
			OPERATING SUPPORT	87	10000.00
			1990 OPERATING SUPPORT	90	1000.00
			1991 OPERATING SUPPORT	91	1000.00
			92 OPERATING SUPPORT	92	1000.00
			1993 OPERATING SUPPORT	93	1000.00
INSTITUTE FOR CIVIL JUSTICE	SANTA MONICA	CA OPERATING SUPPORT	86	2000.00	
JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES	WASHINGTON	DC MEMBERSHIP/BUS.RESOURCE	85	1500.00	
		GENERAL OPERATING '86	86	1500.00	
		'89 GENERAL OPERATING	89	1500.00	
		AD SPACE, 4/9/91 DINNER	91	1000.00	
		'92 OPERATING SUPPORT	92	1000.00	
		1993-94 OPERATING SUPPORT	93	1000.00	
LEAGUE OF WOMEN VOTERS EDUCATION FUND	WASHINGTON	DC VICE PRESIDENTIAL DEBATES	84	25000.00	

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SUPPORT TO PUBLIC POLICY ORGS., 1983 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.
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COUNCIL OF BETTER BUSINESS BUREAUS	ARLINGTON	VA GENERAL SUPPORT	83	5000.00
		GENERAL OPERATING SUPPORT	84	5000.00
		CORPORATE MEMBERSHIP	85	5000.00
		MEMBERSHIP SUPPORT	86	2500.00
		OPERATING SUPPORT	87	1000.00
		1988 MEMBERSHIP	88	1000.00
				#
COUNCIL OF STATE GOVERNMENTS	LEXINGTON	KY CORPORATE ASSOCIATES	92	3000.00
		CORPORATE ASSOCIATES	93	3000.00
				#
EMORY UNIVERSITY	ATLANTA	GA LAW & ECONOMICS CENTER	83	10000.00
		LAW & ECONOMICS CENTER	84	10000.00
		LAW & ECONOMICS CENTER	85	10000.00
				#
EMPIRE STATE REPORT	NEW YORK	NY 4/29/91 ALBANY FORUM	91	2500.00
				#
EMPLOYEE BENEFIT RESEARCH INSTITUTE	WASHINGTON	DC GENERAL OPERATING SUPPORT	83	10000.00
		ERISA LOH ANNUAL CONF.	84	6000.00
		OPERATING GRANT	84	10000.00
		EMPLOYEE BENEFIT MODELS	88	2000.00
				#
FOUNDATION FOR PRESIDENT'S PRIVATE SECTOR COST CONTROL	WASHINGTON	DC GENERAL OPERATING SUPPORT	84	7500.00
				#
FOUNDATION FOR PUBLIC AFFAIRS (PUBLIC POLICY)	WASHINGTON	DC GENERAL OPERATING SUPPORT	83	1500.00
		GENERAL OPERATING SUPPORT	84	1500.00
		OPERATING SUPPORT	85	1500.00
		OPERATING SUPPORT	86	1000.00
		OPERATING SUPPORT	87	1000.00
		OPERATING	88	1000.00
		OPERATING	89	1500.00
		OPERATING SUPPORT	90	1500.00
		'91 OPERATING SUPPORT	91	1500.00
		1992 MEMBERSHIP	92	1000.00
		1993 MEMBERSHIP	93	1000.00
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SUPPORT TO PUBLIC POLICY GRGS., 1983 TO DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PB.	AMT. PB.
CENTER FOR THE AMERICAN WOMAN & POLITICS	NEW BRUNSWICK	NJ 1983 FORUM	83	1000.00
CITIZENS' RESEARCH FOUNDATION (PUBLIC POLICY)	LOS ANGELES	CA GENERAL OPERATING SUPPORT	84	1000.00
		GENERAL OPERATING SUPPORT	85	1000.00
		OPERATING	87	1000.00
		OPERATING SUPPORT	88	1000.00
		'92 OPERATING SUPPORT	92	500.00
CITIZENSHIP EDUCATION FUND, INC.	PHILADELPHIA	PA BENEFIT CONCERT	85	250.00
COLUMBIA INSTITUTE	SEATTLE	WA CONFERENCE PARTICIPATION	87	2000.00
COMMITTEE FOR RESPONSIBLE FEDERAL BUDGET	WASHINGTON	DC GENERAL OPERATING SUPPORT	83	10000.00
COMMONWEALTH FDN.FOR PUBLIC POLICY ALTERNATIVES (PUB.PO	HARRISBURG	PA FOUNDRING MEMBER-88 & 89	88	5000.00
		FOUNDRING MEMBER-88 & 89	89	5000.00
		1990 MEMBERSHIP	90	5000.00
		1991 MEMBERSHIP	91	5000.00
		1993 MEMBERSHIP	93	5000.00
CONGRESSIONAL BLACK CAUCUS FOUNDATION	WASHINGTON	DC 9/16/89 AWARDS DINNER	89	5000.00
		9/16/89 PRAYER BREAKFAST	89	250.00
		'90 DINNER/PRYR. B'FAST	90	5350.00
		SPECIAL PROJECT	92	1000.00
CONGRESSIONAL MANAGEMENT FOUNDATION (WASHINGTON)	WASHINGTON	DC ORIENTATION PROGRAM	84	5000.00
		ORIENTATION PROGRAM	86	5000.00
		ORIENTATION TRAINING	87	2500.00
		8/1/89 RECEPTION	89	500.00
		1992 CORP. MEMBERSHIP	91	5000.00
		1993 MEMBERSHIP	93	1000.00
CONSUMER FEDERATION OF AMERICA	WASHINGTON	DC DIALOGUE SESSION	87	1414.00

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ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.		
ASPEN INSTITUTE	QUEENSTOWN	FUND FOR GOVERNANCE ASPEN MEADOWS CAMPAIGN	84	50000.00		
			93	10000.00		
#						
BETHUNE-BUBOIS FUND, INC.	WASHINGTON	THIRD ANNUAL DINNER POST-PAYMENT, '87 DINNER	88	300.00		
			88	600.00		
#						
BROOKINGS INSTITUTE	(PUBLIC POLICY)	WASHINGTON	DC	GENERAL OPERATING SUPPORT	83	10000.00
				GENERAL OPERATING SUPPORT	84	10000.00
				GENERAL OPERATING SUPPORT	85	10000.00
				OPERATING SUPPORT	86	7000.00
				OPERATING SUPPORT	87	5000.00
				OPERATING SUPPORT	88	7500.00
				OPERATING SUPPORT	89	6000.00
				OPERATING SUPPORT	90	6000.00
				OPERATING SUPPORT	91	6000.00
#						
BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS	WASHINGTON	DC	1985 DUES	84	1000.00	
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BUSINESS COUNCIL ON THE REDUCTION OF PAPERWORK	WASHINGTON	DC	1992 MEMBERSHIP	92	1000.00	
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CAPITAL LEGAL FOUNDATION	WASHINGTON	DC	GENERAL OPERATING SUPPORT	83	3000.00	
			GENERAL OPERATING SUPPORT	84	5000.00	
			OPERATING SUPPORT	85	5000.00	
#						
CATO INSTITUTE	(PUBLIC POLICY)	WASHINGTON	DC	OPERATING SUPPORT	86	1000.00
				OPERATING SUPPORT	87	2000.00
				10TH ANNIVERSARY BANQUET	87	500.00
				OPERATING SUPPORT	89	1000.00
				OPERATING SUPPORT (1990)	91	1000.00
				'91 OPERATING SUPPORT	91	1000.00
				'92 OPERATING SUPPORT	92	1000.00
				'93 OPERATING SUPPORT	93	1000.00
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CENTER FOR MANAGEMENT DEVELOPMENT & ORGANIZATION RESEAR	NEW YORK	NY	BUSINESS & PUBLIC POLICY	86	1000.00	
			BUSINESS & PUBLIC POLICY	87	1000.00	
			BUS./P.POL. RESEARCH PROG	88	1000.00	

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SUPPORT TO PUBLIC POLICY ORGS., 1983 YR DATE

ORGANIZATION	LOCATION	PURPOSE	YR. PD.	AMT. PD.
ADVERTISING COUNCIL, INC.	NEW YORK	NY GENERAL OPERATING	83	3000.00
		GENERAL OPERATING SUPPORT	84	3000.00
		GENERAL OPERATING SUPPORT	85	3000.00
		OPERATING SUPPORT	86	3000.00
		AD CAMPAIGN	87	1500.00
		AD CAMPAIGN 1988	88	1000.00
		1989 PSA CAMPAIGN	89	1000.00
		1990 PSA CAMPAIGN	90	1000.00
		1991 AD CAMPAIGN	91	1000.00
		92 AD CAMPAIGN	92	1000.00
'93 AD CAMPAIGN	93	1000.00		
*				
AMERICAN ENTERPRISE INSTITUTE (PUBLIC POLICY)	WASHINGTON	DC GENERAL OPERATING SUPPORT	84	20000.00
		OPERATING SUPPORT	85	25000.00
		OPERATING SUPPORT	86	15000.00
		1987 SUPPORT	87	10000.00
		1988 OPERATING SUPPORT	88	12500.00
		1989 OPERATING SUPPORT	89	10000.00
		1990 OPERATING SUPPORT	90	5000.00
		ANNUAL DINNER & LECTURE	90	3000.00
		1991 OPERATING SUPPORT	91	5000.00
		ANNUAL DINNER	91	3000.00
		1992 OPERATING SUPPORT	92	3500.00
		1993 OPERATING SUPPORT	93	3500.00
		ANNUAL DINNER	93	3000.00
		*		
AMERICAN LEGISLATIVE EXCHANGE COUNCIL	WASHINGTON	DC GENERAL OPERATING OPERATING SUPPORT	83 85	5000.00 5000.00
*				
AMERICAN SOCIETY FOR TESTING AND MATERIALS	PHILADELPHIA	PA D-16 ANNIV. CONTRIBUTION	93	1000.00
*				
AMERICAN SPECTATOR EDUCATIONAL FOUNDATION, INC.	BLOOMINGTON	IN PUBLICATION SUPPORT	83	2000.00
		PUBLICATION GRANT	84	2000.00
		PUBLICATION SUPPORT	85	2000.00
*				
AMERICANS FOR CONSTITUTIONAL ACTION RESEARCH INST. (WAS	WASHINGTON	DC OPERATING	89	500.00
*				
ASPEN INSTITUTE	QUEENSTOWN	MD FUND FOR GOVERNANCE	83	50000.00
		SYMPOSIUM ON ACID RAIN	84	10000.00

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The Philadelphia Inquirer

LETTERS

7/11/93

Sun Oil chief says give Clinton credit

It was Mark Twain who said, "Why put off until tomorrow that which you can put off until the day after tomorrow?"

He said it in jest, but the continuing debate in Washington over the budget indicates that some people actually seem to feel we can avoid facing fiscal reality merely by postponing it.

With all the attention being paid to the problems of President Clinton, what has been overlooked is his willingness to meet budget reality head-on, and the President deserves some genuine credit for his role in maneuvering a meaningful budget bill through Congress.

The President positioned both the House and Senate budget bills to include tax increases, as well as spending cuts. This was no small feat, given the politically popular notion that deficit reduction should focus only on spending cuts, with "no new taxes." While none of us likes higher taxes, giving in to such rhetoric would be like starting a fitness program that involved only dieting, without any exercise.

The Senate and House bills are now in conference committee to resolve their differences. One of the major provisions of both bills is an energy tax, and the difference between the two proposals is substantial and significant. Although the BTU tax in the House bill falls disproportionately on petroleum by taxing "oil BTUs" such as gasoline at twice the rate of BTUs in coal and natural gas, it nonetheless represents a real effort to ensure that taxes levied to reduce the

deficit will be broad-based.

The Senate's energy tax is not nearly as broad-based. It singles out highway transportation fuels to carry the entire energy tax burden.

Some middle ground between the House and Senate versions will eventually emerge from the conference committee. I believe the best compromise would be a broad-based energy tax levied equally on all forms of energy, but our company will be inclined to support any compromise that helps the country deal with the deficit through a balanced combination of real spending cuts and increased taxes.

What's important to remember is that both parts of this issue have merit. People who insist on completing the job of identifying spending cuts are absolutely right, just as the President is correct in seeking the other part of the equation — new revenues — to ensure that deficit reduction is more than a one-way crash diet that eventually would leave the nation weaker.

Only a few weeks ago, knocking President Clinton's effectiveness was in danger of becoming a national pastime. Amid the temptation to play that game, let's not lose sight of the fact that the country needs an effective administration and a responsible budget. That's a twin goal we should all work to achieve.

Robert H. Campbell
Chairman
Sun Company
Philadelphia

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Clinton's energy tax hurts oil, helps coal

Phila Inq., 2/26/93

By ROBERT H. CAMPBELL

On the day before President Clinton's Economic Address to Congress, I was asked if, as head of a company that makes gasoline and other petroleum fuels, I supported what the President was saying about the need for a broad-based energy tax to "provide revenue to lower the deficit and invest in our people?"

My answer: most definitely.

But ask me if I support the energy tax President Clinton actually proposed, and my answer is: No way!

"The devil is in the details," Ross Perot noted on *Nightline* following the President's address. And there is a very large devil hiding among the details of the Clinton energy tax proposal.

The tax was originally represented as applying equally to all major forms of energy, based on the energy content — British Thermal Units, or BTU's — of each form. In fact, the very reason for using the BTU as the basis for the tax was to provide equality between competing energy forms. But when the specifics of the BTU tax were revealed following Mr. Clinton's address, it quickly became apparent that not all BTU's are created equal in the eyes of the Clintonians.

The Clinton proposal would tax BTU's in oil at more than double the rate of BTU's in coal and natural gas — 59.9 cents per million BTU's in oil, compared to only 25.7 cents per million BTU's in coal and natural gas.

What this means is that every gallon of gasoline, home heating oil, jet fuel, diesel fuel and all other fuels made from oil would have, on average, a BTU tax of more than 8 cents a gallon compared to a tax on coal and natural gas equivalent to only 3½ cents a gallon. But since the added 5-cent tax could not be recovered on oil products such as residual fuel that compete directly against gas and coal, it will have to be recovered on gasoline and other products, adding significantly to their cost. In addition, reformulating gasoline to meet environmental standards will add to the cost.

The rationale given by the Clintonians for this gross discrepancy is that this is a "modest incentive favoring cleaner fuels." In fact, requirements already on the books for reformulated gasoline, in combination with new "tight" automobiles, have dramatically reduced gasoline emissions. What the tax amounts to is nothing more than "oil bashing" and a very unsubtle attempt to manipulate the energy market in favor of all other fuels.

The losers in this game of favoritism will be the American public. Not

only would it be very costly for motorists to convert their existing cars to run on the lower-taxed natural gas, but the unequal BTU tax would have a major impact on the economy as the higher tax

The proposal would tax BTU's in oil at more than double the rate of that in coal and natural gas.

on oil rippled through all segments of manufacturing. The added cost to consumers above and beyond the direct cost for gasoline and home heating oil is conservatively estimated at \$350 a year per household. At the same time, home heating oil distributors could be put out of business by the government-subsidized incentive for homeowners to switch to natural gas.

At Sun Company, we recognize and support the need for environmental improvement. Sun was the first Fortune 500 company to endorse the CERE (formerly Valdez) Principles, and we are a leader in developing alternative fuels for fleet vehicles — including compressed natural gas.

However, we also recognize that there are those who would like to eliminate oil as an energy source for this country — and who see proposals such as this as a way of achieving that goal. These specific interests will be lobbying long and hard under the guise of environmentalism for the adoption of this inequitable energy tax.

We call on the President to redraft his tax proposal so that it reflects the original intent — a tax in the general public interest levied equally on the energy content of all fuels.

Robert H. Campbell is chairman and chief executive officer of Sun Company, Inc.

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Joseph C. Swift
Vice President
Government Affairs



Sun Company, Inc.
Ten Penn Center
1801 Market Street
Philadelphia PA 19103-1699

December 22, 1993

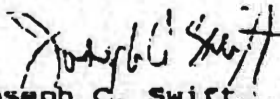
Congressional Institute for the Future
The Washington Office Center
409 Third St. S.W., Suite 204
Washington, DC 20024

Dear Sirs:

Enclosed is a Sun Company, Inc. contribution in the amount of twenty-five thousand dollars (\$25,000) to the Congressional Institute for the Future.

It is Sun's understanding that these funds are to be used by the Institute for educational purposes relating to the kick-off of the year-long Future of Entitlements program, held on December 13, 1993 at Bryn Mawr College, and for the Institute's global climate change project. The funds are not to be used for political or other purposes not permitted under federal election laws. In order to help us monitor this, please provide an accounting of how the funds are used on a quarterly basis for the next year.

Very truly yours,


Joseph C. Swift

Enc.

- cc: Q. T. Dickinson
- W. J. Donohue
- R. P. Jackman
- T. L. Wylie

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SUN COMPANY INC (R&M)
CORPORATE ADMINISTRATION
201 N WALNUT STREET SUITE 1300
WILMINGTON DE 19801

VENDOR PAYMENT

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CONGINSFUW	12-16-93	20168926

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CONGRESSIONAL INSTITUTE FOR
THE FUTURE
THE WASHINGTON OFFICE CENTER
WASHINGTON DC 20024

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THE FUTURE OF ENTITLEMENTS CONFERENCE

Monday, December 13, 1993

9:30 a.m. - 10:00 a.m. _____ Opening Remarks _____

MARJORIE MARGOLIES-MEZVINSKY
MARY PATTERSON MCPHERSON
ROB MCCORD

10:00 a.m. - 10:30 a.m. _____ Remarks _____

TOM FOLEY
ALICE RIVLIN

10:30 a.m. - 11:00 a.m. _____ Remarks _____

PRESIDENT OF THE UNITED STATES

11:00 a.m. - 12:15 p.m. _____ Panel on Health Care _____

PRESIDENT BILL CLINTON, moderator

GUDRUN ARNOLD *High Energy, 1980-1981*
WILLIAM COX *VP 1981-1982*
HELEN HOPKINS *1982*
DONNA SHALALA
DENNIS WALSH *1982-1983*
HARRIS WOFFORD

12:30 p.m. - 2:00 p.m. _____ Lunch _____

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2:00 p.m. - 2:15 p.m. _____ Remarks _____

JOHN DANFORTH and BOB KERREY

2:15 p.m. - 3:15 p.m. _____ Panel on Jobs and Welfare _____

KATHERINE COURIC, Moderator

TOM DOWNEY

PATRICIA IRELAND

TOM KEAN

RUTH MAYDEN

KEITH SAMPSON

ISABEL SAWHILL

HARRIS WOFFORD

3:20 p.m. - 4:20 p.m. _____ Panel on Retirement Programs _____

LAURA D'ANDREA TYSON, Moderator

ROBERT BALL

SHIRLEY CHATER

JONATHAN KARL

ALICIA MUNNELL

PETE PETERSON

JOHN ROTHER

PAUL TSONGAS

4:25 p.m. - 5:25 p.m. _____ Concluding panel: Next Steps _____

LEON PANETTA, Moderator

HENRY AARON

ROGER ALTMAN

JUDITH BROWN

TIM PENNY

WARREN RUDMAN

DONNA SHALALA

5:25 p.m. _____ Closing Remarks _____

MARJORIE MARGOLIES-MEZVINSKY

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CRS Report for Congress

Congressional Research Service • The Library of Congress

Entitlement Spending: A Fact Sheet

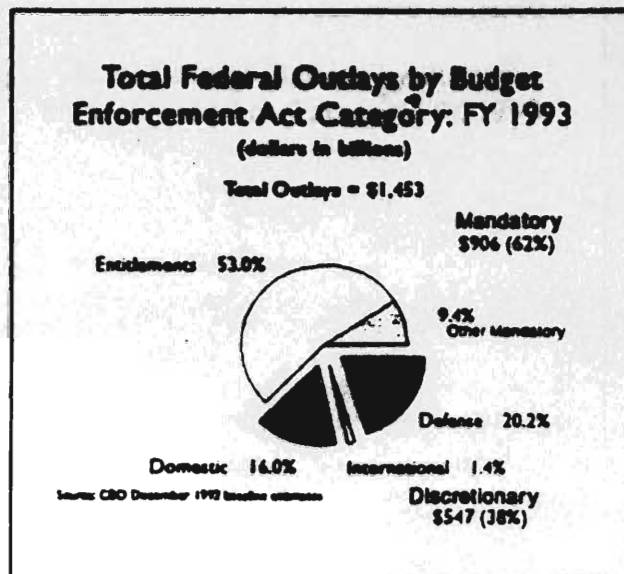
Kenneth Cahill
Specialist in Social Legislation
Education and Public Welfare Division

WHAT ARE ENTITLEMENT PROGRAMS?

Broadly defined, spending is classified as mandatory when it is not directly controlled through the annual appropriations process. Entitlement programs account for the bulk of mandatory spending. An entitlement is created by legislation that requires the payment of benefits to any person(s) or unit of government that meets the eligibility requirements established by such law (provided budgetary resources are available). Other, nonentitlement forms of mandatory spending include net interest on the national debt and deposit insurance. Offsetting receipts—receipts collected by the government through business-like transactions rather than through its sovereign taxing power—are deducted from gross outlays to determine net mandatory spending.

TOTAL SPENDING

For fiscal year (FY) 1993, the Congressional Budget Office (CBO) estimates that mandatory spending will total \$906 billion or 62 percent of total Federal outlays. Chart 1 shows estimated FY 1993 Federal outlays by Budget Enforcement Act (BEA) category. The "other mandatory" category includes net interest payments (\$198 billion), deposit insurance (\$3 billion) and negative outlays for offsetting receipts (-\$65 billion). The CBO estimates that, under current policies, total mandatory spending will reach \$1,255, or 68 percent of total Federal spending by 1998. Mandatory spending is estimated to grow at a real (inflation adjusted) average annual rate of 4.3 percent from 1993 to 1998, compared to a slightly negative real growth rate in discretionary spending.



For further information see: U.S. Library of Congress. Congressional Research Service. *Entitlements and Other Mandatory Spending*. CRS Report for Congress No. 93-391 EPW, by Kenneth R. Cahill.



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THE LARGEST ENTITLEMENTS

While there are many types of entitlement activities (there are over 400 entitlement and other mandatory spending accounts in the Federal budget), a relatively few large entitlement programs account for most spending. The 20 largest (in terms of outlays) account for 98 percent of all entitlement spending. The 10 largest programs account for over 90 percent of entitlement spending. Table 1 lists the 10 largest entitlement programs and their estimated FY 1992 outlays.

TABLE 1. The Ten Largest Entitlement Programs: Fiscal Year 1993

Program ^a	1993 outlays (in millions)	Percent of entitlement outlays	Cumulative percent of entitlement outlays	Percent of total Federal outlays
Social security	\$ 302,167	39.2%	39.2%	20.8%
Medicare	146,395	19.0%	58.3%	10.1%
Grants to States for medicaid	80,320	10.4%	68.7%	5.5%
Civil service retirement and disability fund	35,195	4.6%	73.3%	2.4%
Unemployment compensation	32,841	4.3%	77.5%	2.3%
Military retirement fund	25,726	3.3%	80.9%	1.8%
Food stamp program	23,130	3.0%	83.9%	1.6%
Supplemental security income	20,363	2.6%	86.5%	1.4%
Commodity Credit Corporation	16,620	2.2%	88.7%	1.1%
Veterans compensation and pensions	16,355	2.1%	90.8%	1.1%

^aMandatory spending only. Discretionary components of program spending excluded. Proprietary receipts not deducted from program spending. Food Stamp program excludes \$1 billion for nutrition assistance to Puerto Rico.

Source: Table Prepared by the Congressional Research Service (CRS) based on the Congressional Budget Office (CBO) baseline estimates, Dec. 1992.

HISTORICAL GROWTH

According to the Office of Management and Budget (OMB), mandatory spending grew from \$36 billion in 1965 to \$847 billion in 1992 (the last year of actual data)--an average annual growth rate of over 12 percent. Real (adjusted for inflation) mandatory spending grew at an average annual rate of 6.6 percent over this period. Overall real mandatory program spending growth slowed to 3 percent per year between 1985 and 1992. Between 1970 and 1992, among the largest entitlement programs, medicaid grew the fastest; growing at a real average annual rate of over 9 percent (between 1991 and 1992 alone, medicaid grew 26 percent). Between 1970 and 1992, medicare grew at a real average annual rate of over 8 percent and social security grew 5 percent per year.

CRS Report for Congress

Congressional Research Service • The Library of Congress

The Largest Entitlement Programs

Kenneth Cahill
Specialist in Social Legislation
Education and Public Welfare Division

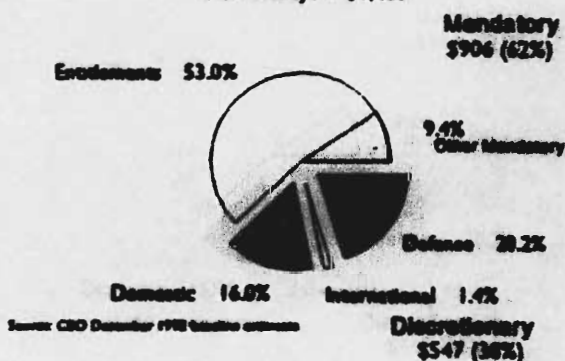
SUMMARY

The Congressional Budget Office (CBO) estimates that mandatory spending will account for 62 percent (\$906 billion) of total 1993 Federal outlays (\$1,453 billion). While there are many types of entitlement and other¹ mandatory spending activities, a relatively few large entitlement programs account for most spending. For 1993,² the 19 largest (in terms of outlays) programs, those with estimated 1993 outlays of \$2 billion or more, account for 97 percent of the \$770 billion in estimated entitlement spending (excluding net interest, deposit insurance, and other receipts). These 19 programs also account for 51 percent of estimated total Federal 1993 outlays.

Total Federal Outlays by Budget Enforcement Act Category: FY 1993

(dollars in billions)

Total Outlays = \$1,453



¹For display in the chart, other mandatory spending combines net interest (\$198 billion), deposit insurance (\$33 billion) and various offsetting receipts (-\$65 billion).

²Unless otherwise noted, all years refer to fiscal years.



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THE LARGEST ENTITLEMENTS

Most of the large entitlements are for social welfare programs.³ The only non social welfare program among the 19 largest entitlements is the Commodity Credit Corporation (CCC), which provides farm income support.

Social welfare entitlement programs generally fall into one of two categories--work-related, or means-tested. Five of the six largest entitlement programs are for what are generally called work-related entitlements. That is, eligibility and benefits are determined by past work experience, and are not dependent on having low income. These five programs, social security, medicare, civilian and military retirement and unemployment compensation are estimated to account for over 70 percent of all entitlement and other mandatory spending in 1992 and 37 percent of total Federal outlays.

A number of other large entitlement programs are means-tested, that is, eligibility and benefits are determined, in part, on having low-income. For 1993, the Congressional Budget Office (CBO) estimates that means-tested programs will account for about 20 percent of total entitlement and other mandatory spending and 11 percent of total Federal outlays.⁴ The largest of the means-tested programs include medicaid, food stamps, supplemental security income, and family support. One program, veterans compensation and pensions, has both non means-tested (compensation) and means-tested (pensions) components.

Table 1 lists the 19 largest (in terms of outlays) entitlement programs, their estimated 1993 outlays, and their share of both mandatory and total Federal outlays.⁵ As can be seen, the 10 largest programs account for over 90 percent of all entitlement and other mandatory spending and almost 50 percent of total Federal outlays. The table is followed by brief descriptions of the 19 largest entitlement programs.

³There are six social welfare functions in the budget: education, training, employment and social services (ETESS), health (except medicare), medicare, income support (except social security), social security, and veterans' benefits and services. In budget documents, these functions are referred to as the human resource functions.

⁴The CBO estimate is based on all means-tested entitlement programs including some smaller ones not listed in table 1.

⁵Outlays reported are for mandatory spending only. Discretionary program spending, for example Federal administration for social security and medicare, is not included in this table.

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TABLE 2. The Entitlement Programs with Estimated Outlays in Excess of \$2 Billion for Fiscal Year 1993 (\$ in millions)

Program ^a	1993 outlays	Percent of entitlement outlays	Cumulative percent of entitlement outlays	Percent of total Federal outlays
Social security	302,167	39.2%	39.2%	20.8%
Medicare	146,395	19.0%	58.3%	10.1%
Grants to States for medicaid...	80,320	10.4%	68.7%	5.5%
Civil service retirement and disability fund	35,195	4.6%	73.3%	2.4%
Unemployment compensation	32,841	4.3%	77.5%	2.3%
Military retirement fund	25,726	3.3%	80.9%	1.8%
Food stamp program	23,130	3.0%	83.9%	1.6%
Supplemental security income	20,363	2.6%	86.5%	1.4%
Commodity Credit Corporation	16,620	2.2%	88.7%	1.1%
Veterans compensation and pensions	16,355	2.1%	90.8%	1.1%
Family support payments	16,142	2.1%	92.9%	1.1%
Payment where earned income credit exceeds liability for tax	8,477	1.1%	94.0%	0.6%
State child nutrition programs	6,422	0.8%	94.8%	0.4%
Guaranteed student loans	4,798	0.6%	95.4%	0.3%
Railroad retirement	3,768	0.5%	95.9%	0.3%
Payment for annuitants, employees health benefits	3,730	0.5%	96.4%	0.3%
Social services block grant	2,772	0.4%	96.8%	0.2%
Payments to States for foster care and adoption assistance	2,610	0.3%	97.1%	0.2%
Rehabilitation services and disability research	2,151	0.3%	97.4%	0.1%

^aMandatory spending only. Discretionary components of program spending excluded. Proprietary receipts not deducted from program spending.

^bFood Stamp program excludes \$1 billion for nutrition assistance to Puerto Rico.

^cPayments to States for Aid to Families with Dependent Children (AFDC) work programs, with estimated outlays of \$710 million for FY 1993, are not included in family support payments to States.

Source: Table Prepared by the Congressional Research Service (CRS) based on the Congressional Budget Office (CBO) baseline estimates, Dec. 1992.

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Program Descriptions

- **Social security** (old age, survivors, and disability insurance (OASDI)) provides monthly benefits to retired and disabled workers, their dependents, and survivors. Eligibility for benefits is earned through work in covered employment, and in 1990, an estimated 94 percent of all workers were employed in jobs covered by social security. Workers may retire with full benefits at age 65, or with reduced benefits as early as age 62. Disability and survivors benefits are available at an earlier age. In 1991, social security was received by 40 million people, of whom 74 percent were aged 65 or older.
- **Medicare** consists of two parts: hospital insurance (HI), which helps pay for inpatient hospital care, and supplementary medical insurance (SMI), which helps pay for physician and related services. Most people age 65 and older and certain disabled people are automatically eligible for medicare based on their, or their spouse's, past work. People aged 65 and older and those eligible for HI because of disability may enroll in SMI by paying a monthly premium. In 1991, 30 million persons were covered by medicare.
- **Medicaid** makes grants to the States to help them finance medical services for low-income people who are aged, blind, disabled, or in families with dependent children. The Federal Government and the States share the program's cost. In 1991, 27.7 million persons were eligible to receive medicaid benefits. States must match Federal medicaid outlays with their own funds, at varying rates.
- **The Civil Service Retirement System (CSRS)** (and the **Federal Employee Retirement System (FERS)**) provides retirement benefits for civilian employees of the Federal Government. In 1991, 2.2 million former employees and survivors received civil service retirement payments. Employees may retire with unreduced benefits at age 55 with 30 years of service, but may draw disability benefits at an earlier age.
- **Unemployment compensation (UC)** includes benefits paid under regular State unemployment insurance programs; the Extended Benefits programs, when they are activated; temporary extended benefit programs, when they are legislated; Federal employees' unemployment insurance; and the Railroad Unemployment Insurance program. Most outlays in this category are from the regular State programs.
- **Military retired pay** provides benefits to former members of the armed forces and reserves. In 1991, 1.7 million retirees and survivors received military retirement benefits. A military servicemember becomes entitled to retired pay upon completion of 20 years of service, regardless of age.
- **The Food Stamp program** offers low-income households help in buying food. To be eligible for food stamps, a household's monthly "countable" income must fall below the Federal poverty income guidelines, and, for those in families without an elderly or disabled member, household gross income must

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fall below 130 percent of the poverty guidelines. In contrast to cash aid and medicaid, food stamps are offered to people who meet the income and resource eligibility rules regardless of their age, health, or family type. This program includes the separate block grant Food Stamp program for food assistance in Puerto Rico.

- The Supplemental Security Income (SSI) program offers a cash income floor for needy people who are aged, blind, or disabled. In 1991, a monthly average of 1.3 million aged and 3.2 million blind and disabled people received SSI.
- The Commodity Credit Corporation (CCC) was created to stabilize, support, and protect farm income and prices; help maintain balanced and adequate supplies of agricultural commodities, and help in their orderly disposal. The Corporation's revenues from the sale of commodities etc., do not fully offset its spending. The shortfall is financed by borrowing from the Treasury with the repayment made through appropriations for all net realized losses.
- Veterans' compensation and pensions provide for the payment of compensation, pensions, and burial benefits to veterans and survivors. Compensation is paid to veterans for disabilities incurred in or aggravated during active military service. Death and Indemnity Compensation (DIC) is paid to survivors of servicepersons or veterans whose death occurred while on active duty or as a result of service connected disabilities. Pensions are paid to veterans or their survivors who meet certain criteria including wartime service, total and permanent disability, and income below established levels.
- Family support payments. Since 1974, most outlays in the family support payments category have been for aid to families with dependent children (AFDC), which provides cash grants to States to help them aid needy families with children who have been deprived of support because of the absence, death, incapacity, or unemployment of one parent. States set eligibility and benefit levels for their AFDC programs and share its cost. In 1991, a monthly average of 4.4 million families (12.6 million people) received AFDC. States must match Federal AFDC outlays with their own funds, at varying rates.
- The earned income tax credit (EITC) is a refundable credit for low-income families with children. EITC outlays represent payments to families of the amount by which their tax credit exceeds their tax liability. When an EITC credit exceeds a family's tax liability, a payment from the Treasury is made. This payment is recorded as a budget outlay. EITC credits that reduce, but do not exceed, a family's tax liability are not counted as outlays but are reported in the budget as a "tax expenditure."
- The child nutrition programs provide cash and commodities to schools for meal and milk programs; assistance to programs providing food to low-income mothers and children who are at nutritional risk; and assistance to State and local agencies for the operation and evaluation of these programs. The programs included in this category are: school lunch, school breakfast.

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summer food service, commodity distribution, special milk, and the Commodity Supplemental Food program (CSFP).

- **The Guaranteed Student Loan (GSL) program** provides a Federal guaranty against default for loans from banks and other lenders to students and their parents to help meet the costs of attending participating universities, colleges and other postsecondary institutions. Three types of loans are currently available through the program: Stafford loans, for which the interest is subsidized for financially needy students; PLUS loans, for which the interest is generally unsubsidized for parents of dependent students; and Supplemental Loans for Students, for which the interest is generally unsubsidized for independent students, as well as graduate and professional students.
- **The Railroad Retirement program** is a federally administered retirement system for workers in the rail industry; it paid benefits to 0.9 million persons in 1991. The system is divided into four components: the first, a benefit approximating social security; the *second*, a rail industry pension; the *third*, a special benefit for those who became entitled to both social security and railroad retirement before 1975; and the *fourth*, a special supplemental benefit for those who retire after especially long service.
- **Government annuitants health benefits** covers the government's share of the cost of health insurance for certain classes of individuals receiving a government annuity.
- **The Social Services Block Grant** entitles States to grants to support services designed to prevent or reduce economic dependency; prevent abuse or neglect of children or adults; prevent or reduce inappropriate institutional care; secure admission or referral for institutional care when not otherwise available; and provide services to individuals in institutions.
- **Foster care and adoption assistance** provide support for maintenance assistance for children who must be placed outside the home (foster care), and supports subsidies for families adopting children with special needs.
- **Rehabilitation services** entitles States to grants to support rehabilitation activities. The basic State grant program provides Federal matching to State vocational rehabilitation agencies to assist individuals with physical and mental disabilities to become gainfully employed. Services provided include counseling, vocational evaluation, work adjustment, mental and physical rehabilitation, education and vocational training, job placement, and postemployment services.

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The Zero Deficit Plan

A Plan for Eliminating the Federal Budget Deficit
by the Year 2000



The Concord Coalition
September 1993

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ACKNOWLEDGMENTS

The Concord Coalition wishes to acknowledge the contributions of many whose time, effort and advice helped in the preparation of this volume. Thousands of Concord Coalition members shot back an avalanche of surveys expressing their clear preferences and opinions on how the plan should be shaped -- we heard you. Members of The Concord Coalition's Board of Directors provided guidance, advice, and input as the plan was being developed, especially Peter G. Peterson, President of The Concord Coalition, who has offered a different and intriguing plan in his book, *Facing Up: How to Rescue the Economy from Crushing Debt and Restore the American Dream* (and generously has pledged to donate his royalties to The Concord Coalition). His continuing commitment has been vital to both The Coalition and this project. Concord Coalition Vice Chair John P. White generously gave many hours and sage advice to the effort. Special thanks must go to Demetri Coupounas for the extraordinary dedication, ability and energy he applied to every step of developing the Zero Deficit Plan. Kimberly Morgan deserves special credit both for her substantive contributions and her considerable editorial skill. Thanks also to Ann Lenny whose sharp eye considerably improved the final document. We are also indebted for advice, guidance, and expert assistance along the way on various portions of the plan from Roger Brinner, Alf Hutter, Neil Howe, Debra Miller, Michael O'Hanlon, Barry Rogstad, Susan Tanaka, Carol Cox Wait, and dozens of congressional staff members who generously shared information and estimates.

The Concord Coalition is grateful to the Pew Charitable Trusts for the financial support provided for the work of developing The Zero Deficit Plan. The opinions expressed in this report are The Coalition's and do not necessarily reflect the views of The Pew Charitable Trusts.

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A Letter to the Reader

What does the name "Concord" have to do with the federal budget deficit? Why is an organization barely a year old mobilizing tens of thousands of concerned citizens in congressional districts across the nation to rally to the cause of getting the budget under control? Will the reward be worth the required sacrifice? These are some of the questions people often ask when they first hear about The Concord Coalition.

The Concord Coalition takes its name from the heroic battle of the American Revolution. On April 19, 1775, ordinary people, mostly farmers called Minutemen, answered a call to arms and courageously stood together in the tiny town of Concord, Massachusetts, against thousands of well-armed British redcoats. That day, they sent the British soldiers scurrying back to Boston. But many years of tough fighting and terrible sacrifice lay ahead. These brave Americans kept at it against overwhelming odds because they had a vision of the great nation our country could become. They did it for their future and for generations yet to come -- they did it for us.

Today, more than 200 years later, our nation is again in jeopardy. Our future hangs in the balance. But this time, the enemy is not a foreign army; the enemy is ourselves.

We have allowed our federal government's budget to get woefully out of balance. We never planned it that way, and every year we thought that perhaps next year we could fix it. But it has only become worse. We elect leaders who vow to make changes, but when these leaders reach Washington, they seem powerless to do so.

The stakes today are in many ways just as high as they were in 1775. The future of our nation is at stake.

Every year, the federal government spends more than it collects in taxes. To make up the difference, the government borrows hundreds of billions of dollars annually, competing in the marketplace against private enterprise for the use of the money saved by American citizens. That money *should* be pouring into investments -- into new factories, laboratories, roads and bridges, schools, and the technologies of tomorrow -- into all the things that create jobs, increase productivity, raise wages, and improve our standard of living.

But the government does not borrow our savings for investment in the future. Instead, our savings are used for today's consumption -- for benefits for middle-income and wealthy citizens; for special interests; for services we could, and should, do without; for interest on the money borrowed in earlier years. Elected leaders are afraid to cut back on spending and don't dare to raise taxes to pay the full bill. They hear plenty from special interests who won't give up their benefits and don't want higher taxes. But they seldom hear from the millions of Americans concerned that these excesses are leading to national bankruptcy.

The Concord Coalition is the voice of these concerned citizens who, like the Minutemen at Concord, are prepared and willing to take a stand for America by demanding an end to bud-

get deficits. Concord Coalition chapters are found in every state and in most congressional districts. This army isn't fighting with muskets. It is arming itself with information about the causes and effects of the growing national debt and what that debt is doing to our future. The Concord Coalition is becoming an effective voice for the general interest, speaking out against the special interests, for the future.

That is why we became involved. We believe it is vitally important that every citizen understand how deficits are draining our economy and endangering our country's future well-being. We know that our leaders are paralyzed and cannot act without our help. Unless politicians hear a clamor that convinces them that people across our nation truly want real change, understand the consequences, and are ready to face short-term discomfort to assure long-term prosperity, our economy and our society will continue to stagnate.

The Zero Deficit Plan that you are about to read provides a credible blueprint to *eliminate* the federal budget deficit, not just fiddle with it. Because there is no single "right" way to do the job, the plan also presents many alternative options for you to consider. We consider this initial version of The Zero Deficit plan to be only the first in a continuing evolution of revised plans until the deficit has been eliminated.

The choice is nevertheless clear. Either eliminate the deficit and return to the kind of United States that leaves each generation better off than the one before, or do nothing; spend every cent we can get our hands on and borrow the rest; mortgage our future; and betray the American dream.

We urge you to read The Zero Deficit Plan, think about it, question it, indicate your preferences, and become part of our growing army. If you care about America's future, if you care about your children, *Join The Concord Coalition.*



Senator Paul Tsongas
Co Chair



Senator Warren B. Rudman
Co-Chair

EXECUTIVE SUMMARY

The Concord Coalition's grass-roots movement is one year old. Eliminating the deficit is an important goal, but it is not our ultimate goal; it is the means to a larger end. *Balancing the budget, and keeping it balanced, are necessary to make savings available for investment in the nation's future -- so that we, and the generations that follow, can enjoy good jobs, prosperity, and a rising standard of living.*

Concord Coalition members nationwide were surveyed recently to find out their opinions on the tough choices required to eliminate the deficit. The Zero Deficit Plan reflects their preferences. There is no single "right" way to eliminate the deficit. No doubt most readers will dislike parts of the plan. **Therefore, alternatives are presented that can be substituted for elements in the basic plan, and a worksheet is included to let readers make their own choices and construct their own zero deficit budgets.**

The Zero Deficit Plan balances the federal budget by the end of the year 2000. This task requires reducing the deficit by about \$251 billion in that year. Spending in 2000 would be reduced \$154 billion; revenues would be increased \$71 billion; interest savings would be \$35 billion; and \$10 billion would be set aside for investments to increase the nation's productive capacity. The spending reductions and revenue increases would be phased in over six years to minimize economic dislocation.

A comprehensive entitlement means test is the largest component of The Zero Deficit Plan. Entitlement payments would be scaled back progressively on the 42 percent of American families whose income, including entitlements, exceeds \$40,000.

The Zero Deficit Plan does not depend on short-term savings from reforming the health care system. However, it recognizes that unless health care costs are contained, including the costs of extending coverage to those currently uninsured, it will be impossible to keep the budget balanced after 2000.

Other entitlements are also scaled back, through reforming the Medicare Supplementary Medical Insurance program, accelerating the increase in the age for Social Security retirement, reforming federal pensions and the federal employees' and retirees' health benefits program, and reducing agricultural subsidies.

The Zero Deficit Plan recommends reducing U.S. military spending by \$5 billion more than is currently planned by the year 2000. This would bring the defense budget down to \$264 billion from the currently planned level of \$269 billion. Aid to foreign countries would also be reduced by \$2 billion.

Fifty domestic spending programs would be eliminated or reduced to produce \$29 billion in annual savings by 2000. These include programs we can no longer afford (such as the space station), programs that subsidize narrow interests (such as highway demonstration projects), programs that are no longer needed (such as rural electric subsidies), and programs that are inefficient (such as duplicative veterans' health services.)

Increased taxes account for less than 30 percent of the deficit reduction proposed by the year 2000. A 50-cent-per-gallon increase in the gasoline tax, phased in gradually, is the chief revenue recommendation. The plan also recommends higher taxes on alcoholic beverages and tobacco and a \$20,000 limit on the income tax deduction for home mortgage interest. Finally, the plan endorses continued exploration of ways in which the income tax system could be altered to encourage savings over consumption.

The Zero Deficit Plan earmarks \$10 billion in 2000 for increased spending for high-priority federal investments identified by a nonpartisan commission. Optional investment tax incentives are also identified, including reduced taxes on capital gains on assets held over the long term, and a permanent research and experimentation tax credit.

The provisions of The Zero Deficit Plan would be enforced by separate spending

limits on national security and domestic spending, entitlement caps, and pay-as-you-go requirements. A constitutional amendment requiring a balanced budget after 2000 is also recommended.

Achieving this plan will not be easy. Although every attempt has been made to make the plan fair, gradual, and equitable, it will require several years of shared sacrifice. But The Concord Coalition believes that the choice is clear. Either eliminate the deficit and return to the kind of United States that leaves each generation better off than the one before, or do nothing; spend every cent we can get our hands on and borrow the rest; mortgage our future; and betray the American dream.

Table 1

Source of Deficit Elimination, in Fiscal Year 2000, by Major Category (in \$ billion)	
Deficit Under Current U.S. Government Policy	-251
Zero Deficit Plan Savings (\$251 billion)	
National Security	7
Domestic Spending	19
Entitlements	118
Revenues	71
Interest	<u>35</u>
Deficit Under Zero Deficit Plan	0

Numbers don't add due to rounding

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

RE: MUR 3852

Dear Mr. Noble:

This letter is submitted on behalf of Mercy Health Corporation of Southeast Pennsylvania in response to the above-referenced complaint. The complaint, filed by the National Republican Congressional Committee ("NRCC"), alleges that an issue project entitled "Future for Entitlements" and sponsored by Congresswoman Marjorie Margolies-Mezvinsky and the Congressional Institute for the Future ("Institute") was for the purpose of influencing the Congresswoman's election and resulted in impermissible corporate contributions. The complaint itself does not name Mercy Health Corporation ("Mercy") as a respondent nor is there any reference to Mercy in the body of the complaint. Newspaper articles attached to the complaint state that Mercy contributed \$25,000 to the Institute in connection with this project.

Background

In October 1993, Mercy received correspondence from the Institute concerning the Institute's planned December 1993 conference and project on the Future of Entitlements. According to that letter, and to the best of the belief of Mercy, the Institute is a qualified nonprofit organization exempt from taxation under 26 U.S.C. § 501(c)(3) of the Internal Revenue Code.

In addition to this correspondence, Daniel J. Hilferty, on behalf of Mercy, discussed the project with Institute staff. Mr. Hilferty was assured in several conversations that the Institute was a non-profit 501(c)(3) organization and that its Entitlements project was totally non-political in nature. It was clear from all of the information provided to Mercy concerning the conference and from each discussion that the focus of the conference was solely on issue and policy discussion and was wholly unrelated to any election of any candidate for public office. With this understanding, Mercy pledged a \$25,000 donation to the Institute to help defray costs of the conference and the project to a bona fide 501(c)(3) organization for permissible educational purposes. As of this date, Mercy has not yet made the donation.

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Statutory Framework

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. ("FECA" or the "Act") generally regulates the financing of campaigns of candidates for nomination or election to federal office. 2 U.S.C. § 441b prohibits corporations from making contributions and expenditures in connection with federal elections. 11 C.F.R. Part 114. FECA does not in any way, however, limit the spending of corporations or the ability of corporations to communicate regarding issues and policy matters. Indeed, the Supreme Court has specifically held that corporate expenditures and communications related to issue discussions are constitutionally protected. First National Bank of Boston v. Bellotti, 98 S.Ct. 1407 (1978).

Under the Internal Revenue Code, organizations that are exempt from taxation under Section 501(c)(3) are absolutely prohibited from making contributions or expenditures in connection with political campaigns for elective office. Contributors to such organizations are generally entitled to rely on an organization's status as a 501(c)(3) organization and may presume that funds contributed to such an organization are used for permissible purposes.

RESPONSE

I. The Complaint Provides No Evidence that the Future of Entitlements Forum was Related to the Election Campaign of Any Candidate

There is not a shred of evidence supporting NRCC's assertion that the Institute's forum on entitlements was for the purpose of influencing an election. They have provided no evidence that the candidacy of any individual was mentioned in connection with the December 13 conference or the overall project, or that any money or support was solicited for any candidate. The complaint is premised solely on alleged potential "political value" to Congresswoman Margolies-Mezvinsky. This is not, however, the standard for whether or not there is a contribution or expenditure under FECA. Virtually every legislative act performed or position taken by a Member of Congress on an issue may help or harm their political standing with their constituency and thus, may be of political value or detriment. The fact that particular positions on issues may be popular or unpopular cannot be used as a reason for limiting or prohibiting full open discussion of those issues. Public discussion of issues must remain unfettered, and FECA does not regulate, limit or prohibit corporate discussion of issues.

There is certainly no evidence that respondent Mercy received, heard of or in any way knew of any facts that would link this issue project to a campaign for public office. In fact, the materials attached to the complaint make clear that the focus of the forum was solely on public discussion of important issues facing the nation-- precisely the type of activity that the Supreme Court has found constitutionally protected. See Bellotti, supra.

In light of this total lack of evidence in support of the allegation that the forum was for the purpose of influencing an election, this complaint must be dismissed.

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II. Mercy Made a Lawful Donation to a Bona Fide Nonprofit Organization

The information provided to Mercy in requesting support for the Institute's activities specifically described the Institute's status as a nonprofit organization under Section 501(c)(3). The complaint provides no evidence that the Institute or its projects were not conducted in full accord with the requirements governing 501(c)(3) organizations. Since nonprofit 501(c)(3) organizations are explicitly forbidden from engaging in any partisan election activity, Mercy had every reason to believe that its donation was permissible and would in no way be used for the benefit of any candidate.

At no time was Mercy ever advised that the project or the activities of the Institute were in any way political. None of the correspondence between Mercy and the Institute made any reference to candidates, elections, or any partisan activity. In fact, everything Mercy knew of the Institute and its plans and projects was fully in accord with its educational purposes and in no way violated the non-partisan requirements of a 501(c)(3) organization. There is nothing in the complaint to the contrary.

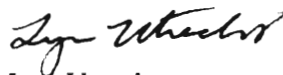
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Mercy is entitled to rely on the Institute's status as a 501(c)(3) organization in making its donation. Even if the Institute had improperly spent funds that were lawfully donated by Mercy there would be no violation of law by Mercy. Mercy's donation was expressly solicited for a "bipartisan educational project", a legitimate expenditure of a 501(c)(3) organization, and thus, Mercy is entitled to treat its donation as a permissible tax deductible charitable donation. Mercy's pledge of a \$25,000 donation was in response to a solicitation for funds to finance legitimate non-profit 501(c)(3) educational projects, and it was Mercy's intention to support only such bona fide educational activities. Even if the Institute had misspent its funds in violation of its non-profit status, it is clear that Mercy did not make any contribution or expenditure "for the purpose of influencing" or "in connection with" a federal election. 2 U.S.C. §431(8)(A)(i), 431(9)(A)(i), and 441b(a). Thus, there is no way that Mercy's pledge or subsequent donation of \$25,000 to the Institute for its educational projects could be deemed a violation of FECA.

Since Mercy's donation was to a bona fide 501(c)(3) organization for clearly permissible educational purposes, this complaint must be dismissed.

CONCLUSION

For the reasons set forth above, Mercy is not a proper respondent to the complaint and the Commission should find no reason to believe that Mercy violated the Act or Commission regulations and dismiss the complaint.

Sincerely,



Lyn Utrecht

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March 1, 1994

Joan McEnery, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3852 -- Supplemental Response of American Telephone and Telegraph Company

Dear Ms. McEnery:

On behalf of American Telephone and Telegraph Company ("AT&T"), we hereby supplement our response in MUR 3852 to bring to your attention two recent, unpublished decisions of United States District Courts in which the "express advocacy of a clearly identified candidate" standard was applied to protect from regulation by the Commission certain expenditures related to candidates for Federal office. In both decisions, the Courts applied the express advocacy standard strictly and rejected the Commission's attempt to apply other tests. See Federal Election Commission v. Colorado Republican Federal Campaign Committee, No. 89N1159, CCH Fed. Elec. Camp. Fin. Guide, § 9340 (August 30, 1993); and Federal Election Commission v. Survival Education Fund, Inc., 1994 U.S. Dist. LEXIS 210 (S.D.N.Y. 1994). Copies of these decisions are attached.

In Colorado Republican the Commission challenged an expenditure by the Colorado Republican Federal Campaign Committee for a radio advertisement criticizing then Congressman Tim Wirth's position on budget and defense issues as expressed in advertisements paid for by the Committee for Tim Wirth., Inc., Congressman Wirth's authorized campaign committee supporting his Senate candidacy at the time. The Colorado Republican advertisement was aired on April 4 and 13, 1986, four months before the Democratic primary election and seven months before the general election in which the Congressman was a candidate; no Republican candidate had been named for the general election at the time.

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After criticizing Congressman Wirth's position on budget and defense issues, the Colorado Republican advertisement concluded with the following statement: "Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts."

The Commission claimed that the Colorado Republican advertisement was a coordinated expenditure under 2 U.S.C. § 441a(d)(3) and that it violated the Act because, at the time, the Colorado Republican Federal Campaign Committee had assigned its entire state party general election expenditure limitation to the Republican Senatorial Campaign Committee. In its campaign report, the Colorado Committee had listed the cost of the advertisement as an operating expenditure not subject to the coordinated expenditure limitation.

Among other defenses, the Colorado Republican Federal Campaign Committee argued that the advertisement was not "in connection with" the campaign of a Federal candidate within the meaning of section 441a(d)(3) because it contained no express advocacy of the election or defeat of a clearly identified candidate. The Commission, on the other hand, urged the Court to reject this argument because the express advocacy test had been developed for 2 U.S.C. § 441b, not section 441a(d)(3), or, in the alternative, because the advertisement was express advocacy under that standard and, therefore, subject to the coordinated expenditure limitation.

The Court rejected the Commission's arguments and granted the defendant's motion for summary judgment. It held that there was no persuasive reason to interpret the "in connection with" language in section 441a(d)(3) any differently than the same language in section 441b, which is at issue in this MUR. The Court noted the consistent interpretation by the courts and the Commission of the "in connection with" language in section 441b through use of the express advocacy standard, citing Buckley v. Valeo, Orloski v. Federal Election Commission and other decisions cited by AT&T in its response to MUR 3852. In order to uphold "first amendment freedoms" and "enhance ... political freedom", the Court held that the express advocacy standard also should apply to section 441a(d)(3).

The Court concluded that the Colorado Republican advertisement did not meet the standard even though the advertisement was aired while Congressman Wirth was a candidate for the Senate and referred to his campaign. The Court held that the advertisement did not "contain any words which expressly

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advocate action"; at most, it was "an indirect plea for action." This, the Court held, was insufficient under the express advocacy standard; therefore, the advertisement was not subject to section 441a(d)(3).¹

In Federal Election Commission v. Survival Education Fund, Inc., the Commission challenged two letters from Dr. Benjamin Spock to 30,000 recipients which were financed with funds from a non-profit corporation. The letters criticized President Reagan's Central America policy and were mailed a few months before the 1984 presidential general election. Both letters were found by the Court to be hostile to President Reagan, but the Court rejected the Commission's arguments that financing their distribution with corporate funds violated 2 U.S.C. § 441b(a) because neither letter expressly advocated voting against President Reagan. After a review of the applicable case law, the Court stated that:

"It is clear from the cases that expressions of hostility to the positions of an official, implying that that official should not be re-elected -- even when that implication is quite clear -- do not constitute the express advocacy that runs afoul of the statute. Obviously, the courts are not giving a broad reading to this statute."

If the Colorado Republican advertisement and Dr. Spock's letters, which clearly were intended to harm the political reputation of candidates for Federal office, are not express advocacy, surely the Future of Entitlements Conference sponsored by the Congressional Institute for the Future and Bryn Mawr College also is not express advocacy. Even if the Conference provided some indirect political benefit for Congresswoman Marjorie Margolis-Mezvinsky -- an argument which is not supported by the facts -- this is insufficient to meet the express advocacy standard as developed by the courts. Such indirect political benefit would no more be "express advocacy" than the expressions


¹ MUR 3852 raises the same core issues of First Amendment freedoms as were considered in Colorado Republican; however, MUR 3852 raises these issues in the context of section 441b not section 441a(d)(3). Because the Commission and the courts have applied the express advocacy standard consistently with respect to section 441b, MUR 3852 presents an easier case than Colorado Republican. MUR 3852 is easier still because there is no evidence of campaign fundraising or electioneering on behalf of a clearly identified candidate. Thus, there is no basis for finding any express advocacy in MUR 3852.

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of hostility analyzed in Survival Education Fund. Thus, the decisions in Federal Election Commission v. Colorado Republican Federal Campaign Committee, and in Federal Election Commission v. Survival Education Fund, Inc. further support AT&T's contention that the complaint in MUR 3852 should be dismissed.

Sincerely,



Michael A. Nemeroff

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paragraphs before the draft opinion is voted on by the Commission.

(8) All the requirements of 2 U.S.C. 437f and 11 CFR part 112 remain applicable to advisory opinion requests and to comments submitted on OGC drafts, including the mandate to issue an opinion within 60 days and 11 CFR 112.6 that provides for Commission reconsideration of an issued advisory opinion.

(9) The foregoing procedures will not apply to any advisory opinion request or OGC draft opinion that qualifies for the expedited 20 day opinion process set forth in 11 CFR 112.4(b), except that OGC drafts will be released to the public as provided in paragraph 1.

(10) The foregoing procedures became effective on October 21, 1993, and will continue in

effect for a trial period which expires as to any advisory opinion request received after May 31, 1994. After expiration of the trial period, the OGC draft public comment procedure will be reviewed and evaluated by the Commission and OGC to determine if it should be implemented on a permanent basis.

Additional information regarding the revised advisory opinion comment procedures may be found in Agenda Document #93-95, dated October 18, 1993.

Dated: November 22, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[19340] ADVERTISING EXPENDITURE WAS NOT MADE IN CONNECTION WITH GENERAL ELECTION

An expenditure by a political party committee for an advertisement informing voters of the political record of an incumbent who was a member of the opposing party was not made in connection with the general election of a candidate and did not qualify as an expenditure that had to be reported.

Back reference.—Law at ¶140.

Federal Election Commission v. Colorado Republican Federal Campaign Committee, et al.

United States District Court for the District of Colorado, No. 89 N 1159, August 30, 1993.

For FEC: Kenneth E. Kellner, Lawrence M. Noble, and David M. FitzGerald.

For Committee: Jan Witold Baran, Thomas Kirby, and Carol A. Laham.

[Opinion in Full Text]

This case involves alleged violations of the Federal Elections Campaign Act of 1971, as amended, 2 U.S.C.A. §§431-456 (West 1985) (the "Act"). Plaintiff Federal Election Commission sued Defendant Colorado Republican Federal Campaign Committee and its treasurer, Douglas L. Jones, claiming that defendants had failed to report a certain payment as an "expenditure" as required by 2 U.S.C.A. §441a(d)(3). Plaintiff seeks declaratory, civil, and injunctive relief under the Act. The matter comes before the court on (1) "Defendants' Motion for Summary Judgment" filed May 15, 1990, and (2) "Plaintiff's Motion for Summary Judgment" filed July 6, 1990. Jurisdiction is based on 28 U.S.C.A. §1345 (West 1976).

FACTS

Defendant Colorado Republican Federal Campaign Committee (the "Committee") is an unincorporated political association. It works to advance the goals and values of the Republican Party in the State of Colorado. (Defa.' Statement of Undisputed Facts and Supp. Exs. ¶ 1 [filed May 15, 1990] [hereinafter "Defa. Statement"], admitted at Pl. Fed. Election Comm'n's Resp. to Defa.' Statement of Undisputed Facts and Supp. Exs. ¶ 1 [filed July 6, 1990] [hereinaf-

ter "Pl.'s Resp. to Defa.' Statement"].) It is the federally-registered committee for the Republican Party in Colorado and is therefore (as it acknowledges) subject to the Act.

Section 441a(d)(3) of the Act limits the amount which such a committee may expend "in connection with the general election campaign of a candidate for federal office." 2 U.S.C.A. §441a(d)(3). In 1985, the Committee assigned its yearly right to make expenditures under the Act to the National Republican Senatorial Committee. (Defa.' Statement ¶ 16, Ex. 4 [Defa.' Resp. to Pl.'s Req. for Admiss.], admitted at Pl.'s Resp. to Defa.' Statement ¶ 15-16.) The Committee thereafter paid \$15,000 for a radio advertisement, entitled "Wirth Facts #1" (hereinafter "the Advertisement"), the text of which follows:

Paid for by the Colorado Republican State Central Committee

Here in Colorado we're used to politicians who let you know where they stand, and I thought we could count on Tim Wirth to do the same. But the last few weeks have been a real eye-opener. I just saw some ads where Tim Wirth said he's for a strong defense and a balanced budget. But according to his record, Tim Wirth voted against every new weapon sys-

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tem in the last five years. And he voted against the balanced budget amendment.

Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts.

(Def.'s Statement ¶ 7, admitted at Pl.'s Resp. to Defs.' Statement ¶ 4-7.)

The Committee devised "Wirth Facts #1" as a response to a series of television advertisements featuring then-Congressman Wirth. These advertisements were sponsored by the Committee for Tim Wirth, Inc. (Pl. Fed. Election Comm'n's Mem. of P. & A. in Supp. of Pl.'s Mot. for Summ. J. and in Oppn to Defs. Summ. J. Mot. at 6 [filed July 6, 1990] [hereinafter "Pl.'s Mot."]). The Advertisement ran between April 4 and 13, 1986, four months before the August Democratic primary and seven months before the November general election. (Def. Statement ¶ 4-6, admitted at Pl.'s Resp. to Defs.' Statement ¶ 4-7.)

The Committee is required by section 434(b)(4)(H)(iv) to make quarterly or monthly reports which must contain any section 441(b)(3) expenditures. See 2 U.S.C.A. § 434(a)(4)(A)(i). In the Committee's quarterly report, it listed the \$15,000 paid for the Advertisement as an operating expense—not as a section 441a(d)(3) expenditure—and identified it as "voter information to Colorado voters—advertising." (Def. Statement, Ex. 12 at 3 [Def. Br. for Fed. Election Comm'n's Proceedings].) On June 12, 1986, the Colorado Democratic Party filed an administrative complaint with the Federal Election Commission ("Commission"), alleging, inter alia, that defendants' expenditure for the Advertisement violated the Act. On January 10, 1989, the Commission determined there was probable cause to believe defendants had violated sections 434(b)(4)(H)(iv), 434(b)(6)(B)(iv), and 441a(f) of the Act. When settlement negotiations failed, the Commission instituted this civil action.

The parties filed cross-motions for summary judgment on plaintiff's claim that defendants failed to comply with the Act. Defendants maintain section 441a(d)(3) does not apply to the money paid for the Advertisement because it was not an expenditure "in connection with" the general election of a candidate for federal office (Def. Mem. in Supp. of Defs. Mot. for Summ. J. at 6-7 [filed May 15, 1990] [hereinafter "Def. Mot."]). Defendants also assert a counterclaim alleging that section 441a(d)(3) is unconstitutional. No material facts are in dispute. Because plaintiff has failed to demonstrate that the expenditure was "in connection with" the general election of a candidate for federal office, we grant defendants' motion for summary judgment and deny plaintiff's motion. I therefore

need not, and do not, reach defendants' challenge to section 441a(d)(3)'s constitutionality.

ANALYSIS

Pursuant to rule 56(c) of the Federal Rules of Civil Procedure, summary judgment may be granted where there is "no genuine issue as to any material fact and the . . . moving party is entitled to judgment as a matter of law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250, 106 S.Ct. 2505, 2511 (1986). The burden of establishing the nonexistence of a genuine issue of material fact is on the moving party. *Celotex Corp. v. Catrett*, 477 U.S. 317, 321, 106 S.Ct. 2548, 2552 (1986). In a case where a party moves for summary judgment on an issue on which he would not bear the burden of persuasion at trial, his initial burden of production may be satisfied by showing the court that there is an absence of evidence in the record to support the nonmoving party's case. *Id.*, 477 U.S. at 321, 106 S.Ct. at 2552. Once the moving party has met this initial burden of production, the burden shifts to the nonmoving party to establish that there is a triable issue of fact. A triable issue of material fact exists only where "there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." *Merrick v. Northern Natural Gas Co.*, 911 F.2d 426, 429 (10th Cir. 1990). If the nonmoving party cannot muster sufficient evidence to make out a triable issue of fact on his claim, a trial would be useless and the moving party is entitled to summary judgment as a matter of law. *Anderson*, 477 U.S. at 250, 106 S.Ct. 2511.

Section 441a(d)(3) of the Act is at the center of this dispute. It provides:

The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator . . . , the greater of—

(i) 2 cents multiplied by the voting age population of the State . . . or

(ii) \$20,000

2 U.S.C.A. § 441a(d)(3) (emphasis added). Because the Committee assigned the full amount of expenditures permitted by section 441a(d)(3) to the National Republican Senatorial Committee, see *Federal Election Comm'n v. Democratic Senatorial Campaign Comm.*, 454 U.S. 27, 39-40, 102 S.Ct. 38, 46 (1981) [hereinafter *DSCC*], it no longer had the right to make section 441a(d)(3) expenditures. As a conse-

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quence, the Committee's expenditure of \$15,000 for the Advertisement, if made "in connection with" the general election campaign, was a violation of the spending limits established by section 441a(d)(3).

[Regulated Expenditures]

Two types of expenditures are regulated under the Act: coordinated and independent. A coordinated expenditure is one made in cooperation with, or with the consent of, a candidate, his agents, or an authorized committee of a candidate. *Buckley v. Valeo*, 424 U.S. 1, 47 n.53, 96 S.Ct. 612, 647 n.53 (1976). An independent expenditure is one made without the knowledge or permission of a candidate, his agent, or his campaign committee. *Id.* See 2 U.S.C.A. § 431(17). Coordinated expenditures are considered "contributions" under section 441a(a)(7)(B)(i); as such, they may be more freely limited than independent expenditures. *Buckley*, 424 U.S. at 48, 96 S.Ct. at 647-48; *Federal Election Comm'n v. National Conservative Political Action Comm.*, 470 U.S. 480, 491, 105 S.Ct. 1459, 1466 (1985) [hereinafter *NCPAC*]. In *Buckley*, the Court upheld as constitutional the limitations on contributions to candidates and struck down as unconstitutional limitations on independent expenditures. *NCPAC*, 470 U.S. at 491, 105 S.Ct. at 1465. See also *Federal Election Comm'n v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 260, 107 S.Ct. 616, 630 (1986) [hereinafter *MCFL*] ("We have consistently held that restrictions on contributions require less compelling justification than restrictions on independent spending."); *California Medical Ass'n v. Federal Election Comm'n*, 453 U.S. 182, 194, 196-97, 101 S.Ct. 2712, 2720, 2724-25 (1981) (same).

Expenditures by party committees are considered to be coordinated expenditures subject to the monetary limits of section 441a(d). *DCCC*, 454 U.S. at 27 n.1, 102 S.Ct. at 40 n.1. Party committees have been deemed incapable of making independent expenditures in connection with the campaigns of their party's candidates. *DCCC*, 454 U.S. at 27 n.1, 102 S.Ct. at 40 n.1. See also *FEC Advisory Opinion 1985-14*, 1 Fed. Election Campaign Fin. Guide (CCH) § 5819 (July 18, 1985); *FEC Advisory Opinion 1984-15*, 1 Fed. Election Campaign Fin. Guide (CCH) § 5766 (Aug. 16, 1984).

The Commission has the "primary and substantial responsibility for administering and enforcing the Act," and has "extensive rulemaking and adjudicative powers." *Buckley*, 424 U.S. at

109-10, 96 S.Ct. at 677-78. When interpreting the Act, the Commission's interpretation is presumptively entitled to deference. *DCCC*, 454 U.S. at 38, 102 S.Ct. at 45. The Commission has, by regulation, forbidden independent expenditures by national and state party committees. See 11 C.F.R. § 110.7(B)(4) (1981).

[Effect of No Party Nominee]

Defendants suggest that because no Republican candidate had been nominated, the expenditure was necessarily "independent," not "coordinated." However, for purposes of determining whether an expenditure is coordinated or independent, it is irrelevant whether a candidate has been nominated at the time the expenditure is made. See *EEC Advisory Opinion 1984-15*, 1 Fed. Election Campaign Fin. Guide (CCH) § 5766 (Aug. 16, 1984). "[N]othing in the Act, its legislative history, Commission regulations, or court decisions indicates that coordinated party expenditures must be restricted to the time period between nomination and the general election." *Id.* Organizations whose major purpose is the nomination or election of a candidate "are, by definition, campaign related." *Buckley*, 424 U.S. at 80, 96 S.Ct. at 663, regardless of whether a specific candidate has been nominated. Based on Supreme Court precedent and the Commission's interpretation of the statute, I find that the Committee's expenditure was coordinated. It was made on behalf of the Republican candidate, whomever that might be; and it is irrelevant that no particular person had been designated.

[Express Advocacy]

The Committee's expenditure would nevertheless not be subject to section 441a(d)(3) limitations unless the expenditure was made "in connection with" the general election campaign of a candidate for federal office. No controlling or persuasive authority has interpreted the phrase "in connection with" in the context of section 441a(d)(3). The Court, however, has interpreted the phrase "in connection with" in the context of section 441b, which, like section 441a(d)(3), regulates contributions and expenditures. In *MCFL*, the Court held that "an expenditure must constitute 'express advocacy' in order to be subject to the prohibition of § 441b." *MCFL*, 479 U.S. at 249, 107 S.Ct. at 623. See also *Buckley*, 424 U.S. at 80, 96 S.Ct. at 663. "The normal rule of statutory construction assumes that identical words used in different parts of the same act are intended to have the same meaning." See *Sullivan v. Stroup*, 496 U.S.

¹ Defendants point to a passage in *Buckley* which classifies 2 U.S.C.A. § 608(f) (West 1970) (recodified as section 441a(d)) as an "expenditure ceiling," as opposed to a contribution limitation. According to defendants, this reference suggests the Court considered section 441a(d) to regulate independent expenditures. It is unclear how referring to

section 441a(d) as an "expenditure" limitation necessarily suggests the section regulates independent expenditures. In light of the Court and Commission's other pronouncements, and the fact that this reference is dicta, see *Buckley*, 424 U.S. at 58 n.66-67, 96 S.Ct. at 653 n.66-67, I do not find this singular reference persuasive.

478, 484, 110 S.Ct. 2499, 2504 (1990); *Sorenson v. Secretary of Treasury of the United States*, 475 U.S. 851, 860, 106 S.Ct. 1600, 1606 (1986); *Barnson v. United States*, 816 F.2d 549 (10th Cir.), cert. denied, 484 U.S. 896, 108 S.Ct. 229 (1987) (when the same words are used in different sections of the same law, they will be given the same meaning).

This rule of statutory construction is usually followed where different parts of the same act have a similar purpose, as do sections 441a(d)(3) and 441b. Both sections 441a(d)(3) and 441b are intended to regulate contributions and expenditures of multi-person organizations. While section 441a(d) regulates expenditures by national committees, state committees, or subordinate committees of the state committees, section 441b regulates expenditures by national banks, corporations, or labor organizations. Since I examine the statute as a whole, I find the Court's interpretation of "in connection with" in the context of section 441b to be persuasive of my interpretation of the same words in section 441a(d)(3).

Plaintiff urges the court to adopt the Commission's interpretation of "in connection with" which would require the Advertisement to contain a "clearly identified candidate" and an "electioneering message." FEC Advisory Opinion 1985-14, 1 Fed. Election Campaign Fin. Guide (CCH) ¶ 5819 (July 18, 1985). According to plaintiff, section 441b differs significantly from section 441a(d)(3), in that 441b regulates independent expenditures, whereas section 441a(d)(3) regulates coordinated expenditures. Although *Buckley* acknowledges that coordinated expenditures may be more freely regulated than independent expenditures, it does not follow that the identical words, when used with reference to coordinated expenditures, should be given a more expansive interpretation.

The Supreme Court's decision in *Buckley* suggests just the opposite. When examining the intrusiveness of the statute's regulations on first amendment freedoms, the Court found that a limitation on coordinated expenditures was justified in order to stem "the reality or appear-

ance of corruption in the electoral process." *Buckley*, 424 U.S. at 46, 96 S.Ct. at 647-48. Although the Court found the justification for regulating coordinated expenditures outweighed the infringement on the First Amendment, this conclusion does not create a carte blanc for expansive regulation of coordinated expenditures. On the contrary, the fact that section 441a(d)(3) implicates first amendment freedoms argues for adoption of the more narrowly defined "express advocacy" interpretation in order to minimize intrusions.² Moreover, as *Buckley* notes, the limitation on contributions by state political committees, "[r]ather than undermining freedom of association, . . . enhances the opportunity of bona fide groups to participate in the election process." *Buckley*, 424 U.S. at 33, 96 S.Ct. at 642. Given that the effect of the regulation is to enhance the political freedom of committees, I find that the "express advocacy" standard, which is a less intrusive limitation on a committee's freedom, is consistent with the Act's purpose. I do not find any compelling justification within the Commission's advisory opinion, nor in plaintiff's argument, for expanding *Buckley*'s carefully circumscribed exception to its prohibition against regulation of freedom of speech.

The Commission does not point to any other section of the statute where the courts have given the language "in connection with" the expansive interpretation the Commission advocates in this case. In fact, the courts have consistently interpreted "in connection with" as requiring "express advocacy." See *Federal Election Comm'n v. Furgatch*, 807 F.2d 837, 864 (9th Cir.), cert. denied, 484 U.S. 850, 108 S.Ct. 151 (1987); *Federal Election Comm'n v. Channel Long Island Tax Reform*, 616 F.2d 45, 53 (2nd Cir. 1980).³ In *Orloski v. Federal Election Commission*, 795 F.2d 156 (D.C. Cir. 1986), the Commission itself advocated the adoption of the "express advocacy" interpretation of "in connection with" in the context of section 441b(a). In adopting the Commission's interpretation, the D.C. Circuit noted:

² A narrow interpretation of the words "in connection with" also addresses the constitutional concerns raised by defendants. Defendants contend that if all expenditures by state committees were deemed contributions subject to section 441a(d)(3), then they would not be free to speak in favor of their candidates. (Def. Mem. in Opp'n to Pl.'s Mot. or Summ. J. and in Reply to Pl.'s Opp'n to Def.' Mot. for Summ. J. at 4 [filed July 23, 1990] [hereinafter "Def.' Reply"].) By adopting a more narrowly defined interpretation of "in connection with," state political committees remain free to engage in speech which does not expressly advocate the election of its candidates.

³ In *United States v. International Union UAW-CIO*, 352 U.S. 499, 507 (1956), the Supreme Court interpreted "in connection with" in the context of a provision

to the current Act, which prohibited corporate or union contributions or expenditures to be used "in connection with any election for federal office." 352 U.S. at 499, 77 S.Ct. at 530. The Court held that the "in connection with" found in the statute was understood to prescribe "the expenditure of union dues to pay for commercial broadcasts that are designed to urge the public to elect a certain candidate or party." *Id.*, 352 U.S. at 507, 77 S.Ct. at 530. It is unclear from this language whether the Court was adopting a different interpretation of "in connection with" or merely applying the "express advocacy" standard. Plaintiff does not explain how this language differs materially from the "express advocacy" standard. Since no court has subsequently adopted the language used in *International Union UAW-CIO*, I decline to do so in this case.

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[T]he FEC's interpretation is consistent with *Buckley*, in which the Supreme Court held that under the first amendment, the phrases "for the purposes of influencing any election" and "in connection with any election" must be defined as the "express advoca[cy] [of] the election or defeat of a clearly-identifiable candidate," a definition that was subsequently incorporated into the Act. See 2 U.S.C. § 431(17). To be sure, the Court limited these definitions to those provisions curtailing or prohibiting independent expenditures. This definition is not constitutionally required for those statutory provisions limiting contributions, see *Buckley*, 424 U.S. at 78-80, 96 S.Ct. at 663-64. Nonetheless the fact that the Court in *Buckley* formulated these definitions for this statutory language demonstrates that the FEC's similar interpretation of the same language is logical, reasonable, and consistent with the overall statutory framework. The fact that the FEC adopted the interpretation for all relevant statutory provisions, even where not constitutionally required, only adds to its reasonableness for it enhances the consistency and evenhandedness with which the FEC ultimately administer the Act.

Oroski, 795 F.2d at 166-67 (emphasis added). See also FEC Advisory Opinion 1978-46, 1 Fed. Election Campaign Fin. Guide (CCH) ¶ 5348 (Oct. 5, 1978) (suggesting that section 441a(d) requires "express advocacy").

The "thoroughness, validity, and consistency of an agency's reasoning are factors that bear upon the amount of deference to be given an agency's ruling." *NCPAC*, 454 U.S. at 35, 102 S.Ct. at 44; *Adamo Wrecking Co. v. United States*, 434 U.S. 275, 287 n.5, 98 S.Ct. 566, 573 n.5 (1978). I do not find the Commission's suggested interpretation of "in connection with" to be entitled to deference where it is neither thorough nor consistent with either its own previous rulings or the courts' holdings. I conclude that "express advocacy" is required in order for a coordinated expenditure to be "in connection with" the general election campaign of a candidate for federal office under section 441a(d).

[Application to Facts]

Having made this determination, I must decide whether the Advertisement constituted "express advocacy." The Court has adopted a bright-line test for identifying speech which constitutes "express advocacy," recognizing that:

[T]he distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on

various issues, but campaigns themselves generate issues of public interest.

Buckley, 424 U.S. at 42, 96 S.Ct. at 645. See *Furgatch*, 807 F.2d at 860; *Federal Election Comm'n v. National Organization for Women*, 713 F.Supp. 428, 432 (D.D.C. 1989). The Court defined "express advocacy" as "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' or 'reject.'" *Buckley*, 424 U.S. at 46 n. 52, 96 S.Ct. at 647 n.52. Speech is "advocacy" if it "presents a clear plea for specific action, and . . . it must be clear what action is advocated." *Furgatch*, 807 F.2d at 864. Speech which is merely informative would not be considered "advocacy." *Id.* When determining whether speech constitutes "express advocacy," the focus is on the actual wording used. *Buckley*, 424 U.S. at 42, 96 S.Ct. at 646.

The Advertisement does not contain any words which expressly advocate action. As best, as plaintiff suggests, the Advertisement contains an indirect plea for action. The Advertisement concludes with "Tim Wirth has the right to run for the Senate, but he doesn't have the right to change the facts." Even assuming the Advertisement indirectly discourages voters from supporting Wirth, it does not contain the direct plea for specific action required by *Buckley* and *Furgatch*.

According to plaintiff, the surrounding circumstances suggest the Advertisement was, in fact, a plea for action. The Advertisement identified Wirth by name and position, referred to his senate candidacy, responded to Wirth's own campaign advertisements, and said "paid for by the Colorado Republican State Central Committee." (Pl.'s Mot. at 15.) At the time the Advertisement ran, plaintiff maintains, Wirth was the only credible announced Democratic candidate for Senate. *Id.* In addition, the public "knew" the sponsor of the Advertisement, i.e., the Republican party, would eventually nominate a candidate. Thus, the Advertisement implicitly urged the public both to vote against Wirth and to support whomever the Republican candidate would be. Plaintiff also points to contemporaneous press statements of Howard "Bo" Calloway, then Chairman of the Colorado Republican Party, concerning the state committee's general purpose which allegedly leave "no doubt that the intent of the ad was to attack Mr. Wirth's candidacy for the Senate." (Pl.'s Mot. at 10-11, 17-18.)

I do not believe this type of indirect urging constitutes "express advocacy" under the *Buckley* analysis. *Buckley* adopted a bright-line test that expenditures must "in express terms advocate the election or defeat of a candidate" in

order to be subject to limitation. *Faucher v. Federal Election Comm'n*, 928 F.2d 468, 471 (1st Cir. 1991). In adopting a bright-line approach, the Court noted the difficulty in interpreting the meaning and effects of words:

[Whether words intended and designed to fall short of invitation would miss that mark is a question both of intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inferences may be drawn to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.

Buckley, 424 U.S. at 43, 96 S.Ct. at 646 (quoting *Thomas v. Collins*, 323 U.S. 516, 535, 65 S.Ct. 315, 325 [1945]). In adopting the "express advocacy" standard, the Court sought to protect issue advocacy. "In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential. . . . Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." *Buckley*, 424 U.S. at 14-15, 96 S.Ct. at 632. Trying to determine whether the surrounding circumstances, coupled with the implications of the Advertisement, constitute "express advocacy" leads to the type of semantic dilemma which the Court sought to avoid by adopting a bright-line rule. I decline to alter *Buckley's* bright-line rule by interpreting the Advertisement's criticism of Wirth as "express advocacy." Viewing the facts in the light most favorable to plaintiff, I find that the Advertisement does not call for the type of "express advocacy" required by *Buckley*. Because I conclude that no reasonable trier of fact could find for plaintiff on the basis of the evidence

presented, defendants are entitled to summary judgment as a matter of law. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

With regard to plaintiff's motion for summary judgment, the analysis of whether the Advertisement constitutes "express advocacy" is the same. Defendants allege that the Advertisement neither contains a direct plea for action, nor conveys support for a particular candidate. According to defendants, the Advertisement simply informed the public about the political record of an incumbent Colorado congressman; it did not advocate voting for or against any political candidate. (Def.' Mot. at 7.) In addition, the Advertisement was broadcast seven months before the general election—before either party had chosen its candidate. (Def.' Reply at 10.) Defendants claim Wirth's senate candidacy was referenced in the Advertisement only for the purpose of identifying his statements. (Def.' Reply at 9.) Plaintiff fails to adequately rebut these claims. Accordingly, plaintiff's motion for summary judgment is denied.

Conclusion

Because I find that the expenditure for the Advertisement was not "in connection with" the general election of a candidate for federal office, it was not subject to section 441a(d)(3) limitations and did not violate the Act. Since I am able to resolve the dispute on statutory grounds, I do not reach defendants' challenge to the constitutionality of section 441a(d)(3). Defendants cannot avoid this result by posturing the constitutional issue as an independent counterclaim. It is therefore

[Order]

ORDERED as follows:

- (1) Plaintiff's motion for summary judgment is DENIED; and
- (2) Defendants' motion for summary judgment is GRANTED. All claims against defendants are dismissed. Defendants' counterclaim is DISMISSED as moot.

Dated this 30th day of August, 1993.

[19341] COMMENTS SOUGHT ON NAME USE BY UNAUTHORIZED COMMITTEES

The Federal Election Commission is seeking comments on a proposal to amend its regulations on the use of a candidate's name in a fundraising project conducted by or on behalf of an unauthorized committee to allow such use if the title of the project or any other communication on behalf of the unauthorized committee clearly indicates opposition to the named candidate. Comments must be received by January 31, 1994.

Back reference.—Guidelines—Regulations—Rules ¶ 734.

Federal Election Commission Notice of Proposed Rulemaking. Notice 1993-33. 58 FR 65559.

SUMMARY: The Commission is seeking comments on a proposed amendment to its regulations regarding an unauthorized committee's use of a candidate's name in the title of a special

fundraising project or other communication on behalf of the unauthorized committee. The amendment would permit such use, if the title

¶ 19341

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4TH CASE of Level 1 printed in FULL format.

FEDERAL ELECTION COMMISSION, Plaintiff, v. SURVIVAL EDUCATION FUND, INC., et al.,
Defendants.

89 Civ. 0347 (TPG)

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

1994 U.S. Dist. LEXIS 210

January 12, 1994, Decided

January 12, 1994, Filed

COUNSEL: [*1] For FEDERAL ELECTION COMMISSION, plaintiff: Robert W. Bonham, Richard B. Bader, Washington, DC.

For SURVIVAL EDUCATION FUND INC., NATIONAL MOBILIZATION FOR SURVIVAL, defendants: Arthur Eisenbert, NY Civil Liberties Union Foundation, New York, NY. Catherine Samuels, Schulte, Roth & Zabel, New York, NY.

For NATIONAL MOBILIZATION FOR SURVIVAL, SURVIVAL EDUCATION FUND, INC., counter-claimant: Arthur Eisenbert, NY Civil Liberties Union Foundation, New York, NY. Catherine Samuels, Schulte, Roth & Zabel, New York, NY.

For FEDERAL ELECTION COMMISSION, counter-defendant: Robert W. Bonham, Richard B. Bader, Washington, DC.

JUDGES: GRIESA

OPINIONBY: THOMAS P. GRIESA

OPINION: OPINION

Under the Federal Election Campaign Act, 2 U.S.C. §§ 431 et seq. (FECA), corporations are prohibited from making expenditures in connection with federal elections. Plaintiff, the Federal Election Commission (FEC), alleges that defendant Survival Education Fund, Inc. (SEF) paid for two letters which advocated the defeat of Ronald Reagan in the 1984 presidential election in violation of 2 U.S.C. § 441b(a), and 11 C.F.R. § 114.3(a)(1). The FEC sues an additional defendant, National Mobilization for Survival, Inc. (NMS). At the time of the letters NMS was an unincorporated as-

sociation, although it has since become incorporated. The FEC alleges that SEF and NMS violated 2 U.S.C. § 441d(a)(3) because the letters, not only advocated Ronald Reagan's defeat, but failed to state that they were paid for by SEF and NMS and were not authorized by any candidate for federal office or any committee of such candidate or its agents.

The FEC moves for summary judgment. Defendants cross-move for summary judgment. The FEC's motion is denied. Defendants' cross-motion [*2] is granted and the action is dismissed.

The principal issue is whether the letters in question advocated the defeat of President Reagan. As will be described hereafter, the Supreme Court has made it clear that the statutory prohibition only applies to "express words of advocacy of election or defeat."

FACTS

SEF is a non-profit Massachusetts corporation founded in 1978. It is an advocacy group which has taken positions favoring arms control, the reduction of United States military expenditures and the increase of governmental human services. SEF has strongly opposed intervention by the United States in the Central America conflict. SEF is not affiliated with any political party.

NMS was founded in 1977 as an unincorporated association and has advocated positions similar to those taken by SEF. In 1988 it became a New York non-profit corporation and ceased operations in October 1992.

In July 1984 both organizations cooperated to distribute two letters by Dr. Benjamin Spock. About 30,000 copies of each letter were circulated by mail, at a total cost of about \$ 16,500. This cost was shared by SEF and NMS.

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July 1984 was, of course, a few months before the November 1984 presidential [*3] election, in which the incumbent president, Ronald Reagan, was running against Walter Mondale.

The first letter had a discussion of various kinds of activities which it said the Reagan Administration was carrying out in Nicaragua, El Salvador and Honduras. The letter was intensely critical of those activities. The letter went on to say that a unique opportunity was presented by a presidential election campaign to make "our opposition to U.S. involvement in Central America felt with maximum impact." The letter asked the reader to join Dr. Spock and thousands of other Americans in demanding "an immediate halt to the undeclared war in El Salvador, Nicaragua and Honduras."

The letter enclosed what was described as a "special election-year ANTI-WAR BALLOT." The stated purpose of the ballot was to let President Reagan know that "we represent millions of the American electorate who reject his militaristic policies in Central America." The ballot was to be sent to President Reagan, and a "Voter Certificate" was to be returned to NMS. The letter referred to wanting "your NO vote for President Reagan" as well as financial contributions to NMS.

The "no vote" obviously referred to the [*4] ANTI-WAR BALLOT. That ballot had boxes to check indicating "NO" to various activities such as continued intervention in the Central American countries. The ballot ended up with the statement: "My vote in the November election will be influenced by your response to these demands."

While the first letter was undeniably hostile to President Reagan and to activities his Administration was allegedly carrying out, it did not expressly advocate voting against President Reagan. The letter was a condemnation of policies and activities of the Reagan Administration. It was designed to provide a vehicle - the anti-war ballot - through which these views would be expressed to the President, hopefully by thousands of people.

The second letter enclosed what was called the "National Mobilization for Survival 1984 Election Survey." The letter asked the recipients to fill out the questionnaire and return it to Dr. Spock. The questionnaire started out with the heading, "Ronald Reagan: Four More Years?" There was a series of questions about what was predicted regarding President Reagan's second term with respect to matters such as arms reduction, the development in the United States of new weapons, the [*5] use of United States forces in Central America, and spending for the Pentagon versus spending for the poor.

The covering letter stated that the expression of views on the enclosed survey "will help us understand and articulate the deep fears of the American people that a second Reagan term" will bring new arms escalation, war in Central America, and "life-threatening cuts in human services." The letter indicated that the results of the survey would be used to educate Americans by means of "citizenship awareness campaigns among hundreds of local groups across the country." The letter predicted "our highly visible presence" at the Republican convention in Dallas, involving major protest events, and "demonstrations and vigils" up to the time of election day. While the letter was obviously hostile to President Reagan, it did not expressly advocate voting against him. Instead, the purpose of the letter was to obtain answers to a survey which might later be used "to educate Americans who will be voting."

DISCUSSION

The Federal Election Campaign Act prohibits corporations from using general treasury funds to make an expenditure "in connection with" any federal election. 2 U.S.C. § 441b [*6] (a); see also 11 C.F.R. § 114.3(a)(1).

Where the issue relates to payments for communication, the statute has been interpreted as reaching "only communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office." *FEC v. Massachusetts Citizens For Life, Inc.*, 479 U.S. 238, 248-49, 93 L. Ed. 2d 539, 107 S. Ct. 616 (1986) ("MCFL"), quoting *Buckley v. Valeo*, 424 U.S. 1, 80, 46 L. Ed. 2d 659, 96 S. Ct. 612 (1976). This means the use of express words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot," "Smith for Congress," "vote against," "defeat," "reject." *MCFL* at 249; *Buckley v. Valeo*, 424 U.S. at 44 n.52; *F.E.C. v. Central Long Island Tax Reform Immediately Committee*, 616 F.2d 45 (2d Cir. 1980).

The "express advocacy" requirement is intended to "distinguish discussion of issues and candidates from more pointed exhortations to vote for particular persons." *MCFL*, 479 U.S. at 249.

It is clear from the cases that expressions of hostility to the positions of an official, implying that that official should [*7] not be reelected - even when that implication is quite clear - do not constitute the express advocacy which runs afoul of the statute. Obviously, the courts are not giving a broad reading to this statute.

Both the first and the second letters involved in this case dealt with issues upon which Dr. Spock, NMS and SEF violently disagreed with the Reagan Administration. Both letters were attempting to obtain

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votes or survey results showing where numbers of people stood on these issues. Both letters fell short of expressly advocating how the readers should vote in the coming presidential election.

The conclusion is that SEF did not violate § 441b(a) by paying a portion of the expense connected with these two letters.

In view of this holding, it follows that there was no violation by either SEF or NMS of § 441b(a)(3). This statute only applies where communications expressly advocate the election or defeat of a candidate for public office. The court has already held that the two letters in

question were not of this nature.

CONCLUSION

Plaintiff's motion for summary judgment is denied. Defendants' motion for summary judgment is granted and the action is dismissed.

SO ORDERED.

Dated: [*8] New York, New York
January 12, 1994

THOMAS P. GRIESA
U.S.D.J.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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U.S. POSTAL SERVICE
CAMP HILL, PA 17011

NUR 3852

ADDRESS INFORMATION REQUEST

Pursuant to 39 C.F.R. § 265.6(d)(1), please furnish this agency with a new address, if available, for the individual or entity listed below, or verify whether the address given below is one at which mail for this individual or entity is currently being delivered.

NAME: HOSPITAL ASSOCIATION OF PENNSYLVANIA
LAST KNOWN ADDRESS: PO BOX 604
CAMP HILL, PA 17011

Under 39 C.F.R. § 265.9(g)(5)(i), we request a waiver of fees. In this connection I hereby certify that the Federal Election Commission, an agency of the U.S. Government, requires the information requested above in the performance of its official duties, and that all other known sources for obtaining it have been exhausted. A return envelope is enclosed for your convenience.

Lois G. Lerner
Associate General Counsel

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- Moved, left no forwarding address
- No such address
- Other (Please Specify)



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MUR 3852

ADDRESS INFORMATION REQUEST

Pursuant to 39 C.F.R. § 265.6(d)(1), please furnish this agency with a new address, if available, for the individual or entity listed below, or verify whether the address given below is one at which mail for this individual or entity is currently being delivered.

NAME: HOSPITAL ASSOCIATION OF PENNSYLVANIA

LAST KNOWN ADDRESS: P.O. Box 608
CAMP HILL, PA 17011

Under 39 C.F.R. § 265.9(g)(5)(i), we request a waiver of fees. In this connection I hereby certify that the Federal Election Commission, an agency of the U.S. Government, requires the information requested above in the performance of its official duties, and that all other known sources for obtaining it have been exhausted. A return envelope is enclosed for your convenience.

Lois G. Lerner

Lois G. Lerner
Associate General Counsel

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- () No such address
- () Other (Please Specify)

New Address : FORWARDING ORDER

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MAR 9 1994
MAILED
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(Signature)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 18, 1994

Mr. John A. Russell, President
Hospital Association of Pennsylvania
P.O. Box 8600
4750 Lindle Road
Harrisburg, PA 17105-8600

RE: MUR 3852

Dear Mr. Russell:

The Federal Election Commission received a complaint which indicates that the Hospital Association of Pennsylvania may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). We have been attempting to locate your organization and, as you can see, a copy of the complaint was sent to you at your prior address. Copies of the January 12, 1994 notification letter and complaint are enclosed.

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

Sincerely,

Richard M. Denholm II
Attorney

Enclosures

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SENT BY: UNM 42A

7-25-84 11:29 AM

8781078-

804 228 7896: 2

STATEMENT OF DESIGNATION OF COUNSEL

NR 382

NAME OF COUNSEL: Dunn, Morris & Hockstcher
Attn: Barbara Adams, Esq.

ADDRESS: 4200 One Liberty Place
Philadelphia, PA 19103-7396

TELEPHONE: (215) 979-1225

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.

Hospital Association of Pennsylvania

7/25/84
DATE

[Signature]
Signature

RESPONDENT'S NAME: Hospital Association of Pennsylvania

ADDRESS: P.O. Box 8600
4750 Lindle Road
Harrisburg, PA 17105-8600

TELEPHONE: HOME () N/A
BUSINESS: (717) 964-9200

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DUANE, MORRIS & HECKSCHER

ATTORNEYS AT LAW

ONE LIBERTY PLACE
PHILADELPHIA, PA 19103-7396
(215) 979-1000

FAX
(215) 979-1020

305 NORTH FRONT STREET
HARRISBURG, PA 17108-1003
(717) 237-5500

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WILMINGTON, DE 19801
(302) 571-5550

8000 SAGEMORE DRIVE
MARLTON, NJ 08053
(609) 988-3100

August 3, 1994

BY TELECOPY AND FEDERAL EXPRESS

Richard M. Denholm, II, Esq.
Federal Election Commission
999 "E" Street, N.W.
Washington, DC 20463

RE: MUR 3852

Dear Mr. Denholm:

We are counsel to the Hospital Association of Pennsylvania ("HAP"). Under cover of a letter dated July 18, 1994 and addressed to John A. Russell, President of HAP, on behalf of the Federal Election Commission ("FEC"), you sent to HAP a copy of a complaint filed on January 11, 1994 by Maria Cino, Executive Director of the National Republican Congressional Committee, encaptioned as follows:

In the Matter of:

Congresswoman Marjorie Margolies-Mezvinsky,
Friends of Marjorie Margolies-Mezvinsky,
Betsy Klein, Treasurer
Congressional Institute For The Future
Rod McCord, Executive Director

and marked as MUR 3852. Such letter and the attached complaint were received by HAP on July 20, 1994.

Your letter suggests that the Complaint indicates that HAP may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). However, since HAP is at no time mentioned in the caption, facts, discussion of law or in the relief sought in the Complaint, and therefore none of the allegations of the Complaint are directed at HAP, it is

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OFFICE OF GENERAL
COUNSEL

Richard M. Denholm, II, Esq.
August 3, 1994
Page 2

not appropriate or warranted for HAP to respond to the Complaint as a Respondent since it is not clear what the allegations are to which HAP should be responsive. Similarly, the "Description of Preliminary Procedures for Processing Complaints Filed with the Federal Election Commission" describe the procedure to be followed by Respondents, which as noted above, is not clearly applicable to HAP. Nevertheless, we have been authorized by HAP to forward a brief letter to you to assist you in this matter.

Attached to the Complaint are three newspaper articles. A Philadelphia Inquirer news article dated December 8, 1993 (Exhibit A) mentions HAP and two additional news articles of the Washington Times dated December 9, 1993 (Exhibit E) and December 10, 1993 (Exhibit B), respectively, refer to the Inquirer article of December 8, 1993 and in that context mention HAP expressly (Times article of December 10, 1993) or by reference (Times article of December 9, 1993). We assume you have forwarded the Complaint to HAP because of these news articles. The Inquirer article of December 8, 1993, which is the source of the other references to HAP states, in relevant part, as follows:

"Confirmed contributors include the Hospital Association of Pennsylvania (\$50,000). ..."

The contribution described is to the Congressional Institute For The Future for its Future of Entitlements Project. We have been advised by HAP that HAP has not made any contribution to the Congressional Institute For The Future for its Future of Entitlements Project. Therefore, the Inquirer news article, which appears to be the source of the FEC's allegation that HAP may have violated the Act, is wrong.

Furthermore, in Exhibit C to the Complaint, the Congressional Institute For The Future states that it is a bipartisan 501(c)(3) educational organization. I assume this is true, and if so, were HAP to have made a contribution to the Institute for its Future of Entitlements Project, such a contribution would be in connection with the public discussion of an issue and would not be in connection with a federal election or the express advocacy of the election or defeat of a clearly identified candidate for federal office. Therefore, any such contribution would not be a violation of the Act or FEC regulations.

For the reasons set forth above, the FEC should find no reason to believe that HAP violated the Act suggested in correspondence relating to MUR 3852.

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Richard M. Denholm, II, Esq.
August 3, 1994
Page 3

If you have any further questions regarding this matter, please call.

Sincerely,



Barbara Adams
for DUANE, MORRIS & HECKSCHER

BA:mpg

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COMMISSION
SECRETARIAT

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

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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 3852

Date Complaint Filed: January 4, 1994

Date Of Notification: January 12, 1994

Date Activated: July 1, 1994

Attorney assigned: Richard M. Denholm II

COMPLAINANT:

Maria Cino, Executive Director,
National Republican Congressional
Committee

RESPONDENTS:

The Honorable Marjorie Margolies-Mezvinsky

Friends of Marjorie Margolies-Mezvinsky
and Betsy Klein, as treasurer

American Telephone and Telegraph Co.

Bryn Mawr College

Congressional Institute for the Future and
Robert McCord, Executive Director

General Motors Foundation, Inc.

Hospital Association of Pennsylvania

Merck and Company, Inc.

Mercy Health Corporation

Sun Company, Inc.

RELEVANT STATUTES:

2 U.S.C. § 441b(a)

11 C.F.R. §§ 114.2(a) & (b)

INTERNAL REPORTS CHECKED:

Disclosure Reports; FEC Indices

FEDERAL AGENCIES CHECKED:

None

I. GENERATION OF MATTER

This matter arises from a complaint filed with the Federal
Election Commission ("Commission") on January 4, 1994.

Maria Cino, Executive Director of the National Republican

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Congressional Committee, ("Complainant") alleges that Congresswoman Marjorie Margolies-Mezvinsky and her principal campaign committee, Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended, (the "Act") by receiving impermissible corporate contributions during the 1993-1994 election cycle. Specifically, the complaint alleges that the Congresswoman participated in a "Future of Entitlements Conference" (the "Entitlements Conference" or "Conference") at Bryn Mawr College on December 13, 1993,¹ and that corporate support of the conference was intended to benefit her re-election campaign.

This Office notified the above-listed Respondents of the complaint. All parties responded to the notification.

II. LAW

The issue in this matter is whether Congresswoman Marjorie Margolies-Mezvinsky and the Friends of Marjorie Margolies-Mezvinsky committee received impermissible corporate contributions through her participation in the Future of Entitlements Conference. The Act generally prohibits corporations from making contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a) and

1. Bryn Mawr College is in Pennsylvania's 13th Congressional District, which is represented by Congresswoman Margolies-Mezvinsky. The Conference was sponsored by the Congressional Institute for the Future, a non-profit corporation.

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11 C.F.R. § 114.2(a) and (b). For purposes of 2 U.S.C. § 441b(a), the term "contribution or expenditure" includes any direct payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value to any candidate, campaign committee, or political party organization in connection with any election. 2 U.S.C. § 441b(b)(2). Further, candidates and their authorized committees are prohibited from knowingly accepting corporate contributions. 2 U.S.C. § 441b(a).

On a number of occasions, the Commission has considered whether activities involving the participation of a Federal candidate, including participation in a corporate-sponsored event, or communications referring to a Federal candidate, result in a contribution or expenditure on behalf of the candidate. See, e.g., AO 1992-5 [¶ 6049]; AO 1988-27 [¶ 5934]; AO 1986-37 [¶ 5875]; AO 1986-26 [¶ 5866]; AO 1982-56 [¶ 5695]; AO 1981-37 [¶ 5623]; AO 1980-22 [¶ 5479]; AO 1978-56 [¶ 5373]; AO 1978-15 [¶ 5304]; AO 1977-54 [¶ 5301]; and AO 1977-42 [¶ 5313]. The Commission has found that a contribution or expenditure results if the event involves: (1) the solicitation, making or acceptance of contributions to the candidate's campaign, or (2) communications expressly advocating the nomination, election or defeat of any candidate. AO 1992-5 [¶ 6049]. The Commission may also determine that an event is campaign-related even in the absence of solicitations for contributions or express advocacy regarding candidates. AO 1992-6 [¶ 6043]; AO 1990-5 [¶ 5982]; AO 1988-27 [¶ 5934]; AO 1986-37 [¶ 5875]; AO 1986-26 [¶ 5866]; AO 1984-13 [¶ 5759]; and AO 1983-12 [¶ 5718].

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In Advisory Opinion 1992-5, Congressman James P. Moran, a 1992 candidate for re-election in Virginia's 8th Congressional District, requested an opinion regarding his appearances on two cablecast public affairs forums, A Capital Report from Congressman James P. Moran and A Conversation with Congressman Jim Moran.²

2 Fed. Election Camp. Fin. Guide (CCH) ¶ 6049, at 11,796 (March 13, 1992). The Commission determined that the "production and broadcasting of the programs [did] not constitute either a contribution or expenditure on [the Committee's] behalf." Id. at 11,797. The Commission reasoned that the broadcast of A Capital Report from Congressman James P. Moran made "no mention ... of [Congressman Moran's] campaign or election to Federal office nor did the program contain any otherwise promotional elements such as banners or campaign decorations. Furthermore, the program did not include any message that solicit[ed] contributions. The content of the program was strictly limited to issues before the Congress or issues of relevance to [Congressman Moran's] district."³ Id. at 11,796-97.

Similarly, in Advisory Opinion 1980-22, the American Iron and Steel Institute, an incorporated trade association, and its

2. Congressman Moran asserted that the local cable companies would maintain complete editorial and financial control over the programs and that the programs related exclusively to issues before Congress. Further, the Congressman and his committee did not receive a financial benefit from these programs.

3. The same reasoning was extended to the other program, A Conversation with Congressman Jim Moran, based upon a "fact sheet" of the proposed series. Id. at 11,797.

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incorporated member companies intended to plan and sponsor a series of "town meetings." 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5479, at 10,542 (April 15, 1980). Senators and Congressmen would attend to discuss the "future of the steel industry." The Commission concluded that, "[f]rom the situation described in the request, it appeared that the cost to the Institute or member companies of sponsoring the forum would not be a 'contribution' or 'expenditure' for purposes of the Act and thus either the Institute or the member companies [could] finance the 'town meetings.'" Id. at 10,543. The Commission reached this conclusion because "neither the introductory comments by the sponsor nor subsequent remarks by the legislators [would] relate to campaign activity, but rather, all remarks [would] be strictly limited to issues facing the steel industry." The Commission further understood that this would include the "premeeting publicity as well as the meeting itself." Thus, the Commission assumed that the purpose of the "town meetings" was "primarily to serve as a forum for discussion of problems of the steel industry and that the overall context of these meetings would be limited to effecting that primary purpose." Further, the Commission "assumed and conditioned its conclusion on the avoidance of any campaign contribution solicitations, or advocacy supporting or opposing any candidate for Federal office, in connection with the 'town meetings.'" Id.

III. COMPLAINANT'S ALLEGATIONS

Complainant alleges that Congresswoman Margolies-Mezvinsky's vote for President Clinton's tax package damaged her standing in

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her Congressional District. It is alleged that in exchange for her vote, she secured President Clinton's commitment to attend the Future of Entitlements Conference at Bryn Mawr College.⁴ The Complainant further alleges that the Conference was sponsored by the Congressional Institute for the Future ("CIF" or the "Institute"), but it was "proposed by and coordinated with Congresswoman Margolies-Mezvinsky." (Attachment 10, at 3.) The Executive Director of CIF is Rob McCord, who was formerly a campaign committee treasurer for Congresswoman Margolies-Mezvinsky. (Id. at 2.) Mr. McCord and Kenneth Smuckler, the Congresswoman's campaign manager, allegedly planned the Conference. According to the Complaint, "Mr. McCord has acknowledged that those efforts [Future of Entitlements Project] could serve to buttress Margolies-Mezvinsky's somewhat tenuous standing in her district." (Id.) Further, the Congresswoman "sent fundraising appeals on behalf of the conference/project." As of December 9, 1993, "about a dozen corporations and hospitals [had] contributed ... [and] [i]t was estimated that approximately \$175,000 had been given thus far."

Complainant alleges that the Conference was intended to benefit her re-election campaign because it was held in her home district and included the President and cabinet officials. Further, the Complaint alleges that the Conference was partially supported by campaign funds and organized by former campaign staffers. Complainant concludes:

4. The "Future of Entitlements Conference" was apparently part of the "Future of Entitlements Project." "The total proposed cost of the first year of operation of the project is \$524,536." (Attachment 10, at 2-3.)

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[T]he respondents recognize the political value of this Conference/project to the rehabilitation of the Margolies-Mezvinsky's [sic] image with Pennsylvania voters. The payments made for the purpose of convening the conference and subsequent project sponsored by Congresswoman Marjorie Margolies-Mezvinsky and the Congressional Institute for the Future are in reality poorly disguised payments for the purpose of supporting the re-election of Congresswoman Margolies-Mezvinsky. Said payments are impermissible corporate contributions in violation of 11 C.F.R. § 114.2(a) and (b).

(Attachment 10, at 3.)

IV. RESPONSES

A. Congresswoman Marjorie Margolies-Mezvinsky and Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer

Congresswoman Margolies-Mezvinsky ("The Congresswoman") and Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, (the "Committee") deny Complainant's allegations. They characterize the event as an "issues conference sponsored by the Congressional Institute for the Future" (Attachment 1, at 1.) The Congressional Institute for the Future is a section 501(c)(3) organization founded by Vice President Gore and former Senator Heinz and is prohibited from conducting activities in support of political campaigns. (Id. at 2; 11-27.)

"The Institute's issues conference was organized for the purpose of encouraging public debate about entitlement programs -- an issue of central concern to both the general public and Congresswoman Margolies-Mezvinsky." (Id. at 1.) Respondents further contend that:

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The program was planned to bring together a broad array of experts including current and former public officials, Cabinet Members and Republican and Democratic members of Congress to discuss entitlements programs and ideas for cutting the federal budget. Consistent with its usual fundraising practices, the Institute approached national and regional corporations for this project as well as other programs it was planning.

(Id. at 3.)

According to Respondents, "Congresswoman Margolies-Mezvinsky supported the Institute's efforts for the conference [by] signing a letter in support of the Institute's proposal." (Id.) However, "the proposed conference had no relation in intent or fact to the Congresswoman's re-election prospects." (Id. at 2.) Contrary to Complainant's allegations, Respondents assert that "no campaign staff or funds were used to organize the conference." (Id. at 3.) Also, "[t]he conference program and materials did not make any reference whatsoever to Congresswoman Margolies-Mezvinsky as a candidate or to her re-election." (Id. at 7.) Respondents contend that "[t]he fundraising solicitations were strictly seeking monies in support of the Institute's non-partisan issue programs." (Id.)

The Congresswoman and Committee argue that the timing and location of the Conference further demonstrate its nonpolitical nature. The Conference was held in the Congresswoman's district "to involve precisely the people who need to join in the debate with a ... Congresswoman over cutting the federal budget --

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constituents." (Id. at 8.) The Conference also was not timed to influence the election because it was held one year prior to the election. (Id.)

B. The Congressional Institute for the Future and Rob McCord, Executive Director

CIF and Rob McCord, Executive Director, ("CIF") assert that "the Complainant has not made a single allegation that any person or entity ... involved in staging the Future of Entitlements Conference made any exhortation to vote for or against a specific candidate or solicited any funds for a candidate's campaign."

(Attachment 2, at 5.) CIF further states:

In fact, the promotional literature for the ... event ... specifically states that entitlements and follow-up project are: designed to push entitlement programs reform into the media spotlight and onto the legislative agenda. The project aims to help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, Medicaid, farm support, and federal, military and civilian pensions.

(Id. at 5-6.)

CIF avers that it is a "501(c)(3) non-profit educational organization whose purpose is to provide information on emerging demographic, social and economic trends and to educate private and public policy leaders on the long-term impact of these issues."

(Id. at 2.) According to the Institute, it "has a

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distinguished history of organizing and sponsoring issue-oriented conferences."⁵ (Id.) CIF agreed to sponsor the Entitlements Conference and invited, among other participants, President Clinton, Congresswoman Margolies-Mezvinsky, former Senator Warren Rudman, and Senator John Danforth. CIF also developed bipartisan polling and research models to follow-up on the entitlements issue. (Id. at 2-3.)

C. Bryn Mawr College

Bryn Mawr College (the "College") asserts that its "sole role in the conference ... was to serve as the site of a bipartisan educational conference." (Attachment 3, at 1.) The College did not contribute funds for the conference or solicit contributions or endorse Congresswoman Margolies-Mezvinsky. (Id.) The College also provides a copy of the Conference's opening remarks, which were given by its President. (Id. at 4.) The remarks note that "this public, bipartisan discussion is taking place on a college campus, which decision must signal the educational purposes of the day." She goes on to say that "[t]oday's program should work very much like the seminars that go on every day in colleges and universities. You will be part of a thoughtful consideration of

5. CIF points out that it has held conferences on the following issues: "Technology for Literacy," "The Future of Biotechnology," and "Challenging the Information Age." (Id. at 12.) CIF is also actively involved in the following issues: "Health Care: Options for Reform," "Civil Rights Issues of the 1990s," and "Innovation in Governance and Politics." (Id. at 14.)

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the future of our entitlement programs, about which there is healthy disagreement, strong belief, and passionate concern."

(Id.)

D. Corporate Participants

The remaining respondents in this matter are corporations, which participated in and/or contributed to the Conference. These corporate respondents deny Complainant's allegations and assert that the Conference was bipartisan and organized to discuss entitlements issues, not the re-election of Congresswoman Margolies-Mezvinsky. The corporate respondents request that the Commission dismiss the complaint in this matter.

1. American Telephone & Telegraph Company

American Telephone and Telegraph ("AT&T") responds that it "and approximately 80 business corporations and other organizations have supported the Institute's programs in the past." (Attachment 4, at 2.) It is AT&T's policy to contribute to "worthwhile, charitable organizations." (Id.)

In September 1993, the Institute contacted AT&T regarding support for the Entitlements Conference, and the company decided to contribute \$50,000 "in light of the important public policy issues the project was designed to address." (Id. at 3.) AT&T declined the Institute's offer of participating in a panel discussion at the Conference, but the company sent three government relations employees to attend the Conference. (Id.) The company describes the activities at the Conference as follows:

The AT&T employees observed no election activity whatsoever. No one endorsed the Congresswoman's re-election or the election of

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any other candidate or officeholder, and no one solicited contributions to any political campaign. No campaign literature, placards, or buttons of any kind were observed by any of the AT&T employees. All of the speeches and remarks of the participants focused on the policy issues under discussion, not election issues The non-political nature of the conference is [further] shown by its bipartisan participants.

(Id.)⁶

2. General Motors Foundation, Inc.

The General Motors Foundation, Inc. ("GMF") avers that "neither the GMF nor General Motors Corporation has disbursed any funds or made any payments in-kind to the CIF or other third parties in connection with the Project or the Conference."⁷

(Attachment 5, at 2.)

3. Merck & Co., Inc.

Merck and Co., Inc. ("Merck") states that it contributed \$25,000 to the Institute, but denies that it made an impermissible corporate contribution. (Attachment 6, at 2.) Merck asserts that this donation "was intended for a bona fide public policy

6. In a supplemental response, AT&T argues that recent court decisions have strictly applied the express advocacy standard and, in light of these decisions, the Commission should dismiss the complaint in MUR 3852. Respondent cites, *inter alia*, FEC v. Colorado Republican Federal Campaign Committee, 839 F. Supp. 1448 (D. Colo. 1993), and FEC v. Survival Education Fund, Inc., 1994 WL 9658 (No. 89 CIV. 0347 (TPG)) (S.D.N.Y. 1994). (See Attachment 4.)

7. GMF also argues that the Act and Commission regulations do not apply to it because "neither GMF nor General Motors Corporation is a national bank or a corporation organized by authority of federal law." (Attachment 5, at 1.) Instead, General Motors is a Delaware corporation and GMF is incorporated in the state of Michigan. (Id.) This argument is without merit.

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initiative, and there was no intent ... to make a prohibited contribution or expenditure." (Id.) Merck argues that it has financially supported the Institute since 1991. (Id. at 3.) Further, Merck has a policy "not to contribute any corporate funds or other assets in connection with political campaigns at the Federal, State, or local levels anywhere in the United States"⁸ (Id.)

Merck also provides the affidavit of R. Teel Oliver, its Vice President for Government Relations. (Attachment 6, at 7.) Ms. Oliver states that Merck is a leading developer of vaccines, and in 1993, Merck became concerned about the Clinton Administration's proposal "to create a billion dollar entitlement program whereby the federal government would become the purchaser of all childhood vaccines." (Id. at 9.) In September 1993, Congresswoman Margolies-Mezvinsky visited Merck's manufacturing facilities. During this visit, one of the Congresswoman's staff members inquired whether Merck would want to sponsor a conference on entitlements. (Id. at 10.) Ms. Oliver was subsequently contacted by Rob McCord, and "[t]here was no suggestion, implicit or explicit, that support of the Institute's entitlements program would result in any campaign contribution or expenditure." (Id.)

Ms. Oliver also attaches background information sent to her by the Institute regarding the Conference. (Id. at 12-25.) She

8. Merck provides a copy of its policy, which prohibits the contribution of corporate funds to political campaigns. (Attachment 7.)

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states that "[i]t will be noted that the Projected Budget for the program -- to which Merck's \$25,000 contribution was directed -- refers only to conference expenses, with no suggestion of any political or other objectives." (Id. at 10.)

4. Sun Company, Inc.

Sun Company, Inc. ("Sun Company") states that it received two invitations, one from Rob McCord and one from Congresswoman Margolies-Mezvinsky, to participate in the Conference. "Both letters described the Institute as a tax-exempt, non-profit entity and indicated that the entitlements project and conference would be a bipartisan, educational undertaking" (Attachment 7, at 2.) Subsequently, Sun Company representatives met with Rob McCord and told him "that any participation by Sun must not be viewed by the public as either an endorsement of any particular entitlement reform proposal ... or as support for or an endorsement of Congresswoman Margolies-Mezvinsky" (Id. at 3.) Sun further asserts that Mr. McCord did not mention the Congresswoman's re-election or imply that the Conference was to benefit her campaign. (Id. at 4.) Thus, Sun Company contributed \$25,000 to the Institute for the Conference and denies that it violated the Act. (Id. at 1.)

At the Conference itself, Sun executives saw "no campaign activities, fundraising solicitations, or campaign signs or buttons supporting or opposing any federal candidate, including Congresswoman Margolies-Mezvinsky" (Id. at 5.) "In fact,

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Sun Company, Inc. participants are of the view that great efforts seem to have been made to encourage the bipartisan nature of the event"⁹ (Id.)

Sun concludes that it exercised caution in determining that its participation in the conference met the requirements of federal law. (Id. at 7.) Specifically, its participation met the company's objective criteria for supporting such events because of the following factors:

[T]he Institute's tax exempt status with the Internal Revenue Service; the bipartisan composition of its Board of Trustees and Advisors; the bipartisan composition of the panelists invited to participate in the conference; ... the national policy importance of the issues to be addressed by the conference; the choice of Bryn Mawr College as the site for the conference; and the opportunity to participate in a forum with the President of the United States

(Id. at 7-8.) Sun Company further asserts that it went to "great effort to insure that [its] donation bore absolutely no relationship to the re-election efforts of the Congresswoman; and at the Conference, there was no express advocacy either for or against the re-election of the Congresswoman and there was no solicitation of Sun Company, Inc. or of its executives for contributions in support of the re-election of Congresswoman Margolies-Mezvinsky" (Id. at 7-8.)

9. Sun also submits the affidavits of Joseph C. Swift, Vice President for Government Affairs and Communications; Thomas L. Wylie, Vice President for Government Relations; and Albert B. Knoll, Senior Legislative Representative, who all state that Sun's participation in the Conference was not to support the re-election of Congresswoman Margolies-Mezvinsky.

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5. Mercy Health Corporation

Mercy Health Corporation ("Mercy") states that it pledged \$25,000 to the Institute for the Conference after it was sure that "the Institute was a non-profit 501(c)(3) organization and that its Entitlements project was totally non-political in nature." (Attachment 8, at 1.) To date, however, Mercy has not made that donation. (Id.)

Mercy further argues that "[t]here is certainly no evidence that [we] received, heard of or in any way knew of any facts that would link this issue project to a campaign for public office. In fact, the materials attached to the complaint make clear that the focus of the forum was solely on public discussion of important issues facing the nation" (Id. at 2.) Mercy argues that none of their correspondence with the Institute referenced campaigns for federal office. (Id. at 3.)

6. Hospital Association of Pennsylvania

The Hospital Association of Pennsylvania ("HAP") states that it did not make any contribution to the Congressional Institute for the Future for its Future of Entitlements Project. (Attachment 9, at 2.) HAP does not discuss whether it had any other involvement with the Conference.

V. ANALYSIS

The question at hand is whether Congresswoman Margolies-Mezvinsky and her Committee received corporate contributions by participating in CIF's Future of Entitlements Conference. Based on the evidence, it does not appear that any

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respondent in this matter made or received a corporate contribution as a result of supporting or participating in the Future of Entitlements Conference.

The Commission has consistently found that corporate sponsorship of an event results in a prohibited contribution or expenditure if the event involves: (1) the solicitation, making or acceptance of contributions to the candidate's campaign, or (2) communications expressly advocating the nomination, election or defeat of any candidate. See, e.g., AO 1992-5 [¶ 6049] and AO 1980-22 ¶ [5479]. Applying these factors to this case, the CIF Conference was a non-political event and, therefore, the corporate donations were permissible. First, it appears that the only contributions solicited were to raise money for the Conference itself and the Future of Entitlements Project, not the Congresswoman's re-election campaign. Sun Company and AT&T both submitted copies of solicitation letters sent from the Congresswoman and Rob McCord. (Attachments 4 and 7.) These letters, which are printed on CIF letterhead,¹⁰ do not request contributions for the Congresswoman's political campaign. Instead, the letters request the companies' participation in her work "to develop a national project on the future of entitlements

10. The left-hand side of the letter lists the founders and directors of CIF. The Board of Directors consists of Bob Edgar, Pat Choate, Walter Hahn, Madelyn Hochstein, and Matthew Lesko. CIF's Advisory Board includes, among others, the Honorable Thomas S. Foley, the Honorable Newt Gingrich, the Honorable Dan Glickman, and the Honorable Tim Wirth.

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programs." (Attachment 4, at 10-12 and Attachment 7, at 21.) The letters continue with the Congresswoman describing the Conference and Project: "I believe the project we are planning will help educate key political leaders and the American public about the long-term implications of choices regarding programs such as Social Security, Medicare, and Medicaid, farm support and so on. Your help with this effort would prove invaluable." (Id.)

In a similar letter sent to the companies by Rob McCord, he requests the companies' assistance in developing the entitlements project. (Attachment 4, at 10-12 and Attachment 7, at 22.) Mr. McCord states that "our plan is to build the daylong conference around a total of three panel discussions - addressing issues related to retirement policy, health care, and welfare reform respectively." (Attachment 7, at 23 and see Attachment 4, at 10-12.) Neither letter directly or indirectly solicits contributions to The Congresswoman's re-election campaign.

Congresswoman Margolies-Mezvinsky and the Committee also did not solicit contributions at the Conference. AT&T employees in attendance aver that "no one solicited contributions to any political campaign." (Attachment 4, at 3.) Further, Sun Company

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executives in attendance state that they did not see any fundraising solicitations at the Conference.¹¹ (Attachment 7, at 5.)

Turning to the second factor, there is also no evidence that the Conference included any communications expressly advocating the election or defeat of any candidate for federal office. First, conference participants aver that there were no campaign activities, signs, or buttons which showed support for or opposition to any federal candidate. (Attachment 7, at 5.) Second, the news accounts attached to the complaint do not describe the Conference as including campaign advocacy. The news accounts, instead, describe an "issues forum" in which federal entitlements programs were discussed. Third, the setting of the Conference suggests that it was an educational program rather than a political rally. The Conference was held at Bryn Mawr College, and its president, who submits her opening remarks, informed participants that they would be participating in a forum similar to a college seminar. Her remarks did not mention Congresswoman

11. This Office has also reviewed the Committee's disclosure reports to determine whether the Committee reported receiving any corporate contributions on or near the date of the Conference, December 13, 1993. The Committee's 1993 Year End, 1994 April Quarterly, and 1994 Pre-Primary Reports do not disclose the receipt of corporate contributions on or near that date. In fact, the Committee's 1993 Year End Report reflects that it did not receive any contributions on December 13, 1993. Corporate participants also did not make contributions to the Committee through April 1994. Of note, AT&T PAC and Merck PAC did make legal contributions to the Committee, but not at or near the time of the Entitlements Conference.

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Margolies-Mezvinsky's candidacy, or any other candidate for federal office.

Further, it is uncontested that the Congressional Institute for the Future is a section 501(c)(3) organization and that CIF was the sponsor of the Conference. As a section 501(c)(3) organization, CIF is prohibited from engaging in political activities. The nonpolitical nature of the Conference is also indicated by the bipartisan participation in the event. Affidavits submitted by respondents attest to the bipartisan involvement and the political figures who participated included, among others, Congresswoman Margolies-Mezvinsky, President Clinton, former Senator Warren Rudman, and Senator John Danforth.

Respondents in this matter also submitted materials that were distributed to Conference participants. These materials do not mention any political campaigns. For example, the Conference outline describes four, non-campaign segments to the Conference: "Panel Discussion on Retirement Programs," "Luncheon with President Clinton," "Panel Discussion on Effects of Health Care Reform on Entitlements Programs," and "Panel Discussion on Possible Reform of Programs for the Needy." (Attachment 2, at 23-24.) Further, the outline of the Entitlements Project does not mention the Congresswoman's re-election or campaign. Instead, one goal, among others, is to "[o]rganize DC-based conferences (with experts, competing national constituencies, Executive Branch leaders, and a bipartisan group of legislators) to discuss promising reform proposals." (Id.) (Emphasis added).

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Finally, the Conference was held in December 1993, not close-in-time to the election in this Congressional District.¹² Thus, the timing of the Conference does not indicate a close nexus to the election.

Accordingly, it appears that the Future of Entitlements Conference was a forum for the discussion of issues, which did not include any solicitation of political contributions or express advocacy of the election or defeat of any federal candidate. Based on the foregoing, this Office recommends that the Commission find no reason to believe that The Honorable Marjorie Margolies-Mezvinsky; Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer; American Telephone and Telegraph Co.; Bryn Mawr College; the Congressional Institute for the Future and Robert McCord, Executive Director; General Motors Foundation, Inc.; Hospital Association of Pennsylvania; Merck and Company, Inc.; Mercy Health Corporation; and Sun Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b), and close the file in this matter.

VI. RECOMMENDATIONS

1. Find no reason to believe that The Honorable Marjorie Margolies-Mezvinsky violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
2. Find no reason to believe that the Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
3. Find no reason to believe that American Telephone and Telegraph Co. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

12. Pennsylvania's Primary Election was held on May 10, 1994. The General Election is set for November 8, 1994.

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4. Find no reason to believe that Bryn Mawr College violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

5. Find no reason to believe that The Congressional Institute for the Future and Robert McCord, Executive Director, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

6. Find no reason to believe that General Motors Foundation, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

7. Find no reason to believe that the Hospital Association of Pennsylvania violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

8. Find no reason to believe that Merck and Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

9. Find no reason to believe that Mercy Health Corporation violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

10. Find no reason to believe that Sun Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

11. Approve the appropriate letters.

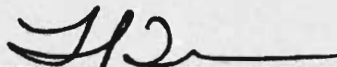
12. Close the file.

Lawrence M. Noble
General Counsel

Date

10/21/94

BY:


Lois G. Lerner

Associate General Counsel

Attachments

1. Response of The Honorable Marjorie Margolies-Mezvinsky and Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer.
2. Response of the Congressional Institute for the Future and Robert McCord, Executive Director.
3. Response of Bryn Mawr College.
4. Responses of American Telephone and Telegraph Co.
5. Response of General Motors Foundation, Inc.
6. Response of Merck and Company, Inc.
7. Response of Sun Company, Inc.
8. Response of Mercy Health Corporation.
9. Response of Hospital Association of Pennsylvania.
10. Complaint

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 3852

The Honorable Marjorie Margolies-Mezvinsky;)
Friends of Marjorie Margolies-Mezvinsky and)
Betsy Klein, as treasurer;)
American Telephone and Telegraph Co.;)
Bryn Mawr College;)
Congressional Institute for the Future and)
Robert McCord, Executive Director;)
General Motors Foundation, Inc.;)
Hospital Association of Pennsylvania;)
Merck and Company, Inc.;)
Mercy Health Corporation;)
Sun Company, Inc.)

CERTIFICATION

I, Marjorie W. Emons, recording secretary for the Federal Election Commission executive session on November 8, 1994, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3852:

1. Find no reason to believe that The Honorable Marjorie Margolies-Mezvinsky violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
2. Find no reason to believe that the Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

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3. Find no reason to believe that American Telephone and Telegraph Co. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
4. Find no reason to believe that Bryn Mawr College violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
5. Find no reason to believe that The Congressional Institute for the Future and Robert McCord, Executive Director, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
6. Find no reason to believe that General Motors Foundation, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
7. Find no reason to believe that the Hospital Association of Pennsylvania violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
8. Find no reason to believe that Merck and Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
9. Find no reason to believe that Mercy Health Corporation violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).

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10. Find no reason to believe that Sun Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b).
11. Approve the appropriate letters as recommended in the General Counsel's report dated October 21, 1994.
12. Close the file.

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

Attest:

11-10-94
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Maria Cino, Executive Director
National Republican Congressional Committee
320 First Street, S.E.
Washington, D.C. 20003

RE: MUR 3852

Dear Ms. Cino:

On November 8, 1994, the Federal Election Commission reviewed the allegations of your complaint dated December 21, 1993, and found that on the basis of the information provided in your complaint, and information provided by the respondents, there is no reason to believe Representative Marjorie Margolies-Mezvinsky; Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer; American Telephone and Telegraph Co.; Bryn Mawr College; the Congressional Institute for the Future and Robert McCord, Executive Director; General Motors Foundation, Inc.; Hospital Association of Pennsylvania; Merck and Company, Inc.; Mercy Health Corporation; and Sun Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, on that same date, the Commission closed the file in this matter.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

November 15, 1994

Mr. Robert F. Bauer, Esq.
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20005

RE: MUR 3852
Representative Marjorie
Margolies-Mezvinsky and
Friends of Marjorie
Margolies-Mezvinsky and
Betsy Klein, as
treasurer

Dear Mr. Bauer:

On January 12, 1994, the Federal Election Commission notified your clients, Representative Marjorie Margolies-Mezvinsky and Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe Representative Marjorie Margolies-Mezvinsky and Friends of Marjorie Margolies-Mezvinsky and Betsy Klein, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Mr. Philip S. Friedman, Esq.
Ifshin & Friedman
888 16th Street, N.W.
#300
Washington, D.C. 20006

RE: MUR 3852
Congressional Institute
for the Future and
Robert McCord,
Executive Director

Dear Mr. Friedman:

On January 12, 1994, the Federal Election Commission notified your clients, Congressional Institute for the Future and Robert McCord, Executive Director, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your clients, that there is no reason to believe Congressional Institute for the Future and Robert McCord, Executive Director, violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Mr. Michael A. Nemeroff, Esq.
Sidley & Austin
1722 Eye St., N.W.
Washington, D.C. 20006

RE: MUR 3852
American Telephone and
Telegraph Co.

Dear Mr. Nemeroff:

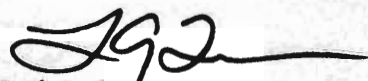
On January 12, 1994, the Federal Election Commission notified your client, American Telephone and Telegraph Co., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe American Telephone and Telegraph Co. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Ms. Barbara Adams, Esq.
Duane, Morris & Heckscher
One Liberty Place
Philadelphia, PA 19103-7396

RE: MUR 3852
Hospital Association of
Pennsylvania

Dear Ms. Adams:

On July 18, 1994, the Federal Election Commission notified your client, Hospital Association of Pennsylvania, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the Hospital Association of Pennsylvania violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Ms. Phyllis S. Lachs, Esq.
101 N. Merion Ave.
Bryn Mawr, PA 19010

RE: MUR 3852
Bryn Mawr College

Dear Ms. Lachs:

On January 12, 1994, the Federal Election Commission notified your client, Bryn Mawr College, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Bryn Mawr College violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Mr. William B. Canfield, III, Esq.
Holland & Knight
888 Seventh St., N.W.
#900
Washington, D.C. 20006

RE: MUR 3852
Sun Company, Inc.

Dear Mr. Canfield:

On January 12, 1994, the Federal Election Commission notified your client, Sun Company, Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Sun Company, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel


BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

November 15, 1994

Ms. Lyn Utrecht, Esq.
Oldacker, Ryan & Leonard
618 Connecticut Ave., N.W.
#1100
Washington, D.C. 20006

RE: MUR 3852
Mercy Health
Corporation

Dear Ms. Utrecht:

On January 12, 1994, the Federal Election Commission notified your client, Mercy Health Corporation, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Mercy Health Corporation violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 15, 1994

Mr. Bert I. Weinstein, Esq.
1 Merck Drive
BOX 100 WS3B
Whitehouse Station, NJ 08889

RE: MUR 3852
Merck and Co., Inc.

Dear Mr. Weinstein:

On January 12, 1994, the Federal Election Commission notified your client, Merck and Co., Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe Merck and Co., Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

November 15, 1994

Mr. Gregory Merryman, Esq.
P.O. BOX 33122
Detroit, MI 48232

RE: MUR 3852
General Motors
Foundation, Inc.

Dear Mr. Merryman:

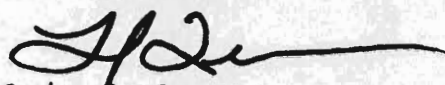
On January 12, 1994, the Federal Election Commission notified your client, General Motors Foundation, Inc., of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On November 8, 1994, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe General Motors Foundation, Inc. violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 114.2(a) and (b). Accordingly, the Commission closed its 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.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 3852

DATE FILMED 12-14-94 CAMERA NO. 2

CAMERAMAN JMN

4043593335



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

Date: 1/9/95

 Microfilm
 Public Records
 Press

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THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED NUR 3852

A. Smith R. Denholm

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF THE CLERK

DEC 28 9 43 AM '94

General Motors Corporation
Legal Staff

Facsimile
(313) 974-7731

Telephone
(313) 974-1461

December 21, 1994

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

Dear Ms. Lerner:

Re: MUR 3852

General Motors received your correspondence dated November 30, 1994, along with the corresponding General Counsel's Report on this matter.

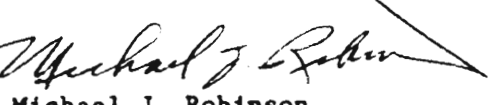
While we concur with the ultimate conclusion of the report and action taken by the FEC, it is apparent to us that the author of the report misunderstood the original response of the General Motors Foundation. A copy of the February 2, 1994, response is enclosed for your convenience.

The complaint had alleged a violation by "GMF" of 11 C.F.R. §§114.2(a) and (b). GMF addressed those allegations seriatim. Obviously, the analysis by GMF that it was not "a national bank or corporation organized by authority of federal law" dealt squarely with the allegation that GMF had violated Section 114.2(a) of the FECA, an impossibility as a matter of law since GMF does not meet that statutory definition.

The remainder of the response then proceeded with an analysis under the applicable portion of the Act, Section 114.2(b). GMF made no argument that FECA did not apply in a general sense to the actions of GM or GMF. Therefore, I would respectfully suggest that footnote 7 on page 12 of the General Counsel's Report is inappropriate. To the extent GMF did raise the issue referenced in that footnote, the text of the note misstates the limited position taken by GMF or the reason it was necessary to even make the argument.

It is a small matter, but one we wanted to bring to your attention if this is now to be a matter of public record.

Very truly yours,



Michael J. Robinson
Attorney

MJR:dmb

5043623

GENERAL MOTORS FOUNDATION

3044 WEST GRAND BOULEVARD
DETROIT, MICHIGAN 48202
(313) 856-6517

DEBORAH I. DINGELL
PRESIDENT

February 2, 1994

94 FEB -2 AM 11:57

RECEIVED
FEDERAL ELECTION COMMISSION

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

Attn: Mary L. Taksar, Attorney

Re: MUR 3852

This letter is submitted in response to the Commission's letter of January 12, received January 19, to the General Motors Foundation, Inc. (the "GMF") regarding the Project on the Future of Entitlement Programs (the "Project") sponsored by the Congressional Institute for the Future (the "CIF").

The letter states that the Commission has received a complaint that "indicates that the General Motors Foundation, Inc. may have violated the Federal Election Campaign Act of 1971, as amended ('the Act')." The letter refers to a complaint filed with the Commission by the National Republican Congressional Committee, which alleges that payments made for the purpose of convening the "Future for Entitlements" conference (the "Conference") sponsored by the CIF were impermissible corporate contributions in violation of 11 C.F.R. §§ 114.2(a) and (b). We submit that neither the GMF nor General Motors Corporation has violated the Act or 11 C.F.R. §§ 114.2(a) or (b).

Section 114.2(a) prohibits national banks and corporations organized by authority of federal law from making contributions, as defined in 11 C.F.R. § 114.1(a), in connection with elections to political office. Neither the GMF nor General Motors Corporation is a national bank or a corporation organized by authority of federal law. The GMF is a corporation organized under Michigan law, and General Motors Corporation is a Delaware corporation. Therefore, § 114.2(a) does not apply to the GMF or General Motors Corporation.

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Federal Election Commission
Page 2
February 2, 1994

Section 114.2(b) prohibits corporations from making contributions, as defined in 11 C.F.R. § 114.1(a), in connection with any federal election. Section 114.1(a) defines the term "contribution and expenditure" to mean, in summary, any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value in connection with a federal election. Despite press reports to the contrary, to the best of my knowledge after a search of records conducted under my direction, neither the GMF nor General Motors Corporation has disbursed any funds or made any payments in-kind to the CIF or other third parties in connection with the Project or the Conference. We therefore assert that because there was no contribution, there was no violation of 11 C.F.R. 114.2(b).

(We note that the CIF has solicited a contribution from the GMF, and that discussions have taken place between the CIF and representatives of General Motors regarding a contribution. But neither a solicitation nor discussions of contributions constitute contributions as defined in the Act or the regulations.)

In view of the erroneous press reports of a contribution to the CIF by the GMF, we make the following comments to dispel any appearance of impropriety. On several occasions, the Commission has approved corporate payments in connection with events materially indistinguishable from the Conference as we understand its purpose and the events reported to have transpired at it. In its Advisory Opinion 1980-22, the Commission approved corporate payments sponsoring a series of town meetings to discuss the future of the steel industry, provided the meetings were free of communications expressly advocating the nomination, election, or defeat of a federal candidate, and free of campaign contributions or solicitations for campaign contributions. The Commission reaffirmed this position in Advisory Opinion 1981-37, when it said, "Where the purpose of the activity is not to influence the

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nomination or election of a candidate for Federal office but rather in connection with the duties of a Federal officeholder, the Commission has consistently held that no contribution or expenditure results under the Act."

Advisory Opinion 1981-37 dealt with a series of public affairs forums moderated by a Congressman. The Commission recognized that the Congressman's participation in the forums could leave the public with a favorable impression that would assist the Congressman's re-election efforts. Nonetheless the Commission did not prohibit corporate support of the forums. The Commission said, "Although it is possible that [the Congressman's] involvement in the public affairs programs may indirectly benefit future campaigns, the Commission concludes that the major purpose of the activity contemplated by the above proposed agreement would not be the nomination or election of you or any other candidate to Federal office."

The Conference appears to fall squarely within these precedents and not those opinions, such as Advisory Opinion 1992-5, that suggest contributions would be impermissible if direct electioneering were involved. In this matter, contribution solicitation materials appended to the complaint show the CIF to be an organization with an advisory board consisting of Republicans and Democrats. They state that the CIF is a 501(c)(3) corporation, which by law is prohibited from engaging in partisan political activity. They describe the Conference as the kind of event for which the Commission approved corporate contributions in Advisory Opinion 1980-22: A conference of public officials and private citizens, including both Republicans and Democrats, convened to study an issue of great public importance. Although press reports of the Conference speculated as to the meaning of circumstances under which the Conference was convened, they also described an

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Federal Election Commission

Page 4

February 2, 1994

event that was free of express advocacy of any federal candidacy, as express advocacy has been defined in cases interpreting the Federal Election Campaign Act and Commission regulations. (See, e.g., Federal Election Commission v. National Organization for Women, 713 F. Supp. 428, 433 (D.D.C. 1989.) For example, a December 14, 1993, Associated Press report described the Conference as "a daylong, box-lunch, policy-wonk, pie-chart session."

For the reasons set forth above, we suggest that no action against the GMF or General Motors Corporation would be appropriate in this matter. If the Office of General Counsel does not agree with this assessment, we would appreciate an opportunity to discuss the matter further before any additional action is taken.

Sincerely,

Deborah I. Dingell

Deborah I. Dingell

5043620607