



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4090

DATE FILMED 1-24-67 CAMERA NO. 4

CAMERAMAN JM H

97043773021

VENABLE, BAETJER, HOWARD & CIVILLE, P.C.  
ATTORNEYS AT LAW

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
GENERAL  
COUNSEL

BALTIMORE, MD  
MCLEAN, VA  
ROCKVILLE, MD  
TOWSON, MD  
BEL AIR, MD

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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WASHINGTON, D.C. 20005-3917  
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JUL 1 12 59 PM '94

RICHARD H. VENABLE (1939-1910)  
EDWIN S. BAETJER (1899-1948)  
CHARLES MCH. HOWARD (1870-1942)

Pre-MUR 302

WRITER'S DIRECT NUMBER IS  
(202) 962-4857

THOMAS J. COOPER

July 1, 1994

BY HAND

Lois G. Lerner, Esq.  
Associate General Counsel  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Ms. Lerner:

This firm represents Firearms Training Systems, Inc. ("the Corporation") of Suwanee, Georgia.

This letter is a follow-up to a discussion that my colleague Thomas J. Kelly and I had with Lawrence M. Noble, the Commission's General Counsel on June 29, 1994. In the course of that conversation, we disclosed the facts set forth below.

The Corporation manufactures weapons training systems which are used by law enforcement and military customers. It has been in business since May, 1984. It has approximately 215 employees, and had sales of 20 million dollars in the fiscal year which ended on March 31, 1994.

During the course of an internal investigation which commenced on May 18, 1994, it was discovered that between October 1989 and the present date, Jody D. Scheckter, the President of the Corporation, ("the CEO"), made fourteen campaign contributions totaling \$11,050 (see Exhibit A). Mr. Scheckter has received seven reimbursements for political contributions between 1990 and July 1993 totalling \$8,000.

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**Voluntary Disclosure of Corporate  
Reimbursement of Certain Campaign Contributions**

During the period between February, 1990 and June, 1993, the CEO made the contributions itemized below and was reimbursed for them by the Corporation.

**Reimbursed Contributions**

<u>Date</u>	<u>Donee</u>	<u>Amount</u>	<u>Reimbursement Date</u>
02/13/90	Thomas for Congress	500	04/10/90
10/25/91	Democratic Congressional Campaign Committee	2,000*	
04/14/92	John Glenn for Senate Committee	2,000	04/13/92
08/13/92	Richard Ray for Congress	500	09/11/92
10/14/92	Friends of Newt Gingrich	1,000	10/23/92
02/02/93	Darden for Congress	1,000	04/23/93
06/05/93	Friends of Newt Gingrich	1,000	07/30/93

\*We believe that this contribution was, in fact, reimbursed but, to date, have been unable to locate records that show the date of the reimbursement.

Exhibit B shows copies of canceled checks, which relate to the foregoing listing.

**Contributions Which Were Not Reimbursed!**

The chart below shows contributions of the CEO, which were made during the period in question but which were *not* reimbursed by the Corporation.

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<u>Date</u>	<u>Donee</u>	<u>Amount</u>
10/20/89	Darden for Congress	500
07/14/93	Don Johnson for Congress	500
09/11/93	Friends of Newt Gingrich	100
10/26/93	Darden for Congress	1,000
02/08/94	Robb for Senate	500
02/23/94	Don Johnson for Congress	200
03/28/94	Don Johnson for Congress	250

The issue of the appropriateness of corporate reimbursements ("the Reimbursements") of campaign contributions was initially raised in the Corporation by Robert Motter, the Chief Financial Officer. Mr. Motter suggested that the Corporation was not in compliance with the law relating to political contributions and that it was in the Corporation's best interests to have the issue investigated. Immediately after Mr. Motter raised the issue, this firm was retained to investigate the matter, and the contributions listed above in the first chart were identified as having been reimbursed from corporate funds.

*The Scope of the Internal Investigation*

We identified each executive and employee at the Corporation who was believed to have information regarding the issues raised by Mr. Motter. We were assisted in the identification by James Hall, Human Resources Manager of the Corporation and Clare Fawkes, the Chief Operating Officer. Extensive interviews were conducted with the identified persons and pertinent corporate records were analyzed.

The investigation also included a review of the CEO's personal financial records. The results of our investigation are set out below.

*The Mechanics of the Reimbursements*

The CEO's personal checkbook is maintained by his secretary, Janice Dean, and he generally has no knowledge of

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the balance or of specific credits and debits from the account. Rather, his secretary prepares the checks, maintains the balance, and makes deposits as a matter of course. The CEO, in fact, has very little knowledge of the status of his personal finances. He told us that he did not know that his personal political contributions had been reimbursed. (He typically does not see reimbursement checks of any sort. Instead, his secretary endorses them and makes deposits into his personal account.) This statement is particularly credible in light of the CEO's complete absorption in the affairs of the Corporation. For example, he typically does not submit reimbursement requests for business expenses.

During the period in which the Reimbursements were made, the CEO's secretary stated that she would, on her own initiative, submit requests for reimbursements of business related expenses incurred by the CEO, including political contributions. She told us that she was never directed by the CEO to obtain the Reimbursements.

The CEO's secretary stated that Robert Mecredy, the Corporation's Director of Military Marketing, would from time to time select certain solicitations for political contributions, such as invitations to fund raising events, and bring them to her for a contribution. Ms. Dean, on her own initiative, and without consulting the CEO, would prepare a check so long as there was a sufficient balance in his account.

Mr. Mecredy stated that he selected events for political contributions depending on whether they were persons he wished to see or speak with who would likely be at the event. On some occasions he would discuss the event with the CEO and then submit a request for a contribution to Ms. Dean. Regarding fund raising events, Mr. Mecredy stated that he generally would attend and that the CEO typically never took an interest in the events. It is clear from our investigation that these contributions were made in furtherance of a generalized goal of "seeing and being seen" at such functions and had no other specific purpose.

Mr. Mecredy also stated that he never knew that the political contributions made from the CEO's account were reimbursed by the Corporation and initially learned of the practice in May of this year. He went on to say that if he had known of the practice, he would have put a stop to it because he knew that it was not appropriate. He further believes that the CEO had no knowledge of the Reimbursements.

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Corporate Discussions Concerning The Reimbursements

After a political contribution was sent, Ms. Dean would seek reimbursement. Typically, she would prepare a check request for which would state "reimbursement of contributions," "donation," or some other similar notation.

Early in 1993 Ms. Dean sought reimbursement of a political contribution from the newly hired Chief Financial Officer of the Corporation, Robert Motter. Mr. Motter told the CEO's secretary that it was not proper for the Corporation to make the Reimbursements. (We have attempted without success to identify more precisely the date in which the conversation between Ms. Dean and Mr. Motter took place.) The secretary went on to say that Mr. Motter then indicated that the contributions should be submitted on a quarterly basis and that he would then authorize the issuance of special payroll bonus checks to the CEO to cover the amount of the political contribution, as well as all applicable taxes.

Ms. Dean recalled that Mr. Motter said something to the effect that the arrangement was not proper, and that there should be no paper trail. Ms. Dean indicated that she gave little thought to Mr. Motter's comment regarding the legality of the Reimbursements because she believed him to be a person of great integrity who would not condone the Reimbursements if he really thought that they were illegal. Two contributions were reimbursed in this manner (the February 2, 1993 contribution to Barden for Congress and the June 5, 1993 contribution to Friends of Newt Gingrich).

We interviewed Mr. Motter with respect to this issue. He had joined the Corporation in November 1992, and the discussion with Ms. Dean described above concerned the first instance in which he had been presented with a political contribution for reimbursement. He said that he came up with the quarterly reimbursement method because he assumed that Ms. Dean had been speaking for the CEO. Mr. Motter went on to say that he told Ms. Dean at some point thereafter, that he would approve no more such Reimbursements. Ms. Dean does not recall this conversation, nor does she recall submitting any additional requests for reimbursements after July 1993 because the corporation was moving to a new facility, and she did not have the time.

We do not quarrel with whatever Mr. Motter may have inferred from his conversation with Ms. Dean. It is significant that Mr. Motter did not say that he was actually told to reimburse contributions by the CEO by some other

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executive. Rather, he inferred this point after a conversation with a secretary, and he apparently did not seek clarification of the inference from the CEO or any other executive. Moreover, except for the brief conversation described below with Clare Fawkes, he did not discuss the Reimbursements with any of the executives of the Corporation. Mr. Motter never informed any executive that it was improper nor did he request legal assistance concerning the Reimbursements. Lastly, it is interesting to note that the reimbursements ceased, without incident, approximately one year ago.

Ms. Dean stated that she aggressively sought reimbursements for all the CEO's expenses which she legitimately believed were business-related; that she did so on her own initiative and that she did so without the knowledge of the CEO. We also believe, as a result of our inquiries, that, throughout the period in question, Ms. Dean was not aware of the requirements of the Act.

We interviewed Clare Fawkes, the Chief Operating Officer of the Corporation. She stated that at some point early in 1993 she had a discussion with Mr. Motter in which he raised the issue of the use of quarterly bonuses to effect the Reimbursements. She cannot recall the specific date or the details of this conversation. She does recall that Mr. Motter said something to the effect that the prior reimbursement method was not appropriate and that he had changed the method. She also recalls telling him that his suggestion was fine if he thought it was the best way to proceed.

Ms. Fawkes said she had no reason to believe there was anything illegal in the suggested method and, in fact, relied on him for his expertise in such matters. She also stated that she did not direct, otherwise pressure or suggest that the contributions be reimbursed. For the record, Ms. Fawkes is a British Subject with permanent resident alien status and is the holder of an Alien Registration Receipt Card issued by the Bureau of Immigration and Naturalization. As such, it is understandable that Ms. Fawkes was not aware of the requirements of the Act and, therefore, may not have immediately grasped the implications of Mr. Motter's comments.

#### Termination of Reimbursements

The practice of Reimbursements has been terminated and will not be resumed. The CEO has reimbursed the Corporation for all contributions for which he had been initially reimbursed.

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The Corporation has implemented a strict policy with respect to compliance with the Act, which prohibits all corporate political activity. A copy of the policy is enclosed. See Exhibit C. Key executives of the Corporation will be trained with respect to this policy and their obligations under the Act. We will advise you when the training is completed. In short, remedial steps have been taken, and steps have been taken to ensure that there is no reoccurrence of any activities which are inconsistent with the Act or the Federal Election Regulations.

From the facts at hand, it is clear that there have been no willful violations of the Act. The violations which occurred were entirely inadvertent. We do not purport to speak for Mr. Motter in this regard. It is clear from our discussions that none of the other involved individuals, who were aware of the Reimbursements, were aware that they were inappropriate.

The premise that some persons were not aware of the Reimbursements; that others were and did not question them; and that none of them, until some point in 1993, was aware that there was an issue regarding the propriety of the reimbursements is credible when one considers the typical hurly-burly of a rapidly growing Corporation. The involved individuals were busy. The Reimbursements were relatively few in number and appeared to the uninitiated to qualify as business expenses. A contribution made in connection with attendance at a fund raising event would reasonably appear to a layperson to be the same sort of expenditure as a business association dinner and, therefore, entitled to reimbursement.

In any event, the Corporation and the involved individuals sincerely regret that the Reimbursements occurred. As noted, steps have been taken through the imposition of a corporate policy and training of key executives to ensure that no violations of the Act occur in the future.

On behalf of the Corporation we wish to enter into negotiations with your office directed towards reaching a conciliation agreement to settle this matter. Please contact me so that the necessary discussions can be initiated.

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VENABLE, BAETJER, HOWARD & CIVILETTI

Lois G. Lerner, Esq.  
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Under separate cover the Corporation is filing a representation by counsel notification pursuant to 11 C.F.R. 111.23.

Very truly yours,

  
Thomas J. Cooper

Enclosure

TJC:dfw  
12496.110847  
9353/DCINT

cc: Lawrence M. Noble, Esq.

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97043 / 730 '0

**F.A.T.S.**  
**Campaign Contributions**

Outgoing Contributions					Incoming Reimbursement Checks				
Date	Personal Check Number	Description	Amount	Total	Date	Corporate Check Number	Description	Amount	Total Reimbursed Amount
10/20/89	0568	Darden for Congress	\$500						
2/13/90	0664	Thomas for Congress	\$500		4/6/90	108864	Donation	\$500	\$500
10/25/91	922	Democratic Congressional Campaign Com.	\$2,000				Democratic Congressional Campaign Com.	\$2,000	\$2,000
4/14/92	1049	Dinner for John Glenn	\$2,000		4/13/92	000788	Dinner for John Glenn	\$2,000	\$2,000
8/13/92	1014	Richard Ray for Congress	\$500		9/11/92	7377	Contribution	\$500	\$500
10/14/92	1025	Friends of N. Gingrich	\$1,000		10/23/92	7964	Contribution to Gingrich	\$1,000	\$1,000
2/2/93	1086	Darden for Congress	\$1,000		4/23/93		Special Payroll Bonus	\$1,000	\$1,000
6/5/93	1148	Friends of N. Gingrich	\$1,000		7/30/93		Special Payroll Bonus	\$1,000	\$1,000
7/14/93	1152	Congressman Don Johnson	\$500						
9/11/93	1216	Friends of N. Gingrich	\$100						
10/26/93	1204	Darden for Congress	\$1,000						
2/8/94	1267	Senator Chuck Robb	\$500						
2/23/94	1277	Don Johnson for Congress	\$200						
3/28/94		Don Johnson for Congress	\$250						
				\$11,050					\$7,500
<b>Total Contributions</b>									\$11,050
<b>- Non-reimbursed amount</b>									\$3,550
<b>Total Reimbursed Amount</b>									\$8,000

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

10/25 1991 0922

Pay to the Order of Democratic Congressional Campaign Comm \$ 2,000  
Two thousand & 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta

Atlanta, Georgia

For 1,000 Jody Schecter

Signed 

9704377

John Glenn for Senate Committee

P.O. Box 523024, Springfield, VA 22152

(703) 569-8818

I will attend the reception for Senator John Glenn on April 15 at the Atlanta Ritz-Carlton from 5:30-7:30 p.m. Enclosed is my contribution of \$ 2,000.00 for 2 person(s)

I am unable to attend but wish to contribute \$ \_\_\_\_\_

Please make checks payable to John Glenn for Senate Committee.

The following information is required by the Federal Election Commission:

Name Jody Schocker Guest: Bob Mcredy

Address 110 Technology Parkway

City Norcross State GA Zip 30092

Telephone (O) 404-448-7318 Telephone (H) \_\_\_\_\_

Occupation Company President

Place of Business Norcross, GA

Corporate checks cannot be accepted. Political contributions are not tax deductible.

Authorized and paid for by the John Glenn for Senate Committee  
This contribution is not tax deductible. Corporate checks are prohibited by law. Contribution \$1,000 per person.

JS Check # 1049

97043773072

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 000788

INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
	4/10/92	2000.00	2000.00		2000.00

CHECK NO.	DATE	VENDOR NO.
000788	4/13/92	509250

fats®

CHECK NO. 000788

NationsBank  
ATLANTA, DEKALB COUNTY, GEORGIA

FIREARMS TRAINING SYSTEMS, INC.

MANUAL CHECKING ACCOUNT  
110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30092

64-1278  
611

TWO THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT  
\*\*\*\*\*2,000.00

PAY JODY SCHECKTER  
TO THE  
ORDER OF

*Jody*  
NON-NEGOTIABLE  
AUTHORIZED SIGNATURE

[Redacted area]

VOUCHER NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
020111	083192	09/01/92	500.00	500.00	.00	500.00
CHECK TOTAL						500.00

DELIVERED SEP 14 1992

CHECK NO.	CHECK DATE	VENDOR NO.
7377	09/11/92	509230

**fats**®

CHECK NO. 007377

**FIREARMS TRAINING SYSTEMS, INC.**  
 OPERATING ACCOUNT  
 110 TECHNOLOGY PARKWAY 448-7318  
 NORCROSS, GA 30092

64-1278  
611

**NationsBank**  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT  
\*\*\*\*\*500.00

97043773034

FIVE HUNDRED AND 00/100 DOLLARS

PAY TO THE ORDER OF SCHECKTER, JODY

**NON-NEGOTIABLE**  
AUTHORIZED SIGNATURE



CONTRIBUTION - SEE ATTACHED

PAID SEP 11 1992

I HEREBY CERTIFY THAT THE ABOVE EXPENDITURES REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDE REIMBURSEMENT OF PERSONAL INCOME

RECEIVED SEP 01 1992

SIGNED *V. Thomas for Jody Schekter*

DATE	REPAYMENT RECAP	AMOUNT	MILEAGE RECORD		APPROVAL	CASHIERS MEMO
	ADVANCE RECEIVED		END OF TRIP		<b>MRM</b>	CHECK NO.
	REIMBURSED		LESS START			DATE
	TOTAL		MILES PER TRIP			AMOUNT
	EXPENSE FOR WEEK					
	OVER OR SHORT					

JODY D. SCHECKTER  
5096 COURTSIDE DR.  
NORCROSS, GA 30092


8-13

1992

1014  
64-1/813

Pay to the Order of Richard Ray for Congress \$ 500.00  
Five Hundred + 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Commissioner of Elections Signed 

97043773035

VENDOR: S09230

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 07504

DUCHER NO.	INVOICE NO.	INVOICE DATE	VOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
21259	101492	10/14/92	1,000.00	1,000.00	.00	1,000.00
CHECK TOTAL						1,000.00

DELIVERED OCT 28 1992

CHECK NO.	CHECK DATE	VENDOR NO.
7964	10/23/92	S09230

fats

CHECK NO. 07964

FIREARMS TRAINING SYSTEMS, INC.

OPERATING ACCOUNT

110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30082

44-1278  
0:1

NationsBank  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT  
\*\*\*\*\*1,000.00

ONE THOUSAND AND 00/100 DOLLARS

PAY TO THE ORDER OF SCHECKTER, JODY

NON-NEGOTIABLE  
AUTHORIZED SIGNATURE

Political contribution to Congressman Dingell

16. copy of check is + signed 10/20/92  
Jody will forward copy of cancel check when it arrives back w/ STAFF.

PAID OCT 26 1992

REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND

SIGNED

MILEAGE RECORD

APPROVAL

CASHIER'S MEMO

CHECK NO.

OVER OR SHORT

DATE

AMOUNT

TS FATS

90

FOR PERIOD	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTALS
ENDING 14 Oct. 92	/ / / / / / / /							
	QTY	QTY	QTY	QTY	QTY	QTY	QTY	
1 HOTEL								1
2 BREAKFAST								2
3 LUNCH								3
4 DINNER								4
5 PLANE-RAIL BUS FARE								5
6 LOCAL TAXES BUS FARE								6
7 AUTO EXPENSE-REPAIR-TIRES-SUPPLIES								7
8 GAS AND OIL								8
9 LUBRICATION AND WASH								9
10 GARAGE PARKING								10
11 TOLLS								11
12 PHONE TELEGRAMS								12
13 TIPS								13
14 ENTERTAINMENT								14
15								15
16 Misc								16
TOTALS								\$1,000-

\$09230

ENTERED OCT 23 1992

VENDOR #

DUE DATE

INVOICE # 101492

VOUCHER # 21259

JOB #

ACCOUNT #

AMOUNT

750 - 1600 = 1,000.00

\$1,000-

\$1,000-

9704373037

STATE BUSINESS PURPOSE - PEOPLE ENTERTAINED - PLACE OF ENTERTAINMENT AND TIME - LIST CALLS MADE

Political Contribution to Congressman Dingriek

Att. copy of check is at 10/20/92

Invoice will forward copy of cancelled check when it arrives back w/ STMT.

PAID OCT 26 1992

REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND

SIGNED [Signature]

MILEAGE RECORD	APPROVAL	CASHERS MEMO
	MRM	CHECK NO.
		DATE
		AMOUNT

OVER OR SHORT

MEM RIP

ODY D. SCHECKTER  
216 COURTSIDE DR.  
MICROSS, GA 30092

1025

October 14, 19 92 04-1618

to the  
er of Friends of Newt Gingrich | \$ 1,000.00

ne Thousand and 00/100 ----- Dollars

**FIRSTATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

Political Contribution Signed

97043773078

I-N-T-E-R-O-F-F-I-C-E M-E-M-O

TO: L. Robertson

DATE: 14 April 1993

FR: R. Motter

SUBJ: J. Scheckter Bonus

---

Please prepare a special payroll bonus check for Mr. Jody Scheckter in the net amount of one thousand dollars (\$1,000.00). Payment should be made on Friday, 23 April 1993 in conjunction with the normal processing of payroll but via a separate check. If you have any questions, please see me.

Thanks,

*Bob*

97043773079



I-N-T-E-R-O-F-F-I-C-E M-E-M-O

TO: L. Robertson

DATE: 14 July 1993

FR: R. Motter

SUBJ: J. Scheckter Bonus

---

Please prepare a special payroll bonus check for Mr. Jody Scheckter in the net amount of one thousand dollars (\$1,000.00). Payment should be made on Friday, 30 July 1993 in conjunction with the normal processing of payroll but via a separate check. If you have any questions, please see me.

Thanks,

*Bob*

97043773011

**Firearms Training Systems, Inc.**

***Campaign Finance Compliance Policy***

The Corporation sets a high priority on compliance with the letter and spirit of all applicable Federal, state and local election laws. These various laws and regulations are complex, difficult to interpret and can be inadvertently violated. In order to insure compliance with these statutes and regulations, the principles set forth below will be followed by all employees:

***Corporate Funds***

- No corporate funds will be directly or indirectly contributed to any candidate for public office or holder of public office at any level of government, e.g., Federal, state or local.
- No corporate funds will be directly or indirectly contributed to any individual or group supporting an initiative, referendum, constitutional amendment or any other type of ballot issue.
- No corporate funds will be directly or indirectly contributed to any political party or to any component of a political party.
- No corporate funds will be directly or indirectly contributed to any office account, constituent service fund or any other sort of fund maintained by an office holder or political party at any level of government.
- The foregoing prohibition applies to support for any other type of fund, research organization, or other activity controlled by or operated on behalf of a candidate for public office, an office holder or a political party.
- No corporate funds will be used directly or indirectly to reimburse any individual (including but not limited to any corporate executive, employee or consultant) for any contribution to a candidate for public office; a political party; in support of any sort of ballot issue; or any sort of support fund for an office holder at any level of government.
- The prohibition in the foregoing paragraph applies to, among other activities, fund raising

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events of any sort, receptions, dinners, other gatherings and testimonial events, which are related to any of the covered entities.

*Corporate Resources*

- No corporate premises or resources of any sort will be directly or indirectly utilized to support any campaign or election effort to any public office; any ballot initiative or other public issue campaign, or any constituent support fund or other activity of an office holder.
- The foregoing prohibition includes but is not limited to the use of corporate office equipment, telephones, facsimile machines or postage meters and facilities for use as meeting places. It applies to any use of resources off as well as on corporate premises. The prohibition applies to the use of resources in any sort of fund raising or solicitation of political contributions for a campaign for public office; for political parties or in support of any sort of ballot issue.
- The prohibition on the use of corporate resources also applies to any occasional, isolated or incidental use of corporate facilities or resources, including the display of campaign signs, posters or bumper stickers on corporate premises or vehicles.
- The prohibition also applies to any type of support for a political gathering, convention or meeting and to the purchase of commemorative or advertising pages in any publication funded or controlled by a campaign committee, an office holder, a candidate for public office or a political organization.
- Any visits by candidates for public office, office holders, the proponent of any ballot issue or one of their representatives will be reviewed and approved by the Chief Operating Officer of the Corporation in advance of the occurrence.

Compliance with the foregoing rules is mandatory for all employees.

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Employees should be particularly alert for situations, which could involve an indirect contribution to a candidate (a reimbursement by the Corporation for attendance at a testimonial event) or an "in-kind" contribution (corporate resources donated to or loaned to a candidate for public office). As the foregoing principles indicate, both these activities are forbidden as a matter of corporate policy.

Employees should also be alert for other sorts of ambiguous situations, which could inadvertently result in a violation of applicable law and this corporate policy. For example, volunteer activity on behalf of a candidate is generally not a contribution to the candidate in whose behalf the volunteer activity is performed. However, volunteer political activity conducted during business hours, without taking annual leave, regardless of where it occurs, can amount to an illegal use of corporate resources in support of a candidate. In any event, employees will not engage in such volunteer activity without first arranging to take annual leave pursuant to standard corporate policy.

Campaign finance laws, especially at the Federal level, are complex, and inadvertent violations are not uncommon. It is, therefore, important to carefully consider situations (before taking any action) which could involve prohibited political activity.

Whenever there is doubt about a particular potential course of action or activity, it should be resolved by a question rather than taking the action. Clare Fawkes is the corporate executive who is primarily responsible for the implementation of this policy and should be consulted with respect to any questions regarding its application.

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**MEMORANDUM**

**TO:** Clare Fawkes  
**FROM:** Thomas J. Cooper  
**DATE:** June 30, 1994  
**RE:** The Enclosed Material

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I have enclosed two items regarding the Federal Election Campaign Act matter. The first is a notification of counsel letter. Please put the letter on your corporate stationery and return it to me via Federal Express. I will take care of the copy required for Mr. Noble.

The second item is a copy of the compliance policy for the Corporation. Please note that I have designated you as the executive responsible for the implementation of the policy. We have told the Federal Election Commission that the policy is being implemented at this time. We should discuss this at your earliest convenience.

97043773045

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

VENABLE, BAETJER, HOWARD & CIVILLE  
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

JUL 7 9 16 AM '94

BALTIMORE, MD  
MCLEAN, VA  
ROCKVILLE, MD  
TOWSON, MD  
BEL AIR, MD

SUITE 1000  
1201 NEW YORK AVENUE, N. W.  
WASHINGTON, D.C. 20008-3917

(202) 962-4800

FAX (202) 962-8300

TELEX 888032

RICHARD M. VENABLE (1836-1910)  
EDWIN S. BAETJER (1898-1948)  
CHARLES RICH. HOWARD (1870-1942)

WRITER'S DIRECT NUMBER IS  
(202) 962-4857

July 6, 1994

THOMAS J. COOPER

By Messenger

Lois G. Lerner, Esq.  
Associate General Counsel  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Ms. Lerner:

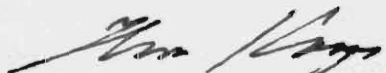
This letter is a follow-up to our telephone conversation of earlier today and is with additional reference to our filing on behalf of Firearms Training Systems Inc., ("the Corporation").

I have enclosed the representation by counsel notification provided for at 11 C.F.R. 111.23.

On behalf of the Corporation we wish to enter into negotiations with your office towards reaching a conciliation agreement to settle this matter. Please contact me so that the necessary discussions can be initiated.

Thank you for your attention in this matter.

Sincerely,

  
Thomas J. Cooper

Enclosure

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

30 June 1994



By Messenger

Lois G. Lerner, Esq.  
Associate General Counsel  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Ms. Lerner:

On behalf of Firearms Training Systems, Inc., ("the Corporation"), I hereby designate Thomas J. Cooper of the firm of Venable, Baetjer, Howard and Civiletti, 1201 New York Avenue, N.W., Washington, D. C. 20005, to represent the Corporation with respect to any matters regarding the Corporation which are before the Federal Election Commission, and authorize him to receive any and all notifications and other communications on our behalf. Mr. Cooper's telephone number is (202) 962-4857. This letter is provided pursuant to 11 C.F.R. 111.23.

Sincerely,

Clare Fawkes  
Chief Operating Officer

cc: Lawrence M. Noble, Esq.  
Thomas J. Cooper, Esq.

**FIREARMS TRAINING SYSTEMS, INC.**

7340 McGinnis Ferry Road Suwanee, GA 30174 USA Tel (404) 813-0180 Fax (404) 813-0741

US Military Marketing (404) 813-1910 US Law Enforcement Marketing (404) 813-1900 International Marketing (404) 813-1920  
Customer Service (404) 813-1940 Purchasing (404) 813-1930 Programs (404) 813-1935 Human Resources (404) 813-1950

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

July 13, 1994

Thomas J. Cooper, Esq.  
Venable, Baetjer, Howard and Civiletti  
1201 New York Avenue, N.W.  
Suite 1201  
Washington, D.C. 20005

RE: Pre-MUR 302  
Firearms Training Systems, Inc.

Dear Mr. Cooper:

This is to acknowledge receipt of your letter dated July 1, 1994, pertaining to your client, Firearms Training Systems, Inc. You will be notified as soon as the Federal Election Commission takes action on your submission.

If you have any questions, please contact Tony Buckley at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling matters such as this.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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MEMORANDUM

TO: File

FROM: Jonathan Bernstein *JBB-JB*

DATE: July 19, 1994

RE: Pre-MUR 302 - Production of Documents

Attached are documents produced by counsel (Thomas Kelly and Thomas Cooper) for Firearms Training Systems, Inc. at a meeting held yesterday, July 18, 1994. These are the documents which counsel had previously agreed to provide at a meeting held on July 8, 1994. The documents include a designation of counsel signed by Jody Scheckter, Clare Fawkes, Janice Dean and Robert Mccredy; copies of reimbursement checks submitted by Jody Scheckter to Firearms Systems; and redacted notes of interviews of Firearms Systems officers and personnel.

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July 13, 1994

By Messenger

Jonathan A. Bernstein, Esq.  
Assistant General Counsel  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Mr. Bernstein,

I hereby designate Thomas J. Kelly, Jr. and Thomas J. Cooper of the firm of Venable, Baetjer, Howard and Civiletti, 1201 New York Avenue, N.W., Washington, D.C. 20005, to represent me with respect to any matters which are before the Federal Election Commission and authorize him to receive any and all notifications and other communications on my behalf. Mr. Cooper's telephone number is 202-962-4857. Mr. Kelly's telephone number is 202-962-4889. This letter is provided pursuant to 11 C.F.R. 111.23.

Sincerely,

Larry Scheckter

Clare Fawkes

Janice Dean

Robert McCredy

u:\env\kelly1.ltr

**FIREARMS TRAINING SYSTEMS, INC.**

7340 McGinnis Ferry Road Suwanee, GA 30174 USA Tel (404) 813-0180 Fax (404) 813-0741

US Military Marketing (404) 813-1910 US Law Enforcement Marketing (404) 813-1900 International Marketing (404) 813-1920  
Customer Service (404) 813-1940 Purchasing (404) 813-1930 Programs (404) 813-1935 Human Resources (404) 813-1950

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TELEFAX



Mr. Tom Kelly  
Attorney at Law

Tel: (202) 962-4889  
Fax: (202) 962-8300

13 July 1994  
Page 1 of 3

**CONFIDENTIAL**

Dear Mr. Kelly,

Clare requested I fax you a copy of the two checks that Mr. Scheckter reimbursed to the company.

Sincerely,

*Janice*

Janice Dean  
Secretary to Ms. Fawkes

Attachment: 2 pages

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**FIREARMS TRAINING SYSTEMS, INC.**

7340 McGinnis Ferry Road Suwanee, GA 30174 Tel (404) 813-0180 Fax (404) 813-0741

JODY D. SCHECKTER 0990  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

64-1/510  
BRANCH 990

1359

14 June 1994

PAY TO THE ORDER OF F.A.T.S., Inc. \$5,500.00

Five Thousand five hundred + 00/100 DOLLARS

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

*[Handwritten signature]*

FOR Reimbursement for Petaluma, Calif.



JODY D. SCHECKTER 0990  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

64-1/510  
BRANCH 990

1374

29 June 1994

PAY TO THE ORDER OF F.A.T.S. \$2,500.00

Two Thousand five hundred + 00/100 DOLLARS

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

*[Handwritten signature]*

FOR Reimbursement



ENDORSE HERE

FOR DEPOSIT ONLY  
FIREARMS TRAINING SYSTEMS, INC.

23212523

DO NOT SIGN OR WRITE ON THIS CHECK

01000

0880

ATLANTA, GA POC  
GEORGIA  
FIREARMS TRAINING SYSTEMS, INC.  
23212523  
6/21/94

ENDORSE HERE

FOR DEPOSIT ONLY  
FIREARMS TRAINING SYSTEMS, INC.

23212523

DO NOT SIGN OR WRITE ON THIS CHECK

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ATLANTA, GA POC  
GEORGIA  
FIREARMS TRAINING SYSTEMS, INC.  
23212523  
6/21/94

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## MEMORANDUM

**TO:** File (F.A.T.S. Internal Investigation)  
**FROM:** Fernand A. Lavallee  
**DATE:** May 24, 1994  
**RE:** Interview Notes from Interview of Mary Miles

---

- These notes memorialize the interview of Mary Miles by Thomas Kelly and me. The interview was conducted at FATS' facilities in Suwanee, Georgia, on the above noted date. Ms. Miles was interviewed alone and in confidence, with no other individuals present. Ms. Miles had been directed by Clare Fawkes to assemble all the documents relating to political contribution reimbursements to from the Accounting Department prior to our arrival at FATS, which she did. She presented the documents to use upon our arrival.
- Ms. Miles originally was hired by FATS to work on cost accounting matters. Her position has evolved to much more than just cost accounting activities, and she is involved in most of the Accounting Department's activities. For instance, she now does a little of everything such as setting up wire transfers for international sales.
- Ms. Miles is a graduate of the University of Georgia with a degree in accounting. She has been with FATS for several years (approx. 3), and was with the company prior to Mr. Motter's appointment as the Chief Financial Officer.

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- Ms. Miles stated that she was shocked at learning about the letter that Mr. Motter wrote alleging improper activities because he had not expressed any concerns about any of the issues to her or anyone.

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- Ms. Miles knows that Mr. Motter was very insecure about his job, mostly because of a personality difference with Mr. Scheckter. Mr. Motter frequently joked about being fired, and his morale seemed very low. His concerns about his job were particularly increased after Christmas 1993.

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- Ms. Miles also knows that FATS was apparently seeking to replace Mr. Motter. Ms. Miles participated in interviewing at least one candidate for Mr. Motter's position as CFO earlier this Spring, but (maybe a week or so before the Motter letter) she thinks that Mr. Motter was not aware about this. Ms. Miles is not sure, though, whether Mr. Motter was aware of any rumors that he was about to be fired.
- Ms. Miles liked Mr. Motter, and considers herself to be "close" to him on a professional basis. She held him in high regard for many reasons. Mr. Miles believed that Mr. Motter was extremely organized and meticulous. In addition, Ms. Miles indicated that Mr. Motter was a good teacher and always sought opportunities to help her and others learn about better ways to do their jobs.
- Ms. Miles stated that an all consuming matter during the Spring was preparation for the annual audit. Largely as a result of Mr. Motter's leadership in preparing, Ms. Miles' opinion is that this year's audit was the best audit in the three years that Mary has been here. Ms. Miles' basis for this opinion is that everything was well organized enabling the audit to proceed quickly and efficiently, and all the necessary documentation was in place and correct.
- Ms. Miles does not know what may have triggered Mr. Motter's letter. She knows that Mr. Motter reflected on his situation when Carol Greet -- Supervisor of General Accounting -- left at end of year the year after 9 months

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with FATS to take a job at a law firm downtown. But otherwise, nothing unusual until around the audit time.

- Ms. Miles recalls an event, which at the time she thought was peculiar. Shortly after the arrival of the Price Waterhouse auditors in May, most of the FATS accounting personnel including Ms. Miles and Mr. Motter went to lunch in the lunch room. Ms. Miles recalls that the lunchtime conversation was light and fairly jocular because everyone was pleased with how well the audit was progressing. Towards the end of the meal, however, and in contrast to the tone of the conversation, Mr. Motter asked Ms. Joel Gardner - the senior accountant leading the on-site Price Waterhouse audit team - what would happen if at the end of the audit, he did not sign the management letter. Ms. Miles recalls that Ms. Gardner at first thought Mr. Motter was joking and she responded with a laugh and a flippant comment. But Mr. Motter had a very serious expression by this time and asked again, saying that he was not joking but just wanted to know out of curiosity. Ms. Gardner then also became very serious and commented that everything the audit team had seen so far was excellent and so she could not conceive of any reason why the management letter would not be signed unless Mr. Motter had not shown the audit team everything - or if he knew something he was not disclosing to the auditors. Mr. Motter then tried to lighten up the mood again, stating that the auditors were seeing everything and that he was not holding anything back, but out of curiosity he wanted to know what would happen if a CFO declined to sign the management letter. Ms. Gardner then answered that such a

circumstance almost never happens, and that it has never happened to her to the best of her recollection, particularly when an audit finds no problems. Ms. Gardner added that if a CFO did refuse to sign the management letter that the audit would be delayed and a determination made by the auditors about what to do. In all likelihood, Ms. Gardner stated, the release of the audit would be delayed while the determination would be made. Mr. Motter was satisfied with this answer and the lunch gathering dispersed and returned to work.

- Ms. Miles recalls that Mr. Motter wasn't himself a day or so before the Wednesday when he wrote his letter (May 17). Ms. Miles recalls that Mr. Motter came in to work, largely kept to himself, then gave the letters and left the office for home at lunch.

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- Political Contributions - Ms. Miles was aware that Mr. Motter was concerned about the issue of political contributions, but he never told her exactly what concerned him. Mr. Motter handled the issue entirely by himself. Ms. Miles herself was not really sure about the law in this area, but she recalls - maybe from a discussion with her brother - something about corporations couldn't make political contributions; Ms. Miles thinks that once before Bob Motter was hired a campaign actually returned a check and declined to accept the contribution because it was corporate; Ms. Miles otherwise has no knowledge of political contributions that were made by FATS or any individual at FATS. Ms. Miles also does not have knowledge on whether any political contributions were reimbursed to anyone by FATS.

or how any political contributions were reimbursed by the corporation.

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## MEMORANDUM

**TO:** File (F.A.T.S. Internal Investigation)  
**FROM:** Fernand A. Lavallee  
**DATE:** May 24, 1994  
**RE:** Interview Notes from Interview of Jody Scheckter

---

- These notes memorialize the interview of Jody Scheckter by Thomas Kelly and me. The interview was conducted at FATS' facilities in Suwanee, Georgia, on the above noted date. Mr. Scheckter was interviewed alone and in confidence at some points, and with Clare Fawkes present at other times. Mr. Scheckter is the President of FATS, and a founder of the company.
- Mr. Scheckter directed us to conduct a full, rigorous and complete investigation into each of the allegations raised by Mr. Motter in his May 17 letter. Mr. Scheckter told us that he was placing all of FATS employees and resources at our disposal to facilitate a complete investigation. Mr. Scheckter stated that he believed that there was absolutely no substance to any of Mr. Motter's allegations, but that if there is anything wrong, he wanted us to find out through the investigation and inform him immediately, and provide advice and guidance on how to remedy any problem. Mr. Scheckter stated that he was committed to having FATS strictly abide by applicable laws and regulations.

- Mr. Scheckter said that he had no idea of what motivated Mr. Motter to write the letter particularly since Mr. Motter did not bring the issues he complained of in his letter to Jody's attention. Mr. Scheckter was disappointed in Mr. Motter because he said it was precisely Mr. Motter's job and responsibility to bring the types of concerns he raised in his letter to the attention of management -- either to Clare Fawke's attention or Jody's.

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- Mr. Scheckter stated that he had no idea of what Mr. Motter was talking about with respect to the political contribution or issue. After receiving Mr. Motter's letter, Mr. Scheckter inquired into both issues.
- As the result of his inquiry about Mr. Motter's letter and our request that all checks and other documents relevant to political contributions be collected and ready for our review, Jody discovered that FATS indeed had reimbursed some political contributions that had been made out of his personal checking account. Mr. Scheckter was surprised about this because, to the best of his recollection he neither submitted the political contributions for

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reimbursement nor did he direct anyone else to reimburse him. Mr. Scheckter commented that he is often chided about not submitting anything for reimbursement from the company. He is in the habit of simply paying his way even on business travel from his personal funds.

- Mr. Scheckter stated that he does not keep his personal checkbook, that this is done for him by Janice Dean. In addition, Mr. Scheckter stated that he does not typically make deposits into the account personally, nor does he receive reimbursements personally -- all of this is handled for him by Ms. Dean, or sometimes Clare Fawkes. Mr. Scheckter stated that he has no idea of what his account balance is, and he relies on Ms. Dean to see that the account is well managed.

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**MEMORANDUM**

**TO:** File (F.A.T.S. Internal Investigation)  
**FROM:** Fernand A. Lavallee  
**DATE:** June 1, 1994  
**RE:** Interview Notes from Interview of Robert F. Mecredy

---

- These notes memorialize the interview of Bob Mecredy by Thomas Kelly and me. The interview was conducted at FATS' facilities in Suwanee, Georgia, on the above noted date. Mr. Mecredy was interviewed alone and in confidence, with no other individuals present.
- With FATS for 3 years; Official job title: Director U.S. Military Marketing; actual duties are Director of Marketing for domestic sales (mostly DoD); Prior to joining FATS, employed as Director of Marketing for Army and Marine Corps Sales for Raytheon.

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- Political contributions - Mecredy receives all requests for contributions from various political candidates or organizations - somehow he is the one that is on the mailing

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lists; Mecredy chooses the event that he believes is appropriate for FATS to attend and support based on maintaining a "presence" or "profile" or to speak to someone that he knows will be present at the event; Mecredy then submits a request for a personal check from Jody to contribute; Mecredy usually attends the event himself and speaks to the individuals he wanted to see and, of course, works the politicians in the sense that he makes FATS visible as an organization in the politician's district or constituency, and that's it;

- Before Motter's May 17 letter, which Mecredy has seen and reviewed, Mecredy had no knowledge of a scheme to reimburse Jody for the political contributions; Mecredy would have no way of knowing because after he submitted the request for a contribution to Janice he has no other involvement with the contribution other than attending the function if a contribution is authorized; after reviewing Motter's letter Mecredy spoke with Mr. Scheckter and was told of Bob Motter suggesting a reimbursement scheme;
- Mecredy had no idea of why Motter would set up a reimbursement scheme; Only persons who could influence Motter - in the sense of having the clout to direct Motter to do something - are Jody Scheckter, Clare Fawkes and maybe Mecredy, but Mecredy is certain Mr. Scheckter didn't direct

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the reimbursement scheme be done. Mr. Scheckter is notorious for not submitting anything, including meals or business travel, for reimbursement, so it would be totally uncharacteristic for him to direct that he be reimbursed for these political contributions; Mecredy didn't know the reimbursements were going on - if he had, he would have ordered it to be stopped because he knew that a corporate donation would not be proper and that reimbursement from the corporation for a private contribution is also not appropriate; Clare Fawkes would not direct such a matter because she was not involved in the political contribution matters and because she was a stickler about everything being done "by the book".

- Mecredy believes Motter acted alone and on his own initiative in setting up the political contribution reimbursement scheme.

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**MEMORANDUM**

**TO:** File (F.A.T.S. Internal Investigation)  
**FROM:** Fernand A. Lavallee  
**DATE:** April 24, 1994  
**RE:** Interview Notes from Interview of Janice Dean

---

- These notes memorialize the interview of Janice Dean by Thomas Kelly and me. The interview was conducted at FATS' facilities in Suwanee, Georgia, on the above noted date. Ms. Dean was interviewed alone and in confidence, with no other individuals present.
- Ms. Dean joined FATS in April 1992, and is the Executive Secretary to Jody Scheckter and Clare Fawkes. Her duties include keeping Mr. Scheckter's checkbook. Ms. Dean commented that generally Mr. Scheckter has no knowledge of the balance in his checking account or even of the specific items she writes from his account. As a matter of routine, Ms. Dean writes the checks, keeps the balance and makes the deposits into Mr. Scheckter's account.

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- Ms. Dean stated that from the start of her tenure at FATS she has from time to time submitted various expenses incurred by Mr. Scheckter for reimbursement. When she has a reimbursable expense, she would fill out an expense report, conspicuously stating the nature of the expense, and attaching proof such as receipts or copies of personal checks written for the reimbursable expense. Ms. Dean stated that she took the initiative because Mr. Scheckter rarely submits expenses for reimbursement.
- Ms. Dean noted that she is aggressive, and not afraid to throw her weight around. She stated that she is known to be persistent, and is proud of this reputation. Ms. Dean stated that she feels it is her personal professional responsibility to aggressively help Mr. Scheckter, including helping him by pursuing reimbursements he is entitled to. She noted he has never directed her to seek reimbursement, nor does he typically know the specifics when she does seek reimbursements on his behalf.
- Ms. Dean indicated that before Mr. Motter arrived at FATS, she remembers submitting a request for reimbursement for a political contribution. She said that on the documentation requesting reimbursement she clearly noted that the purpose was for a political contribution. Ms. Dean stated that she believed political contributions were legitimate,

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reimbursable business expenses, and that she was not aware of any laws or regulations forbidding or limiting political contributions by corporations, or reimbursements to individuals of such expenses.

- Ms. Dean stated that no one at FATS ever directed her or pressured her to seek a reimbursement for a political contribution made by Jody Scheckter. Ms. Dean answered a direct inquiry about whether either Jody Scheckter or Clare Fawkes ever directed her, pressured her or indicated they expected her to seek reimbursements for Jody's political contributions, by stating that Jody and Clare never did so. Moreover, Ms. Dean stated that Mr. Scheckter has no knowledge of the reimbursements for political contributions she obtained for his account because she initiated the requests for reimbursement on her own without ever advising him. She believed such action was within her job responsibility and authority.
- Ms. Dean explained that the way she would make a political contribution was that she would occasionally receive a request to write a check for a political contribution from Mr. Bob Mecredy. Ms. Dean stated that Mr. Mecredy would request a check for a specific event or political function that, in Mr. Mecredy's opinion, Jody Scheckter should support. Mr. Mecredy would also provide the invitation,

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ticket or other document evidencing the political event or function, its date, the candidate or organization involved, and the amount to be contributed. Ms. Dean stated that she would then decide - without consulting anyone - whether to actually make the contribution. Sometimes she did, and other times she would not. Ms. Dean stated that she never considered the political party or politics of the candidate, but instead the decision of whether to contribute was based on whether Ms. Dean felt the balance or cash flow in Mr. Scheckter's account for the month the contribution was to be made was sufficient to justify making the contribution.

- Ms. Dean recalls that Mr. Motter began working at FATs around November 1992. She stated that she held him in high regard, and believed he was a man of integrity. Ms. Dean stated that she frequently would speak with him, and that he often confided in her. Ms. Dean said she trusted Mr. Motter and his judgement because of his integrity and because he seemed to know what he was doing and was very knowledgeable about his job.
- Ms. Dean submitted a request for reimbursement for a political contribution with all the documentation she had routinely submitted since early 1993. Ms. Dean stated that Mr. Motter brought the request and all the accompanying documentation back to her and told her that it was not

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proper, for FATS to reimburse Jody Scheckter for political contributions. Ms. Dean does not recall the exact date of the conversation, but she remembers she pressed Mr. Motter by insisting that there must be some way to gain reimbursement. Ms. Dean said she did this simply as part of her persistence and aggressive approach.

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- Mr. Motter discussed the matter of reimbursing Mr. Scheckter for political contributions with Janice. He told her that it was illegal for the corporation to reimburse Mr. Scheckter through an expense reimbursement as Janice had requested. Ms. Dean said that Mr. Motter then told her that he did have a method for reimbursing political contributions to Mr. Scheckter. Mr. Motter told Janice that she could submit the amount paid for political contributions from Mr. Scheckter's checking account on a quarterly basis to him on yellow post-it notes. Mr. Motter expressly directed Ms. Dean not to submit an expense report, reimbursement request or other written record or document. Mr. Motter said that he would then process a special payroll bonus to be issued to Mr. Scheckter for the amount of the political contributions made during the quarter preceding. Mr. Motter stated that the bonus would be a "manufacturing bonus" or something to this effect. Ms. Dean recalls that Mr. Motter did say he would have to think about the scheme and that he didn't think the procedure was legal.

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- Ms. Dean stated that she did as Mr. Motter directed. After October 1992, she stopped submitting expense reports based on Mr. Motter's direction and instead submitted a post-it note with the amounts of political contributions made. Ms. Dean believes she did this at least twice. She is not certain why she stopped submitting the post-it notes, but she believes that she became too busy with the move to the new facility and simply forgot or did not have time to submit a note to Mr. Motter. She kept no copies of the notes. Mr. Motter did cut at least two special payroll bonuses reimbursing political contributions to Mr. Scheckter. Ms. Dean personally deposited these checks in Mr. Scheckter's account. Mr. Scheckter never saw the reimbursement check.

- Ms. Dean said she did not believe the scheme was illegal, or a problem, because she felt Mr. Motter would not actually go through with any scheme or action that was truly illegal, based on her conviction that he was a man of integrity and judgment. Rather, Ms. Dean believes that he figured out an appropriate and legitimate method for making the reimbursements. In retrospect, Ms. Dean believes that Mr. Motter probably was afraid or intimidated by Ms. Dean because of her proximity and rapport with Jody Scheckter and Clare Fawkes. Ms. Dean is certain that she never told Mr. Motter, or led him to believe, that either Mr. Scheckter or

Ms. Fawkes was ordering or expecting the reimbursements to be made for political contributions.

- Mr. Scheckter did not know anything about Ms. Dean's conversations with Mr. Motter, or the reimbursements to his account for political contributions. Ms. Dean stated that her whole motivation was her focus on recouping as much of Mr. Scheckter's expenditures as she could.
- Ms. Dean stated that the reimbursements checks for the political contributions were signed by Bob Motter; the checks were FATS corporate checks, manually issued; no memo appeared on the checks; and Mr. Scheckter did not know of the checks.
- Janice observed that Bob Motter is a decent man; he expressed a lot of concerns but often he didn't make sense; Janice feels that Bob wouldn't do something if he really felt it was wrong; Janice didn't think twice about the legality of reimbursements on the political contributions.
- About 2 weeks, maybe a month before the auditors arrived in May, Mr. Motter yelled at Janice to get him something; Ms. Dean recalls this because this was uncharacteristic behavior for him; Janice thought this was due to extreme pressure due to preparations for the annual audit.

- Mr. Motter told Janice on more than one occasion that he has never felt secure in his job at FATS.
- In early May (maybe while auditors were at FATS) but after the time Bob yelled at Janice, Clare Fawkes came to the office with her new baby (Freddie); she left in a hurry and didn't say anything to Bob Motter; Mr. Motter came to Janice agitated and asked if he was being fired; Janice asked why he was asking such a thing -- Mr. Motter responded that Clare Fawkes left without talking to him - she hadn't said so much as hello; Janice told Mr. Motter not to worry - she sometimes went a day or two without talking to Clare and it had nothing to do with plans to fire anyone.

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**VENABLE, BAETJER, HOWARD & CIVILETTI**

**MEMORANDUM**

**TO:** FATS File  
**FROM:** Thomas J. Kelly, Jr.  
**DATE:** June 17, 1994  
**RE:** Interview with Bob Motter on June 14, 1994 in Buckhead, GA

---

The purpose of this memorandum is to memorialize my interview with Mr. Robert Motter, Chief Financial Officer for FATS, Inc. This memorandum is protected from discovery by the attorney work product privilege.

Mr. Motter stated that he came to FATS as Chief Financial Operator in November 1992 after leaving Ferranti Technologies, a wholly owned subsidiary of Ferranti, Inc.

I asked Mr. Motter to explain the events which led him to write to Mr. Thomas Madden of Venable, Baetjer, Howard & Civiletti ("Venable") informing him of possible violations of

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the Federal Campaign Election Act ("FECA").

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Work Product Privilege

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Work Product Privilege

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Attorney-Client and  
Work Product Privilege

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Attorney-Client and  
Work Product Privilege

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Work Product Privilege*

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Attorney-Client and  
Work Product Privilege

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Work Product Privilege*

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Attorney-Client and  
Work Product Privilege*

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We then discussed the FECA aspect of Mr. Motter's concerns. I told Mr. Motter that we all understood that there was in fact a problem with respect to the reimbursement of political contributions. I asked Mr. Motter if he had approved the

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**Draft**

reimbursement of political contributions, and he said yes. Mr. Motter reiterated what a difficult atmosphere FATS was in which to work. Mr. Motter stated that Mr. Scheckter wanted reimbursement for the political contributions and that was the end of the discussion. I asked Mr. Motter when he became aware of the problem, he said he was unsure of the dates but that he had been involved with reimbursing three contributions. I asked Mr. Motter if he had ever had a direct conversation with Mr. Scheckter about reimbursing his expenses for political contributions. Mr. Motter replied that he remembered one conversation with Mr. Scheckter in which Mr. Scheckter "basically said make these [the political contributions] look legal." I asked in what context that conversation occurred to which Motter replied, that Mr. Scheckter was preoccupied and just said, "make it look legal, you know what to do," and then walked away.

Mr. Motter explained that there were two ways to reimburse Mr. Scheckter the money: 1) through accounts payable or 2) through payroll. Mr. Motter explained that he opted to reimburse Mr. Scheckter through a special payroll bonus so that even though it was not legal, Mr. Scheckter would not encounter any further legal problems with respect to the IRS. Mr. Motter again stated that Mr. Scheckter made it clear that he wanted to be reimbursed for the political contributions. Mr. Motter said the reimbursement requests came from Mr. Scheckter through Ms. Dean. Mr. Motter

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stated that Ms. Dean came to his office once every three months or so with the amount of political contributions on a post-it note. Mr. Motter would then issue Mr. Scheckter a special payroll bonus for that amount. Mr Motter claims that after the last check was reimbursed, sometime in September of 1993, he said that he would no longer reimburse those expenses and he put a stop to it.

I asked Mr. Motter if Ms. Dean was aware of FECA and its ramifications. Mr Motter replied that he was not sure. I asked Mr. Motter if there were any discussions of reimbursing Mr. Scheckter with Ms. Fawkes. Mr. Motter could not recall any.

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Work Product Privilege

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Attorney-Client and  
Work Product Privilege

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**END OF MEMORANDUM**

VENABLE, BAETJER, HOWARD & CIVIL RIGHTS  
ATTORNEYS AT LAW

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF FEDERAL  
COUNSEL

BALTIMORE, MD  
MCLEAN, VA  
ROCKVILLE, MD  
TOWSON, MD  
BEL AIR, MD

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

SUITE 1000  
1201 NEW YORK AVENUE, N. W.  
WASHINGTON, D.C. 20005-3917  
(202) 952-4800  
FAX (202) 952-9300  
TELEX 999032

JUL 27 1 39 PM '94

RICHARD M. VENABLE (1938-1910)  
EDWIN S. BAETJER (1906-1948)  
CHARLES MCH. HOWARD (1970-1942)

WRITER'S DIRECT NUMBER IS  
(202) 952-4857

THOMAS J. COOPER

July 27, 1994

BY HAND DELIVERY

PRE-MUR 302

Anthony T. Buckley, Esq.  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463


Dear Mr. Buckley:

I have enclosed a redacted copy of the letter which Robert R. Motter wrote to Thomas J. Madden of this firm regarding Firearms Training Systems, Inc. ("the Corporation"). You had requested a copy of this letter.

We have ascertained that the Corporation opened at its present location in Suwanee, Georgia on November 22, 1993.

Please contact me if you have questions with respect to these issues.

Sincerely yours,

  
Thomas J. Cooper

TJC/dd  
Enclosure  
9424/DCINT

97043773009



17 May 1994

Mr. Thomas J. Madden, Esq.  
Venable, Baetjer, Howard & Civiletti  
Suite 1000  
1201 New York Ave., N.W.  
Washington, DC 20005-4800

Dear Mr. Madden:

I am addressing this letter to you as well as Mr. Herb Schlanger in Atlanta as both of you have, from time to time and on various associated issues, been retained by Firearms Training Systems (FATS) for legal counsel.

As you are no doubt aware, at the completion of the audit each year, a management representation letter is required to be provided to for each FATS entity. For Firearms Training Systems, Inc. (INC), this letter is required to be signed by the President, Chief Operating Officer and Chief Financial Officer and represents, among other things, that the company is compliant with all laws and regulations to which it is subject.

Unfortunately, I have information which leads me to believe that INC is, in fact, not compliant with all laws and regulations to which it is subject and, as a matter of good conscience, I will not be signing the associated management representation letter. Specifically I believe INC is non-compliant in matters relating to political contributions requirements

I believe it is in FATS' best interests to have these matters investigated immediately, however, I do not have the authority to engage you in such an endeavor. It is my responsibility, however, to inform you of such concerns.

I would appreciate a response from you indicating what course of action you plan to take with this information. You may certainly contact me at the office number listed below or at my home phone at (404) 271-8199.

Sincerely yours,

Robert R. Motter  
Chief Financial Officer

cc: Jody Scheckter  
Clare Fawkes

**FIREARMS TRAINING SYSTEMS, INC.**

7340 McGinnis Ferry Road Suwanee, GA 30174 USA Tel (404) 813-0180 Fax (404) 813-0741

US Military Marketing (404) 813-1910 US Law Enforcement Marketing (404) 813-1900 International Marketing (404) 813-1920  
Customer Service (404) 813-1940 Purchasing (404) 813-1930 Programs (404) 813-1915 Human Resources (404) 813-1925

AVERTIS  
Agence LEONAL INDEX - EXHIBIT DIVIDERS

97043773100

**VENABLE, BAETJER, HOWARD & CIVILETTI**  
**ATTORNEYS AT LAW**

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

BALTIMORE, MD  
MCLEAN, VA  
ROCKVILLE, MD  
TOWSON, MD  
BEL AIR, MD

SUITE 1000  
1201 NEW YORK AVENUE, N. W.  
WASHINGTON, D.C. 20005-3917  
(202) 962-4800  
FAX (202) 962-8300  
TELEX 999032

RICHARD M. VENABLE (1839-1910)  
EDWIN G. BAETJER (1868-1948)  
CHARLES MCH. HOWARD (1870-1942)

THOMAS J. KELLY, JR.

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
ADMINISTRATION

AUG 18 11 29 AM '94

WRITER'S DIRECT NUMBER IS

(202) 962-4889

August 18, 1994

BY HAND DELIVERY

PRE-MUR 302

Anthony T. Buckley, Esq.  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Mr. Buckley:

This letter is with additional reference to the immigration status of Mr. Jody D. Scheckter. I have enclosed a copy of a letter from George E. Lee, Esq. of the law firm of Lee & Lynch of Atlanta, Georgia. Mr. Lee represents Mr. Scheckter in immigration matters.

As you can see, Mr. Lee's letter indicates that Mr. Scheckter is currently residing in the United States as a lawful permanent resident within the meaning of the immigration laws and obtained that status on September 17, 1990. This assertion is confirmed by copies of the Form I-181(b) which are enclosed with the letter.

Mr. Lee's letter also points out that Mr. Scheckter had evidenced an intent to emigrate to the United States in March of 1987 when his employer filed a sixth preference immigrant visa petition ("the Petition"). The Petition was approved on February 29, 1988. All that remained to be done with respect to achieving permanent resident status following the approval of the Petition was the filing of an application by Mr. Scheckter for the adjustment of his immigration status. However, this step could not be taken at the time of the approval of the Petition because no visa numbers were available for Mr. Scheckter's use.

The Petition, according to Mr. Lee, "essentially classified" Mr. Scheckter as an intending immigrant. Mr. Lee continued that:

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COMMISSION  
GENERAL  
OFFICE OF GREG  
SPOFFORD  
AUG 18 12 15 PM '94

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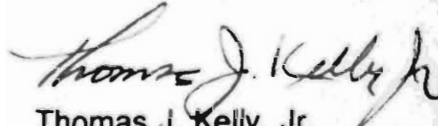
Anthony T. Buckley, Esq.  
August 18, 1994  
Page 2

Unfortunately, at that time there existed severe quota backlogs for the employment-based sixth preference category which precluded the Scheckters from immediately filing for permanent resident status.

At the time of the filing of the Petition, both Federal agencies, which implement the immigration statutes, the Department of State and the Immigration and Naturalization Service, regarded such a filing as an indication of intent by Mr. Scheckter, to be a permanent resident of the United States.

Please let me know if you have additional questions regarding this matter.

Sincerely,

  
Thomas J. Kelly, Jr.

Enclosure

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97043773102

LEE & LYNCH, P.C.  
ATTORNEYS AT LAW  
100 COLONY SQUARE, SUITE 1800  
1175 PEACHTREE STREET, N.E.  
ATLANTA, GEORGIA 30361

(404) 892-8300

GEORGE E. LEE

REC 1994 AUG 12 15 PM '94  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
(404) 892-8300

August 12, 1994

Thomas J. Kelly, Jr.  
Venable, Baetjer, Howard & Civiletti  
Suite 1000  
1201 New York Avenue, N.W.  
Washington, D.C. 20005

VIA FACSIMILE  
(202) 962-8300

RE: Jody Scheckter and Clare Fawkes Scheckter;  
U.S. Immigration Status

Dear Mr. Kelly:

At the request of Mr. and Mrs. Scheckter, I am writing this letter to summarize their U.S. immigration history and current status. This firm has represented both individuals in matters pertaining to their immigration status since 1985.

Both Mr. and Mrs. Scheckter are currently residing in the United States as lawful permanent residents. They obtained this status on September 17, 1990 at the Atlanta District office of the U.S. Immigration and Naturalization Service ("INS").

For your records, I am attaching copies of their Forms I-181b as issued by the INS office on that date which confirms their permanent resident status (Exhibits A-1 and A-2).

The underlying basis for their permanent resident applications was the fact that Mrs. Scheckter was registered as an NP-5 visa lottery "winner" in January of 1990. Her application for the NP-5 visa lottery was submitted in January of 1987. I have attached a copy of my correspondence to the U.S. Embassy in London dated April 27, 1990 which addresses the NP-5 registration issue (Exhibit B).

It is important to note that prior to becoming NP-5 visa lottery "winners", the Scheckters had both evidenced an intent to emigrate to the United States by the filing of sixth preference immigrant visa petitions.

9704373103

Mr. Thomas J. Kelly, Jr.  
August 12, 1994  
Page two

These petitions, filed by their employer in March of 1987, essentially classified both individuals as intending immigrants. Unfortunately, at that time there existed severe quota backlogs for the employment-based sixth preference category which precluded the Scheckters from immediately filing for permanent resident status. For your records, I have enclosed copies of their respective sixth preference petition approval notices as issued by the INS (Exhibit C-1, C-2 and C-3), as well as correspondence from the U.S. Embassy dated March 22, 1988 regarding their pending petitions (Exhibit D-1a, D-1b, D-2a, and D-2b).

Last of all it should be noted that, according to my records, the Scheckters have been treated as "residents" of the U.S. for tax purposes since 1986. I have attached a copy of a letter to this effect written by me on July 13, 1989 along with a form issued by the INS to verify Mrs. Scheckter's (nee Fawkes) status at that time (Exhibits E-1 and E-2).

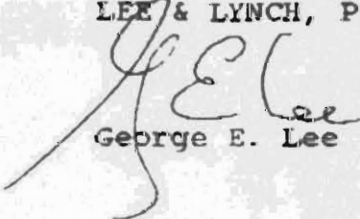
I hope that the contents of this letter are illuminative to you and any others concerned with the Scheckter's immigration status.

If further clarification or documentation is required please do not hesitate to call on me.

Best regards.

Sincerely,

LEE & LYNCH, P.C.

  
George E. Lee

GEL:kb  
Enclosures

cc: Jody and Clare Scheckter

9704373104

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE

REF TO THE FILE

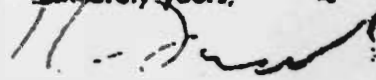
A29 883 564

Date: 8-17-90

Jody David SCRECKEER  
6096 Courtside Drive  
Norcross, Georgia 30092

The processing of the application for adjustment of status to that of permanent resident filed by the above named individual has been completed. A request has been forwarded for the allocation of a visa number.

Sincerely yours,



District Director

97043773105

ATTORNEY

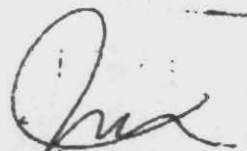


EXHIBIT A-1

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE

REF TO THE ATTORNEY

A29 885 895

Date: 9-17-90

Clare Mary FAWKES  
6096 Courtside Drive  
Norcross, Georgia 30092

The processing of the application for adjustment of status to that of permanent resident filed by the above named individual has been completed. A request has been forwarded for the allocation of a visa number.

Sincerely yours,  
*[Handwritten Signature]*

District Director

ATTORNEY

*[Handwritten Signature]*

97043773106

EXHIBIT A-2

COPY

LEE & LYNCH  
ATTORNEYS AT LAW  
100 COLONY SQUARE, SUITE 1800  
1175 PEACHTREE STREET, N.E.  
ATLANTA, GEORGIA 30361  
(404) 892-8300

GEORGE E. LEE

Telecopier  
(404) 372-0136

April 27, 1990

Embassy of the United States of America  
Immigrant Visa Branch  
5 Upper Grosvenor Street  
London, W1A 2JB

ATTN: Immigrant Visa Section

Re: Clare Mary FAWKES  
NP-5 Category  
D.O.B.: 21 April 60

Dear Sir or Madam:

Reference your correspondence dated January 5, 1990 informing Ms. Fawkes of her NP-5 visa lottery registration (copy attached). Please be advised that pursuant to the provisions of Section 245 of the INA, Ms. Fawkes and her spouse have applied for adjustment to permanent resident status directly with the U.S. Immigration & Naturalization Service.

Thank you for your assistance in this matter.

Best regards.

Sincerely,

LEE & LYNCH

/s/

George E. Lee

GEL:lc  
Enclosures  
cc: Clare Fawkes

97043773107

EXHIBIT B

LEE, LYNCH & LAMB

ATTORNEYS AT LAW

100 COLONY SQUARE, SUITE 1800

1175 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30361

404 895-4300

TELEX 98-284 NPEEN-ATL

GEORGE E. LEE

March 2, 1988

Mr. Jody Scheckter, President  
Firearms Training Systems, Inc.  
6020-F Unity Drive  
Norcross, GA 30071

Re: Approval of Immigrant Visa Petition

Dear Jody:

As discussed with you by telephone today, the U.S. Immigration and Naturalization Service has approved the sixth preference immigrant visa petition filed on your behalf by Firearms Training Systems, Inc. I have enclosed a copy of the approval notice for your records. The approved petition has been forwarded to the U.S. Embassy in London for processing of an immigrant visa.

Currently, immigrant visas are available to individuals who filed sixth preference petitions prior to January 1, 1986. Your priority date is March 31, 1987. Therefore, I expect it will be approximately one year before you can apply for permanent resident status. I will keep you informed of sixth preference visa availability as it pertains to your case.

We will need to obtain a one year extension of your L-1 nonimmigrant status which expires on July 31st of this year. The earliest we can file a request for extension will be April 30th.

As always, if you have any questions or problems regarding your status, please do not hesitate to call me.

Best personal regards.

Sincerely,

LEE, LYNCH & LAMB

151

George E. Lee

GEL:ak

EXHIBIT C - 1

97043773108

**IMPORTANT: IF THERE IS ANY CHANGE IN YOUR INTENTION TO EMPLOY OR BE EMPLOYED IN THE CAPACITY INDICATED IN THE JOB OFFER, NOTIFY THIS OFFICE IMMEDIATELY.**

Name of Beneficiary <b>SCHICKLER, Jody David</b>		File No.	Date of Notice <b>Feb 29, 1988</b>
Country of birth <b>Republic of South Africa</b>	Occupation <b>President</b>	Date Petition Filed <b>Mar 31, 1987</b>	

**VALIDITY:** The approval of a petition for third or sixth preference classification is valid for as long as the supporting labor certification is valid and unexpired, provided there is no change in the respective intentions of the prospective employer and the beneficiary that the beneficiary will be employed by the employer in the capacity indicated in the supporting job offer.

Please be advised that approval of the petition confers upon the beneficiary an appropriate classification. The approval constitutes no assurance that the beneficiary will be found eligible for admission to the United States, adjustment to lawful permanent resident status, or visa issuance. Eligibility for admission or adjustment is determined only when application therefor is made to an immigration officer. Eligibility for visa issuance is determined only when application therefor is made to a consular officer who is under the jurisdiction of the U.S. Department of State. If the beneficiary's approved petition has been forwarded to a United States consulate, all inquiries concerning issuance of a visa for the beneficiary should be addressed to the Consul. In addition, please note the items below which are indicated by "X" marks concerning this petition:

9704373109

- Your petition for preference classification has been approved by the Service and forwarded to the United States Consulate at \_\_\_\_\_ Under the law only a limited number of visas may be issued by the Department of State during each year, and they must be issued strictly in the order in which petitions were filed for the same classification. When the beneficiary's turn is reached on the visa waiting list, the United States Consul will inform the beneficiary and consider issuance of the visa.
- The petition has been approved. It was forwarded to the United States Consulate at London, England even though the petition states that the beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident. Under the law only a limited number of visas are available to applicants for each preference who are seeking adjustment of status to that of lawful permanent residents in the United States or immigrant visas abroad. Visas are issued strictly in the order in which petitions were filed for the same classification. Since a visa is not presently available, the beneficiary may not now apply for adjustment of status to that of a permanent resident. When the beneficiary's turn is reached on the visa waiting list, the United States Consul will inform the beneficiary and consider issuance of the visa.
- The petition has been approved and forwarded to the United States Consulate at \_\_\_\_\_ Although the petition states that the beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident, a review of the beneficiary's file reflects that the beneficiary may have continued or accepted unauthorized employment after January 1, 1977 and prior to filing an application for adjustment of status. The beneficiary may therefore be statutorily ineligible for adjustment of status under section 245(c) of the Immigration and Nationality Act. However, the beneficiary is not statutorily ineligible for adjustment of status under section 245(c) of the Act; the beneficiary should file an application for adjustment of status (Form I-485), and the approved visa petition will be returned to this office.
- The petition has been approved. The petition states that the beneficiary is in the United States and will apply to become a lawful permanent resident. The enclosed application for this purpose (Form I-485) should be completed and submitted by the beneficiary within 30 days in accordance with the instructions contained therein. (If the beneficiary had previously submitted Form I-485 which was returned to him/her, he/she should submit that form within 30 days.)
- The petition has been approved. The beneficiary will be informed of the decision made on the pending application to become a lawful permanent resident (Form I-485).
- Remarks:

Picoburus Training Systems, Inc.  
 ATTN: Clare Paukes, Secretary and Management Director  
 c/o George E. Lee, Attorney at Law  
 100 Colony Square, Suite 2124  
 1175 Peachtree Street, N.E.  
 Atlanta, Georgia 30361

Very truly yours,

*[Signature]*  
 DIRECTOR

MAIL TO

NAME AND ADDRESS OF PETITIONER

THIS NOTICE TO BE MAILED TO THE ATTORNEY OR REPRESENTATIVE, IF ANY

Regional Service Center

RJ/gw

NOTICE OF  THIRD  SIXTH PREFERENCE PETITION APPROVED UNDER SECTION 203 (a) OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED.

IMPORTANT: IF THERE IS ANY CHANGE IN YOUR INTENTION TO EMPLOY OR BE EMPLOYED IN THE CAPACITY INDICATED IN THE JOB OFFER, NOTIFY THIS OFFICE IMMEDIATELY.

Name of Beneficiary FAWKES, Clare Mary		File No.	Date of Notice Feb 29, 1988
Country of birth England	Occupation Business Management	Date Petition Filed	Mar 31, 1987

VALIDITY: The approval of a petition for third or sixth preference classification is valid for as long as the supporting labor certification is valid and unexpired, provided there is no change in the respective intentions of the prospective employer and the beneficiary that the beneficiary will be employed by the employer in the capacity indicated in the supporting job offer.

Please be advised that approval of the petition confers upon the beneficiary an appropriate classification. The approval constitutes no assurance that the beneficiary will be found eligible for admission to the United States, adjustment to lawful permanent resident status, or visa issuance. Eligibility for admission or adjustment is determined only when application therefor is made to an immigration officer; eligibility for visa issuance is determined only when application therefor is made to a consular officer who is under the jurisdiction of the U.S. Department of State. If the beneficiary's approved petition has been forwarded to a United States consulate, all inquiries concerning issuance of a visa for the beneficiary should be addressed to the Consul. In addition, please note the items below which are indicated by "X" marks concerning this petition:

970437311C

Your petition for preference classification has been approved by the Service and forwarded to the United States Consulate at \_\_\_\_\_ Under the law only a limited number of visas may be issued by the Department of State during each year, and they must be issued strictly in the order in which petitions were filed for the same classification. When the beneficiary's turn is reached on the visa waiting list, the United States Consul will inform the beneficiary and consider issuance of the visa.

The petition has been approved. It was forwarded to the United States Consulate at London, England even though the petition states that the beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident. Under the law only a limited number of visas are available to applicants for each preference who are seeking adjustment of status to that of lawful permanent residents in the United States or immigrant visas abroad. Visas are issued strictly in the order in which petitions were filed for the same classification. Since a visa is not presently available, the beneficiary may not now apply for adjustment of status to that of a permanent resident. When the beneficiary's turn is reached on the visa waiting list, the United States Consul will inform the beneficiary and consider issuance of the visa.

The petition has been approved and forwarded to the United States Consulate at \_\_\_\_\_ Although the petition states that the beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident, a review of the beneficiary's file reflects that the beneficiary may have continued in or accepted unauthorized employment after January 1, 1977 and prior to filing an application for adjustment of status. The beneficiary may therefore be statutorily ineligible for adjustment of status under section 245(c) of the Immigration and Nationality Act. If, however, the beneficiary is not statutorily ineligible for adjustment of status under section 245(c) of the Act, the beneficiary should file an application for adjustment of status (Form I-485), and the approved visa petition will be returned to this office.

The petition has been approved. The petition states that the beneficiary is in the United States and will apply to become a lawful permanent resident. The enclosed application for this purpose (Form I-485) should be completed and submitted by the beneficiary within 30 days in accordance with the instructions contained therein. (If the beneficiary had previously submitted Form I-485 which was returned to him/her, he/she should submit that form within 30 days.)

The petition has been approved. The beneficiary will be informed of the decision made on the pending application to become a lawful permanent resident (Form I-485).

Remarks:  
Firearms Training Systems, Inc.  
ATTN: Jody Scheckter, President & General Manager  
c/o George E. Lee, Attorney at Law  
100 Colony Square, Suite 2124  
1175 Peachtree Street, N.E.  
Atlanta, Georgia 30361

Very truly yours,  
*[Signature]*  
DIRECTOR

MAIL TO \_\_\_\_\_ NAME AND ADDRESS OF PETITIONER

EMBASSY OF THE UNITED STATES AMERICA  
VISA BRANCH  
55/56 UPPER BROOK STREET  
LONDON, W1A 2JB

DATE: 2244853

LEE, LYNCH & LAMB,  
100 COLONY SQUARE,  
SUITE 2124,  
1175 PEACHTREE STREET, N.E.  
ATLANTA, GA 30361

DEAR JODY DAVID SCHECKTER:

THE ENCLOSED INFORMATION RESPONDS TO YOUR INTEREST IN IMMIGRATING TO THE UNITED STATES. UNFORTUNATELY, VISA NUMBERS ARE NOT PRESENTLY AVAILABLE FOR YOUR USE. YOU WILL BE NOTIFIED WHEN FURTHER CONSIDERATION CAN BE GIVEN TO PROCESSING YOUR APPLICATION FOR IMMIGRATION.

PLEASE READ ANY ENCLOSED INSTRUCTIONS FOR FURTHER INFORMATION.

WHEN COMMUNICATING WITH THIS OFFICE EITHER BY TELEPHONE OR LETTER, YOU MUST ALWAYS REFER TO YOUR NAME AND CASE NUMBER EXACTLY AS THEY APPEAR BELOW.

SINCERELY,

CHIEF, IMMIGRANT VISA BRANCH

NAME (P) : SCHECKTER, JODY DAVID

PREFERENCE CATEGORY: P51 - SAFA

YOUR PRIORITY DATE : 31XAR87

PRESENTLY PROCESSING  
PRIORITY DATED BEFORE 01JAN88

ENCL: PACKET 3-1

EXHIBIT D-1a

(TLPKT3-1)  
10/25/82

9704377311

Please read carefully the paragraphs checked below. You may disregard any unchecked paragraphs.

Unfortunately, visa numbers are not presently available for your use and it is not possible to determine, with any degree of accuracy, when visa numbers will become available. You may be assured, however, that you will be notified as soon as numbers are available and further consideration can be given to your application. The reason for this delay is because there are more applicants for visas than there are immigrant visa numbers available under the numerical limitations prescribed by law. At the present time, visa numbers in your category are:

unavailable

available for persons who have a priority date earlier than 1 JAN 86.

Since you are at present only qualified for a nonpreference visa and such numbers are not available for you at this time, it may be to your advantage if your prospective employer in the United States would submit a petition (Form I-140) to the Immigration and Naturalization Service in the United States to accord you third or sixth preference status. We have, therefore, returned your approved labor certification to your prospective employer with a notice to this effect. While the approval of a third or sixth preference petition would normally expedite consideration of your case, it should be noted that the approval of such a petition does not ensure the immediate availability of a visa number.

DSL-869A  
May 83

EXHIBIT D-1b

9704373112

EMBASSY OF THE UNITED STATES - AMERICA  
VISA BRANCH  
55/56 UPPER BROOK STREET  
LONDON, W1A 2J2

DATE: 22MAR58

LEE LYNCH & LAMB ATTYS AT LAW  
100 COLONY SQUARE-SUITE 2124  
1175 PEACHTREE ST N.E.  
ATLANTA  
GEORGIA 30361

DEAR CLARE MARY FAWKES:

THE ENCLOSED INFORMATION RESPONDS TO YOUR INTEREST IN IMMIGRATING TO THE UNITED STATES. UNFORTUNATELY, VISA NUMBERS ARE NOT PRESENTLY AVAILABLE FOR YOUR USE. YOU WILL BE NOTIFIED WHEN FURTHER CONSIDERATION CAN BE GIVEN TO PROCESSING YOUR APPLICATION FOR IMMIGRATION.

PLEASE READ ANY ENCLOSED INSTRUCTIONS FOR FURTHER INFORMATION.

WHEN COMMUNICATING WITH THIS OFFICE EITHER BY TELEPHONE OR LETTER, YOU MUST ALWAYS REFER TO YOUR NAME AND CASE NUMBER EXACTLY AS THEY APPEAR BELOW.

SINCERELY,

CHIEF, IMMIGRANT VISA BRANCH

NAME (P) : FAWKES, CLARE MARY  
PREFERENCE CATEGORY: P61 - CR52  
YOUR PRIORITY DATE : 31MARS57  
PRESENTLY PROCESSING  
PRIORITY DATES BEFORE: 01JAN58

ENCL: PACKET 3-1

EXHIBIT D-2a

(TLPKTS-4)  
10/23/52

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U

Please read carefully the paragraphs checked below. You may disregard any unchecked paragraphs.

( ) Unfortunately, visa numbers are not presently available for your use and it is not possible to determine, with any degree of accuracy, when visa numbers will become available. You may be assured, however, that you will be notified as soon as numbers are available and further consideration can be given to your application. The reason for this delay is because there are more applicants for visas than there are immigrant visa numbers available under the numerical limitations prescribed by law. At the present time, visa numbers in your category are:

- ( ) unavailable
- (✓) available for persons who have a priority date earlier than Jan 86.

( ) Since you are at present only qualified for a nonpreference visa and such numbers are not available for you at this time, it may be to your advantage if your prospective employer in the United States would submit a petition (Form I-140) to the Immigration and Naturalization Service in the United States to accord you third or sixth preference status. We have, therefore, returned your approved labor certification to your prospective employer with a notice to this effect. While the approval of a third or sixth preference petition would normally expedite consideration of your case, it should be noted that the approval of such a petition does not ensure the immediate availability of a visa number.

DSL-869A  
May 83

EXHIBIT D-2b

9704377314

LEE, LYNCH & LAMB

ATTORNEYS AT LAW

100 COLONY SQUARE, SUITE 1800

1175 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30301

(404) 522-5200

COPY

GEORGE E. LEE

FAX (404) 572-0136

July 13, 1989

TO WHOM IT MAY CONCERN

Re: Clare Mary Fawkes

Dear Sir or Madam:

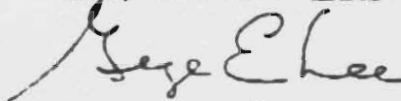
This statement is written to confirm the United States residence status of Ms. Clare Mary Fawkes. This firm is counsel to Ms. Fawkes and her employer, Firearms Training Systems, Inc., on a variety of matters. She is a British national who has resided and worked in the United States since 1985 pursuant to the terms of an intracompany transferee visa petition approved by the U.S. Immigration & Naturalization Service. Her residence since 1985 has remained 6096 Courtside Drive, Norcross, Georgia. Since 1986 Ms. Fawkes has filed U.S. resident personal income tax returns and is considered a "resident" of the U.S. for tax purposes. Moreover, she is the beneficiary of a petition, approved by the U.S. Immigration & Naturalization Service, to classify her as an immigrant to the United States.

I have attached to this statement a certification from the U.S. Immigration & Naturalization Service attesting to Ms. Fawkes status. Also, attached is a certified copy of the notice of approval of the immigrant visa petition.

If we can be of further assistance please do not hesitate to contact this office regarding Ms. Fawkes residence.

Sincerely,

LEE, LYNCH & LAMB



George E. Lee

GEL:lc  
Enclosure

EXHIBIT E - 1

97043773115

APPLICATION FOR  
VERIFICATION OF INFORMATION FROM  
IMMIGRATION AND NATURALIZATION SERVICE  
RECORDS

TYPE OR PRINT THE NAME AND MAILING ADDRESS OF THE PERSONS TO WHOM  
INFORMATION OR COPIES OF RECORD SHOULD BE RETURNED IN THE BOX BELOW

Fee Stamp  
ATL 136640  
7-13-89

NAME	George E. Lee
STREET ADDRESS	Lee, Lynch & Lamb 100 Colony Square, Suite 1800
CITY, STATE ZIP CODE	1175 Peachtree St., NE Atlanta, GA 30361

PERSON CONSENTING NAME AND ADDRESS
SIGNATURE OF PERSON CONSENTING

1. CHECK TYPE OF VERIFICATION REQUESTED <input type="checkbox"/> LAWFUL ADMISSION FOR PERMANENT RESIDENCE <input checked="" type="checkbox"/> AGE OR DATE OF BIRTH <input type="checkbox"/> NATURALIZATION OR CITIZENSHIP <input type="checkbox"/> GENEALOGICAL INFORMATION (See instructions 6b and 7) <input checked="" type="checkbox"/> OTHER (CERTIFICATE OF BIRTH DATA, ETC.) Approved Immigrant Visa Petition	2. STATE PURPOSE FOR WHICH DESIRED. Residence for Marriage License 2A. NAMES OF BENEFICIARIES N/A	3. NUMBER OF COPIES DESIRED (IF ANY) One	4. IF INFORMATION IS FOR SOCIAL SECURITY BENEFITS, SHOW SOCIAL SECURITY NUMBER
--	--	--	---

DATA FOR IDENTIFICATION OF THE RECORD TO BE VERIFIED

5. FAMILY NAME FARKES	6. GIVEN NAME Clare	7. MIDDLE NAME Mary	8. ALIEN REGISTRATION NUMBER
9. OTHER NAMES USED IF ANY None	10. NAME USED AT TIME OF ENTRY INTO UNITED STATES Same		
11. PORT OF ENTRY IN TO UNITED STATES Atlanta	12. DATE OF ENTRY 5/8/89	13. NAME OF VESSEL OR OTHER MEANS OF ENTRY Via air - Delta	

GIVE THE FOLLOWING FORMATION FOR VERIFICATION OF NATURALIZATION OR CERTIFICATE OF CITIZENSHIP

14. NAME ON CERTIFICATE N/A	15. CERTIFICATE NUMBER	16. DATE ISSUED
17. ADDRESS WHEN CERTIFICATE WAS ISSUED	18. NAME AND LOCATION OF NATURALIZATION COURT OR IMMIGRATION OFFICE ISSUING CERTIFICATE OF CITIZENSHIP	

DO NOT COMPLETE THIS BLOCK -  
RESERVED FOR GOVERNMENT USE ONLY

19. SIGNATURE OF APPLICANT  
*Ch. E. Lee*

THE RECORDS OF THE IMMIGRATION AND NATURALIZATION SERVICE REFLECT THE FOLLOWING  
VERIFICATION OF INFORMATION REQUESTED WAS MADE ON THIS DATE SHOWN AT RIGHT

DATE  
7-13-89

<input type="checkbox"/> LAWFUL ADMISSION FOR PERMANENT RESIDENCE ON _____ AT _____ CLASS _____
<input type="checkbox"/> NATURALIZATION INFORMATION AS SHOWN ABOVE IS CORRECT
<input type="checkbox"/> NATURALIZATION IN COURT _____ ON DATE _____
<input type="checkbox"/> AT LOCATION _____
<input checked="" type="checkbox"/> DATE OF BIRTH _____
<input type="checkbox"/> ARRIVAL RECORD DATED _____ SHOWED SUBJECT'S AGE AT TIME TO BE _____
<input type="checkbox"/> UNABLE TO IDENTIFY ANY RECORD
<input type="checkbox"/> COPIES ATTACHED AS REQUESTED
<input type="checkbox"/> CERTIFICATE OF CITIZENSHIP BY (OFFICE) _____
ON (DATE) _____

SIGNATURE  
Director of I&N 07/13/89

PRIVACY ACT	<input checked="" type="checkbox"/> IDENTITY ESTABLISHED BY PERSON	Approved by E. Lee - USA ON MAY 8 1989 AS L-1	DATE
IDENTIFICATION WHEN REQUIRED:	DOCUMENTS ATTACHED	<input type="checkbox"/> GENEALOGICAL	<input type="checkbox"/> OTHER (LIST)

9704373116

VENABLE, BAETJER, HOWARD & CIVILETTI  
ATTORNEYS AT LAW

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

BALTIMORE, MD  
MCLEAN, VA  
ROCKVILLE, MD  
TOWSON, MD  
BEL AIR, MD

SUITE 1000  
1201 NEW YORK AVENUE, N. W.  
WASHINGTON, D.C. 20005-3917  
(202) 962-4800  
FAX (202) 962-8300  
TELEX 896032

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
AUG 23 4 07 PM '94

RICHARD M. VENABLE (1838-1810)  
EDWIN G. BAETJER (1868-1948)  
CHARLES MCH. HOWARD (1870-1942)

WRITER'S DIRECT NUMBER IS  
(202) 962-4857

THOMAS J. COOPER

August 23, 1994

By Hand Delivery

PRE-MUR 302

Anthony T. Buckley, Esq.  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Mr. Buckley:

This letter is a follow-up to our telephone conversation of August 22, 1994. I have enclosed a copy of Jody D. Scheckter's alien registration receipt card as well as a brief letter from his immigration counsel which speaks to the adjustment date of his immigration status.

Please contact me if you have any additional questions on this matter.

Sincerely,

  
Thomas J. Cooper

Enclosure

97043773117

LEE & LYNCH, P.C.  
ATTORNEYS AT LAW  
100 COLONY SQUARE, SUITE 1800  
1175 PEACHTREE STREET, N.E.  
ATLANTA, GEORGIA 30361  
-----  
(404) 892-8300

GEORGE E. LEE

TELECOPIER:  
(404) 872-0136

August 23, 1994

Thomas J. Kelly, Esq.  
Venable, Baetjer, Howard, Civiletti  
Suite 1000  
1201 New York Avenue, N.W.  
Washington, D.C. 20005

VIA FACSIMILE  
(202) 962-8300

Re: Jody David Scheckter;  
U.S. Immigration Status

Dear Mr. Kelly:

Further to my correspondence to you dated August 12, 1994, I am writing to clarify the date of Mr. Scheckter's adjustment to lawful U.S. permanent resident status. I previously sent you a copy of Form I-181b as issued by the U.S. Immigration and Naturalization Service ("INS") on September 17, 1990. This form is issued at the time the alien registration receipt card is requested from the INS "green card" processing facility. Although it usually takes two to four months for the individual to receive the actual card, the adjustment date is effective as of the issuance of the Form I-181b.

For your records, I have attached a photocopy of Mr. Scheckter's alien registration receipt card which lists the place and date of adjustment on the reverse side

I hope that this information is useful to you.

Best regards,

LEE &amp; LYNCH, P.C.

  
George E. LeeGEL:lc  
Enclosures

cc: Jody Scheckter

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RESIDENT ALIEN  
SCHECKER, JODY DAVID

REC'D  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Aug 23 4 09 PM '94

ALIEN REGISTRATION RECEIPT CARD  
FEDERAL ELECTION COMMISSION

97043773119

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

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

OCT 5 9 51 AM '94

**FIRST GENERAL COUNSEL'S REPORT**

Pre-MUR # 302  
Date Activated: July 11, 1994  
Staff Member: Tony Buckley

**SENSITIVE**

**SOURCE:** INTERNALLY GENERATED

**RESPONDENTS:** Firearms Training Systems, Inc.  
Jody D. Scheckter  
Janice Dean  
Robert Mecredy  
Robert Motter

**RELEVANT STATUTES:** 2 U.S.C. § 431(11)  
2 U.S.C. § 441b(a)  
2 U.S.C. § 441c(a)(1)  
2 U.S.C. § 441e  
2 U.S.C. § 441f  
11 C.F.R. § 110.4(a)(3)  
11 C.F.R. § 110.4(b)(1)(iii)

**INTERNAL REPORTS CHECKED:** Dun & Bradstreet

**FEDERAL AGENCIES CHECKED:** None

**I. GENERATION OF MATTER**

On July 1, 1994, Counsel for Firearms Training Systems, Inc. ("Firearms Systems") submitted a letter advising this Office of certain apparent violations of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), which had been committed by their client. Attachment 1.<sup>1</sup> These apparent violations had been discovered by the corporation during the course of an internal investigation and involved contributions

1. This letter resulted from a telephone conversation between Counsel and this Office on June 29, 1994.

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apparently made by the corporation's Chief Executive Officer, Jody Scheckter. The internal investigation had been prompted by a May 17, 1994 letter from Robert Motter, the corporation's Chief Financial Officer, to the corporation's legal counsel.

Staff of this Office met with Counsel at their request on July 8, 1994. At that meeting, staff reviewed with Counsel the various violations that appeared to exist, as described in the sua sponte submission. Staff requested that Counsel allow this Office to review the notes from their investigation which were used in crafting the sua sponte submission, so as to assist this Office in better understanding and advising the Commission on the violations described in the submission. Staff also requested clarification as to the issue of representation. Counsel agreed to provide the notes, and indicated that they might have a conflict with respect to one potential respondent, but that they would look into jointly representing all potential respondents so as to help effectuate a quick resolution. Counsel also agreed to answer any questions occasioned by our review of the materials they intended to provide.

On July 14, 1994, Counsel contacted this Office and advised us that the Federal Bureau of Investigation ("FBI") had conducted a raid of Firearms Systems. Counsel further advised that the warrant authorizing the search applied mainly to violations of the Foreign Corrupt Practices Act, but also mentioned violations of the FECA. Counsel expressed their continued desire to assist the

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Commission in understanding the violations and in resolving this matter.

On July 18 and 19, 1994, Counsel produced the notes promised at the July 8 meeting. Attachment 2. Counsel also provided a joint designation of counsel for several individuals.<sup>2</sup>

On July 20, 1994, this Office contacted Counsel with questions raised by our review of the materials they had provided. Specifically, this Office noted that the interview notes all referenced the letter that Robert Motter had written which resulted in the internal investigation. This Office asked to see that letter, as it appeared to be necessary for a proper understanding of the violations. The letter was provided on July 27, 1994. Attachment 3.

Also on July 27, 1994, this Office was contacted by the Director of the Election Crimes Branch, Public Integrity Section, Criminal Division of the Department of Justice. The Director had become aware of the sua sponte submission through a meeting between Justice Department officials and Counsel shortly after the FBI raid. The Director informed this Office that their research determined that Jody Scheckter was in this country on an L-1 visa and that, therefore, he met the definition of a "foreign national"

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2. Counsel now represent, in addition to the Firearms Systems, Jody Scheckter, Janice Dean, and Robert Mecredy. Counsel has stated that a conflict prevents them from also representing Robert Motter.

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under the Act. On July 28, 1994, this Office contacted Counsel so as to clarify this issue, and was informed that Mr. Scheckter was granted permanent resident status on September 17, 1990.<sup>3</sup> On August 18 and 23, 1994, Counsel submitted information corroborating Jody Scheckter's permanent resident status. Attachment 4.<sup>4</sup>

## II. FACTUAL AND LEGAL ANALYSIS

### A. Applicable Law

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election, or for any officer or director of any corporation to consent to any contribution by the corporation. Pursuant to 2 U.S.C. § 441c(a)(1), it is unlawful for any person who has entered into a contract with any department or agency of the United States to make any contribution of money to any political party, committee or candidate. The term "person" includes corporations. See 2 U.S.C. § 431(11).

3. During the July 8 meeting, staff had raised the possibility of violations of 2 U.S.C. § 441e, noting that Firearms Systems is a wholly-owned subsidiary of a foreign corporation, and inquired into the nationality of Mr. Scheckter and the source of the funds used to make the reimbursements. Counsel informed staff at that time that Mr. Scheckter had obtained a "green card," and, therefore, is considered lawfully admitted to the United States for permanent residence. Counsel also informed staff that Firearms Systems is separately incorporated in the United States, and that all funds used to reimburse Mr. Scheckter had come from the activities of the U.S. corporation.

4. Because this evidence confirmed Counsel's representations with regard to Mr. Scheckter's permanent resident status, the Justice Department has indicated that it will not pursue any possible FECA violations.

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Pursuant to 2 U.S.C. § 441e(a), it is unlawful for any foreign national to make any contribution in connection with any Federal, state or local election, or for any person to solicit any such contribution from a foreign national. Section 441e is also violated where a foreign national participates in the decision-making process which results in a contribution. See 11 C.F.R. § 110.4(a)(3). The term "foreign national" includes an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence. 2 U.S.C. § 441e(b)(2). In its advisory opinions, the Commission has elaborated on the issue of foreign nationals, and has conditioned its approval of contributions by domestic subsidiaries of foreign national parents to state and local campaigns for political office by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision-making process regarding the proposed contributions. See AOs 1985-3 and 1982-10; see also AO 1989-20. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another. See 11 C.F.R. § 110.4(b)(1)(iii).

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**B. Background**

Jody D. Scheckter is the Chief Executive Officer of Firearms Systems, an entity incorporated in the United States which is a wholly-owned subsidiary of Firearms Training Systems International NV, The Netherlands, Antilles ("the parent corporation"). Firearms Systems has several contracts with various Federal departments and agencies. Mr. Scheckter is a South African citizen who was granted permanent resident status on September 17, 1990. Mr. Scheckter was involved in the making of the following political contributions which are at issue:

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<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	10-20-89	Darden for Congress	\$ 500
2	02-13-90	Thomas for Congress	\$ 500
3	10-25-91	Democratic Congressional Campaign Committee	\$2,000
4	04-14-92	John Glenn for Senate Committee	\$2,000
5	08-13-92	Richard Ray for Congress	\$ 500
6	10-14-92	Friends of Newt Gingrich	\$1,000
7	02-02-93	Darden for Congress	\$1,000
8	06-05-93	Friends of Newt Gingrich	\$1,000
9	07-14-93	Don Johnson for Congress	\$ 500
		total	<u>\$9,000</u>

According to the information provided by Counsel, contributions were handled in the following manner. Solicitations were received by Robert Mecredy, the Director of U.S. Military Marketing of Firearms Systems. Mecredy would review these requests and decide which events were appropriate to attend,

suggesting that the key consideration was which events would best advance Firearms Systems' business interests. See Attachment 2 at 14. Mecredy would then advise Scheckter about any contributions he felt Scheckter should make. If Scheckter gave his approval, Mecredy would then go to Scheckter's Executive Secretary and ask her to issue a check.

Commencing with the February 13, 1990 contribution to Thomas for Congress, Mr. Scheckter's Executive Secretary started submitting requests to the corporation to reimburse Mr. Scheckter for political contributions.<sup>5</sup> These requests each indicated that the reimbursement was being sought for political contributions made by Jody Scheckter. See, e.g., Attachment 1 at 17-18.<sup>6</sup> According to Counsel, these requests were handled the way business-related reimbursement requests were routinely handled within Firearms Systems.

In November 1992, Robert Motter was hired as the Chief Financial Officer of Firearms Systems. In February 1993, Janice Dean again sought reimbursement for a political contribution by Jody Scheckter. This contribution was the first contribution made by Jody Scheckter since the hiring of Robert Motter. In response

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5. The Executive Secretary who initiated this procedure is no longer employed by Firearms Systems and her identity and whereabouts are unknown. This unknown Executive Secretary was involved in the reimbursement of the February 13, 1990; October 25, 1991; and April 14, 1992 contributions. Janice Dean became Jody Scheckter's Executive Secretary subsequent to the April 14, 1992 contribution, and handled all other reimbursements.

6. Reimbursements were effectuated for five contributions in this manner, ending with the October 14, 1992 contribution to Friends of Newt Gingrich.

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to Janice Dean's request, Robert Motter informed her that it was illegal for corporations to reimburse individuals for political contributions. See Attachment 2 at 19-20. However, Motter did not insist that the corporation no longer reimburse Jody Scheckter for political contributions; rather, he insisted that no paper trail should be created which tied reimbursements in any way to Jody Scheckter's political contributions.

To avoid such a paper trail, Robert Motter established a procedure whereby Janice Dean would, on a quarterly basis, inform him of the contributions that required reimbursement. Information was submitted on small "post-it" notes which were later discarded. Robert Motter would then submit requests for special payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll, but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions. See Attachment 1 at 20-21. Nothing in the request submitted to payroll indicated that a reimbursement for a political contribution was being sought. Mr. Motter has stated that Jody Scheckter was aware of the illegal nature of this effort, but that he wanted it done. See Attachment 2 at 42. But see Attachment 2 at 9 (where Jody Scheckter made general comments denying any knowledge of such a scheme). Contributions dated

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February 2 and June 5, 1993, and possibly July 14, 1993, were reimbursed in this manner.<sup>7</sup>

### C. Analysis

The first two contributions in the chart above, the first of which was not reimbursed, were made prior to Jody Scheckter being granted permanent resident status. The first contribution constitutes a direct contribution by a foreign national. Accordingly, this Office recommends that the Commission find reason to believe that Jody Scheckter violated 2 U.S.C. § 441e with respect to the first contribution.

Because Jody Scheckter was reimbursed, the second contribution is properly considered a corporate contribution, rather than a direct contribution by Jody Scheckter, a foreign national. However, Jody Scheckter approved the making of the contribution, and the contribution would not have occurred without this approval. Such effort constitutes "direct participation in the decision-making process" with respect to the making of this contribution, within the meaning of 11 C.F.R. § 110.4(a)(3), and further taints this corporate contribution. Accordingly, this Office recommends that the Commission find reason to believe that

7. Counsel has indicated that the last contribution to be reimbursed was the June 5, 1993 contribution, which was reimbursed on July 30, 1993. See Attachment 1 at 2. However, Robert Motter has stated that the last contribution to be reimbursed was reimbursed "sometime in September of 1993." Attachment 2 at 43. Additionally, Robert Motter has stated that "Ms. Dean came to his office once every three months or so with the amount of political contributions on a post-it note." *Id.* The frequency described in this statement suggests that this effort was carried out more than twice. Also, Janice Dean has stated that Mr. Motter cut "at least two special payroll bonuses reimbursing political contributions to" Jody Scheckter. Attachment 2 at 21 (emphasis added).

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Jody Scheckter and Firearms Systems each violated 2 U.S.C. § 441e with respect to this contribution.

Robert Mecredy has admitted that he approached Jody Scheckter and requested that he make both of these contributions. Mr. Mecredy has further stated that, while he received all of the requests for contributions from political committees, he only chose the solicitations for events that were "appropriate" for Firearms Systems to attend to present to Jody Scheckter for a contribution. This Office presumes that these considerations were explained to Jody Scheckter at the time the contribution was sought, and were meant to persuade Mr. Scheckter to make the contributions. This activity by Mr. Mecredy appears to be an effort to "solicit" a contribution from a foreign national, Jody Scheckter, within the meaning of section 441e.

The Commission first addressed the issue of liability for solicitation of a contribution from a foreign national in MUR 3541. There, the Commission found reason to believe that John Suarez, a U.S. citizen, violated section 441e by soliciting his business partner, Jose Boveda, a foreign national, on behalf of Citizens for Schoemel Committee ("the Schoemel Committee"). The candidate, Vincent Schoemel, had requested that Suarez assist the Schoemel Committee in obtaining contributions. See MUR 3541, General Counsel's Report dated June 29, 1994, Attachment 2 at 3.

Although the facts of MUR 3541 involved an individual with an agency relationship with the intended recipient of the contribution, liability for solicitation of a contribution from a foreign national under section 441e would appear to extend to any

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person who acts deliberately to procure such a contribution. Here, Robert Mecredy, by his own admission, approached Jody Scheckter, a foreign national, and requested that he make both contributions. Moreover, Mecredy apparently induced Scheckter into making the contributions by explaining the benefit that would accrue to Firearms Systems through these contributions. Thus, Mecredy's actions are consistent with this standard for solicitation.<sup>8</sup> Accordingly, this Office recommends that the Commission find reason to believe Robert Mecredy violated 2 U.S.C. § 441e with respect to both of these contributions.<sup>9</sup>

Under the initial reimbursement efforts, where reimbursement requests were submitted which clearly stated that they related to political contributions, it does not appear that these efforts

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8. This standard is consistent with the standard where solicitation is at issue in criminal matters. See United States v. McNeill, 887 F.2d 448, 450 (3d Cir. 1988) (where the court held that "to establish . . . solicitation the government must prove . . . that the defendant had the intent that another person engage in conduct constituting a crime . . . , and that the defendant actually commanded, induced or otherwise endeavored to persuade the other person to commit the [crime]" (citations omitted)). This standard is especially appropriate with respect to the foreign national prohibition, including the prohibition against solicitation of a foreign national, which was previously codified as part of the criminal law, and which was incorporated into the FECA with changes being made only to the original statute's criminal penalties, with new criminal and civil penalty and enforcement provisions. See Explanation and Justification for Regulations on Prohibited Contributions and Expenditures by Foreign Nationals, 54 Fed. Reg. 48581 (1989).

9. With respect to Robert Mecredy's liability for soliciting the second contribution, he has disclaimed all knowledge of any and all reimbursement efforts. See Attachment 2 at 14. Thus, when he solicited the second contribution from Mr. Scheckter, he understood that he was seeking a contribution from a foreign national, the sole standard for determining liability.

were undertaken in knowing and willful contravention of the law.<sup>10</sup> Nevertheless, it is clear that Firearms Systems made contributions in the name of Jody Scheckter, that Jody Scheckter allowed his name to be used to make such contributions, and that Janice Dean assisted Firearms Systems in the making of two of these contributions in the name of Jody Scheckter. Accordingly, this Office recommends that the Commission find reason to believe that Firearms Systems, Jody Scheckter and Janice Dean each violated 2 U.S.C. § 441f.

As a further result of this effort, Firearms Systems made corporate contributions, and Jody D. Scheckter, as an officer of Firearms Systems, consented to such contributions. Therefore, this Office recommends that the Commission find reason to believe that Firearms Systems and Jody Scheckter each violated 2 U.S.C. § 441b(a).

As a final result of the above, Firearms Systems, a Federal contractor, made political contributions. Accordingly, this Office recommends that the Commission find reason to believe that Firearms Systems violated 2 U.S.C. § 441c.

With Robert Motter's participation, certain violations become knowing and willful. Mr. Motter has stated that he knew reimbursing Mr. Scheckter was illegal, and that he conveyed this information to Mr. Scheckter and Janice Dean. Mr. Mecredy has stated that after reviewing Motter's May 17, 1994 letter, he spoke with Scheckter, and Scheckter mentioned that Motter had suggested

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10. These contributions include those numbered 2 through 6, inclusive, on the chart above.

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a reimbursement scheme, see Attachment 2 at 14.<sup>11</sup> Janice Dean has admitted that Motter told her it was illegal to reimburse Scheckter for the contributions. Id. at 19-20.

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Accordingly, this Office recommends that the Commission find reason to believe that Firearms Systems made contributions in the name of Jody Scheckter; that Robert Motter and Janice Dean assisted Firearms Systems in making contributions in the name of Jody Scheckter; and that Jody Scheckter allowed his name to be used to make such contributions; all in knowing and willful violation of 2 U.S.C. § 441f. This Office further recommends that the Commission find reason to believe that Firearms Systems made corporate contributions, and that Robert Motter and Jody Scheckter, as officers of Firearms Systems, consented to such contributions, in knowing and willful violation of 2 U.S.C. § 441b(a). Finally, this Office recommends that the Commission find reason to believe that Firearms Systems, a Federal contractor, made political contributions, in knowing and willful violation of 2 U.S.C. § 441c.<sup>12</sup>

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11. Scheckter has made comments which suggest that he did not know about the reimbursement scheme, see Attachment 2 at 9, but these general comments do not seem as reliable as the more specific statements by Motter and Mecredy.

12. This Office is not recommending any further section 441e findings against Firearms Systems, as this Office is satisfied that none of the funds used for the reimbursements came from the parent corporation. In addition to the assurances by Counsel, this Office obtained a Dun & Bradstreet print-out on Firearms Systems. That print-out shows that, in each fiscal year in which Firearms Systems reimbursed Jody Scheckter, its net profits totalled in excess of \$700,000. Thus, it is reasonable to conclude that the \$8,500 which was reimbursed over a two-and-a-half-year period came from Firearms Systems itself.

**III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY**

This Office also recommends that the Commission offer to enter into conciliation with the respondents prior to findings of probable cause to believe. This Office is confident that we have received sufficient information to address all violations which may have occurred, and that no investigation is required.

Attached for the Commission's approval is a proposed conciliation agreement

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Accordingly, this Office recommends that the Commission approve the attached Factual and Legal Analyses and proposed conciliation agreement, and the appropriate letter.

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Firearms Training Systems, Inc. violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f.
3. Find reason to believe that Jody D. Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
4. Find reason to believe that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
5. Find reason to believe that Janice Dean violated 2 U.S.C. § 441f and knowingly and willfully violated 2 U.S.C. § 441f.
6. Find reason to believe that Robert Mecredy violated 2 U.S.C. § 441e.

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7. Enter into conciliation with all respondents prior to findings of probable cause to believe.
8. Approve the attached proposed conciliation agreement and Factual and Legal Analyses, and the appropriate letters.

Lawrence M. Noble  
General Counsel

10/5/94  
Date

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

**Attachments:**

1. July 1, 1994 Sua Sponte Submission
2. July 18 and 19, 1994 Submissions
3. July 27, 1994 Submission
4. August 18 and 23, 1994 Submissions
5. Reimbursement Checks from Scheckter to Firearms Systems
6. Factual and Legal Analyses (5)
7. Proposed Conciliation Agreement

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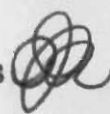


FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

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

DATE: OCTOBER 11, 1994

SUBJECT: PRE-MUR 302 - FIRST GENERAL COUNSEL'S REPORT  
DATED OCTOBER 5, 1994.

The above-captioned document was circulated to the Commission on Wednesday, October 5, 1994 at 4:00.

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

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

This matter will be placed on the meeting agenda for Tuesday, October 18, 1994.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Firearms Training Systems, Inc.; )  
Jody D. Scheckter; )  
Janice Dean; )  
Robert Mecredy; )  
Robert Motter )

Pre-MUR 302

MUR 4090

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 18, 1994, do hereby certify that the Commission took the following actions with respect to Pre-MUR 302:

1. Decided by a vote of 5-0 to
  - a) Open a MUR.
  - b) Find reason to believe that Firearms Training Systems, Inc. violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f.
  - c) Find reason to believe that Jody D. Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly land willfully violated 2 U.S.C. §§ 441b(a) and 441f.

(continued)

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- d) Find reason to believe that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
- e) Find reason to believe that Janice Dean violated 2 U.S.C. § 441f and knowingly and willfully violated 2 U.S.C. § 441f.

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

- 2. Decided by a vote of 4-1 to find reason to believe that Robert Mecredy violated 2 U.S.C. § 441e.

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

- 3. Decided by a vote of 5-0 to

- a) Enter into conciliation with all respondents prior to findings of probable cause to believe.

(continued)

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- b) Approve the proposed conciliation agreement, Factual and Legal Analyses, and the appropriate letters as recommended in the General Counsel's report dated October 5, 1994

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

Attest:

10-20-94  
Date

Marjorie W. Emons  
Marjorie W. Emons  
Secretary of the Commission

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**FEDERAL ELECTION COMMISSION**

WASHINGTON, DC 20463

October 27, 1994

Mr. Robert Motter  
4474 Heathfield Terrace, NW  
Suwanee, GA 30174

RE: MUR 4090  
Robert Motter

Dear Mr. Motter:

On October 18, 1994, the Federal Election Commission found that there is reason to believe you knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

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

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Robert Rotter  
Page 2

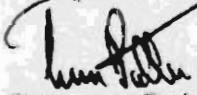
must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Anthony Buckley, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

  
Trevor Potter  
Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert Motter

NUR: 4090

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election, or for any officer or director of any corporation to consent to any contribution by the corporation. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another. See 11 C.F.R. § 110.4(b)(1)(iii).

Jody D. Scheckter is the Chief Executive Officer of Firearms Training Systems, Inc. ("Firearms Systems") Robert Motter was the Chief Financial Officer of Firearms Systems. Mr. Scheckter and Mr. Motter were involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	02-02-93	Darden for Congress	\$1,000
2	06-05-93	Friends of Newt Gingrich	\$1,000
3	07-14-93	Don Johnson for Congress	\$ 500
		total	<u>\$2,500</u>

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Prior to the arrival of Mr. Motter at Firearms Systems, certain other contributions by Jody Scheckter had been reimbursed by the corporation. These reimbursements were effectuated by Mr. Scheckter's executive secretary, who submitted requests to the corporation to reimburse Mr. Scheckter for political contributions. These requests each indicated that the reimbursement was being sought for political contributions made by Jody Scheckter, and were handled the way business-related reimbursement requests were routinely handled within Firearms Systems.

In November 1992, Robert Motter was hired as the Chief Financial Officer of Firearms Systems. In February 1993, Mr. Scheckter's executive secretary again sought reimbursement for a political contribution by Jody Scheckter. This contribution was the first contribution made by Jody Scheckter since the hiring of Robert Motter. In response to the executive secretary's request, Robert Motter informed her that it was illegal for corporations to reimburse individuals for political contributions. However, Mr. Motter did not insist that the corporation no longer reimburse Jody Scheckter for political contributions; rather, he insisted that no paper trail should be created which tied reimbursements in any way to Jody Scheckter's political contributions.

To avoid such a paper trail, Robert Motter established a procedure whereby the executive secretary would, on a quarterly basis, inform him of the contributions that required reimbursement. Information was submitted on small "post-it" notes

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which were later discarded. Robert Motter would then submit requests for special payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll, but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions. Contributions dated February 2 and June 5, 1993, and possibly July 14, 1993, were reimbursed in this manner.

The activities of Robert Motter constitute knowing and willful violations of the law. Mr. Motter, an officer of Firearms Systems, has stated that he knew reimbursing Mr. Scheckter was illegal, and that he conveyed this information to Mr. Scheckter and his executive secretary. Yet, he established a procedure so that Jody Scheckter would be reimbursed for his contributions. This activity constitutes both consent by an officer of Firearms Systems to a contribution by that corporation, as well as assistance of Firearms Systems in making a contribution in the name of Jody Scheckter.

Therefore, there is reason to believe that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

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**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20543

October 27, 1994

Thomas J. Kelly, Jr.  
Venable, Baetjer, Howard & Civiletti  
1201 New York Avenue, N.W.  
Washington, D.C. 20005-3917

RE: MUR 4090  
Firearms Training Systems, Inc.;  
Jody D. Scheckter;  
Janice Dean; and Robert Mecredy

Dear Mr. Kelly:

On October 18, 1994, the Federal Election Commission found that there is reason to believe that Firearms Training Systems, Inc., violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f; that Jody Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f and knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Janice Dean knowingly and willfully violated 2 U.S.C. § 441f; and Robert Mecredy violated 2 U.S.C. § 441e. The Factual and Legal Analyses, which formed a basis for the Commission's finding, are attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

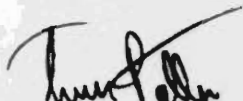
This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation be made public.

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Thomas J. Kelly, Esquire  
Page 2

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Anthony Buckley, the attorney assigned to this matter, at (202) 219-3400.

For the Commission,

  
Trevor Potter  
Chairman

Enclosures  
Factual and Legal Analyses  
Procedures

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Firearms Training Systems, Inc.

NUR: 4090

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election. Pursuant to 2 U.S.C. § 441c(a)(1), it is unlawful for any person who has entered into a contract with any department or agency of the United States to make any contribution of money to any political party, committee or candidate. The term "person" includes corporations. See 2 U.S.C. § 431(11).

Pursuant to 2 U.S.C. § 441e(a), it is unlawful for any foreign national to make any contribution in connection with any Federal, state or local election. Section 441e is also violated where a foreign national participates in the decision-making process which results in a contribution. See 11 C.F.R. § 110.4(a)(3). The term "foreign national" includes an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence. 2 U.S.C. § 441e(b)(2).

Furthermore, in its advisory opinions, the Commission has addressed the issue of whether a corporation that is not a foreign national, but is a domestic subsidiary of a foreign national parent, may make contributions in connection with state and local

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campaigns for political office. In addressing this issue the Commission has looked to, inter alia, the nationality status of the decision makers. The Commission has conditioned its approval of contributions by domestic subsidiaries of foreign nationals by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may participate in any way in the decision-making process regarding the proposed contributions. This, in turn, requires an examination of the nationalities of the decision makers. See Advisory Opinions 1985-3 and 1982-10; see also Advisory Opinion 1989-20. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person.

Jody D. Scheckter is the Chief Executive Officer of Firearms Training Systems, Inc. ("Firearms Systems") an entity incorporated in the United States, which is a wholly-owned subsidiary of Firearms Training Systems International NV, The Netherlands, Antilles ("the parent corporation"), and which has several contracts with various Federal departments and agencies.

Mr. Scheckter is a South African citizen who was granted permanent resident status on September 17, 1990. Mr. Scheckter was involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	02-13-90	Thomas for Congress	\$ 500
2	10-25-91	Democratic Congressional Campaign Committee	\$2,000

3	04-14-92	John Glenn for Senate Committee	\$2,000
4	08-13-92	Richard Ray for Congress	\$ 500
5	10-14-92	Friends of Newt Gingrich	\$1,000
6	02-02-93	Darden for Congress	\$1,000
7	06-05-93	Friends of Newt Gingrich	\$1,000
8	07-14-93	Don Johnson for Congress	\$ 500
		total	<u>\$8,500</u>

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According to information in the Commission's possession, contributions 1 through 5 were handled in the following manner. Solicitations were received by Robert Mecredy, the Director of U.S. Military Marketing of Firearms Systems. Mr. Mecredy would review these requests and decide which events were appropriate to attend, suggesting that the key consideration was which events would best advance Firearms Systems' business interests. Mr. Mecredy would then advise Mr. Scheckter about any contributions he felt Mr. Scheckter should make. If Mr. Scheckter gave his approval, Mr. Mecredy would then go to Mr. Scheckter's executive secretary and ask her to issue a check.

Mr. Scheckter's executive secretary submitted requests to the corporation to reimburse Mr. Scheckter for all of the above contributions. Each of these requests, indicated that the reimbursement was being sought for political contributions made by Jody Scheckter, and each was handled the way business-related reimbursement requests were routinely handled within Firearms Systems.

In November 1992, Robert Motter was hired as the Chief

Financial Officer of Firearms Systems. In February 1993, Mr. Scheckter's executive secretary again sought reimbursement for a political contribution by Jody Scheckter. This contribution was the first contribution made by Jody Scheckter since the hiring of Robert Motter. In response to the executive secretary's request, Robert Motter informed her that it was illegal for corporations to reimburse individuals for political contributions. However, Mr. Motter did not insist that the corporation no longer reimburse Jody Scheckter for political contributions; rather, he insisted that no paper trail should be created which tied reimbursements in any way to Jody Scheckter's political contributions.

To avoid such a paper trail, Robert Motter established a procedure whereby the executive secretary would, on a quarterly basis, inform him of the contributions that required reimbursement. Information was submitted on small "post-it" notes which were later discarded. Robert Motter would then submit requests for special payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll, but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions. Nothing in the request submitted to payroll indicated that a reimbursement for a political contribution was being sought. Mr. Motter has stated that Jody Scheckter was aware of the illegal nature of this effort, but that he wanted it done. Contributions dated February 2 and June 5, 1993, and possibly July 14, 1993, were reimbursed in this manner.

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The first contribution in the chart above was made prior to Jody Scheckter's being granted permanent resident status. Because Jody Scheckter was reimbursed, this contribution is properly considered a corporate contribution, rather than a direct contribution by Jody Scheckter, a foreign national. However, Jody Scheckter approved the making of the contributions, and the contribution would not have occurred without this approval. Such effort constitutes "direct participation in the decision-making process," with respect to the making of this contribution, within the meaning of 11 C.F.R. § 110.4(a)(3), and further taints this corporate contribution.

Therefore, there is reason to believe that Firearms Systems violated 2 U.S.C. § 441e with respect to this contribution.

Under the initial reimbursement efforts, where reimbursement requests were submitted which clearly stated that they related to political contributions, it does not appear that these efforts were undertaken in knowing and willful contravention of the law.<sup>1</sup> Nevertheless, it is clear that Firearms Systems made corporate contributions in the name of Jody Scheckter. These corporate contributions were by an entity had entered into contracts with departments and agencies of the United States.

Therefore, there is reason to believe Firearms Training Systems violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f with respect to these contributions.

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1. These contributions include those numbered 1 through 5, inclusive, on the chart above.

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With Robert Motter's participation, certain violations become knowing and willful. Information submitted supports Mr. Motter's contention that Jody Scheckter was aware of the reimbursement scheme which Mr. Motter had established. Mr. Motter has stated that he knew reimbursing Mr. Scheckter was illegal, and that he conveyed this information to Mr. Scheckter. Robert Mecredy, the Director of U.S. Military Marketing for Firearms Systems, has stated that, sometime in May 1994, he spoke with Mr. Scheckter, and Mr. Scheckter mentioned that Mr. Motter had suggested a reimbursement scheme. Mr. Scheckter has given only a general denial. Accordingly, when contributions were reimbursed in the manner prescribed by Robert Motter, Firearms Systems, a corporation with contracts with United States departments and agencies, knowingly and willfully made contributions in the name of Jody Scheckter.

Therefore, there is reason to believe that Firearms Systems knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f with respect to these contributions.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jody D. Scheckter

NUR: 4090

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election, or for any officer or director of any corporation to consent to any contribution by the corporation.

Pursuant to 2 U.S.C. § 441e(a), it is unlawful for any foreign national to make any contribution in connection with any Federal, state or local election, or for any person to solicit any such contribution from a foreign national. Section 441e is also violated where a foreign national participates in the decision-making process which results in a contribution. See 11 C.F.R. § 110.4(a)(3). The term "foreign national" includes an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence. 2 U.S.C. § 441e(b)(2). In its advisory opinions, the Commission has elaborated on the issue of foreign nationals, and has conditioned its approval of contributions by domestic subsidiaries of foreign national parents to state and local campaigns for political office by requiring that no director or officer of the company or its parent, or any other person, who is a foreign national may

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participate in any way in the decision-making process regarding the proposed contributions. See Advisory Opinions 1985-3 and 1982-10; see also Advisory Opinion 1989-20. This factor has been codified at 11 C.F.R. § 110.4(a)(3), as noted above.

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution.

Jody D. Scheckter is the Chief Executive Officer of Firearms Training Systems, Inc. ("Firearms Systems"), an entity incorporated in the United States, which is a wholly-owned subsidiary of Firearms Training Systems International NV, The Netherlands, Antilles ("the parent corporation"). Mr. Scheckter is a South African citizen who was granted permanent resident status on September 17, 1990. Mr. Scheckter was involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	10-20-89	Darden for Congress	\$ 500
2	02-13-90	Thomas for Congress	\$ 500
3	10-25-91	Democratic Congressional Campaign Committee	\$2,000
4	04-14-92	John Glenn for Senate Committee	\$2,000
5	08-13-92	Richard Ray for Congress	\$ 500
6	10-14-92	Friends of Newt Gingrich	\$1,000
7	02-02-93	Darden for Congress	\$1,000
8	06-05-93	Friends of Newt Gingrich	\$1,000
9	07-14-93	Don Johnson for Congress	\$ 500
		total	<u>\$9,000</u>

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According to information in the Commission's possession, the actual making of the contributions was handled in the following manner. Solicitations were received by Robert Mecredy, the Director of U.S. Military Marketing of Firearms Systems. Mr. Mecredy would review these requests and decide which events were appropriate to attend, suggesting that the key consideration was which events would best advance Firearms Systems' business interests. Mr. Mecredy would then advise Mr. Scheckter about any contributions he felt Mr. Scheckter should make. If Mr. Scheckter gave his approval, Mr. Mecredy would then go to Mr. Scheckter's executive secretary and ask her to issue a check.

Commencing with the February 13, 1990 contribution to Thomas for Congress, Mr. Scheckter's executive secretary started submitting requests to the corporation to reimburse Mr. Scheckter for political contributions. Each of these requests indicated that the reimbursement was being sought for political contributions made by Jody Scheckter, and each was handled the way business-related reimbursement requests were routinely handled within Firearms Systems. Contributions numbered 2 through 6 in the chart above were reimbursed in this manner.

In November 1992, Robert Motter was hired as the Chief Financial Officer of Firearms Systems. In February 1993, Mr. Scheckter's executive secretary again sought reimbursement for a political contribution by Jody Scheckter. This contribution was the first contribution made by Jody Scheckter after the hiring of Robert Motter. In response to the executive secretary's request,

Robert Motter informed her that it was illegal for corporations to reimburse individuals for political contributions. However, Mr. Motter did not insist that the corporation no longer reimburse Jody Scheckter for political contributions; rather, he insisted that no paper trail should be created which tied reimbursements in any way to Jody Scheckter's political contributions.

To avoid such a paper trail, Robert Motter established a procedure whereby the executive secretary would, on a quarterly basis, inform him of the contributions that required reimbursement. Information was submitted on small "post-it" notes which were later discarded. Robert Motter would then submit requests for special payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll, but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions. Nothing in the request submitted to payroll indicated that a reimbursement for a political contribution was being sought. Mr. Motter has stated that Jody Scheckter was aware of the illegal nature of this effort, but that he wanted it done, although Jody Scheckter has denied any such knowledge. Contributions dated February 2 and June 5, 1993, and possibly July 14, 1993, were reimbursed in this manner.<sup>1</sup>

1. Counsel has indicated that the last contribution to be reimbursed was the June 5, 1993 contribution, which was reimbursed on July 30, 1993. However, Robert Motter has stated that the last contribution to be reimbursed was reimbursed "sometime in September of 1993." Additionally, Robert Motter has stated that "Ms. Dean came to his office once every three months or so with

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The first contribution in the chart above, which was not reimbursed, was made prior to Jody Scheckter being granted permanent resident status. Therefore, there is reason to believe that Jody Scheckter violated 2 U.S.C. § 441e with respect to this contribution.

The second contribution in the chart above, which was reimbursed, was also made prior to Jody Scheckter's being granted permanent resident status. Because Jody Scheckter was reimbursed, this contribution is properly considered a corporate contribution, rather than a direct contribution by Jody Scheckter, a foreign national. However, Jody Scheckter approved the making of the contributions, and the contribution would not have occurred without his approval. Such effort constitutes "direct participation in the decision-making process," with respect to the making of this contribution, within the meaning of 11 C.F.R. § 110.4(a)(3), and further taints this corporate contribution. Therefore, there is reason to believe that Jody Scheckter violated 2 U.S.C. § 441e with respect to this contribution.

Under the initial reimbursement efforts, where reimbursement requests were submitted which clearly stated that they related to political contributions, it does not appear that these efforts were undertaken in knowing and willful contravention of the law.

---

(Footnote 1 continued from previous page)  
the amount of political contributions on a post-it note." The frequency described in this statement suggests that this effort was carried out more than twice. Also, Janice Dean has stated that Mr. Motter cut "at least two special payroll bonuses reimbursing political contributions to" Jody Scheckter. (Emphasis added).

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Nevertheless, it is clear that Jody Scheckter allowed his name to be used to make such contributions by Firearms Systems. Therefore, there is reason to believe that Jody Scheckter violated 2 U.S.C. § 441f.

As a further result of this effort, Jody Scheckter, as an officer of Firearms Systems, consented to such contributions. Therefore, there is reason to believe that Jody Scheckter violated 2 U.S.C. § 441b(a).

With Robert Motter's participation, certain violations become knowing and willful. Information submitted supports Mr. Motter's contention that Jody Scheckter was aware of the reimbursement scheme which Mr. Motter had established. Mr. Motter has stated that he knew reimbursing Mr. Scheckter was illegal, and that he conveyed this information to Mr. Scheckter. Robert Mecedry, the Director of U.S. Military Marketing for Firearms Systems, has stated that, sometime in May 1994, he spoke with Mr. Scheckter, and Mr. Scheckter mentioned that Mr. Motter had suggested a reimbursement scheme. Mr. Scheckter has given only a general denial.

Accordingly, when contributions were reimbursed in the manner prescribed by Robert Motter, Jody Scheckter knowingly and willfully allowed his name to be used by Firearms Systems to make contributions, and, as an officer of Firearms Systems, knowingly and willfully consented to these corporate contributions.

Therefore, there is reason to believe that Jody Scheckter knowingly and willfully violated 2 U.S.C. §§ 441f and 441b(a).

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FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Janice Dean

NUR: 4090

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another. See 11 C.F.R. § 110.4(b)(1)(iii).

Jody D. Scheckter is the Chief Executive Officer of Firearms Training Systems, Inc. ("Firearms Systems"). Janice Dean is his Executive Secretary. Mr. Scheckter and Ms. Dean were involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	08-13-92	Richard Ray for Congress	\$ 500
2	10-14-92	Friends of Newt Gingrich	\$1,000
3	02-02-93	Darden for Congress	\$1,000
4	06-05-93	Friends of Newt Gingrich	\$1,000
5	07-14-93	Don Johnson for Congress	\$ 500
		total	<u>\$4,000</u>

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According to information in the Commission's possession, the actual making of the contributions was handled in the following manner. Solicitations were received by Robert Mecredy, the Director of U.S. Military Marketing of Firearms Systems. Mr. Mecredy would review these requests and decide which events were appropriate to attend, with the key consideration being which events would best advance Firearms Systems' business interests. Mr. Mecredy would then advise Mr. Scheckter about any contributions he felt Mr. Scheckter should make. If Mr. Scheckter gave his approval, Mr. Mecredy would then go to Janice Dean and ask her to issue a check. Ms. Dean, who kept Mr. Scheckter's personal checkbook, would then decide whether to issue a check, based on the balance in the account.

Reimbursements for contributions 1 and 2 in the chart above were handled in the following manner. Ms. Dean submitted requests to the corporation to reimburse Mr. Scheckter for the political contributions. The requests indicated that the reimbursement was being sought for a political contribution made by Jody Scheckter, and were handled the way business-related reimbursement requests were routinely handled within Firearms Systems.

Under these reimbursement efforts, where reimbursement requests were submitted which clearly stated that they related to political contributions, it does not appear that these efforts were undertaken in knowing and willful contravention of the law. Nevertheless, it is clear that Janice Dean assisted Firearms Systems in making contributions in the name of Jody Scheckter. Therefore, there is reason to believe that Janice Dean violated

2 U.S.C. § 441f with respect to these contributions.

In November 1992, Robert Motter was hired as the Chief Financial Officer of Firearms Systems. In February 1993, Janice Dean again sought reimbursement for a political contribution by Jody Scheckter. This contribution was the first contribution made by Jody Scheckter since the hiring of Robert Motter. In response to Janice Dean's request, Robert Motter informed her that it was illegal for corporations to reimburse individuals for political contributions. However, Mr. Motter did not insist that the corporation no longer reimburse Jody Scheckter for political contributions; rather, he insisted that no paper trail should be created which tied reimbursements in any way to Jody Scheckter's political contributions.

To avoid such a paper trail, Robert Motter established a procedure whereby Janice Dean would, on a quarterly basis, inform him of the contributions that required reimbursement. Information was submitted on small "post-it" notes which were later discarded. Robert Motter would then submit a request for a special payroll bonus check for Mr. Scheckter. The request instructed the payroll office to process these checks in the normal processing of payroll, but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions. Nothing in the request submitted to payroll indicated that a reimbursement for a political contribution was being sought. Contributions numbered 3 and 4, and possibly 5, in the chart above, were reimbursed in this manner.

With Robert Motter's participation, certain violations become

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knowing and willful. Mr. Motter has stated that he knew reimbursing Mr. Scheckter was illegal, and that he conveyed this information to Janice Dean. Janice Dean has admitted that Mr. Motter told her it was illegal to reimburse Mr. Scheckter for the contributions. Even with this knowledge, Janice Dean continued to assist Firearms Systems in the effort to reimburse Jody Scheckter for the political contributions.

Therefore, there is reason to believe that Janice Dean knowingly and willfully violated 2 U.S.C. § 441f with respect to the last three contributions.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert Mecredy

NUR: 4090

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

Pursuant to 2 U.S.C. § 441e(a), it is unlawful for any person to solicit a contribution from a foreign national in connection with any Federal election. The term "foreign national" includes an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence.

2 U.S.C. § 441e(b)(2).

Jody D. Scheckter is the Chief Executive Officer of Firearms Training Systems, Inc. ("Firearms Systems"). Prior to September 17, 1990, Mr. Scheckter had not been granted permanent resident status, and was a foreign national within the meaning of 2 U.S.C. § 441e. Robert Mecredy is the Director of U.S. Military Marketing of Firearms Systems. Messrs. Scheckter and Mecredy were involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	10-20-89	Darden for Congress	\$ 500
2	02-13-90	Thomas for Congress	\$ 500
		total	<u>\$1,000</u>

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The making of the contributions was handled in the following manner. Solicitations were received by Mr. Mecredy, who would review these requests and decide which events were appropriate to attend, with the key consideration being which events would best advance Firearms Systems' business interests. Mr. Mecredy would then advise Mr. Scheckter about any contributions he felt Mr. Scheckter should make. If Mr. Scheckter gave his approval, Mr. Mecredy would then go to Mr. Scheckter's executive secretary and ask her to issue a check.

The October 10, 1989 contribution to Darden for Congress was made by Jody Scheckter without reimbursement from Firearms Systems. The February 13, 1990 contribution to Thomas for Congress was made by Jody Scheckter, for which he was reimbursed by Firearms Systems. Mr. Mecredy has disclaimed any knowledge of this reimbursement.

Robert Mecredy has admitted that he approached Jody Scheckter and requested that he make both of these contributions. Mr. Mecredy has further stated that, while he received all of the requests for contributions from political committees, he only chose the solicitations for events that were "appropriate" for Firearms Systems to attend to present to Jody Scheckter for a contribution. The Commission presumes that these considerations were explained to Jody Scheckter at the times the contributions were sought, and were meant to persuade Mr. Scheckter to make the

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contributions. This activity by Mr. Necredy constitutes efforts to "solicit" contributions from a foreign national, Jody Scheckter, within the meaning of section 441e.

Therefore, there is reason to believe Robert Necredy violated 2 U.S.C. § 441e with respect to both of these contributions.

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STATEMENT OF DESIGNATION OF COUNSEL

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

MUR 4090

Nov 3 1 17 PM '94

NAME OF COUNSEL: THOMAS D. BEVER

ADDRESS: CHELIVIS & GRINDLER  
3127 MAPLE DRIVE, N.E.  
ATLANTA, GA 30305

TELEPHONE: (404) 233-4171

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.

31 OCT 1994  
Date

Robert R Motter  
Signature

RESPONDENT'S NAME: ROBERT R MOTTER

ADDRESS: 4474 HEATHFIELD TRACE  
SUMNER, GA 30174

HOME PHONE:

BUSINESS PHONE: (404) 528-9660 EXT. 113

97043773166

CACHERIS & TREANOR  
ATTORNEYS AT LAW  
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PLATO CACHERIS  
GERARD TREANOR  
PHILIP T. INGLIMA\*  
—  
JUDITH L. WHEAT  
JOHN F. HUNDLEY\*\*\*  
—  
PHILIP T. WHITE\*\*  
OF COUNSEL

\*ADMITTED IN D. C., N. Y. & N. J. ONLY  
\*\*ADMITTED IN D. C. ONLY  
\*\*\*ADMITTED IN VA. ONLY

VIRGINIA OFFICE:  
705 PRINCE STREET  
ALEXANDRIA, VA 22314  
(703) 549-8181

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

NOV 16 9 50 AM '94

November 7, 1994

The Honorable Trevor Potter  
Chairman  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

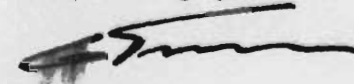
Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Mecredy

Dear Chairman Potter:

This is to advise you that this firm will be representing Jody D. Scheckter in the above-referenced matter. On behalf of Mr. Scheckter, we intend to respond to your October 27, 1994 letter to Thomas J. Kelly, Jr., of Venable, Baetjer, Howard & Civiletti, attached hereto. However, because we have just been retained to represent Mr. Scheckter in this matter, we are seeking an additional 30 days, namely, until December 14, 1994, in which to file our response. In light of the Commission's reliance on statements of out-of-state witnesses in finding that the FEC violations allegedly committed by Mr. Scheckter were knowing and willful, and the time needed to both contact these witnesses and understand the government's allegations fully, we submit that there is good cause to grant a 30-day extension for Mr. Scheckter's response.

Please contact one of us if you have any questions about this request.

Very truly yours,



Gerard Treanor  
Judith L. Wheat

Enclosure

cc: Jonathan A. Bernstein, Esquire  
Anthony T. Buckley, Esquire

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VENABLE, BAETJER, HOWARD & CIVILETTI  
Partnership including professional corporations

1201 New York Avenue, N.W., Suite 1000  
Washington, D.C. 20005-3917  
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OFFICES IN

MARYLAND  
WASHINGTON, D.C.  
VIRGINIA

**VENABLE**  
ATTORNEYS AT LAW

Thomas J. Kelly, Jr.  
(202) 962-4889

November 8, 1994

**By Messenger**

Jonathan A. Bernstein, Esq.  
Assistant General Counsel  
Federal Election Commission  
Room 657  
999 E. Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090

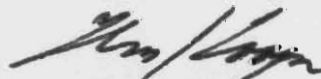
Dear Mr. Bernstein:

In light of the Commission's recent factual and legal analysis, which was enclosed in Chairman Potter's letter to us, dated October 27, 1994, this firm is hereby withdrawing as counsel for Jody D. Scheckter, Janice Dean and Robert Mecredy. You should be contacted in the very near future by counsel for these individuals.

Our withdrawal action was necessitated by the erroneous factual and legal analysis contained in your recent communication, which we are responding to under separate cover.

Sincerely,

  
Thomas J. Kelly

  
Thomas J. Cooper

TJC:dfw  
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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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FIREARMS TRAINING SYSTEMS, INC.  
7340 McGinnis Ferry Road  
Suwanee, Georgia 30174  
(404) 813-0180

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
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November 8, 1994

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Macredy

Dear Mr. Buckley:

I hereby designate Gerard Treanor and Judith L. Wheat of the firm of Cacheris & Treanor, 1100 Connecticut Avenue, N.W., Suite 730, Washington, D.C. 20036, to represent me with respect to any matters which are before the Federal Election Commission and authorize them to receive any and all notifications and other communications on my behalf. The telephone number for Mr. Treanor and Ms. Wheat is (202) 775-8700. This letter is provided pursuant to 11 C.F.R. 111.23.

Sincerely,

  
Jody Scheckter

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**GIBSON, DUNN & CRUTCHER  
LAWYERS**

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**November 9, 1994**

**VIA TELECOPY AND  
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**ORANGE COUNTY**  
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**SACRAMENTO**  
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**SAN DIEGO**  
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**AFFILIATED SAUDI ARABIA OFFICE**  
JAHRA PLAZA, BLVAH STREET  
P.O. BOX 18870  
RIYADH 11424, SAUDI ARABIA

OUR FILE NUMBER

T 00000-00000

97043773170

The Honorable Trevor Potter  
Chairman  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, DC 20463

Re: **NER 4090; Firearms Training Systems, Inc.;**  
**Robert Macredy**

Dear Chairman Potter:

This is to advise you that this firm will be representing Robert Macredy in the above-referenced matter. We were engaged today to represent Mr. Macredy. On behalf of Mr. Macredy, we intend to respond to your October 27, 1994 letter to Thomas J. Kelly, Jr., of Venable, Baetjer, Howard & Civiletti, attached hereto. However, because we have just been retained to represent Mr. Macredy in this matter, we are seeking an additional 30 days, namely, until December 14, 1994, in which to file our response. In light of the Commission's reliance on statements of out-of-state witnesses in finding that the FEC violations allegedly committed by Mr. Macredy were knowing and willful, and the time needed to both contact these witnesses and understand the government's allegations fully, we submit that there is good cause to grant a 30-day extension for Mr. Macredy's response.

GIBSON, DUNN & CRUTCHER

The Honorable Trevor Potter  
November 9, 1994  
Page 2

Please contact me if you have any questions about  
this request.

Very truly yours,

  
F. Joseph Warin

FJW/jvr  
Enclosure  
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**CACHERIS & TREANOR**

ATTORNEYS AT LAW

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JOHN F. HUNDLEY\*

PHILIP T. WHITE\*  
OF COUNSEL

\* ADMITTED IN D. C., N. Y. & N. J. ONLY

\* ADMITTED IN D. C. & MD. ONLY

\* ADMITTED IN VA. ONLY

\* ADMITTED IN D. C. ONLY

VIRGINIA OFFICE:  
708 PRINCE STREET  
ALEXANDRIA, VA 22314  
(703) 548-8181

November 14, 1994

**VIA FACSIMILE**

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Macredy

Dear Mr. Buckley:

This is to confirm our conversation last week that our client, Jody D. Scheckter, does not need to respond to the Commission's October 27, 1994 letter to Thomas J. Kelly, regarding MUR 4090, by close of business today. I understand you will be contacting us soon regarding the extended deadline for responding on Mr. Scheckter's behalf.

Very truly yours,

*Judith L. Wheat*  
Judith L. Wheat

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COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Nov 14 5 24 PM '94

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VENABLE, BAETJER, HOWARD & CIVILETTI  
Partnership including professional corporations

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WASHINGTON, D.C.  
VIRGINIA

**VENABLE**  
ATTORNEYS AT LAW

Thomas J. Kelly, Jr.  
(202) 962-4889

November 14, 1994

**BY HAND DELIVERY**

Anthony T. Buckley, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090

Dear Mr. Buckley:

I am writing in response to Trevor Potter's October 27, 1994 letter regarding Firearms Training Systems, Inc. (the "Corporation") and the matter which you have styled as MUR 4090. Let me begin by making our position absolutely clear. On behalf of our client, we cannot accept the Factual and Legal Analyses (the "Analyses") and Determination (the "Determination") of the Federal Election Commission (the "Commission") in this matter. The Analyses and Determination are factually and legally erroneous, inconsistent with law and regulation, arbitrary and capricious, and lack a rational basis.

Most egregiously, in one instance, the error in the Analyses and Determination is so patently obvious that it casts doubt upon the integrity of the Analyses and Determination as a whole and suggests that the Commission has acted irresponsibly in this matter. Specifically, the Commission concludes that Robert Mecredy violated the law because of certain actions which the Commission assumes Mr. Mecredy took while employed by the Corporation. In truth, Mr. Mecredy could not have violated this law because he was not employed by the Corporation at the time. He was not even known to the Corporation at the time. Thus, in at least one instance, the Commission has irrationally and

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COUNSEL

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Anthony T. Buckley, Esq.  
November 14, 1994  
Page 2

unreasonably charged the Corporation with a violation that simply could not have occurred.

It is clear from a review of the Analyses and Determination that the Commission has prejudged the Corporation and several of its officers and employees in an extremely and unnecessarily harsh manner. The Commission's position is unsupported by the operative facts of this matter and is entirely out of proportion to the nature of any possible violation of the Federal Election Campaign Act (the "Act") which may have occurred.

**The Initiation Of This Matter Was A Voluntary Disclosure**

The genesis of this matter was a letter from a former executive of the Corporation, Robert Motter, to Thomas J. Madden of this firm. Mr. Motter generated this letter the day after he learned that his position at the Corporation had been advertised. In the letter, Mr. Motter stated generally that the Corporation had been "non-compliant" with the Act. The Corporation immediately retained this firm to conduct an internal investigation. Following the internal investigation, the Corporation directed us to make a voluntary disclosure of certain facts to the Commission on its behalf.

Initially, we discussed this matter with Mr. Noble, the Commission's General Counsel. We outlined the pertinent facts of this matter with Mr. Noble and informed him that our client, as a result of the internal investigation, has instituted a strict policy in order to ensure compliance with the Act. We emphasized that the Corporation sincerely regretted the matter and wished to enter into negotiations in order to reach a conciliation agreement.

Throughout the course of our discussions, our client has been completely open and cooperative with both you and Jonathan Bernstein. We have provided you with everything that you have requested, including redacted copies of witness statements taken in the course of our internal investigation. In short, we voluntarily have presented you with a completed record of this matter.

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Anthony T. Buckley, Esq.  
November 14, 1994  
Page 3

**This Matter Does Not Involve A Willful Violation Of  
Any Provision Of The Act By Either The Corporation  
Or Any Of Its Current Officers Or Employees**

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This matter involves some \$8,000 in personal contributions for which Jody D. Scheckter, the Corporation's Chief Executive Officer, was reimbursed over a period of three years and four months. Immediately upon conclusion of the internal investigation, Mr. Scheckter voluntarily reimbursed the Corporation for the reimbursements which he initially received. The last contribution to be reimbursed was made in June of 1993. Therefore, the activities at issue were terminated by the Corporation nearly eighteen months ago.

Any review of the actions and knowledge of the involved officers and employees indicates that no culpability can attach to the Corporation. Moreover, the Corporation and its current officers and employees have in no way been involved in a knowing and willful violation of the Act. With the exception of Janice Dean, a secretary responsible for only ministerial duties, and as noted below, none of the current officers or employees of the Corporation were aware of the reimbursements at issue until the time of the internal investigation. Such a lack of coordination is the norm and not the exception in a small, extremely busy, and growing company.

The courts examine three factors in assessing whether a corporation is vicariously liable for the acts of its employees:

- Whether the employee's acts are related to and committed during the course of his employment;
- Whether the acts are committed in furtherance or for the benefit of the corporation; and
- Whether the acts are authorized or subsequently acquiesced in by the corporation.

Anthony T. Buckley, Esq.  
November 14, 1994  
Page 4

Each of these factors must be present in order to find a corporation vicariously liable for the actions of an employee or officer. Cox v. Administrator United States Steel & Carnegie, 17 F.3d 1386, 1407 (11th Cir. 1994); see also Liquid Air Corporation v. Rogers, 834 F.2d 1297 (7th Cir. 1987). None of the factors is present with respect to this matter.

Mr. Motter's creation of a reimbursement scheme was certainly not part of his professional responsibilities. Rather, it was ultra vires and a rogue act. Mr. Motter's actions in no way benefitted the Corporation. Finally, the Corporation never authorized Mr. Motter's actions and certainly did not subsequently acquiesce in them. To the contrary, the Corporation conducted an internal investigation and subsequently instituted a strict policy in order to ensure compliance with the Act and voluntarily disclosed this matter to the Commission.

The Court of Appeals for this Circuit has explained that a knowing and willful violation of the Act "must necessarily connote 'defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act.'" American Federation of Labor v. Federal Election Commission, 628 F.2d 97, 101 (D.C. Cir. 1980), quoting Frank Greg, Jr., Inc. v. OSHA, 519 F.2d 1200 (3rd Cir. 1975).

There has been no defiant and deliberate flaunting of the Act in this matter. Based upon Mr. Motter's letter, the Corporation immediately conducted an internal investigation. Again, after the internal investigation, the Corporation instituted a strict policy in order to ensure compliance with the Act and voluntarily disclosed this matter to the Commission. Reimbursements of personal contributions had previously been terminated, and Mr. Scheckter has repaid the Corporation for any reimbursements made.

#### The Internal Investigation

During our internal investigation, we interviewed Clare Fawkes, the Chief Operating Officer of the Corporation. Ms. Fawkes stated that at some point in early 1993 she had a brief discussion with Mr. Motter in which he raised the issue of using quarterly bonuses to effect the reimbursements at issue.

9704373176

**VENABLE**  
ATTORNEYS AT LAW

Anthony T. Buckley, Esq.  
November 14, 1994  
Page 5

Although she could not recall the specific date or the details of this conversation, she did recall that Mr. Motter indicated that the prior reimbursement method was not appropriate and that he had changed the method. She recalled informing Mr. Motter that his suggestion was fine if he thought it was the best way to proceed.

Ms. Fawkes stated that she had no reason to believe that there was anything illegal in the suggested method and, in fact, relied upon Mr. Motter for his expertise in such matters. She did not suggest or direct (or exert any pressure) that the contributions be reimbursed. Ms. Fawkes was not aware of the requirements of the Act and, therefore, did not grasp the implications of Mr. Motter's comments.

Mr. Scheckter was aware that he had made personal political contributions. However, he was not aware that any contributions had been reimbursed by the Corporation until checks and other documents relevant to political contributions were assembled for the internal investigation. As explained in our initial filing, Mr. Scheckter is totally absorbed in the management and growth of his business. In fact, he does not even keep his personal checkbook, which is maintained by Janice Dean. This point is emphasized in various witness statements. In particular, see Ms. Dean's statement.

Contrary to the Commission's position, Mr. Scheckter has provided much more than "only a general denial" with respect to this matter. Rather, when advised of Mr. Motter's claim that Mr. Scheckter told him "to make these [the political contributions] look legal," Mr. Scheckter specifically denied that he gave any direction or concurred in any suggestion that the Corporation act in violation of the law. Again, Mr. Scheckter only learned of the reimbursements when documentation was assembled for the internal investigation.

As to Robert Mecredy, he was not aware until the time of the internal investigation of the reimbursements at issue. Furthermore, with respect to the Commission's finding that Mr. Mecredy violated 2 U.S.C. § 441(e), you should be aware that Mr. Mecredy was not an employee of the Corporation at the time that the contributions to Darden for Congress and Thomas for Congress

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Anthony T. Buckley, Esq.  
November 14, 1994  
Page 6

were made on October 20, 1989 and February 13, 1990 respectively. Thus, Mr. Mecredy could not have violated this law. For the record, Mr. Scheckter had no knowledge that the Thomas contribution was reimbursed until documentation was assembled for the internal investigation and no recollection of the circumstances under which he made either contribution.

Mr. Mecredy stated that Mr. Scheckter is notorious for not submitting any reimbursement requests and that it would be out of character for him to submit a request for reimbursement for political contributions. Mr. Mecredy added that he knew that political contributions could not be reimbursed by a Corporation and would have ordered such a practice terminated if he had learned of it. Mr. Mecredy is a trusted senior executive in the Corporation, highly regarded by Mr. Scheckter, and quiet capable of giving such an order. Mr. Motter could have easily brought this matter to Mr. Mecredy's attention, but he did not pursue this simple course of action.

The Analyses notes that Mr. Mecredy stated that "sometime in May 1994, he spoke with Mr. Scheckter, and Mr. Scheckter mentioned that Mr. Motter had suggested a reimbursement scheme." Importantly, this is a reference to a conversation between Mr. Scheckter and Mr. Mecredy at the time of the internal investigation in 1994. Mr. Scheckter was only relating a conversation with someone who had summarized the comments Mr. Motter had made to him in 1994. Mr. Scheckter was not speaking from earlier knowledge of the reimbursements at issue. This is further corroborated by the testimony of Janice Dean.

The Commission's proposed treatment of Janice Dean is entirely wrong. Ms. Dean is a secretary employed by the Corporation. Clearly, her responsibilities and role in this matter are and were entirely ministerial. Consequently, it would be unduly harsh, even punitive, to attribute any violation to her, let alone a knowing and willful violation. The notion that Ms. Dean defiantly and deliberately flaunted the terms of the Act is completely unfounded. One of Ms. Dean's many ministerial duties as Mr. Scheckter's secretary is to obtain reimbursements. Ms. Dean emphasized in her statement that Mr. Scheckter had never directed her to seek the reimbursements at issues and that he had no knowledge of them.

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ATTORNEYS AT LAW

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Ms. Dean held Mr. Motter in high regard and believed him to be an honest and decent man. In early 1993, Ms. Dean brought a reimbursement request to Mr. Motter. Mr. Motter returned it to her and told her that it was not proper for the Corporation to reimburse Mr. Scheckter for political contributions. In a subsequent conversation, Mr. Motter told Ms. Dean, according to her statement, that he had a method for reimbursing political contributions. Mr. Motter went on to say that Ms. Dean could submit the amount paid for political contributions on a quarterly basis. He expressly told her not to submit an "expense report, reimbursement request" or other written record or document. He said that he would process a special payroll bonus to be issued to Mr. Scheckter for the amount of the political contribution.

From Ms. Dean's perspective, Mr. Motter was indicating that, while political contributions could not be reimbursed through the expense reimbursement request method, an alternative method would be appropriate. Ms. Dean believed that Mr. Motter had devised an appropriate and legitimate means of making such payments.

Ms. Dean in no way believed that Mr. Motter had created an illegal scheme. As a secretary, Ms. Dean believed that Mr. Motter, the Chief Financial Officer of the Corporation, would not do anything that was illegal and followed his instructions. Simply put, as a secretary, Ms. Dean relied upon the experience of her superior, who she believed to be an honest man. She had no reason to believe that he would do something wrong and did not think twice about the legality of the reimbursements.

The Commission found that there is reason to believe that Ms. Dean knowingly and willfully violated 2 U.S.C. § 441(f). This finding completely ignores the context of the discussion between the two, as explained above, and the fact that one of the participants was the Chief Financial Officer of the Corporation and the other a secretary, who believed that the suggested method was legal. Ms. Dean admired Mr. Motter in a professional sense and depended on him for guidance in legal and financial matters.

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**VENABLE**  
ATTORNEYS AT LAW

Anthony T. Buckley, Esq.  
November 14, 1994  
Page 8

What the internal investigation revealed was that the sole willful aspect of the facts of this matter is Mr. Motter's scheme to reimburse Mr. Scheckter without his knowledge through the use of bonus payments. Mr. Motter concocted the scheme on his own. Again, Mr. Motter was the Corporation's Chief Financial Officer and was relied on with respect to the propriety of reimbursements and all corporate fiscal matters.

It is relevant to any review of Mr. Motter's conduct to note that he signed the management representation letter for the 1993 Price Waterhouse Audit on May 19, 1993. In this management representation letter, Mr. Motter made the representation that he was "not aware of . . . any violations or possible violations of laws or regulations the effects of which should be considered for disclosure from the financial statements or as the basis for recording a loss contingency." In this connection, a \$1,000 reimbursement was authorized by Mr. Motter on April 23, 1993 for a contribution to Darden for Congress. A second \$1,000 reimbursement was authorized by Mr. Motter on July 30, 1993, probably for a contribution to Friends of Newt Gingrich.

Mr. Motter acted entirely on his own and did not discuss the matter in any substantive manner with other senior management officials in the Corporation. It is clear that he had no intent to benefit the Corporation. There is, therefore, no basis to find the Corporation violated 2 U.S.C. §§ 441b(a), 441c(a)(i), or 441f, and there is absolutely no basis to find a knowing and willful violation.

As one court has observed:

Liability should be imposed on a corporation when it is a perpetrator of illegal activity, but not when it is an unwilling conduit of its employees' actions . . . Simply because Defendant's principals allegedly engaged in illegal misconduct does not mean the principals acted within their corporate authority absent some express authorization or subsequent acquiescence from the corporation.

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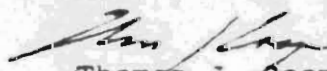
Anthony T. Buckley, Esq.  
November 14, 1994  
Page 9

Olin Hunt Specialty Products Inc. v. Advanced Delivery and  
Chemical Systems, 1991 WL 294970 (N.D. Ill 1991).

We note the comment in the Analyses that Mr. Scheckter approved the making of the first contribution (to Thomas for Congress) and that "[s]uch effort constitutes 'direct participation in the decision-making process' . . . within the meaning of 11 CFR 110.4(a)(3). . . ." The cited regulation's effective date was April 11, 1990. The contribution was made on February 13, 1990 and reimbursed on April 10, 1990. This sequence of dates undermines the Commission's assertion regarding a violation of 2 USC § 441e by Mr. Scheckter and the Corporation.

In fact, we are shocked by the Commission's response, which finds willful violations where none exist and apparently bases much of its finding on ultra vires acts by a rogue employee, Mr. Motter, who has been subsequently terminated.

Sincerely yours,

  
Thomas J. Cooper

Thomas J. Kelly

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STEVEN W. LUDWICK, P.C.  
ATTORNEY AT LAW  
275 LINCOLN PIEDMONT BUILDING  
3405 PIEDMONT ROAD, 11E.  
ATLANTA, GA. 30305-1741  
(404) 237-7977

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ADMINISTRATIVE DIVISION  
Nov 14 9 37 AM '94

November 9, 1994

VIA FACSIMILE: (202) 219-3923  
AND VIA U.S. MAIL

Anthony T. Buckley, Esquire  
Office of General Counsel  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

RECEIVED  
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COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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RE: MUR 4090 - Janice Dean

Dear Mr. Buckley:

This to confirm our conversation of yesterday wherein I advised you that I am assuming representation of Janice Dean in the above-referenced matter from Thomas J. Kelly, Jr. Enclosed is a Designation of Counsel I have received today, via facsimile, from Ms. Dean, authorizing me to represent her in this matter. I will forward you the original upon receiving it from her.

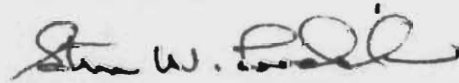
Mr. Kelly and I spoke briefly late Monday afternoon, and I received from him and reviewed the next morning the Federal Election Commission letter dated October 27, 1994, with Factual and Legal Analysis and Procedures.

Because I have just assumed representation of this case, I request that your office grant me an extension of thirty (30) days to submit factual or legal materials that may be relevant to the Commission's consideration of this matter. While apparently you do not ordinarily give extensions beyond twenty (20) days, I believe that this situation warrants a longer period of time because (1) I will need to get up to speed, and (2) I will be out of town for several days during the upcoming Thanksgiving holiday.

I would appreciate hearing from you at your earliest convenience regarding this request.

I look forward to working with you in this matter.

Sincerely yours,



Steven W. Ludwick

SWL/kla  
Enclosures

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OFFICE OF GENERAL  
COUNSEL

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DESIGNATION OF COUNSEL

I, Janice Dean, authorize and request that STEVEN W. LUDWICK, Attorney at Law, represent me as my counsel before the Federal Election Commission in case MUR4090. This Authorization includes the power to discuss this matter with representatives of the Federal Election Commission, file and receive pleadings, and take any and all other action reasonably necessary in the handling of this matter.

This 8th day of November, 1994.

  
Janice Dean

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 14, 1994

F. Joseph Warin, Esq.  
Gibson, Dunn & Crutcher  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

RE: MUR 4090  
Robert Mecredy

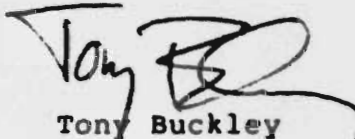
Dear Mr. Warin:

This is in response to your letter dated November 9, 1994, which we received on that same date, requesting an extension of 30 days to respond to the Federal Election Commission's reason to believe finding against your client, Robert Mecredy, in the above-captioned matter.

As was noted in the Commission's notification letter, the Commission does not ordinarily grant extensions beyond 20 days. In this case, the Commission has expressed its desire to handle this matter as expeditiously as possible. Thus, we cannot grant your full request. However, the Office of the General Counsel has granted a 20-day extension. Accordingly, your response is due by the close of business on December 5, 1994.

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

Sincerely,

  
Tony Buckley  
Attorney

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 14, 1994

Steven W. Ludwick, Esq.  
275 Lincoln Piedmont Building  
3405 Piedmont Road, N.E.  
Atlanta, GA 30505-1741

RE: MUR 4090  
Janice Dean

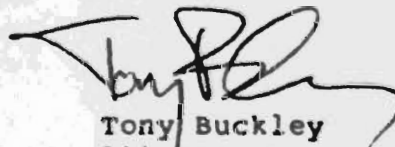
Dear Mr. Ludwick:

This is in response to your letter dated November 9, 1994, which we received on that same date, requesting an extension of 30 days to respond to the Federal Election Commission's reason to believe finding against your client, Janice Dean, in the above-captioned matter.

As you noted in your letter, the Commission does not ordinarily grant extensions beyond 20 days. In this case, the Commission has expressed its desire to handle this matter as expeditiously as possible. Thus, we cannot grant your full request. However, the Office of the General Counsel has granted a 20-day extension. Accordingly, your response is due by the close of business on December 5, 1994.

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

Sincerely,



Tony Buckley  
Attorney

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 14, 1994

Judith L. Wheat, Esq.  
Cacheris & Treanor  
1100 Connecticut Avenue, N.W.  
Suite 730  
Washington, D.C. 20036

RE: MUR 4090  
Jody D. Scheckter

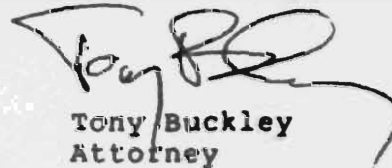
Dear Ms. Wheat:

This is in response to your letter dated November 7, 1994, which we received on November 9, 1994, requesting an extension of 30 days to respond to the Federal Election Commission's reason to believe finding against your client, Jody Scheckter, in the above-captioned matter.

As was noted in the Commission's notification letter, the Commission does not ordinarily grant extensions beyond 20 days. In this case, the Commission has expressed its desire to handle this matter as expeditiously as possible. Thus, we cannot grant your full request. However, the Office of the General Counsel has granted a 20-day extension. Accordingly, your response is due by the close of business on December 5, 1994.

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

Sincerely,

  
Tony Buckley  
Attorney

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CHILIVIS & GRINDLER

ATTORNEYS AT LAW  
3127 MAPLE DRIVE, N.E.  
ATLANTA, GEORGIA 30305

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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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NICKOLAS P. CHILIVIS  
GARY G. GRINDLER  
ANTHONY L. COCHRAN  
JOHN K. LARKINS, JR.  
THOMAS D. BEVER  
DANIEL P. GRIFFIN  
CAROL M. KAYSER  
J. D. DALBEY  
MERRILEE AYNES GOBER  
PAMELA B. ADAMS

(404) 233-4171  
TELECOPIER: (404) 261-2942

November 14, 1994

VIA FACSIMILE AND FEDERAL EXPRESS

Anthony Buckley, Esq.  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

Re: Robert Motter, MUR 4090

Dear Mr. Buckley:

Transmitted with this letter please find Mr. Motter's response to the notification dated October 27, 1994 sent to him by the Federal Election Commission in the above-referenced matter. I shall telephone you regarding this matter in the near future.

Sincerely,

*Tom Bever/bc*

Thomas D. Bever

TDB/bc

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VIA FACSIMILE AND FEDERAL EXPRESS

RESPONSE BY ROBERT MOTTER TO NOTIFICATION OF MUR 4090  
BY FEDERAL ELECTION COMMISSION DATED OCTOBER 27, 1994

Robert R. Motter, Respondent to MUR 4090, responds through counsel to the notification received by him ("Notification") from the Federal Election Commission ("FEC") transmitted by letter dated October 27, 1994, as follows:

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1. Mr. Motter has previously advised a number of different entities that Firearms Training Systems, Inc. ("FATS") may have committed violations of statutes and regulations governing political contributions and their reimbursement by corporations. These include disclosures to Price Waterhouse as the outside accounting firm for FATS; Mr. Herb Schlanger as counsel for FATS in Atlanta; Mr. Thomas Madden of the law firm of Venable, Baetjer, Howard & Civiletti, in Washington, D.C. as general counsel for FATS; Mr. Thomas Kelly of the same firm in an interview; the U.S. Attorney's Office of the Northern District of Georgia; the Department of Justice ("DOJ"); the Federal Bureau of Investigation ("FBI"); and the Bureau of Alcohol, Tobacco & Firearms ("ATF").

2. Mr. Motter made these disclosures prior to any other individual, including Jody Scheckter or his counsel, advising any of the previous entities or the FEC of the violations. It was Mr. Motter who came forward first, and no one else. But for Mr.

Motter informing all of the foregoing entities, including Mr. Kelly in a detailed interview, the information contained within the FEC notice never would have come to the attention of the FEC. Only after Mr. Motter volunteered to be interviewed and provide the information contained herein in detail to Mr. Kelly and, on information and belief, only after the FBI conducted a search of FATS and Scheckter's home, did Scheckter or his counsel "voluntarily" advise the FEC of the alleged violations contained herein.

3. Scheckter, who is from South Africa, is the President of FATS, Inc., and was the President prior to the time that Mr. Motter became the Chief Financial Officer ("CFO") in November 1992.

4. Mr. Motter joined FATS on November 18, 1992 and, as of the date of the first contribution described in the Notification, had been in his job as CFO for less than three months.

5. Before and during the period when Mr. Motter worked at FATS, the company experienced an exceedingly high turnover rate. In 1992, the turnover rate approximated 37%, with about a third of that termination rate being involuntary. The year 1993 experienced an even higher rate. In Mr. Motter's opinion, Scheckter runs the company in a threatening and dictatorial manner, and those employees who refuse to carry out Scheckter's

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directions or instructions are likely to be terminated.

6. Prior to Scheckter's requests for reimbursement, Mr. Motter had never been involved in any corporate reimbursement for individual political contributions on behalf of any company. As is set forth in the "Factual and Legal Analysis" of the Notification, Scheckter admits that he was involved in seeking reimbursement for his own political contributions from FATS prior to Mr. Motter's arrival. Up until the time that Scheckter made his first request on or about February 2, 1993, Mr. Motter had no previous knowledge of Scheckter obtaining reimbursement for his political contributions from FATS. Nor did Scheckter advise Mr. Motter of his reimbursed contribution prior to the time Mr. Motter accepted his position as CFO.

7. The "Factual and Legal Analysis" is incorrect with respect to Mr. Motter having any involvement in providing a reimbursement from the request made by Scheckter for a July 14, 1993 contribution to "Don Johnson for Congress" in the amount of \$500.

8. Mr. Motter had no personal or professional interest whatsoever in the making of political contributions to "Darden for Congress", or to "Friends of Newt Gingrich", or to "Don Johnson for Congress", or to any politician whatsoever. Mr. Motter was not politically active in making any political

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contributions to any candidate for office. During the entire time Mr. Motter has resided in Georgia, he has made no personal political contribution to any individual whatsoever. When he was in Pennsylvania, the only political contribution Mr. Motter made was to an individual who was running for Judge in the county of Mr. Motter's residence. Mr. Motter is not politically active with respect to making contributions to candidates for office. In contrast, Scheckter is, and has been in the past.

9. Mr. Motter is not the individual who conceived of the idea of making reimbursements to Scheckter or to anyone else at FATS. The concept of reimbursing political contributions by FATS came from Scheckter. This was done prior to the arrival of Mr. Motter at the company.

10. In early February 1993, Mr. Motter recalls the executive secretary for Scheckter, Janice Dean, requesting that Mr. Motter reimburse Scheckter \$1,000 for a political contribution which had been made by Scheckter. Mr. Motter was not even aware that the contribution was to "Darden for Congress" until he received the FEC Notification. The statement in the "Factual and Legal Analysis" which says that Mr. Motter informed [Ms. Dean] that "it was illegal for corporations to reimburse individuals for political contributions" is not an accurate statement. Instead, what Mr. Motter initially told Ms. Dean was that he did not think that it was legal to make the requested

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reimbursement. Immediately following Ms. Dean's presentation of the request, Mr. Motter contacted Price Waterhouse, requesting information and guidance with respect to this issue. On February 5, 1993, he in fact received a document indicating that such refunds could not be legally made (See Exhibit 1, to be transmitted with a forthcoming supplement to this Response).

11. Upon receiving the document from Price Waterhouse, Mr. Motter went and advised Scheckter that the reimbursement should not be made. Specifically, Mr. Motter personally went and spoke with Scheckter, with the document in hand, and told Scheckter that it was illegal to make a reimbursement of political contributions. In response, Scheckter said that there had been reimbursements in the past, and that Mr. Motter should "do whatever you need to do to that to make it look legal".

12. Scheckter wanted his money reimbursed from the company. Given the instruction and direction, and the risk of losing his position, Mr. Motter felt he must comply with Scheckter's demand. Mr. Motter opted to process the request through payroll as a special bonus. At about this time, Mr. Motter first became aware of how the reimbursements had been made in the past, which were through the accounts payable system.

13. As of this time, Mr. Motter had just moved to Georgia from Pennsylvania, had sold his house in Pennsylvania, and was

awaiting an early March closing date. He was living in an apartment here, his wife was still in Pennsylvania, and she was planning on moving to Georgia immediately following the closing. As a result of Mr. Motter taking his position at FATS, Mrs. Motter was leaving her position of employment in Pennsylvania.

14. Had Mr. Motter not been directed specifically by Scheckter to "make it look legal", Mr. Motter would have left the reimbursement procedure the way it had previously been -- through the accounts payable system.

15. It was Scheckter who was insisting that the contribution be reimbursed to him, and that it be made to look legal; it was not Mr. Motter who was insisting on the reimbursement of the contribution, or that it be made to look legal. Mr. Motter reported to Scheckter. Mr. Motter was in a subordinate position to Scheckter. Scheckter had the power to fire Mr. Motter.

16. The only other instance in which Mr. Motter was involved is the number 2 incident listed in the "Factual and Legal Analysis", where Scheckter's check is apparently dated June 5, 1993 in an amount of \$1,000. Mr. Motter did not know the donee's identity until he read the FEC Notification.

17. Even though Scheckter and Ms. Dean knew -- because they were informed by Mr. Motter -- that seeking reimbursement for political contributions was not legal, Ms. Dean went ahead and made the request for reimbursement on behalf of Scheckter.

18. On or about the time Ms. Dean made the second request for reimbursement, Mr. Motter told Ms. Dean "don't come to me for requests for political contributions anymore". He made it clear that this second request would be the last one he would honor. Mr. Motter did follow through with this second request, knowing that Scheckter wanted his money and did not care whether the reimbursement was legal or not; however, Mr. Motter made it clear that this was the last one. Mr. Motter faced possible termination by his clear and unequivocal statement to Ms. Dean.

19. Mr. Motter does not believe that the request for the July 14, 1993 reimbursement for the donation to "Don Johnson for Congress" in an amount of \$500 was ever presented to him. The reimbursement apparently made to Scheckter in this third instance shows who was in control of these improper reimbursements -- it was not Mr. Motter. He is unsure whether the third request even occurred; if it did, he does not believe that it was through himself. He does not recall any \$500 request ever coming to him; he only recalls the first two \$1,000 requests.

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20. The third request set forth in the "Factual and Legal Analysis" shows that Scheckter, after Mr. Motter refused to process any further requests for reimbursement, sought reimbursement even though Scheckter knew that it was illegal. It reflects that Scheckter would seek reimbursement regardless whether Mr. Motter was involved, and regardless whether he was advised that the reimbursement was legal or illegal. Scheckter sought and obtained reimbursement before Mr. Motter became involved, and after Mr. Motter's involvement ceased. It was Scheckter who initiated the conduct. It was Scheckter who made the contributions. It was Scheckter who wanted his money to be reimbursed. It was not his subordinate -- Mr. Motter.

21. As set forth in Paragraph 1 above, it was Mr. Motter who initially brought this to the attention of the authorities, through advising Price Waterhouse as FATS' auditors, FATS' general counsel, the U.S. Attorney's Office, DOJ, FBI, ATF, as well as giving a detailed interview and advising Mr. Kelly of the Venable Firm of the foregoing information, as well as other violations by Scheckter at FATS.

- a. In May, 1994, Mr. Motter informed Price Waterhouse that he would not be signing their standard audit letter, because in good conscience he could not affirm the statement that FATS was in compliance with all laws and regulations to which it was subject.

b. Mr. Motter advised Messrs. Schlanger in Atlanta and Madden in Washington, D.C., both as counsel to the company, that he was not signing the letter because he believed that violations may have occurred in the area of political contributions, as well as possible violations of the Foreign Corrupt Practices Act and ATF regulations. (See Exhibits 2 and 3, to be transmitted with this the supplement to this Response).

c. Mr. Motter has been fully cooperative with government authorities, including the U.S. Attorney's Office, DOJ, FBI and ATF in all of their meetings with him.

d. Because of Mr. Motter's disclosure to Price Waterhouse and to counsel for the company, he was placed on administrative leave. That is, the response by the company was to "get him out", because it was Mr. Motter who refused to participate in any further potential violations and sought, as an executive of the company, to restrain FATS from engaging in any further violations.

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- e. The foregoing was brought to the attention of Tom Kelly of the Venable firm, who conducted a voluntary interview of Mr. Motter on June 14, 1994.
  - f. At some point following the interview by Mr. Kelly, it is Mr. Motter's understanding that a search took place of the premises of FATS by federal government authorities, including the FBI.
  - g. Following the search, and after the award of a major Marine Corp contract of FATS, Mr. Motter was abruptly terminated.

22. Mr. Motter, by coming forward and "doing the right thing", has suffered financially. By being terminated, his annual compensation has been diminished by one third, in accepting his current position with another employer. Mr. Motter now finds himself in a circumstance where it is difficult for him to afford the house he purchased here upon coming to FATS. Furthermore, FATS has refused to pay Mr. Motter monies which were clearly owed to him under contract, including but not limited to

a bonus. Finally, Mr. Motter has expended considerable sums on attorneys fees as a result of his efforts.

This 14th day of November, 1994.

  
THOMAS D. BEVER

Chilivis & Grindler  
3127 Maple Drive, N.E.  
Atlanta, Georgia 30305

404-233-4171

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CHILIVIS & GRINDLER

ATTORNEYS AT LAW  
3127 MAPLE DRIVE, N.E.  
ATLANTA, GEORGIA 30305

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OFFICE OF GENERAL  
COUNSEL

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NICKOLAS P. CHILIVIS  
GARY G. GRINDLER  
ANTHONY L. COCHRAN  
JOHN K. LARKINS, JR.  
THOMAS D. BEVER  
DANIEL P. GRIFFIN  
CAROL M. KAYSER  
J. D. DALBEY  
MERRILEE AYNES GOBER  
PAMELA B. ADAMS

(404) 233-4171  
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November 15, 1994

VIA FACSIMILE AND FEDERAL EXPRESS

Anthony Buckley, Esq.  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

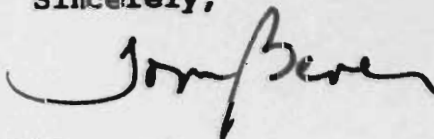
Re: Robert Motter, MUR 4090

Dear Mr. Buckley:

Transmitted with this letter please find Mr. Motter's supplement to his response to the notification dated October 27, 1994 sent to him by the Federal Election Commission in the above-referenced matter.

I appreciated talking with you briefly this morning. I will call you in the next day or two after you have had the opportunity to digest the materials contained within the response which was submitted yesterday and this supplement.

Sincerely,



Thomas D. Bever

TDB/bc

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**VIA FACSIMILE AND FEDERAL EXPRESS**

**SUPPLEMENT TO  
RESPONSE BY ROBERT MOTTER TO NOTIFICATION OF MUR 4090  
BY FEDERAL ELECTION COMMISSION DATED OCTOBER 27, 1994**

Robert R. Motter, Respondent to MUR 4090, hereby supplements his "Response by Robert Motter to Notification of MUR 4090 by Federal Election Commission Dated October 27, 1994" ("Response"), transmitting Exhibits 1, 2 and 3 which are referenced in the Response, and shows as follows:

1. Exhibit 1 is the document Mr. Motter received from Price Waterhouse indicating that it was illegal for corporations to reimburse individuals for political contributions, which Mr. Motter had requested from Price Waterhouse in response to Ms. Dean's presentation of Scheckter's request for reimbursement, and which Mr. Motter used to tell Scheckter that it was illegal to make a reimbursement of political contributions. See Paragraphs 10 and 11, pages 4-5, of Response.

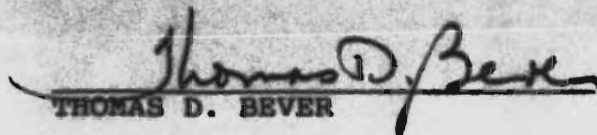
2. Exhibit 2 is the letter to Herb Schlanger, counsel to Firearms Training Systems, Inc. ("FATS") in Atlanta, explaining the reasons why Mr. Motter was not signing the Price Waterhouse audit letter, including but not limited to Mr. Motter's concern that the company may have violated statutes and regulations pertaining to political contributions; this exhibit is referenced at Paragraph 21(b), page 9, of the Response.

3. Exhibit 3 is a similar letter which was sent to Thomas Madden of the law firm of Venable, Baetjer, Howard & Civiletti in

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Washington, D.C. as General Counsel for PATS, on the same issue.

This 15th day of November, 1994.

  
THOMAS D. BEVER

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Bob —

Billy asked that I supply you some info on contributors to lobbying & political organizations. I think this stuff here is a little more than what you wanted. Please flip this info and then give me a call. If I know a few more details I'll probably be able to get you something more relevant. Best regards

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*D. Bauer*

Price Waterhouse

Rec'd 2-5-93

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97043  
73203

Tom,  
Dan Bauer is a  
Senior with P.W. who  
works for Kelly Keen,  
a tax partner with  
P.W.

Rob  
8-30-94

incidentally spend money on political campaigns), that do not have shareholders who own their equity and that are not funded by business corporations or unions.<sup>25</sup> FECA-type limitations can apply to a trade association, however, because it does not share those three characteristics.<sup>26</sup> Although the FECA law and regulations address many of the same definitional issues as the tax law, the FECA rules are not considered relevant to interpretation of the tax law.

Various corporations created under federal law (principally in Title 36) are prohibited from making political expenditures.<sup>27</sup> Certain industries are subject to special regulation of their political activities.<sup>28</sup> In addition, Chapter 29 of Title 18 of the U.S. Code contains several provisions that impose criminal penalties for certain types of expenditures made for improper political purposes. Finally, the Hatch Act, principally 5 U.S.C. §7324, parallels many of the limitations discussed in this Portfolio by also attempting to prevent a governmental subsidy of political activity through salaries paid to governmental employees. It is beyond the scope of this Portfolio to discuss these nontax statutes in any detail.

*Note:* The Federal Election Commission provides a variety of helpful publications, including two publications, explaining the federal limitations on campaign contributions: *Campaign Guide For Corporations and Labor Organizations and Campaign Guide For Nonconnected Committees.*<sup>29</sup>

## II. Deductibility of Lobbying and Political Expenditures

### A. Introduction

The charitable contribution deduction is specifically denied for campaign contributions and lobbying expenditures.<sup>30</sup> Furthermore, no deduction is allowed under §170 for contributions to a charity earmarked for use in lobbying, whether or not the lobbying endangers the §501(c)(3) status of the charity.<sup>31</sup>

Section 162(a) generally allows a deduction for "ordinary and necessary" expenses incurred in carrying on a trade or business. A major exception to the general rule exists, however, with respect to deductions for lobbying and political expenditures made to promote a trade or business. Pursuant to §162(e) and the regulations thereunder, political expenditures are not deductible at all and lobbying expenditures are not deductible unless they relate to direct legislative communications or communications regarding legislative matters between a taxpayer and a trade association of which the taxpayer is a member.

The limitations on deductibility of political expenditures contained in §162(e) are supplemented by §276, which denies deduction for indirect political contributions,

<sup>25</sup> *Id.*, at 256-265.

<sup>26</sup> *Austin v. Michigan Chamber of Commerce*, 110 S. Ct. 1391 (1990).

<sup>27</sup> An example is *The Foundation of the Federal Bar Association*, 36 U.S.C. §580.

<sup>28</sup> Utility holding companies, 15 U.S.C. §791(h) and (i); Merchant Marine Act contractor, 46 U.S.C. §1225; see FERC regulations, 18 C.F.R. Part 101, Account 426.4; see FCC regulations, 47 C.F.R. Part 31, Appendix A, Case 22.

<sup>29</sup> In addition, various sponsors present seminars and accompanying books on nontax and tax aspects of political activities.

<sup>30</sup> Regs. §1.170A-1(h)(5) and (6).

<sup>31</sup> Rev. Rul. 80-275, 1980-2 C.B. 69.

and §271, which imposes a limitation on deductions for bad debts owed by political parties.

The income and deduction of candidates and public office holders are covered in III, below.

### B. Lobbying Expenditures Deductible Under §162(e)

#### 1. History

Expenditures to aid or oppose a candidate in a campaign for public office have never been deductible.<sup>32</sup> The nondeductibility, before 1962, of expenses to influence legislation apparently stemmed from a long-standing judicial disfavor of certain types of lobbying activities. For example, in 1875, the Supreme Court refused to enforce a contract to pay a lawyer 25% of the sum he had persuaded Congress to appropriate in payment of his client's claim against the United States.<sup>33</sup> The Court based its ruling on the public policy grounds that the contract "was for the sale of influence and exertion of the lobby agent . . . , without reference to . . . [the claim's] merits . . ." Mr. Justice Holmes authored an opinion reaching a similar conclusion in 1906.<sup>34</sup>

The denial of an income tax deduction for lobbying as a business expense originated with a 1915 Treasury Decision,<sup>35</sup> as recounted in *Textile Mills Securities Corp. v. Comr.*,<sup>36</sup> the first Supreme Court decision to deal with the tax issue. The Court made no distinction between expenses for lawyers who prepared legal analyses and expenses for other lobbying activities. The Court upheld the regulations as based on a general public policy against spreading "such insidious influence through legislative halls . . ." which it found in the two earlier cases discussed above.<sup>37</sup>

It was with this background that the Supreme Court in the often-cited 1959 *Cammarano* opinion again upheld regulations denying a business expense deduction in a case involving grass roots lobbying against enactment of a law that literally would have put the taxpayer out of business.<sup>38</sup> This opinion upheld the regulation on at least two grounds:

<sup>32</sup> See Art. 143 Treasury Regs. 33 (Revised 1918); Rev. Rul. 71-449, 1971-2 C.B. 77, superseding I.T. 3276, 1939-1 C.B. 108, and Rev. Rul. 54-80, 1954-1 C.B. 11.

<sup>33</sup> *Trist v. Child*, 88 U.S. 623 (1875).

<sup>34</sup> *Hazelton v. Sheckels*, 202 U.S. 71 (1906).

<sup>35</sup> T.D. 2137, 17 Treas. Doc., Int. Rev., 48, 57-58.

<sup>36</sup> 314 U.S. 326, 337 (1941). The taxpayer in this case did not find itself in the most favorable posture on December 8, 1941, the decision date, as it was a corporation employed on a contingent basis to pursue claims of Germans whose property had been seized during World War I.

<sup>37</sup> Note that *Textile Mills* was cited for the principle that a business expense deduction may be denied if the deduction would frustrate public policy in *Tank Truck Rentals, Inc. v. Comr.*, 356 U.S. 30 (1958). Prompted by this latter opinion, Congress enacted §162(e), (f) and (g) which, together with §162(e) were to be the exclusive list of deductions denied on public policy grounds. S. Rep. No. 552, 91st Cong., 1st Sess. 274 (1969). Cf. *Cloud v. Comr.*, 97 T.C. 613 (1991) (discussing general prohibition of Regs. §1.162-1(a) against denial of deductions on public policy grounds, and holding that the listing of §162(e), (f) and (g) was not an exclusive list of public policy disallowances). Other cases following *Textile Mills* included *Roberts Dairy Company v. Comr.*, 195 F.2d 948 (8th Cir. 1952) and *American Hardware and Equipment Company v. Comr.*, 202 F.2d 126 (4th Cir. 1953), both of which denied deduction for contributions to a business league dedicated to showing how the tax laws unfairly favored cooperatives.

<sup>38</sup> *Cammarano v. U.S.*, 358 U.S. 498 (1959). This case and constitutional considerations generally are discussed in VI, F, below.

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## Detailed Analysis

(1) it expressed "a sharply defined national policy" which the court believed was expressed in the lobbying restriction placed on exempt charitable organizations; and (2) the regulations had "the force of law" due to 40 years of service. The policy was further articulated as the need for the Treasury to stand aside from political controversies.<sup>39</sup> The concurring opinion of Justice Douglas attempted to explain why the deduction denial was not a penalty for free speech by contrasting it with an attempt to deny all business deductions of a taxpayer who lobbies, which would be an unconstitutional penalty.<sup>40</sup>

Following the *Cammarano* decision the Treasury Department in 1960 promulgated regulations that clearly prohibited business deductions for expenses of both direct and grass roots lobbying and that required the disallowance of a deduction for a portion of the dues paid to a membership organization, a "substantial part" of the activities of which were lobbying.<sup>41</sup> Thus, prior to 1963, regulations promulgated under §162 denied deductions for all forms of political expenditures, including direct legislative lobbying, indirect or grass roots lobbying and partisan participation in political campaigns, although a few court cases had allowed deductions for activities similar to lobbying.<sup>42</sup> These 1960 regulations apparently triggered the significant legislative change of 1962.<sup>43</sup>

### 2. Enactment of §162(e)

As part of the Revenue Act of 1962,<sup>44</sup> Congress adopted §162(e), which has remained in the same form since adoption. The legislative history reveals that Congress largely rejected the regulatory gloss of almost 50 years' standing and the Supreme Court's articulation of public policy.<sup>45</sup> The House Report cited the following policy reasons for enactment of the subsection: (1) to remedy the inconsistent treatment of expenses of judicial and administrative presentations as compared with legislative appearances; (2) to remove a discouragement of legislative contact; and (3) to provide a better reflection of the taxpayer's true net income.<sup>46</sup>

<sup>39</sup> *Cammarano* quoted this phrase from the opinion in *Steer v. Conr.*, 42 F.2d 184 (2d Cir. 1930), by Learned Hand, discussed in IV, A, below.

<sup>40</sup> 358 U.S. at 515. This distinction is quoted with approval in the concurring opinion in *Regan v. Taxation With Representation of Washington*, 461 U.S. 540 (1983).

<sup>41</sup> T.D. 6435, 1960-1 C.B. 79, promulgated Regs. §1.162-15(c)(1). This section was revoked after the adoption of §162(e) and Regs. §1.162-20.

<sup>42</sup> An unusual case under the prior regulations was *Southwestern Elec. Power Co. v. U.S.*, 312 F.2d 437 (Cl. Ct. 1963), which allowed a deduction for expenses of private power company officials appearing before a congressional committee to "state their case" and "inform" the legislators about appropriations for public power companies, which was held not to be lobbying. See also *Smoky Mountains Beverage Co. v. Conr.*, 32 T.C. 1249 (1954). Also, the Tax Court held that expenses of generating support for a state constitutional amendment were not for lobbying. *Smith v. Conr.*, 3 T.C. 496 (1944), nonacq., Rev. Rul. 58-255, 1958-1 C.B. 91. Hollywood writers who were subpoenaed to testify before the House Un-American Activities Committee could deduct their attorneys' fees. *Salt v. Conr.*, 18 T.C. 112 (1953).

<sup>43</sup> H.R. Rep. No. 1447, 87th Cong., 2d Sess. 16 (1962).

<sup>44</sup> P.L. 87-834.

<sup>45</sup> See H.R. Rep. No. 1447, 87th Cong., 2d Sess. 16-28 (1962). The enactment of §162(e), however, did not affect the Supreme Court's holding that denying a deduction does not violate the Constitution. *Regan v. Taxation With Representation of Washington*, 461 U.S. 540 n. 7 (1983).

<sup>46</sup> H.R. Rep. No. 1447, 87th Cong., 2d Sess. 17 (1962).

*Note:* Section 212 allows deductions for the expenses of producing income or managing property outside the context of a trade or business. The regulations "specifically disallow, as frustrating public policy, a §212 deduction for a payment for which a deduction would be disallowed by §162(c), (f) or (g), but do not specifically address deductions that would be allowed or disallowed by §162(e). There is no indication in cases or rulings, however, that §212 would afford deduction results any different from §162(e)."

### 3. Deduction Prerequisites for Lobbying Expenditures

#### a. General

In addition to restating the general §162(a) "ordinary and necessary" requirements for allowance of a deduction, §162(e) states additional requirements for allowance of deductions in three areas of political activity: (1) the taxpayer's direct lobbying; (2) political communications within membership organizations; and (3) the organization's political activities as reflected in the member's dues. Expenditures in all three areas must satisfy four general rules which relate to: (1) the ultimate object of the activity, (2) the impact of that object on the taxpayer or organization, (3) the nature of the activity, and (4) the connection of the actual expenditure to the activity.

Allowable deductions for goodwill advertising that might have political overtones are discussed below in II, C, 3, b.

*Note:* An agent who expends the principal's funds for political purposes should be protected from taxation by excluding the funds from his income under the claim of right doctrine and not by a §162 deduction for the expenditures.<sup>47</sup>

#### b. The "Ordinary and Necessary" Standard: Relation of the Expense to a Trade or Business

Subsection 162(e) repeats verbatim the general requirements of §162(a) that the expense must be an ordinary and necessary expense, paid or incurred in carrying on, a trade or business. In a 1976 case, a securities investor could not even get the court to address the special rules of §162(e) because he could not prove that he carried on a trade or business.<sup>48</sup> Even if the taxpayer has a trade or business, the expense is not deductible unless it is related to that business as opposed to taxpayer's personal beliefs.<sup>49</sup> The Tax Court

<sup>47</sup> Regs. §1.212-1(p).

<sup>48</sup> Regs. §1.212-1(f) specifically disallows any deduction for campaign expenses of a candidate. S. Rep. No. 552, 91st Cong., 1st Sess. 274 (1969) makes it clear that Congress considered §162(e) to be in the same category of deductions disallowed on public policy grounds as the subsections (c), (f) and (g) of §162 that were enacted in 1969 and that are cited in Regs. §1.212-5(p) and Regs. §1.162-1(a).

<sup>49</sup> See *Liddy v. Conr.*, 808 F.2d 312 (4th Cir. 1987) (G. Gordon Liddy failed to prove that he had received funds from the Committee to Re-elect the President as an agent in furtherance of surveillance activities that culminated in the Watergate break-in); *Beasley v. Conr.*, 57 T.C.M. 130 (1989).

<sup>50</sup> *Purvis v. Conr.*, 550 F.2d 1332 (9th Cir. 1976).

<sup>51</sup> See *Love Box Co., Inc. v. Conr.*, 142 F.2d 1213 (10th Cir. 1948), cert. denied, 109 S. Ct. 62 (cost of "goodwill" seminars on taxpayer's corporate philosophy espousing free enterprise, etc., was not ordinary and necessary business expense.)

has held, however, that an employee of state government who lobbies for better working conditions and higher pay for himself and fellow workers may deduct his expenses because such lobbying has a direct relationship with his trade or business, even though his interest is "personal."<sup>22</sup> Finally, the expense must be related in a way that is "ordinary and necessary."

Obviously, the "ordinary and necessary" test has two parts. The Supreme Court has indicated that expenses incurred in transactions that are of common or frequent occurrence in the type of business involved will qualify as "ordinary."<sup>23</sup> In enacting §162(e), Congress stated that it wished to remove a discouragement from legislative contact.<sup>24</sup> Therefore, the Service should be hard pressed to contend that "direct interest" lobbying is not "ordinary." This is evidenced by the apparent lack of cases on the point.

The Supreme Court also has stated that payments that are helpful and appropriate to the development of a taxpayer's business are "necessary."<sup>25</sup> The application of the phrase "ordinary and necessary" will vary depending on the nature of the taxpayer's business. Generally, however, any expenditure made to promote a taxpayer's business that does not relate to the acquisition of a capital asset should qualify as ordinary and necessary.<sup>26</sup>

The general limitation of "necessary" and the specific limitation in §162(e) of deductions to expenses relating to legislation of "direct interest" to the taxpayer appear to overlap. Since "direct interest" is defined by the regulation in much more detail than "necessary" is defined, it would have been helpful for the regulation to provide that satisfaction of the narrower "direct interest" standard also satisfies the more general "necessary" standard. Instead, the regulations state that if the "ordinary and necessary" test is met, then ordinarily the "direct interest" test also will be met.<sup>27</sup>

#### c. The Object: Legislation or Proposed Legislation

The expense must bear a certain relationship to "legislation or proposed legislation."<sup>28</sup> The distinction between these terms is not clear. That "legislation" refers to already enacted laws is supported by the House Report statement that "It also is desirable that taxpayers who have information bearing on the impact of present laws, or proposed legislation, . . . not be discouraged in making this information available . . . ." The regulations, however, do not clearly identify existing law as a covered object. Rather, they imply that the two terms distinguish between bills that actually have been introduced and oral or written proposals.<sup>29</sup> Since an appearance simply to laud existing law could hardly be of benefit to a business absent some proposal to

change the law, and an appearance to criticize existing law would constitute a proposal to change it, the issue probably has little practical importance. As to how mature a legislative proposal must be, the term "legislation or proposed legislation" includes oral or written proposals for legislative action that have been submitted to the legislative body or to a committee or member of such body.<sup>30</sup> Legislation also includes "resolutions."<sup>31</sup>

The regulations deny deductions for expenses related to such matters as nominations, appointments or the operation of the legislative body. Interestingly, they do so by stating that the taxpayer does not have a direct interest in such matters,<sup>32</sup> rather than by defining "legislation" to exclude them. The direct interest test is discussed in II, B, 3, d, below.

The legislative bodies identified in §162(e)(1)(A) which may be the object of lobbying include Congress, the legislative body of a State, of a possession of the United States or of a political subdivision of any of the foregoing. "State" includes the District of Columbia<sup>33</sup> and an Indian tribal government.<sup>34</sup> Since lobbying of foreign legislative bodies is not specifically covered, it appears that the expenses thereof are not deductible.<sup>35</sup>

It is not clear exactly what constitutes a political subdivision for purposes of §162(e). The term is not defined in Regs. §1.162-20. In other contexts, political subdivisions specifically include entities that exercise any part of the sovereign power, including particularly the power to tax.<sup>36</sup> Of course, to be a political subdivision under §162(e), a body must be capable of producing legislation.

In a reviewed decision, the Tax Court held that the general electorate is not a legislative body so that expenditures to influence the passage of an initiative are not deductible as direct lobbying expenditures.<sup>37</sup> Furthermore, the decision held that expenditures were not deductible because they were for grass roots lobbying in connection with "legislative matters" under §162(e)(2)(B) and also because Regs. §1.162-20(b)(2) specifically made expenditures for influencing an initiative through grass roots lobbying nondeductible (even though this section was effective only prior to 1963).

*Note:* Regulations under §4911 state that lobbying the general public on a referendum issue is direct lobbying.<sup>38</sup>

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* GCM 38095 (9/7/79) noted the definition of "legislation" in §4911(c)(2) in a discussion of the scope of §162(e). It also suggested the inclusion of treaties within "legislation," a view supported by Prop. Regs. §1.162-20(c)(4)(ii)(A).

<sup>24</sup> Regs. §1.162-20(c)(2)(ii)(b)(3). The House Report also excluded nominations but appeared to do so under the definition of "legislation." GCM 38095 (9/7/79) adopts this reading of the House Report.

<sup>25</sup> §7701(a)(10).

<sup>26</sup> §7871(a)(6)(B).

<sup>27</sup> *Cf.* Regs. §1.162-20(c)(1); IRM §7(10)67, para. (3).

<sup>28</sup> See e.g., Regs. §1.103-1(b). Note, however, that Prop. Regs. §1.162-20(c)(4)(ii)(D), dealing with grass roots lobbying, treats elective "special purpose bodies" such as school boards as administrative bodies, and not legislative bodies.

<sup>29</sup> *Southern Pacific Transportation Co. v. Comr.*, 90 T.C. 771 (1988) (reviewed). See also PLR 8001061 (committee organized to secure signatures needed for an initiative would be taxed as a corporation; contributions would not be includible gross income and expenditures toward initiative would not be deductible).

<sup>30</sup> Regs. §1.162-20(c)(2)(ii)(a).

<sup>22</sup> *Jordan v. Comr.*, 60 T.C. 770 (1973), acq., 1974-1 C.B. 2.

<sup>23</sup> *Lilly v. Comr.*, 343 U.S. 90 (1952); see also *Deputy v. DuPont*, 308 U.S. 480 (1940); *Welch v. Helvering*, 290 U.S. 111 (1933); and *Kornhauser v. U.S.*, 276 U.S. 145 (1928).

<sup>24</sup> See H.R. Rep. No. 1447, 87th Cong., 2d Sess. 16-18 (1962).

<sup>25</sup> *Welch v. Helvering*, 290 U.S. 111 (1933).

<sup>26</sup> *Scruggs-Vandervoort-Barney, Inc. v. Comr.*, 7 T.C. 779 (1946). See generally, Bittker & Lokken, *Federal Taxation of Income, Estates and Gifts*, §20.3 (2d Ed.).

<sup>27</sup> Regs. §1.162-20(c)(2)(ii)(b)(1)(i).

<sup>28</sup> §162(e)(1)(A).

<sup>29</sup> See H.R. Rep. No. 1447, 87th Cong., 2d Sess. 17 (1962).

<sup>30</sup> Regs. §1.162-20(c)(2)(ii)(a).

## Detailed Analysis

The difference can probably be explained by the strong pressure applied by charities to expand the direct lobbying definition. The existence of differing interpretations of the same or similar words, or of interpretations under one section of the Code when there are none under other sections, suggests the utility of comparing authorities under all Code sections dealing with lobbying and political expenditures. For guidance, see VI, D, below.

### d. The Connection of the Object with the Taxpayer: The "Direct Interest" Test

#### (1) General Rule

A lobbying expenditure deduction is allowed under §162(e) if the legislative activity with respect to which the expenditure is made is "of direct interest to the taxpayer." Since the expenditure also must be incurred in carrying on a trade or business, it is clear from the statute that it must objectively be of direct interest to that business and not just subjectively of interest to the taxpayer.<sup>7</sup> The regulations provide that legislation or proposed legislation is of direct interest to a taxpayer if it is of such a nature that it will, or may reasonably be expected to, affect the trade or business of the taxpayer.<sup>8</sup> Legislation is not of direct interest merely because it may affect business conditions generally.<sup>9</sup> As noted above, expenditures that will qualify under the "ordinary and necessary" test should "ordinarily" satisfy the direct interest test.<sup>10</sup>

Only one provision of legislation need affect taxpayer's business, but the likelihood of impact must be more than remote or speculative.<sup>11</sup> Examples of legislation with only remote effect on a business include a presidential succession act and an appropriations bill.<sup>12</sup>

Most of the examples given by the regulations of direct interest legislation relate to legislation affecting the costs of operating taxpayer's business, such as increased taxes and increased administrative burdens.<sup>13</sup> Direct interest legislation also may affect taxpayer's business receipts, its competitors and the quality of community life that affects its employees.<sup>14</sup> The impact need not flow directly from the legislation but may be derivative. For example, even though a proposed retailer's sales tax is passed on to customers, it may decrease demand for taxpayer's products.<sup>15</sup> A taxpayer does not have a direct interest in matters such as nominations, appointments, or the operation of the legislative body.<sup>16</sup> The Tax Court held that a railroad had a direct interest in making its hometown more attractive, in improving public airport facilities that its employees might use, and in making more efficient the government of a city where the railroad had a rail yard.<sup>17</sup>

<sup>7</sup> See *Purvis v. Comr.*, 530 F.2d 1332 (9th Cir. 1976).

<sup>8</sup> Regs. §1.162-20(c)(2)(ii)(b)(1)(i).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Regs. §1.162-20(c)(2)(ii)(b)(1)(ii).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> Regs. §1.162-20(c)(2)(ii)(b)(3). Thus, expenditures made with respect to the nomination process by an individual in seeking legislative confirmation of his own appointment to office may not be deductible. See TAM 8006002 and III, C, below.

<sup>17</sup> *Southern Pacific Transportation Co. v. Comr.*, 90 T.C. 771 (1988) (reviewed).

### (2) Direct Interest Test for Membership Organizations

Before examining the application of the direct interest test to membership organizations,<sup>18</sup> it is important to identify the contexts in which it arises. First, while not a typical case, it could arise with respect to a deduction claimed by a taxable membership organization. Such organization would be "the taxpayer" and would be entitled to a deduction for direct lobbying with respect to legislation of direct interest to it.<sup>19</sup> A taxable organization, however, does not qualify under §162(e)(1)(B), so it cannot deduct expenses of political communication with its own members. Second, the member may deduct his expenses of communicating with the organization concerning legislation of direct interest both to him and to the organization.<sup>20</sup> Third, the member may deduct dues that reflect the organization's expenses in connection with its communications with its members on legislation of direct interest to the organization and to the members.<sup>21</sup> Fourth, he may deduct dues that reflect the organization's expenses in connection with its direct lobbying concerning legislation "of direct interest to the taxpayer."<sup>22</sup> In this last case, it is not clear from the statute whether "the taxpayer" refers to the member or the organization.<sup>23</sup> The regulations provide, however, that only the organization need be interested, either directly or derivatively from one or more members, in order for dues to be deductible.<sup>24</sup>

Thus, in probably all cases described above, it is important to determine the direct interest of the organization. The regulations ease this determination considerably by providing that legislation will be deemed to be of direct interest to a membership organization if it is of direct interest to one or more of its members.<sup>25</sup>

*Comment:* Membership organizations (such as trade associations) can make expenditures in purely local legislative matters that will not jeopardize the members' dues deduction even when only one member of the organization has a direct interest in the legislation. For example, a national trade association for manufacturers and distributors of a product, with one member who sells the product in a particular city, can lobby against a proposed city ordinance that would restrict use of the product since the

<sup>18</sup> See discussion of the term "membership organization" at II, B, 3, e, (2), (b), below.

<sup>19</sup> §162(e)(1)(A).

<sup>20</sup> §162(e)(1)(B). The House Report makes it clear that the communication may go either way. H.R. Rep. No. 1447, 87th Cong., 2d Sess. 18 (1962).

<sup>21</sup> §162(e)(1)(flush language). Note that the subsection actually refers only to the expense of communicating with the one member whose deduction for dues is at issue and specifically to his interest in the legislation.

<sup>22</sup> §162(e)(1)(flush language).

<sup>23</sup> Even a tax-exempt organization can be a taxpayer under the definition of §7701(a)(14). See also *Nico v. Comr.*, 565 F.2d 1234 (2d Cir. 1977).

<sup>24</sup> Regs. §1.162-20(c)(3).

<sup>25</sup> Regs. §1.162-20(c)(2)(ii)(b)(1)(i). This appears to depart from the House Report, which stated that it is sufficient if the organization's legislative activity is related to the trade or business "of a significant number of its members." H.R. Rep. No. 1447, 87th Cong., 2d Sess. 18 (1962). Also, a business league must be careful to comply with the requirement of Regs. §1.501(c)(6)-1 that it be operated to promote common interests.

association would have a direct interest. It may seem unreasonable to local groups supporting such an ordinance that a national organization may oppose purely local legislation using dollars that generated tax deductions to all its members when contributed to the trade association. See discussion of the available deduction for membership dues at II, B, 3, e, (2), (e), below.

### (3) Direct Interest Test for Expert Witnesses

The legislative history of §162(e) indicates that one of the reasons for allowing deductions for certain types of legislative communications was to promote the presentation of information to legislators by interested taxpayers so that the legislators would be able properly to evaluate the impact of present or proposed legislation.<sup>10</sup> Consistent with this goal, a special, more liberal direct interest test is applied with respect to expert witnesses. Simply stated, expert witnesses are deemed to have a direct interest in legislation by virtue of their expertise with respect to the subject matter of the legislation rather than because of the potential impact of the legislation on them. More than expertise is required; however, it is but one element of the two different tests applied to expert witnesses.

The first (and more liberal) test applies to an expert witness when (1) his legislative appearance or communication is not on behalf of his employer, (2) the legislation is in a field in which the individual specializes as an employee, and (3) it is customary for individuals in his type of employment to publicly express their views in respect to matters in their field of competence.<sup>11</sup> An example of this type of expert witness is a university professor specializing in finance who testifies before a legislative committee on proposed legislation regarding the banking system.<sup>12</sup>

If, on the other hand, an individual desires to make a legislative appearance or communication on behalf of his employer or as a self-employed individual, he cannot qualify under the first test. Such an individual will be deemed to have a direct interest in legislation only if (1) he specializes in the field of the subject of the legislation and (2) the appearance or communication is made pursuant to an invitation extended to him individually for the purpose of receiving his expert testimony.<sup>13</sup>

*Note:* It is doubtful that an "invitation" to testify which is arranged by the witness will qualify as an invitation under the second direct interest test.<sup>14</sup>

*Comment:* In order to qualify as an expert witness under either of the two tests, the expertise of the individual must arise out of his employment or self-employment. Therefore, it appears that this provision would not apply to

an individual who is employed as a physicist, but solely as an avocation is a recognized expert in environmental problems. Such an individual could not satisfy the direct interest requirement by qualifying as an expert witness on environmental problems.

### e. Types of Activities for Which Deductions Are Allowed

Under §162(e), a taxpayer is permitted a deduction for ordinary and necessary business expenses incurred with respect to communications relating to legislation of direct interest to the taxpayer, provided it is one of the two types of communication discussed in (1) and (2) below.

#### (1) Direct Legislative Communication

Section 162(e)(1)(A) allows a deduction for expenses incurred by a taxpayer (including a taxable membership organization) in direct connection with submitting statements to, sending communications to, or appearances before, committees and individual members of certain legislative bodies with respect to legislation or proposed legislation. Note that appearances before the entire legislative body are not covered specifically. While it generally is impossible for a taxpayer to directly lobby the entire Congress by appearing before it or a House thereof, one can appear before local legislative bodies. It seems logical that such appearances should be direct lobbying.

#### (2) Indirect Legislative Communication Through Membership and Other Organizations

In the circumstances described below, deductions are allowed for expenses in direct connection with the communication of information with respect to legislation between the taxpayer and an organization of which he is a member.<sup>15</sup> It is conceivable that Treasury or the Service might have seized upon the word "information" to hold the phrase inapplicable to an organization's direct call to its members to lobby. However, Rev. Rul. 78-114<sup>16</sup> makes it clear that urging members to engage in direct lobbying is not grass roots lobbying, and that such urging is therefore communication the cost of which is deductible under §162(e)(1)(B).

##### (a) Donations Not as a Member

While the focus of §162(e) is upon membership organizations and their membership dues, the regulations apply similar rules to the deduction of donations to organizations of which the donor is not a member.

Regs. §1.162-15 generally deals with the deductibility of contributions and dues. Regs. §1.162-15(a) denies a §162 deduction for a contribution any part of which is deductible under §170.<sup>17</sup> Subsection (c) allows the deduction for dues and other payments to organizations (apparently membership organizations), subject to the political expenditure limits of Regs. §1.162-20. Subsection (b) deals

<sup>10</sup> H.R. Rep. No. 1447, 82nd Cong., 2d Sess. 18 (1962).

<sup>11</sup> Regs. §1.162-10(c)(2)(ii)(b)(7)(i).

<sup>12</sup> *Id.*

<sup>13</sup> Regs. §1.162-10(c)(2)(ii)(b)(7)(ii). See, e.g., PLR 8727010 (medical doctor who took six-month sabbatical to serve as unpaid advisor to Senate subcommittee could deduct away-from-home living and travel expenses). On an related subject, the expenses of an exempt organization's representative in testifying on a nomination at the request of a congressional committee do not constitute "exempt function" expenses for purposes of making the exempt organization partially taxable under §527(f). See Regs. §1.527-3(c)(5)(vi) and discussion of §527(f) in IV, D, below.

<sup>14</sup> Cf. Rev. Rul. 70-449, 1970-2 C.B. 112 (emphasizing that the university did not instigate request for testimony).

<sup>15</sup> §162(e)(1).

<sup>16</sup> 1978-1 C.B. 44 (but the ruling concludes that urging members to contact customers and employees about legislation is grass roots lobbying).

<sup>17</sup> Note that when a public office holder personally pays expenses of his office (particularly, those in excess of his office salary) he has not made a charitable contribution but rather simply has deductible business expenses due to the fact that the Code defines a public office as a trade or business. §7701(a)(26). See discussion of office holders in III, below.

with "other contributions" or "donations to organizations" that are not charitable organizations covered by subsection (a) and by elimination either must be other than the membership organizations covered by subsection (c) or organizations of which the donor is not a member. These donations are deductible if they directly benefit taxpayer's business. For example, a donation by a transit company to an organization (of which the transit company is not a member) intending to hold a convention in taxpayer's city is deductible because the taxpayer has a reasonable expectation that the convention will increase its revenue.<sup>171</sup>

Such donations are not deductible if made for a purpose for which a deduction is not allowable under Regs. §1.162-20(c). Thus, rather than incorporating the rules of Regs. §1.162-20(c)(3) that focus on the recipient organization's activities, Regs. §1.162-15(b) requires an examination of the "purpose" of the contribution. Therefore, if made for the purpose of grass roots lobbying or for campaign contributions the payment is not deductible.<sup>172</sup>

(b) Definitions of "Membership Organizations" and "Members"

The Code and the regulations provide little guidance with respect to what types of organizations will qualify as membership organizations referred to in §162(e)(1)(B). Regs. §§1.162-15(c) and 1.162-20(c)(3) refer to organizations "such as a labor union or a trade association" in their discussions of the availability of a deduction for dues paid to organizations described in §162(e)(1)(B). A ruling indicates that a §501(c)(4) "action organization" also may qualify as a membership organization for such purposes.<sup>173</sup> On the other hand, it is clear that a corporation is not a membership organization by virtue of its relationship with its shareholders.<sup>174</sup>

In addition, no guidance is given in §162(e) or its regulations with respect to the qualifications of a member of an organization described in §162(e)(1)(B). The Service has ruled that prospective members do not qualify as members of an organization.<sup>175</sup>

(c) The Taxable Membership Organization's Deduction for Communication with Its Members

If the organization is taxable, as noted above,

<sup>171</sup> The allowability of such a deduction for a contribution to a committee organized to bring a political convention to an area is not affected by §276. Regs. §1.276-1(b)(1)(i). See also Rev. Rul. 55-265, 1955-1 C.B. 22 (requiring that the expected benefit be commensurate with the expenditure).

<sup>172</sup> Prop. Regs. §1.6033-2(k) would require exempt organizations to notify nonmember contributors of the percentage of its total expenditures that were for nondeductible activities, thus implying the same treatment as for dues. See discussion below. Also, note that §163(s)(2) refers to gifts as well as contributions that are not deductible.

<sup>173</sup> A trade association may be solely devoted to lobbying. Rev. Rul. 61-177, 1961-2 C.B. 117. See VII, F, below.

<sup>174</sup> Rev. Rul. 67-163, 1967-1 C.B. 43.

<sup>175</sup> See Rev. Rul. 78-111, 1978-1 C.B. 41 (a corporation may not deduct the cost of sending to its shareholders its president's remarks on legislation, even though the shareholders were not requested to lobby); Rev. Rul. 74-607, 1974-2 C.B. 45 (same result for discussion of legislation adverse to corporation sent to shareholders).

<sup>176</sup> See Rev. Rul. 78-114, 1978-1 C.B. 44. For treatment of membership under an analogous Code section, see §4911(d)(3). An extensive discussion of members as referred to in §4911(d)(3)(A) appears in H.R. Rep. No. 1270, 94th Cong., 2d Sess. 10 (1976).

§162(e)(1)(B) does not specifically allow a deduction for its communications to its members about legislation. This is so because that subsection identifies the member as "the taxpayer" and thus, apparently, the taxpayer allowed to use the deduction.<sup>176</sup> Furthermore, §162(e)(2)(B) may deny the deduction as for grass roots lobbying. This would be consistent with the denial of a deduction to a business corporation for lobbying its shareholders.<sup>177</sup> Such denial would be inconsistent, however, with the treatment of such communications as not grass roots lobbying in the context of the member's dues deduction, as discussed in II, B, 3, e, (2), (e), below. It is possible that the member's dues deduction might be allowed only when the organization is tax-exempt, although the statute and its legislative history do not support such view. Therefore, the status of the taxable organization's deduction is unclear, with neither a specific allowance or disallowance in §162(e).

(d) The Member's Deduction for Communication with the Organization

Section 162(e)(1)(B) requires that a member's communication with an organization be of direct interest to both the member and the organization to be deductible.<sup>178</sup> For example, if a member of a medical association who happened also to be a lawyer somehow were to spend a lot of money communicating to the medical association his concerns about legislation affecting lawyers only, it is doubtful that Congress intended to allow him a deduction. This communication is somewhat like grass roots lobbying described in §162(e)(2)(B).

(e) The Member's Deduction for Dues; Special Assessments

Section 162(e)(1) allows a deduction for dues attributable to an organization's direct lobbying expenses. Typically this would apply to dues paid to unions and business leagues. The general rule permitting trade or business expenses to be deducted normally provides a basis for deduction of the balance of the dues.<sup>179</sup>

The deduction for business-related dues paid by a taxpayer to membership organizations is addressed in Regs. §1.162-15(c), which cross-references Regs. §1.162-20. This latter regulation limits the dues deduction under certain circumstances when the organization engages in political activities other than legislative communications for which deductions are permitted by §162(e)(1). The activities which are outside the scope of §162(e)(1) are grass roots lobbying and intervention in political campaigns and are hereinafter sometimes referred to as "nondeductible activities." The limitation on deductions for dues and other payments to membership organizations depends on the relative magnitude of the organization's nondeductible activities and the type of payment received from the member.

<sup>177</sup> See H.R. Rep. No. 1477, 87th Cong., 2d Sess. 18 (1962), stating that the communication can be from the organization to the taxpayer, or vice versa. This language does not seem to contemplate deduction by the organization.

<sup>178</sup> See II, C, 3, a, below.

<sup>179</sup> See also, Regs. §1.162-20(e)(2)(i)(b) (repeating the statutory requirement that both have a direct interest in order for the member's expenses of communications to his organization to be deductible).

<sup>180</sup> See H.R. Rep. No. 1477, 87th Cong., 2d Sess. 18 (1962).

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Under Regs. §1.162-20(c)(3), unless a "substantial part" of the activities of a membership organization are nondeductible activities, all of the dues or other payments made to such an organization are deductible in accordance with Regs. §1.162-15(c). If a substantial part of the activities of a membership organization consists of nondeductible activities, the dues or other payments to such organization are deductible only to the extent of the portion of such payment which the taxpayer can "clearly establish is attributable" to activities other than nondeductible activities.<sup>107</sup> In other words, once an organization engages in substantial nondeductible activities, the burden shifts to the taxpayer to establish the portion of the dues that has been applied to finance an activity for which a deduction is available either under §162(e) or §162(a). During an audit of a trade association or union, the IRS will typically first examine the organization's lobbying activities so that disallowance of the members' dues deductions and assessments can be made before the statute of limitations has run.<sup>108</sup>

Thus, the first step in determining deductibility is assessing whether the organization's nondeductible activities are "substantial."<sup>109</sup> As usual, the regulations provide that the substantiality of nondeductible activities will be determined "based on all the facts and circumstances."<sup>110</sup> There is no indication, however, as to what facts and circumstances are to be considered and how different factors are to be weighed. The Internal Revenue Manual indicates that the likelihood of a material tax change resulting to individual members is the predominant factor.<sup>111</sup> Note that this "substantial part" terminology used in the regulations is identical to the test in §501(c)(3) for excessive lobbying and that little progress has been made in quantifying the term in that area as discussed in VI, E, 5, C, below.

Rev. Proc. 61-10<sup>112</sup> partially governs the procedure for determining the deductibility of dues. It was issued before the enactment of §162(e) but while similar rules appeared in former Regs. §1.162-15(c)(2). Its stated purpose is to facilitate the disposition of the income tax cases of members/contributors through examination of organizations solely on the issue of dues deduction. Organizations did not have standing to appeal the assertion of a deficiency against a member arising from nondeductibility of dues. While the member taxpayer had procedural rights to protest, he ordinarily did not have the records necessary to prove the deduction. Therefore, the Revenue Procedure accords the organization the status of "taxpayer" solely for purposes of affording it rights to an administrative appeal. The rights arise not in the member/taxpayer's examination, however, but in the special examination of the organization to determine the applicability of the dues deduction limit. Therefore, the

organization may not enjoin tax assessments against members that result from the organization's political activities but must rely on intervention in friendly member/taxpayer refund suits or Tax Court deficiency actions.<sup>113</sup> Rev. Proc. 61-32<sup>114</sup> amplified Rev. Proc. 61-10 by adding that the Service would send its final determination to the District Directors in districts where members reside. The procedures for coordinating the member and organization audits are described in the Internal Revenue Manual.<sup>115</sup>

If a membership organization receives a special assessment from members<sup>116</sup> (including an increase in dues) to be used to finance nondeductible activities, a special rule applies. In such cases, no deduction is allowed with respect to any portion of the special assessment used to finance nondeductible activities.<sup>117</sup>

In the Revenue Act of 1987, Congress attempted to ensure that members understand that they cannot deduct their dues as §170 charitable contributions by requiring a statement to that effect to accompany dues solicitations.<sup>118</sup>

On November 25, 1980, the IRS issued proposed regulations<sup>119</sup> which would further restrict the deductibility of dues and other payments by a taxpayer to an organization of which he is a member in the event that the organization engages in any nondeductible activities. The essence of the proposed amendment is to delete the word "substantial" in the first line of Regs. §1.162-20(c)(3). The result would be that if an organization engaged in any (as opposed to substantial) nondeductible activities, the burden to establish the deductible portion of payments to the organization immediately would shift to the member. The preamble to the proposed regulations indicates that the purpose of this amendment is to prevent an indirect deduction by members for less than "substantial" nondeductible activities engaged in by an organization.

Coupled with this proposed amendment is a related proposal that would change the record-keeping and reporting requirements for any organization whose members are entitled to deduct payments under §162. A new subparagraph (k) would be added to Regs. §1.6033-2 which would require certain exempt organizations<sup>120</sup> to provide to their members

<sup>107</sup> See *National Ass'n of Manufacturers v. Blumenthal*, 466 F. Supp. 905 (D.D.C. 1979).

<sup>108</sup> 1961-2 C.B. 572.

<sup>109</sup> "Examinations of Certain Membership Organizations Involving IRC 162(e) Issues," IRM 7(10)67. See also TAM 79460039.

<sup>110</sup> Special assessments are the only example given of "payments" other than dues. These "other payments" are different from donations to an organization with which taxpayer is not affiliated, which are covered by Regs. §1.162-15(b).

<sup>111</sup> Regs. §1.162-20(c)(3).

<sup>112</sup> §6113. That the provision extends to dues is indicated at n.3 at 1608 and 1610 of H.R. Rep. No. 391, 100th Cong., 1st Sess. (1987). IRS News Release IR-88-31 (February 10, 1988). In Notice 88-120, 1988-2 C.B. 456, the IRS published guidelines for certain exempt organizations for notification to potential contributors that their donations are not deductible as charitable contributions. The guidelines cover print, oral, television, and radio solicitations.

<sup>113</sup> The proposed regulations revised Regs. §1.162-20 and were published in 45 Fed. Reg. 78167 (11/25/80). The effective date is for expenditures by the organization after 1980.

<sup>114</sup> Section 501(c)(5), (c)(6) and other exempt organizations whose members or contributors may deduct dues or contributions under §162 are subject to the proposed requirement.

<sup>115</sup> Regs. §1.162-20(c)(3).

<sup>116</sup> Internal Revenue Manual §7(10)67.

<sup>117</sup> See TAM 8115024 (lengthy analysis of various press releases, etc., of a trade association of electric power companies); cf. *Coors v. Comm.*, 60 T.C. 368 (1973), *aff'd*, 519 F.2d 1280 (10th Cir. 1975) (denied contributor's deductions without discussion of organizations' activities).

<sup>118</sup> Regs. §1.162-20(c)(7).

<sup>119</sup> IRM 7(10)67. See also TAM 7944009 (discussing various lobbying activities of a business league).

<sup>120</sup> 1961-1 C.B. 495. The continuing validity of this Revenue Procedure is attested to by its inclusion in a lengthy discussion of audits of tax-exempts for the purpose of determining the propriety of the dues deduction in IRM 7(10)67 dated 1-90.

and contributors, on or before January 31 of each year, a statement showing what percentage of the organization's total expenditures during the preceding calendar year were for nondeductible activities. A de minimis exception would be provided when the portion of a person's payments "allocable to" such expenditures is either less than \$25, or less than \$50 and also less than 5% of the person's total payments for the year. The proposed regulations also would amend Regs. §1.6001-1(c) to require an exempt organization to maintain records to support the statements to be furnished under Prop. Regs. §1.6033-2(k).

*Comment:* The age of these proposals makes their prospects for adoption highly questionable.

*f. Direct Connection of the Expense to the Activity; Entertainment Expenses*

The permitted deduction for political expenditures extends only to expenses having a direct connection with the covered type of activity.<sup>124</sup> Section 162(e)(1) identifies away-from-home travel expenses and the cost of preparing testimony as "ordinary and necessary" expenses of direct lobbying, thereby implying that such expenses also have a direct connection with the legislative appearance or communication. Payments to a lobbyist for direct lobbying also should be deductible.

As to entertainment expenses, the House Report on §162(e) states: "Nothing in this provision is intended to permit the deduction of entertainment expenses. Such amounts, if deductible at all, must meet the tests set forth in the section of the bill explained below [§274], without regard to this provision."<sup>125</sup> If the House viewed the section as not permitting a deduction for entertainment expenses, it must have viewed them as not directly connected with direct lobbying. On the other hand, §162(e)(2) does not specifically prohibit such expenditures because they are not "grass roots lobbying" or campaign expenditures. Therefore, it appears that the House thought they might be deductible under §162, subject to the limitations of §274. The Service has ruled, however, that a lobbyist may not deduct expenses of entertaining legislators.<sup>126</sup>

*C. Nondeductible Lobbying and Political Expenditures*

*1. General*

Section 162(e)(2) specifically states that no deduction is allowed for campaign contributions and expenditures for grass roots lobbying. Since these expenditures largely could be considered outside the scope of the deduction allowance of §162(e)(1)(A) due to lack of the requisite "direct connection," their specific exclusion may be largely redundant. Furthermore, the phrasing of §162(e)(2) as a limitation on

the permissive rules of §162(e)(1) leaves open the theoretical question whether such expenditures otherwise are deductible under §162(a). The legislative history and the regulations, however, make clear that such expenditures are simply nondeductible.<sup>127</sup>

Moreover, the fact that §162(e)(2) identifies only two categories of political expenditures as nondeductible under §162(e) should not be read to imply that the deduction made available by §162(e)(1) covers all political expenditures which fall outside of the two §162(e)(2) categories. Rather, it is clear from Regs. §1.162-20(c)(1) that no deduction is permitted under §162 for political expenditures except to the narrow extent permitted by §162(e)(1).<sup>128</sup>

*Note:* Due to §170(f)(6), the charitable contribution deduction is not a viable alternative route to deductibility of out-of-pocket lobbying expenditures on behalf of a §501(c)(3) charity.

*2. Participation in a Political Campaign*

*a. General*

Section 162(e)(2)(A) provides that no deduction is available under §162(a) "for participation in, or intervention in, any political campaign on behalf of any candidate for public office."<sup>129</sup> This restriction also applies to campaigns in opposition to a candidate.<sup>130</sup> Any contribution to a political party that engages in campaign activities that are normally conducted by parties is nondeductible under this section.<sup>131</sup>

The juxtaposition of the terms "political campaign," "candidate" and "public office" strongly suggests an elective process, thus not covering, for example, Supreme Court appointments which can become quite "political."<sup>132</sup> Such exclusion would seem of only theoretical importance, however, since Regs. §1.162-20(c)(2)(ii)(b)(3) precludes a taxpayer from having a direct interest in nominations or appointments of a legislative body, which seems to place such nominations in the category of prohibited lobbying rather than prohibited campaigning. Note that the two sections that backstop §162(e) [§§271 and 276] both refer only to elective offices and that virtually identical language in §501(c)(3) is interpreted by regulations to refer only to elective offices.<sup>133</sup>

<sup>124</sup> Regs. §1.162-20(c)(1), (4).

<sup>125</sup> The Service has observed that a major purpose of §162(e) was to legislatively affirm the regulatory denial of all legislative matter/campaign deductions other than those specifically allowed. GCM 30095 (9/7/79).

<sup>126</sup> The distinction between "participation" and "intervention" is unclear but could turn on whether the involvement is authorized by the candidate. The breadth of the exclusion is illustrated by Rev. Rul. 86-3, 1986-1 C.B. 81, which ruled that a campaign worker could not deduct his costs of legal defense against criminal charges of vote buying because under the circumstances the worker's expenses generally were not deductible due to §162(e)(2)(A).

<sup>127</sup> Regs. §1.162-20(c)(1). The Revenue Act of 1987 specifically added references to opposition to a candidate in §561(c)(3) and related sections, but not in §162(e).

<sup>128</sup> See *Cloud v. Comm.*, 97 T.C. 613 (1991).

<sup>129</sup> In *Nat'l. 88-76*, 1988-2 C.B. 392, the IRS announced that a §501(c)(3) charity's attempt to influence the Senate confirmation of a federal judicial nominee is not participation in a political campaign, but is lobbying activity. See also GCM 39694 (7/1/88), on which the Notice was based.

<sup>130</sup> Regs. §1.501(c)(3)-2(c)(3)(iii).

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<sup>124</sup> §162(e)(1)(A) and (B).

<sup>125</sup> H.R. Rep. No. 1447, 87th Cong., 2d Sess. 18 (1962).

<sup>126</sup> Rev. Rul. 68-414, 1968-2 C.B. 74. The Service has explained its position by stating that entertaining legislators is not direct lobbying and is nondeductible as indirect lobbying, a position apparently in conflict with the House Report. See TAM 7946009 (a business league's buffet luncheons for legislators relate to legislative matters but are not an activity constituting an appearance or communication with respect to legislation). Perhaps another reason for the Service's position is that if entertainment expense is not directly related to lobbying (as the House Report implies) then it cannot pass the "directly related" or "associated with" tests of §274(a)(1)(A). See also IRM 7(10)67, para. (3).

When the campaign intervention is in the form of an advertisement, the determination of whether it is for campaign purposes depends on its likely effect on the public. Rev. Rul. 62-156<sup>131</sup> states: "For example, if a message is directed to an audience the response of which would reasonably be expected to redound to the benefit of one political group or faction, such a message would not be politically impartial and the expenses incurred with respect thereto would constitute an expenditure for political campaign purposes . . . ."

#### b. PACs

Since corporations, including incorporated nonprofit associations, may not make campaign contributions under the Federal Election Campaign Act<sup>132</sup> and similar state laws, it is common for corporations, unions and other entities to set up political action committees (PACs) which may make such contributions from funds solicited from individuals associated with the sponsoring entity. The sponsor's payment of expenses of establishment, administration and funds solicitation of a PAC generally does not violate the Campaign Act (and is not a taxable expenditure under §527(f) if the sponsor is an exempt organization).<sup>133</sup> The Service has taken the position, however, that a taxable sponsor may not deduct its organizational and other such permitted expenses of the PAC and may not deduct the proportionate part of its salaries and overhead attributable to such expenses.<sup>134</sup> In contrast, payment of such expenses will not subject a trade association to tax under §527(f),<sup>135</sup> although they should be counted in determining whether the association has substantial nondeductible activities for purposes of the members' dues deductions.

See the discussion in III, C, below, as to the nondeductibility of the candidate's personal outlays for his campaign.

#### c. Political Convention Expenses

Regs. §1.162-2(d) generally permits a business person's deduction for expenses of attending conventions if such attendance advances the taxpayer's business interests,<sup>136</sup> but it flatly denies a deduction for a convention for "political" purposes. The Service has ruled that a convention's purposes are political if the primary purposes are to plan strategy and advance the political programs of the party.<sup>137</sup> The IRS has also stated that a convention's agenda will show the degree to which it is related to the delegate's trade or business.<sup>138</sup> Since the agenda of a political convention will be purely political, it is hard to imagine a circumstance in which an individual who is not an elected or party official

could claim to have a business interest in the agenda. Perhaps a lobbyist could do so, but his expenses then might be nondeductible as grass roots lobbying. See III, E, below, for discussion of an elected official's political party convention expenses.

### 3. Attempts to Influence the General Public/Grass Roots Lobbying

#### a. Current Law

The Supreme Court's decision in *Cammarano*<sup>139</sup> specifically upheld regulations predating the enactment of §162(e) that denied a business deduction for grass roots lobbying. Section 162(e)(2)(B) provides that no deduction will be allowed under §162(a) for expenditures to influence the general public or any segment thereof with respect to legislative matters, elections or referendums. The reference to "elections" seems largely to overlap §162(e)(2)(A) since most payments to intervene in a campaign on behalf of a candidate will involve attempts to influence the general public in an election. The reference to a "referendum" is the only reference in §162(e) to a political expenditure that is related to neither a legislative body nor an election.<sup>140</sup>

The reference to "legislative matters" encompasses grass roots lobbying.<sup>141</sup> This term is defined in the legislative history to §162(e) as a campaign which is "intended to develop a point a view [with respect to a legislative matter] among the public generally which in turn is directed toward the legislators."<sup>142</sup> The regulations amplify this only by suggesting that a nondeductible grass roots campaign includes urging or encouraging the public to contact legislators to propose, support or oppose legislation.<sup>143</sup>

One type of communication that might be grass roots lobbying is specifically permitted. Recall that dues reflecting expenses of communications by an organization to its members are specifically deductible under §162(e)(1)(B). Such communications could appear to be grass roots lobbying if the members are viewed as a segment of the general public. The Service has resolved the conflict on the apparent basis of legislative intent by ruling that communicating with members about their direct lobbying is not grass roots lobbying, but urging them to contact customers or employees about legislation is grass roots lobbying.<sup>144</sup>

<sup>131</sup> 358 U.S. 498 (1959).

<sup>132</sup> The *Cammarano* opinion held an initiative vote to be "legislation" under earlier regulations. 358 U.S. 498 (1959). While Regs. §1.162-20(b)(2)(ii) identifies initiatives and constitutional amendments as covered by grass roots lobbying for years before 1963, a similar statement does not appear for years after 1962. The *Cammarano* opinion at fn. 10 discussed the varied treatment that the Tax Court, and Service had accorded expenditures related to constitutional amendments. See also *Southern Pacific Transportation Co. v. Comm.*, 90 T.C. 771 (1988) (reviewed) (contacting the public in connection with an initiative held grass roots lobbying).

<sup>133</sup> The early *Textile Mills Securities Corp.* decision had found grass roots lobbying to be within the regulatory phrase concerning seeking "promotion or defeat of legislation." 314 U.S. 326 (1941).

<sup>134</sup> H.R. Rep. No. 1447, 87th Cong., 2d Sess. 18 (1962).

<sup>135</sup> Regs. §1.162-20(c)(4). See TAM 8115024 (discussing various examples of grass roots lobbying).

<sup>136</sup> Rev. Rul. 78-114, 1978-1 C.B. 44, limits the exception to members and excludes prospective members. If the communication encourages the members to lobby their employees and customers, however, the communication to members is grass roots lobbying. Rev. Rul. 78-113, 1978-1 C.B. 43. See *National Association of Manufacturers v. Blumenthal*, 466 F. Supp. 905 (D.D.C. 1979) (refusing to enjoin enforcement of these rulings due to the Anti-Injunction Act).

<sup>137</sup> 1962-2 C.B. 47. This ruling also sanctioned impartial candidates' debates and efforts to encourage employees to be politically active. See the discussion of goodwill advertising at II, C, 3, b, below.

<sup>138</sup> 2 U.S.C. §441b.

<sup>139</sup> Regs. §1.527-6(b)(1)(i).

<sup>140</sup> TAM 8202019; TAM 8202021. Furthermore, *Public Utilities — Audit Techniques*, IRM 4232.(10), 44(13) states: "Any expenses incurred in establishing or operating a political action committee (PAC) should be disallowed as a lobbying expense."

<sup>141</sup> Regs. §1.527-6(b)(1)(i); see VI, C, 2, below.

<sup>142</sup> But also Rev. Rul. 59-316, 1959-2 C.B. 57 (delegate to nonpolitical convention is presumed to be aiding business of another and not his own and, thus, is not entitled to a §162(a) deduction for his expenses).

<sup>143</sup> Rev. Rul. 76-64, 1976-1 C.B. 45.

<sup>144</sup> Rev. Rul. 63-266, 1963-2 C.B. 88.

Lacking a statutory base for deduction such as §162(e)(1)(B), however, corporate communications to shareholders have been found to be grass roots lobbying.<sup>146</sup> This is true whether the communication specifically requests shareholder action or is simply the text of the corporate president's testimony against a bill that would increase corporate expenses.<sup>146</sup>

Thus it appears that an attempt to influence the public can exist even without a specific request for action or a reference to specific legislation. An advertisement need only attempt to develop a "grass roots point of view with respect to pending legislation" to be considered grass roots lobbying.<sup>147</sup> One court has held that the existence of such an attempt is not a matter of intent but of the objectively possible effect of the advertisements.<sup>148</sup>

*Note:* The four rulings discussed in the preceding paragraphs, Rev. Rul. 78-111, 78-112, 78-113 and 78-114, form the principal elucidation of the grass roots lobbying regulations under §162(e) and the reference points for most letter rulings in the area.

Letter rulings have vacillated on the issues of whether specific legislation must be pending and how close must be the nexus between the advertisement and legislation.<sup>149</sup> Several rulings have held advertisements to be grass roots lobbying when no specific legislation was pending.<sup>150</sup> Congress originally intended a similarity between §4945 and §162(e) in this area.<sup>151</sup> Regulations under §4945 provide that an attempt to influence legislation may occur with respect to a specific legislative proposal that the organization either supports or opposes, regardless of whether it has been introduced.<sup>152</sup> Also, it is not clear that there should be a difference between the meaning of "legislation or proposed legislation" in §162(e)(1)(A) and "legislative matters" in §162(e)(2)(B). Regulations describe the former as including actually introduced bills and oral or written

proposals for action submitted to the entire body, or committee or a member.<sup>153</sup>

There is scant authority on what groups comprise a segment of the general public. We may infer from the authorities cited above that corporate customers, employees and shareholders are segments of the general public.<sup>154</sup>

Of course, efforts to influence the public may be attempted through another organization. While more typically used for election campaign contributions, PACs also may concern themselves with legislation. The Federal Election Campaign Act permits a corporate PAC sponsor to make organizational and administrative expenditures benefitting the PAC. The Service has indicated, however, that these expenditures will not be deductible where they support grass roots lobbying or campaigning.<sup>155</sup> Note, however, that lobbying is not an "exempt function" for purposes of qualifying the PAC as a political organization under §527. See IV, B, 2, d, below.

Likewise, the Service has indicated that 100% of a payment to a lobbyist for grass roots lobbying will be nondeductible even though the lobbyist can deduct part of his expenses because they are not directly related to the grass roots lobbying.<sup>156</sup> This reflects the view that both direct and indirect expenses of grass roots lobbying are nondeductible. Furthermore, the burden is on the taxpayer to show the deductible amount if part of the disallowed expenses is not for lobbying.<sup>157</sup>

The Service has indicated that the taxpayer also may not deduct as a loss any portion of the basis of an asset attributable to grass roots lobbying.<sup>158</sup> Such an expense, asserted the IRS, may not be capitalized unless it was otherwise deductible under §162. Alternately, the Service reasoned that a loss deduction would frustrate sharply defined national policy and should be denied for that reason.<sup>159</sup>

The Senate Report on §162(e) specifically excluded from grass roots lobbying the activities of a nonprofit organization in the publication of factual nonpartisan analysis of legislation and proposed legislation, so long as the organization does not itself use the information to promote or defeat legislation.<sup>160</sup> For the possibility that such activity could constitute goodwill advertising of a business taxpayer, see II, C, 3, b, below.

<sup>146</sup> Rev. Rul. 74-407, 1974-2 C.B. 45 (noting that the Senate Bill that resulted in §162(e) specifically would have permitted deduction for corporate communications to employees and shareholders, but that provision was deleted in the final version; S. Rep. No. 1881, 87th Cong., 2d Sess. (1962)); Rev. Rul. 78-111, 1978-1 C.B. 41.

<sup>147</sup> Rev. Rul. 78-111, 1978-1 C.B. 41.

<sup>148</sup> Rev. Rul. 78-112, 1978-1 C.B. 42. In a pre-§162(e) case the Tax Court denied a business expense deduction for a roundtrip airplane ticket to England given to a journalist who was to study and report on socialized medicine. Apparently, it was thought the journalist would help develop a "grass roots point of view." *Stover v. Comr.*, 27 T.C. 434 (1956).

<sup>149</sup> *Consumers Power Company v. U.S.*, 299 F. Supp. 1180 (E.D. Mich. 1969), *aff'd and rev'd*, 427 F.2d 78 (6th Cir. 1970), *cert. denied*, 400 U.S. 925 (1970); *relied on in TAMs* 8115024 and 8202021. Neither the district court nor the Court of Appeals, however, seemed able to articulate a test as opposed to the "know it when you see it" approach. The appellate opinion did warn against extreme expansion of the regulations as applied to private power company advertising in the context of competition with public power companies. This case involved tax years preceding the enactment of §162(e). See also *Southwestern Elec. Power Co. v. U.S.*, 312 F.2d 437 (Cl. Ct. 1963).

<sup>150</sup> PLR 8014002 was withdrawn in PLR 8030102 and PLR 7923005 was withdrawn in PLR 8007093.

<sup>151</sup> PLRs 8019119, 8115024, 7948003 and 7951012 (booklet describing need for tax reductions ruled to be grass roots lobbying). But when legislative issues were discussed in booklets that the public had to request, there was no grass roots lobbying. PLR 8148021.

<sup>152</sup> H. R. Rep. No. 413, 91st Cong., 1st Sess. 33 (1969). But see VI, D, below.

<sup>153</sup> Regs. §53.4945-2(a)(1), incorporating Regs. §56.4911-2(d)(1)(ii).

<sup>154</sup> Regs. §1.162-20(c)(2)(ii)(a).

<sup>155</sup> The Service stated in TAM 8019119 that while a company's employees are a segment of the general public, two retired employees who received material upon their request did not constitute a segment of the general public since they did not receive it "because of their civic role as voters or constituents." On the other hand, in analyzing a corporation's "governmental affairs department" the Service has indicated that the management group is a segment of the general public where the effort is to cause them to act in their individual capacities as voters or constituents. TAM 8202021.

<sup>156</sup> TAM 8202021.

<sup>157</sup> TAM 8202021.

<sup>158</sup> See *Conn. Light & Power Co. v. U.S.*, 368 F.2d 233 (Cl. Ct. 1966) (involving pre-1962 law).

<sup>159</sup> TAM 8715006 (involving a zoning referendum). See also *McDonald v. Comr.*, 323 U.S. 57 (1944) (no loss allowed for nondeductible campaign expenses and such expenses could not be amortized).

<sup>160</sup> Cf. Regs. §1.162-1(a) as to public policy and deductions.

<sup>161</sup> S. Rep. No. 1881, 87th Cong., 2d Sess. 23-24 (1962).

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*Note:* A business may attempt to obtain a deduction for grass roots lobbying by making a donation to a charity that is not a private foundation and that may carry on some grass roots lobbying under either the substantial part test or the §501(b) election discussed in VI, below. Indeed, this possibility may have been a practical impediment to legislative or regulatory loosening of the restraints on lobbying by charities. The ability of a business both to bring about grass roots lobbying by the charity and to obtain a significant deduction for it, however, seems small. The law is fairly clear that a donor generally cannot deduct a gift to a charity that is used as a conduit for a particular use determined by the donor,<sup>141</sup> and this rule has been specifically applied to contributions earmarked for lobbying.<sup>142</sup>

It has been suggested that the distinction between grass roots lobbying and goodwill advertising (discussed below) is unconstitutionally vague on the same grounds that regulations were invalidated in *Big Mama Rag, Inc. v. U.S.*<sup>143</sup> If so, the limitations on grass roots lobbying expenditures could be void.

#### b. Deductible Institutional or "Goodwill" Advertising

While §162(e) does not mention "goodwill" advertising, former Regs. §1.162-15(c) adopted in 1959, which precipitated the enactment of §162(e), did. That regulation distinguished from the then totally nondeductible lobbying and political expenditures those "expenditures for institutional or 'goodwill' advertising which keeps the taxpayer's name before the public . . ." and which relates "to the patronage the taxpayer might reasonably expect in the future." This provision appears without change in Regs. §1.162-20(a)(2). It seems to serve two purposes. One is to recognize that such expenditures can be ordinary and necessary for the purposes of §162(a) generally if they have a business nexus and are not unreasonable in amount and are politically impartial.<sup>144</sup> The second purpose, which explains the location of this provision in the §162(e) regulations, is to distinguish such advertising from grass roots lobbying and election campaigning.

The regulation gives two examples of deductible "goodwill" advertising. One is advertising promoting causes such as the Red Cross and U.S. Savings Bonds.<sup>145</sup> The second is advertising presenting views on "economic, financial, social or other subjects of a general nature . . ." The second example includes a caveat that the advertising must not constitute grass roots lobbying or campaigning for a particular candidate, but the IRS has applied that caveat to "good cause" advertising.<sup>146</sup>

<sup>141</sup> See Rev. Rul. 61-56, 1961-1 C.B. 15; *Peac v. Comr.*, 43 T.C. 1 (1964); cf. *Brinley v. Comr.*, 782 F.2d 1326 (5th Cir. 1986).

<sup>142</sup> Rev. Rul. 80-273, 1980-2 C.B. 459, see also Regs. §1.170A-1(b)(5) and (6) (no charitable deduction allowed for campaign contributions and lobbying expenditures).

<sup>143</sup> 61 F.2d 1030 (D.C. Cir. 1980). *Danau*, "Grass Roots Lobbying and Goodwill Advertising: Are the Regulations Implementing Section 162(e)(2)(B) Unconstitutionally Vague?" 62 TAXES 722 (1984).

<sup>144</sup> Rev. Rul. 62-156, 1962-2 C.B. 47. See *Love Box Co., Inc. v. Comr.*, 842 F.2d 1213 (10th Cir. 1988), cert. denied, 109 S. Ct. 61 (sparsely attended seminars on taxpayer's corporate philosophy espousing free enterprise, etc., could not have advanced taxpayer's business interests).

<sup>145</sup> Query whether other less universally appreciated causes will qualify.

<sup>146</sup> See Rev. Rul. 62-156, 1962-2 C.B. 47.

Rev. Rul. 62-156<sup>147</sup> provides significant guidance under the post-1962 regulations, even though it was issued under the prior regulations. It states that encouraging persons to register and to vote is a "good cause" in the nature of promoting the Red Cross. It loosens the requirement that the expenditure be related to future patronage by permitting fairly indirect business benefits such as improving employee morale by giving time off to vote. As noted above in connection with campaign expenditures, it explains that the political impartiality of advertising may be ascertained by asking whether the message is directed to an audience the response of which would reasonably be expected to redound to the benefit of one political group or faction.

Regulations proposed in 1980 but not yet adopted appear to tighten up the expectation of business benefit requirement slightly and to eliminate an inference that the advertising of views must be on a general as opposed to a specific topic.<sup>148</sup>

#### c. Proposed Regulations

Still pending are proposed regulations issued on November 25, 1980.<sup>149</sup> Their preamble indicates that their purpose was to "provide clearer guidelines for determining whether a communication constitutes an attempt to influence the public with respect to legislation." Consistent with this purpose, the proposed regulations would establish a three-factor test to be applied in determining whether a communication constitutes grass roots lobbying. This is the same test that was proposed under §4945 and later substantially modified.<sup>150</sup> The proposal also contains explicit definitions of several of the terms used in the test and several examples to explain the operation of the test. If adopted, the proposed regulations would incorporate all of these provisions as part of an expanded Regs. §1.162-20(c)(4).<sup>151</sup>

The same "three-factor test" was proposed in 1980 to be applied under §4945 to private foundations but was abandoned in Regs. §53.4945-2(a) and Regs. §56.4911-2(b)(2) in favor of a more circumscribed definition. It appears that the Service has separated the grass roots lobbying definitions for businesses and for charities.<sup>152</sup>

The proposed three-factor test provides that a communication shall be considered part of a grass roots lobbying effort if it has all three of the following characteristics:

- (i) It pertains to pending or proposed legislation;<sup>153</sup>
- (ii) It reflects a view with respect to the desirability of the legislation;<sup>154</sup> and

<sup>147</sup> *Id.*

<sup>148</sup> Prop. Regs. §1.162-20(a)(2), 45 Fed. Reg. 78167 (11/25/80).

<sup>149</sup> *Id.*

<sup>150</sup> See VI, D, below.

<sup>151</sup> This portion of the proposed regulations would be effective for tax years beginning after 1983.

<sup>152</sup> See "IRS Unails Revisions to Proposal Section 501(b) Lobbying Regulations" 34 Tax Notes 1021, 1025 (3/7/88).

<sup>153</sup> Actually, it refers to legislation "likely in the immediate future to be proposed," suggesting a narrow definition, but then refers to seeking legislation generally, suggesting a broad definition. Prop. Regs. §1.162-20(c)(4)(i)(A).

<sup>154</sup> The proposal follows here the approach of Rev. Rul. 62-156, 1962-2 C.B. 47 and of Regs. §53.4945-2(d)(1)(iv) in providing an inference that the communication expresses a view because it is selectively disseminated to a particular audience.

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## Detailed Analysis

(iii) It is communicated in a manner designed to reach individuals in their capacity as voters or constituents as opposed to communications for academic or scientific purposes.

In the event that a portion of a communication, in the form of an advertisement, is determined to constitute grass roots lobbying under the three-factor test, no deduction would be permitted for any expenditure in connection with the communication.<sup>173</sup> The proposal clarifies the status of elective school boards and the like as administrative as opposed to legislative.<sup>174</sup>

*Comment:* Several of the examples contained in the proposed regulations are worthy of special note, including Example (8)<sup>175</sup> which deals with a corporation that "loans" one of its executives to a trade association of which the corporation is a member. While the executive is on loan, he spends time assisting the grass roots lobbying efforts of the trade association. The example states that salary and fringe benefits provided to the executive by the corporation while he was working for the trade association would constitute grass roots expenditures by the corporation and thus be nondeductible. This example provides a good indication of how far the IRS is prepared to reach in order to trace indirect grass roots expenditures.

### 4. Illegal Lobbying and Political Expenditures

The issue of whether a lobbying or campaign expenditure is directly related to an appearance before legislators, etc., need not be reached if the expenditure is an illegal bribe or other illegal payment. Section 162(c) renders such payments nondeductible in any event.<sup>176</sup> While a lobbyist who fails to comply with the Federal Regulation of Lobbying Act will be guilty of a misdemeanor<sup>177</sup> it is not clear that his expenditures thereby become "illegal."<sup>178</sup> For a detailed discussion of the provisions of §162(c), see 342 T.M., *Deductibility of Legal and Accounting Fees, Bribes, and Illegal Payments*.

### D. The Expenses of a Professional Lobbyist or Advertising Agency

#### 1. Lobbyist

It is noteworthy that the Supreme Court first reviewed and approved Treasury Regulations that previously denied all deductions for lobbying expenses in the case of a corporate taxpayer that was created to lobby on a single

issue.<sup>179</sup> Apparently, the Service did not disallow all of its deductions but just those for publicity and legal advice that seemed directly related to the lobbying effort.

Without referring to that opinion, the Court of Claims allowed deduction of half of a lobbyist's hotel bill while in Washington for five months on the grounds that it was attributable to his lobbying activity.<sup>180</sup> The court denied deduction on public policy grounds, however, for \$4,000 paid to persons whom the taxpayer thought would have denied receipt of the money. In a ruling issued 13 years later, the Service announced its disagreement with that decision to any extent the allowed part of the hotel bill deduction represented the expense of entertaining legislators and thus fell within the category of "directly connected with lobbying" (as opposed to his basic living expenses) but not "in direct connection with" an appearance before, etc., legislators under §162(e)(1)(A).<sup>181</sup>

The Service thus has identified three baskets for a lobbyist's expenses.<sup>182</sup> First, his general business expenses that are not directly related to lobbying, such as secretarial, general office, and travel expenses, are deductible for the same reason an illegal bookmaker can deduct such expenses. Second, his expenses incurred in direct connection with his appearances, etc. before legislators are deductible under §162(e)(1)(A). The legislation is considered to be of direct interest to the lobbyist because he has been hired with respect to it. Third, no deduction is allowed for the cost of entertaining legislators (or grass roots lobbying, we may assume) because it is a lobbying expense not directly connected with appearance before legislators.

*Note:* The IRS has indicated, however, that the entire fee paid to a professional lobbyist for grass roots lobbying will not be deductible by the taxpayer that hires the lobbyist even if part of the fee is used for expenses deductible by the lobbyist.<sup>183</sup>

The IRS has issued letter rulings to the effect that a lobbying corporation is not a personal service corporation described in §441(i)(1) and that it may retain a non-calendar year as long as it does not render advice and counsel to its clients but only attempts to influence legislation.<sup>184</sup>

#### 2. Advertising Agency

When an advertising agency reports as income the payments it receives from a candidate and pays those funds to campaign committees, it may deduct the payments as business expenses.<sup>185</sup> If the funds are handled on an agency basis, then reporting as income can be avoided.<sup>186</sup>

<sup>173</sup> According to the Notice of Proposed Rulemaking (LR-190-77), this all or nothing approach is consistent with *Consumers Power Co. v. U.S.*, 299 F. Supp. 1180, 3183 (E.D. Mich. 1969), *rev'd on other grounds and aff'd*, 427 F.2d 78 (6th Cir. 1970), *cert. denied*, 400 U.S. 925 (1970). Actually, that district court opinion simply stated that the court read the ads "in toto."

<sup>174</sup> Prop. Regs. §1.162-20(c)(4)(ii)(D).

<sup>175</sup> Prop. Regs. §1.162-20(c)(4)(iii).

<sup>176</sup> See Rev. Rul. 81-151, 1984-1 C.B. 74 (corporate officer could not deduct reimbursement to corporation for illegal campaign contribution he had approved). See also Rev. Rul. 76-29, 1976-1 C.B. 85 (indicating that violation of the predecessor of the Federal Election Campaign Act would cause disallowance of an otherwise allowable deduction).

<sup>177</sup> 2 U.S.C. §269.

<sup>178</sup> Regs. §1.162-18(b)(1) requires that the payment itself must subject the payor to a criminal penalty or loss of license or privilege to engage in a trade or business.

<sup>179</sup> *Textile Mills Securities Corp. v. Comr.*, 314 U.S. 326 (1942).

<sup>180</sup> *Black v. U.S.*, 529 F. Supp. 956 (Cl. Ct. 1955).

<sup>181</sup> Rev. Rul. 68-414, 1968-2 C.B. 74. Cf. TAM 8202021 (discussing rationale of Rev. Rul. 68-414, that to deny professional lobbyist a deduction for ordinary business expenses not directly related to grass roots lobbying would improperly tax the lobbyist on a gross and not net income basis).

<sup>182</sup> Rev. Rul. 68-414, 1968-2 C.B. 74.

<sup>183</sup> TAM 8202021.

<sup>184</sup> PLR 8901021-21.

<sup>185</sup> *Keene v. Comr.*, 38 T.C.M. 353 (1979).

<sup>186</sup> See *Liddy v. Comr.*, 808 F.2d 312 (4th Cir. 1987); *Beasley v. Comr.*, T.C. Memo 1989-173.

## E. Limitations on Deductions for Indirect Contributions to Political Parties

### 1. General

Under §162(e), no business deduction is allowable for expenditures "for political campaign purposes (including the support of or opposition to any candidate for public office) . . . ." Sections 271 and 276 are designed to supplement this denial of deduction for campaign expenditures and to help ensure that it is not circumvented by expenditures that are indirect campaign contributions.<sup>100</sup>

### 2. Deductions for Bad Debts Owed by Political Parties (§271)

#### a. General Rule

With the two exceptions discussed in c, below, §271 denies the deductions which normally would be allowable under §166 (relating to bad debts) and §165(g) (relating to worthless securities) as a result of a worthless debt owed by a "political party," as that term is defined in §271(b)(1).<sup>101</sup> Note that if the transaction does not create a bona fide creditor relationship, then there will be no debt to be deducted as worthless.<sup>102</sup>

*Comment:* A corporate creditor that sustains a loss that is nondeductible under §271 should be allowed a reduction in its earnings and profits. Although no authority so holds, it seems that disallowing such a reduction would not assist in carrying out the policy of §271, and it would be contrary to the concept of earnings and profits as a corporation's economic income.<sup>103</sup>

#### b. Definition of Political Party

In essaying a broad definition of the term "political party," the Code and regulations include two definitions.<sup>104</sup> The statute attempts to describe a party in operational terms that are very similar to the definition of a political organization in §527; this definition would encompass not only political parties such as Democratic and Republican but also any campaign fund. Unlike the §527(e)(1) definition of political organization, campaigning need not be the party's primary purpose. The more restrictive definition in the regulations includes a party "as commonly understood."<sup>105</sup> The term also includes any national, state or

local committee of the party.<sup>106</sup> A party may be a committee, association or organization whether incorporated or not.<sup>107</sup>

The definition requires that a party either must accept contributions or make expenditures for campaign purposes. The terms "contributions" and "expenditures" are defined so broadly as to include loans and promises and virtually anything of real or potential value.<sup>108</sup>

The expenditures or contributions must be made with a certain purpose. Since the statute refers to accepting contributions rather than making contributions, it is clear that in both cases it is the party's purpose that is relevant and not that of its contributors. The requisite purpose is to influence the election of certain persons, whether successful or not. The election of persons to a federal, state or local elective public office may be the purpose of a political party's activities.<sup>109</sup> The particular person supported by the party need not be a candidate in the sense of having his name on the formal ballot, since such preliminary activities as promotion of nomination in a party caucus is a qualifying activity.<sup>110</sup> To be a party, the organization must direct its efforts at the election of a particular individual as opposed to simply informing the electorate in a nonpartisan way.<sup>111</sup>

The abbreviated provisions of §271 leave unanswered the following practical questions regarding its application:

- (i) May the candidate himself be a political party?
- (ii) Is there a de minimis rule with respect to being classified as a political party?<sup>112</sup>
- (iii) Once an organization is classified as a political party for purposes of §271, does it retain that status forever or may it divest itself of the status by not receiving "contributions" or making "expenditures" for a period of time?
- (iv) If an individual vendor deals with an organization that, unknown to the vendor, is classified as a political party, do the rules of §271 apply to deny the vendor a bad debt deduction?

<sup>100</sup> §271(b)(1)(B). Thus, a committee that is simply a conduit of funds to a party is also a party. Regs. §1.271-1(b)(1).

<sup>101</sup> §271(b)(1)(C); Regs. §1.271-1(b)(1). These terms all imply a joint activity of two or more people and so it has been suggested that a loan to the candidate himself would not be covered. While the well advised candidate certainly will want to distance himself from campaign debts, he may not be able to and the Service could argue that he constitutes a political party "as commonly understood" since a candidate by definition is at least trying to involve other persons in his cause. Support for this view may be found in the inclusion of sales to candidates themselves in the context of sales to political parties in the Senate Finance Committee Report on §271(c) enacted in P. L. 94-455, S. Rep. No. 938, 94th Cong., 2d Sess. 401 (1976).

<sup>102</sup> Regs. §1.271-1(b)(2) and (3). The Code incorporates the §271 definitions in §276(b)(1)(C) and §527(e)(3) and (4).

<sup>103</sup> §271(b)(1)(C).

<sup>104</sup> Regs. §1.271-1(b)(1).

<sup>105</sup> *Id.*

<sup>106</sup> The definition of "political party" requires only that an organization directly or indirectly make or receive campaign contributions. Does the fact that these terms are plural suggest that an organization can make one expenditure or receive one contribution without being classified as a political party? Certainly §271 does not render nondeductible the bad debts of a normal business organization that makes partisan campaign expenditures.

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(v) Is there any limit to the rule as applied to a political party obligation that is negotiated to another holder?

c. *Creditors Partially Exempted from the Provisions of §271*

The general rule of §271(a) is that no bad debt or worthless security deduction is allowed to the creditors of a political party with respect to its obligations. However, two types of creditors are excepted from this treatment.

(1) *Banks*

A bank (as defined in §581) is not automatically denied a deduction for a bad debt or worthless security owed by a political party. If a bank acquires a debt from or of a political party in accordance with its "usual commercial practices," it will be permitted to take an appropriate deduction if the loan becomes uncollectible or the securities become worthless.<sup>221</sup> However, if the loan is made for political reasons, the deduction will not be allowed.<sup>222</sup>

(2) *Accrual Method Vendors Who Regularly Deal with Political Parties*

Section 271 was enacted to prevent deductions for concealed campaign contributions.<sup>223</sup> As applied to an accrual method vendor, however, it had the perverse effect of forcing recognition of income that was never received, without relief by a later deduction. Furthermore, since the section did not similarly impact cash method vendors, it was thought to discriminate unfairly.<sup>224</sup>

Therefore, §271(c) was added in 1976 to exempt from the application of §271(a) bad debts accrued as receivables on sales of goods or services. In order to ensure that the benefits of the provision are limited to vendors who are in the business of servicing candidates as opposed to those making disguised contributions, the exemption applies only if: (1) the debt arose from a bona fide sale; (2) the debt arose in the ordinary course of taxpayer's business; (3) for the year of accrual more than 30% of taxpayer's receivables accrued in the ordinary course of business were due from political parties; and (4) the taxpayer made substantial continuing efforts to collect on the debt.<sup>225</sup>

While not stated in the Code, an aggregation rule in determining the 30% requirement is provided by the Senate Report. Every trade or business that the individual taxpayer controls is to be aggregated and in the case of a corporate vendor every trade or business of all corporations under common ownership is to be aggregated.<sup>226</sup>

3. *Other Indirect Contributions to Political Parties or Candidates (§276)*

a. *General*

Section 276 was enacted in 1966.<sup>227</sup> Like §271, this

<sup>221</sup> Regs. §1.271-1(a).

<sup>222</sup> Regs. §1.271-1(a) illustrates a noncommercial loan as one made solely because the bank president is active in the party.

<sup>223</sup> S. Rep. No. 938, 94th Cong., 2d Sess. 401-402 (1976).

<sup>224</sup> *Id.*

<sup>225</sup> The Senate Report says collection efforts must be made over a period of time and must be documented. Filing a lawsuit is not required. S. Rep. No. 938, 94th Cong., 2d Sess. 401-402 (1976).

<sup>226</sup> *Id.*

<sup>227</sup> See S. Rep. No. 1010, 89th Cong., 2d Sess. (1966).

section is in Part IX, Chapter 1B, Subtitle A of the Code, which defines nondeductible items. Therefore, §276 applies only to expenses that otherwise would be deductible and does not make deductible any expenses not otherwise allowed under the Code.<sup>228</sup> As such, it is somewhat redundant of §162(e)(2) and is best viewed as an adjunct to §162(e)(2) dealing with cases where the contributor might appear also to be buying goods or services such as a dinner or advertising.

Whereas §271 deals only with indirect aid to political parties, §276 governs not only contributions to parties (by using a definition virtually identical to that in §271) but also aid to a "political candidate." The regulations define a candidate to include not only a clearly selected or nominated candidate but also a person "generally believed" by the contributors to be an individual who is seeking or in the reasonably foreseeable future will be seeking the nomination or election.<sup>229</sup>

Section 276 disallows deductions for three specific items: advertising, dinners or programs, and inaugural events. Each of those items is discussed below.

b. *Advertising*

(1) *Convention Program of a Political Party*

No deduction is allowable for advertising in a convention program of a political party.<sup>230</sup> This is true whether the party publishes the program, or it is published by a commercial enterprise that pays the party for the rights to publish it or by a committee or business corporation that pays the party nothing directly or indirectly.<sup>231</sup>

(2) *Other Publications*

No deduction is allowable for advertising in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or candidate.<sup>232</sup> Inurement can occur in four ways: (1) if a publication is sponsored by or identified with a party or candidate; (2) if the party or candidate may order the disposition of the proceeds of the publication; (3) if any of the proceeds are used for the benefit of the party or candidate; or (4) if the benefits would have inured to the party or candidate had there been

<sup>228</sup> Regs. §1.276-1(a). Note that §276(c) cross references §274, relations to the disallowance of entertainment expenses.

<sup>229</sup> Regs. §1.276-1(f)(2) (also stating that in the absence of contrary evidence, it will be presumed that an incumbent is a candidate).

<sup>230</sup> §276(a)(1). This reversed the result in Rev. Rul. 56-343, 1956-2 C.B. 115 and former §276(c). Note that Regs. §1.276-1(b)(2), permitting certain deductions for certain convention programs, reflects a version of the statute that is no longer in effect and thus should be disregarded. See Rev. Rul. 76-29, 1976-1 C.B. 85 (applying earlier version of §276(c)).

<sup>231</sup> Regs. §1.276-1(b)(1)(i). Contributions to a committee organized to bring a political convention to a city may be deductible under Regs. §1.162-15, however. See Rev. Rul. 55-263, 1955-1 C.B. 22, and Regs. §1.276-1(b)(1)(i). The donor should be able to prove that its donation is directly commensurate in amount to an expected increase in revenues that will result from the success of the committee in attracting the convention to the city. See Rev. Rul. 76-207, 1976-1 C.B. 158 (discussing the typical functions of a business league organized to attract conventions).

<sup>232</sup> §276(a)(1). The types of such publications subject to the statute are described in Regs. §1.276-1(c), and include radio and television broadcasts, as well as printed advertisements.

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net proceeds of the publication.<sup>225</sup> These cases are distinguished from coincidental or remote benefit, as when a regular business advertisement is placed in a newspaper that happens to be supporting a particular candidate.<sup>226</sup> Note that a payment need not be in conjunction with an election in order to inure to the benefit of a party.<sup>227</sup>

When the publication relates to a candidate but not a party, the regulations impose additional requirements for inurement.<sup>228</sup> Some part of the proceeds must be usable for the campaign directly or indirectly and the proceeds must not be received by the candidate in the ordinary course of his trade or business other than as an office holder. Thus, advertisement in a newspaper that happens to be owned by a candidate (or any other purchase of goods or services from a candidate) may be a deductible business expense unless the payment is abnormally large.<sup>229</sup>

#### c. Admission to Dinner or Program

No deduction is allowable for the cost of admission to any dinner or program if any part of the proceeds may inure to the benefit of a political party or candidate.<sup>230</sup> The definition of inurement is the same as described above in connection with publications. Thus, it matters not whether dinner or program tickets carry a charge that simply covers the actual cost of the dinner or provides excess funds for the party or candidate, or that, in fact, the candidate donates the proceeds to charity; in either case the price is nondeductible.<sup>231</sup> Furthermore, a business cannot bootstrap itself to a deduction by giving the ticket to a customer.<sup>232</sup>

#### d. Inaugural Events

No deduction is allowable for the expenses<sup>233</sup> of attending an inaugural event if it is identified with a political party or a political candidate.<sup>234</sup> Thus it matters not that the event is sponsored by the government and the proceeds inure to the government, if the event is identified with a political candidate.<sup>235</sup> Since any person being inaugurated after winning an election also is a political candidate, it is hard to discern any inaugural expense that ever could be deductible.<sup>236</sup> The same rule applies to any equivalent event for an unsuccessful candidate.<sup>237</sup>

<sup>225</sup> Regs. §1.276-1(f)(3)(i). If a political party can order the disposition of proceeds even in a limited non-campaign area such as nonpartisan voter registration or education, the impermissible inurement still has occurred. Regs. §1.276-1(f)(3)(ii).

<sup>226</sup> Regs. §1.276-1(f)(3)(i).

<sup>227</sup> Regs. §1.276-1(f)(3)(ii).

<sup>228</sup> Regs. §1.276-1(f)(3)(iii).

<sup>229</sup> Regs. §1.276-1(f)(3)(iv), Example (4).

<sup>230</sup> §276(a)(2). This rule extends to virtually any type of meeting, gathering or event. Regs. §1.276-1(d). It matters not that the event occurs after a candidate's election. Regs. §1.276-1(f)(3)(iii). Cf. Rev. Rul. 82-201, 1982-2 C.B. 5 (discussing the purchase of items from a political party, such as a book on the history of the party, in connection with the former tax credit for contributions and treating only the payment in excess of the book's fair market value as a contribution).

<sup>231</sup> Regs. §1.276-1(f)(3)(iv), Examples (2) and (3). All ancillary expenses of the event also are nondeductible. Regs. §1.276-1(f)(4).

<sup>232</sup> See *Lancaster Steam Products Corp. v. Comr.*, T.C. Memo 1969-119.

<sup>233</sup> Expenses include any separate charges for food, prizes, transportation, food and drink. Regs. §1.276-1(f)(4).

<sup>234</sup> §276(a)(3); Regs. §1.276-1(e)(1).

<sup>235</sup> *Id.*

<sup>236</sup> See Example in Regs. §1.276-1(e)(2).

<sup>237</sup> Regs. §1.276-1(e)(1).

### III. Taxation of Candidates and Public Office Holders

#### A. Relationship Between the Candidate or Public Office Holder and the Political Organization

This section III will discuss the treatment of the income and expenses of candidates (who may be incumbents) and public office holders. The taxation of political organizations' income under §527 is discussed in IV, below. While a candidate is not a political organization under §527, candidates and elected officials will almost always have relationships with one or more political organizations that usually include their own campaign funds. Those relationships will always include expenditure of the organization's funds for the candidate's campaign and may include expenditure of campaign funds for the individual's personal or office expenses, the transfer of campaign funds to the individual, and loans between such individual and the fund.

Political organizations are tax-exempt, except for limited types of income as discussed in IV, B, 4, below. The political organization related to a candidate may be an organized committee with a treasurer or it may simply be a separate bank account of the candidate that qualifies as a "segregated fund."<sup>238</sup> In either event, when such an organization expends its funds for an "exempt function," the expenditure does not produce taxable income to a candidate, even though the candidate may benefit from the expenditure.<sup>239</sup> Thus, a candidate does not recognize gross income when: (1) a political organization pays for voice and speech lessons for the candidate in order to improve that candidate's public speaking skills;<sup>240</sup> (2) surplus campaign funds are used to pay expenses of an elected candidate to attend a national party convention as a delegate, because they are spent for the exempt function of candidate selection;<sup>241</sup> and (3) voter research and public opinion polls are conducted on behalf of an elected candidate with regard to future campaigns.<sup>242</sup>

Most importantly, the definition of "exempt function" in §527(e)(2) includes the making of expenditures relating to an office which, if incurred by the office holder, would be allowable as a deduction under §162(a). This appears to be limited to expenses "incurred" by the political organization such as wages of an employee of the organization who is loaned to work in the official's office. Thus, if the political organization pays or reimburses office expenses incurred by the office holder then the payments are includible in his gross income and can cause the organization to be taxable because such payment is not for an exempt function.<sup>243</sup> It is possible, however, that reimbursements by the political organization of the office expenses incurred by the office holder are within the definition of exempt function. For further discussion, see III, E, and IV, B, 2, d, (4), below.

When the political organization expends its funds for the personal use as opposed to the campaign use of a

<sup>238</sup> See IV, B, 2, below.

<sup>239</sup> Regs. §1.527-5(a)(i). See IV, B, 3, below.

<sup>240</sup> See Regs. §1.527-2(c)(5)(iii); S. Rep. No. 1357, 93d Cong., 2d Sess. 311 (1974).

<sup>241</sup> Rev. Rul. 79-12, 1979-1 C.B. 208.

<sup>242</sup> Rev. Rul. 79-13, 1979-1 C.B. 208.

<sup>243</sup> See Rev. Rul. 80-331, 1980-2 C.B. 29 (excess funds transferred to incumbent's office account).



f.o.t.s.

**FAX**

**FIREARMS TRAINING SYSTEMS, INC.**

**TO:** Mr. Herb Schlanger

**DATE:** 18 May 1994

**Fax No:** 525-9048

**Cover + 1**

**FR:** Robert R. Motter  
Chief Financial Officer

**SUBJ:** Attached Letter

Please see the attached letter.

Regards,

*Bob*

9704373219

**Firearms Training Systems, Inc.**  
7340 McGinnis Ferry Road, Suwanee, GA 30174  
Telephone No: (404) 813-0180 Fax No: (404) 813-0741

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17 May 1994

Mr. Herb Schlienger, Esq.  
230 Peachtree Street, N.W.  
Suite 2220  
Atlanta, GA 30303

Dear Herb:

I am addressing this letter to you as well as Mr. Thomas J. Madden of Venable, Baetjer, Howard & Civiletti in Washington, DC as both of you have, from time to time and on various associated issues, been retained by Firearms Training Systems (FATS) for legal counsel.

As you are no doubt aware, at the completion of the Price Waterhouse audit each year, a management representation letter is required to be provided to Price Waterhouse for each FATS entity. For Firearms Training Systems, Inc. (INC), this letter is required to be signed by the President, Chief Operating Officer and Chief Financial Officer and represents, among other things, that the company is compliant with all laws and regulations to which it is subject.

Unfortunately, I have information which leads me to believe that INC is, in fact, not compliant with all laws and regulations to which it is subject and, as a matter of good conscience, I will not be signing the associated management representation letter. Specifically I believe INC is non-compliant in matters relating to the Foreign Corrupt Practices Act (FCPA), political contributions requirements and the Alcohol, Tobacco & Firearms (ATF) regulations.

I believe it is in FATS' best interests to have these matters investigated immediately, however, I do not have the authority to engage you in such an endeavor. It is my responsibility, however, to inform you of such concerns.

I would appreciate a response from you indicating what course of action you plan to take with this information. You may certainly contact me at the office number listed below or at my home phone at (404) 271-8199.

Sincerely yours,

Robert R. Motter  
Chief Financial Officer

cc: Jody Scheckter  
Clare Fawkes  
Jonathan Wilfong, Price Waterhouse

**FIREARMS TRAINING SYSTEMS, INC.**

7340 McGinnis Ferry Road Suwanee, GA 30174 USA Tel (404) 813-0180 Fax (404) 813-0741

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Customer Service (404) 813-1940 Purchasing (404) 813-1930 Programs (404) 813-1925

97043773221



fats

**FAX**

---

**FIREARMS TRAINING SYSTEMS, INC.**

---

**TO:** Mr. Thomas J. Madden  
Venable, Baetjer, Howard & Civiletti

**DATE:** 18 May 1994

**Fax No:** (202) 962-8300

**FR:** Robert R. Motter  
Chief Financial Officer

Cover + 1

**SUBJ:** Attached Letter

---

Please see the attached letter.

Regards,

*Robert R Motter*

Firearms Training Systems, Inc.

7340 McGinnis Ferry Road, Suwanee, GA 30174

Telephone No: (404) 813-0180 Fax No: (404) 813-0741

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17 May 1994

Mr. Thomas J. Madden, Esq.  
Venable, Baetjer, Howard & Civiletti  
Suite 1000  
1201 New York Ave., N.W.  
Washington, DC 20005-4800

Dear Mr. Madden:

I am addressing this letter to you as well as Mr. Herb Schlanger in Atlanta as both of you have, from time to time and on various associated issues, been retained by Firearms Training Systems (FATS) for legal counsel.

As you are no doubt aware, at the completion of the Price Waterhouse audit each year, a management representation letter is required to be provided to Price Waterhouse for each FATS entity. For Firearms Training Systems, Inc. (INC), this letter is required to be signed by the President, Chief Operating Officer and Chief Financial Officer and represents, among other things, that the company is compliant with all laws and regulations to which it is subject.

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Sincerely yours,

Robert R. Motter  
Chief Financial Officer

cc: Jody Scheckter  
Clare Fawkes  
Jonathan Wilfong, Price Waterhouse

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ALBERT CRUTCHER, 1860-1931

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**November 9, 1994**

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AFFILIATED SAUDI ARABIA OFFICE

JARIR PLAZA, OLAYA STREET  
P.O. BOX 15870  
RIYADH 11454 SAUDI ARABIA

OUR FILE NUMBER

T 00000-00000

The Honorable Trevor Potter  
Chairman  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, DC 20463

Re: MUR 4090; Firearms Training Systems, Inc.;  
Robert Mecredy

Dear Chairman Potter:

This is to advise you that this firm will be representing Robert Mecredy in the above-referenced matter. We were engaged today to represent Mr. Mecredy. On behalf of Mr. Mecredy, we intend to respond to your October 27, 1994 letter to Thomas J. Kelly, Jr., of Venable, Baetjer, Howard & Civiletti, attached hereto. However, because we have just been retained to represent Mr. Mecredy in this matter, we are seeking an additional 30 days, namely, until December 14, 1994, in which to file our response. In light of the Commission's reliance on statements of out-of-state witnesses in finding that the FEC violations allegedly committed by Mr. Mecredy were knowing and willful, and the time needed to both contact these witnesses and understand the government's allegations fully, we submit that there is good cause to grant a 30-day extension for Mr. Mecredy's response.

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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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GIBSON, DUNN & CRUTCHER

The Honorable Trevor Potter  
November 9, 1994  
Page 2

Please contact me if you have any questions about  
this request.

Very truly yours,



F. Joseph Warin

FJW/jvr  
Enclosure  
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COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

Nov 22 12 59 PM '94

In the Matter of )  
 )  
Firearms Training Systems, Inc. ) MUR 4090  
Jody D. Scheckter )  
Robert Motter )  
Robert Mecredy )  
Janice Dean )

**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 18, 1994, the Commission found reason to believe that Firearms Training Systems, Inc. violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f; that Jody D. Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Mecredy violated 2 U.S.C. § 441e; and that Janice Dean violated 2 U.S.C. § 441f and knowingly and willfully violated 2 U.S.C. § 441f. At that time, the Commission approved one joint conciliation agreement which addressed the violations of all of the Respondents. Such an agreement had been recommended by this Office because common counsel for Firearms Systems, Jody Scheckter, Janice Dean and Robert Mecredy had represented that they believed the matter could be resolved expeditiously in that manner.

Notification of the Commission's reason to believe findings was issued to Respondents on October 27, 1994. The Commission's

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proposed agreement, however, was not forwarded to respondents at that time.<sup>1</sup>

Upon their receipt of the Commission's notifications, counsel for Firearms Systems, Jody Scheckter, Janice Dean and Robert Mecredy informed this Office that they disagreed with the Commission's findings as to the scope of the violations in this matter. Specifically, counsel stated that they disagreed with the knowing and willful findings against Jody Scheckter, arguing that he had no knowledge of the reimbursement scheme. Counsel also argued that the findings against Janice Dean were "harsh." Counsel stated that it no longer appeared that they would be able to conduct a joint representation. They stated that they would continue to represent the corporation, and that the other respondents would have to obtain their own counsel.

This Office was also contacted by counsel for Robert Motter. Motter's counsel relayed the events that occurred from Motter's point of view, and in large part they were consistent with what we have previously been told. However, Motter's counsel was insistent that Jody Scheckter not only knew of the reimbursement scheme, but pressured Motter to carry it out.

In spite of this Office's initial optimism, it does not appear that this matter can be concluded without some investigation. This Office is currently anticipating responses from several respondents to the Commission's reason to believe

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1. The Commission was informed in a Memorandum dated October 20, 1994 that this Office would forward the proposed agreement at a later time.

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findings. Once those responses are received, they will be analyzed for the Commission, and this Office will make appropriate recommendations.

Lawrence M. Noble  
General Counsel

11/22/44  
Date

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

Staff Assigned: Tony Buckley

97043773299

STEVEN W. LUDWICK, P.C.

ATTORNEY AT LAW  
275 LINCOLN PIEDMONT BUILDING  
3445 PIEDMONT ROAD, N.E.  
ATLANTA, GA 30305-1741

(404) 237-7977

RECEIVED  
FEDERAL ELECTION  
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Nov 20 9 21 AM '94

November 22, 1994

Anthony T. Buckley, Esquire  
FEDERAL ELECTION COMMISSION  
999 E. Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090  
Janice Dean

Dear Mr. Buckley:

Enclosed is an original authorization for your file reflecting my representation of Janice Dean in the referenced matter.

This is also to confirm that you have given me an additional twenty (20) days to submit materials relevant to the Commission's consideration of this matter, for which I thank you.

Sincerely,



Steven W. Ludwick

SWL:dsw

Enclosure

cc: Janice Dean

Nov 28 10 04 AM '94

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OFFICE OF GENERAL  
COUNSEL

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November 8, 1994

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COMMISSION  
OFFICE OF GENERAL

Anthony T. Buckley, Esquire  
FEDERAL ELECTION COMMISSION  
999 E. Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090  
Janice Dean

Dear Mr. Buckley:

My legal representative in the above-styled matter is:

Steven W. Ludwick  
Suite 275, Lincoln-Piedmont Building  
3405 Piedmont Road, N.E.  
Atlanta, Georgia 30305  
(404) 237-7977  
(404) 233-9462 (Facsimile)

Mr. Ludwick is authorized to receive any and all notifications and other communications from the Commission in my behalf.

This 8th day of November, 1994.

Sincerely,

*Janice Dean*

Janice Dean

9764373271

**CACHERIS & TREANOR**

ATTORNEYS AT LAW

1100 CONNECTICUT AVENUE, N. W.

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PLATO CACHERIS  
GERARD TREANOR  
PHILIP T. INGLIMA\*

JUDITH L. WHEAT  
KARL A. RACINE\*  
JOHN F. HUNDLEY\*

PHILIP T. WHITE\*  
OF COUNSEL

\* ADMITTED IN D. C., N. Y. & N. J. ONLY  
\* ADMITTED IN D. C. & MD. ONLY  
\* ADMITTED IN VA. ONLY  
\* ADMITTED IN D. C. ONLY

December 5, 1994

**CONFIDENTIAL TREATMENT**  
**REQUESTED BY JODY SCHECKTER**

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Dec 5 4 44 PM '94

**HAND DELIVERED**

FOIA Officer  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463


Re: MUR 4090  
Request for Confidential Treatment by Jody Scheckter

Dear Sir or Madam:

Pursuant to 2 U.S.C. § 437g(a)(12)(A) and 11 C.F.R. § 4.5(a), we are requesting on behalf of Jody Scheckter that confidential treatment be accorded to all submissions on his behalf to the Federal Election Commission in connection with the above-referenced investigation. This request includes, but is not limited to, a letter to Anthony T. Buckley of this date written by Gerard Treanor and a declaration by Jody Scheckter.

Please inform us promptly of any request under the Freedom of Information Act seeking access to the material described above so that we may substantiate the grounds for confidential treatment, unless the staff intends to deny access on other grounds.

Very truly yours,



Gerard Treanor

9704373232

JAS. A. GIBSON, 1887-1982  
W. E. DUNN, 1891-1985  
ALBERT CRUTCHER, 1860-1981

**GIBSON, DUNN & CRUTCHER  
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TOKYO 105, JAPAN

AFFILIATED SAUDI ARABIA OFFICE  
JARI'R PLAZA, OLAYA STREET  
P.O. BOX 15870  
RIYADH 11454, SAUDI ARABIA

OUR FILE NUMBER

T 20284-00001

Dec 5 1 15 PM '94  
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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

December 5, 1994

**CONFIDENTIAL TREATMENT**  
**REQUESTED BY**  
**ROBERT F. MECREDDY**

LOS ANGELES  
333 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-3197

CENTURY CITY  
2029 CENTURY PARK EAST  
LOS ANGELES, CALIFORNIA 90067-3026

ORANGE COUNTY  
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IRVINE, CALIFORNIA 92714-8557

SACRAMENTO  
400 CAPITOL MALL  
SACRAMENTO, CALIFORNIA 95814-4407

SAN DIEGO  
750 B STREET  
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SAN FRANCISCO  
ONE MONTGOMERY STREET TELESIS TOWER  
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**BY HAND DELIVERY**

Anthony T. Buckley, Esquire  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090 -- Request For Confidential Treatment  
By Robert F. Mecreddy

Dear Mr. Buckley:

Pursuant to 2 U.S.C. § 437g(a)(12)(A) and 11 C.F.R. § 4.5(a), we are requesting on behalf of Robert F. Mecreddy that confidential treatment be accorded to all submissions on his behalf to the Federal Election Commission in connection with the above-referenced investigation. This request includes, but not limited to, a letter to you of this date written by F. Joseph Warin and a declaration by Robert F. Mecreddy and attached exhibit that have been submitted today.

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GIBSON, DUNN & CRUTCHER

December 5, 1994  
Page 2

Please inform us promptly of any request under the Freedom of Information Act seeking access to the material described above, so that we may substantiate the grounds for confidential treatment, unless the staff intends to deny access on other grounds.

Very truly yours,

*Matthew Hinerfeld*  
Matthew B. Hinerfeld

MBH/mbh

WL943390.011/-1+

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CONFIDENTIAL TREATMENT REQUESTED BY  
ROBERT F. MECREY

JAS. A. GIBSON, 1952-1982  
W. E. DUNN, 1981-1985  
ALBERT CRUTCHER, 1960-1991

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December 5, 1994

**CONFIDENTIAL TREATMENT**  
**REQUESTED BY**  
**ROBERT F. MECREDEY**

**BY HAND DELIVERY**

FOIA Officer  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090 -- Request For Confidential Treatment  
By Robert F. Mecredy

Dear Sir or Madam:

Pursuant to 2 U.S.C. § 437g(a)(12)(A) and 11 C.F.R. § 4.5(a), we are requesting on behalf of Robert F. Mecredy that confidential treatment be accorded to all submissions on his behalf to the Federal Election Commission in connection with the above-referenced investigation. This request includes, but not limited to, a letter to Anthony T. Buckley of this date written by F. Joseph Warin and a declaration by Robert F. Mecredy and attached exhibit that have been submitted today.

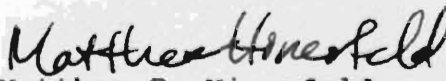
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COUNSEL

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December 5, 1994  
Page 2

Please inform us promptly of any request under the Freedom of Information Act seeking access to the material described above, so that we may substantiate the grounds for confidential treatment, unless the staff intends to deny access on other grounds.

Very truly yours,

  
Matthew B. Hinerfeld

MBH/mbh

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CONFIDENTIAL TREATMENT REQUESTED BY  
ROBERT F. MECREY

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\* ADMITTED IN VA. ONLY

\* ADMITTED IN D. C. ONLY

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OFFICE OF GENERAL  
COUNSEL

**HAND DELIVERED**

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 621  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Mecredy

Dear Mr. Buckley:

We are in receipt of the Federal Election Commission's October 27, 1994 Factual and Legal Analysis (the "Analysis") regarding our client, Jody D. Scheckter. We submit that the Analysis, generated as the result of a voluntary disclosure by counsel for Firearms Training Systems, Inc. ("FATS"), is both factually inaccurate and legally flawed. Moreover, we are extremely distressed by the Commission's reliance on factual assertions, which are in no way supported by the evidence presented to the Commission and are based on nothing more than speculation in some instances, to reach legal conclusions detrimental to our client.

Accordingly, we request that the Commission carefully scrutinize the factual assertions and legal conclusions set forth in the Analysis and reconsider its position in this matter with respect to whether there is reason to believe that Mr. Scheckter violated any federal election campaign law. Contrary to the Commission's conclusions, we are also confident that there is no credible evidence from which the Commission can conclude that Mr. Scheckter knowingly and willfully violated any requirement of the federal election law. To assist you in your determination, Mr. Scheckter provides the following specific response to MUR 4090.

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**A. There Is No Evidence Before the Commission Regarding the October 20, 1989 Darden for Congress Contribution or the February 13, 1990 Thomas for Congress Contribution Other than the Fact that the Contributions Were Made.**

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The Analysis alleges that Mr. Scheckter, a foreign national, violated 2 U.S.C. § 441(e) because he contributed \$500 to the Darden for Congress campaign in October 1989 and participated in the decision by FATS to contribute to the Thomas for Congress campaign in February 1990.<sup>1</sup> Analysis at 5. In support of this conclusion, the Analysis alleges that: "Jody Scheckter approved the making of the [above] contributions, and the contribution [sic] would not have occurred without his approval." Analysis at 5. The Commission further alleges that, with respect to the Thomas campaign contribution for which Mr. Scheckter was reimbursed by FATS, this approval by Mr. Scheckter represented participation by Mr. Scheckter sufficient to constitute a violation of 2 U.S.C. § 441(e) and 11 C.F.R. § 110.4(a)(3). *Id.*

With respect to both the October 1989 and February 1990 campaign contributions, Mr. Scheckter has no recollection regarding the circumstances under which these contributions were made. Scheckter Declaration ¶ 5. He does know, however, that he was not aware until after the internal investigation was initiated in May 1994 that it was unlawful for a non-permanent resident to contribute to a political campaign. Scheckter Declaration ¶ 5. He was also not aware until May 1994 that he was reimbursed for the February 1990 contribution. Scheckter Declaration ¶¶ 5, 11.

Mr. Scheckter submits that, in the event the contributions to Darden for Congress and Thomas for Congress did, in fact, violate 2 U.S.C. § 441(e) because they were made prior to Mr. Scheckter's obtaining permanent residence status, that statute, as codified at 11 C.F.R. § 110.4(a)(3), is unconstitutional because it denied Mr. Scheckter his first amendment right to political speech. It is undisputed that "the right to engage in political expression is fundamental to our constitutional system." Austin v. Michigan Chamber of Commerce, 494 U.S. 652, 666 (1990). Thus, "statutory classifications impinging upon that right must be narrowly tailored to serve a compelling governmental interest." *Id.* Moreover,

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<sup>1</sup> Mr. Scheckter was officially afforded resident status in September 1990 and was not subject to the mandates of 2 U.S.C. § 441(e) after that date.

the use of funds to support a political candidate is "speech"; independent campaign expenditures constitute "political expression 'at the core of our electoral process and of the First Amendment freedoms.'"

Id. at 657, quoting Buckley v. Valeo, 424 U.S. 1, 39 (1976) (per curiam) (quoting Williams v. Rhodes, 393 U.S. 23 (1968)). Mr. Scheckter submits that 2 U.S.C. § 441(e), which denies resident aliens who have applied for permanent resident status the free speech right to support political candidates through political campaign contributions, impermissibly burdens his exercise of political speech in violation of the First Amendment.

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Furthermore, the expansive interpretation of 2 U.S.C. § 441(e) set forth in 11 C.F.R. § 110.4(a)(3) effectively precludes a foreign national from any political speech and is, therefore, not narrowly tailored to protect any compelling governmental interest. Section 110.4(a)(3) prohibits a foreign national from directing, dictating, controlling or directly or indirectly participating in the decision-making process of any person, including a corporation, concerning the making of contributions or expenditures in connection with any election. This expansive interpretation of the conduct prohibited by 2 U.S.C. § 441(e) conceivably would prohibit conduct as innocuous as a foreign national making a statement in support of, or in opposition to, a particular candidate while the person for whom the statement is made is contemplating attending a fundraiser for that candidate. Such conduct is clearly distinct from the conduct prohibited in 2 U.S.C. § 441(e), namely the making by a foreign national of a contribution or a promise to make such contribution. Thus, the restrictions on political speech enacted in 11 C.F.R. § 110.4(a)(3) amount to an absolute ban on political speech by non-permanent resident aliens. Even assuming that there is some compelling governmental interest served by regulating the political speech of non-permanent resident aliens, which Mr. Scheckter submits there is not, the absolute ban on political speech set forth in § 110.4(a)(3) is not narrowly tailored to serve that interest. Thus, application of 2 U.S.C. § 441(e) and 11 C.F.R. § 110.4(a)(3) to Mr. Scheckter's October 1989 and February 1990 campaign contributions is an unconstitutional limitation of his First Amendment right of freedom of speech.

In addition, the factual analysis on which the Commission relied in reaching its finding that Mr. Scheckter approved the Thomas for Congress campaign contribution in violation of 11 C.F.R. § 110.4(a)(3) is erroneous. The Commission relied entirely on the findings set forth on page 3 of the Analysis to

conclude that Mr. Scheckter approved this contribution and that the contribution would not have been made without his approval. Id. Thus, the Commission noted:

the actual making of the contributions was handled in the following manner. Solicitations were received by Robert Mecredy, the Director of U.S. Military Marketing for Firearms Systems. Mr. Mecredy would review these requests and decide which events were appropriate to attend, suggesting that the key consideration was which events would best advance Firearms Systems' business interests. Mr. Mecredy would then advise Mr. Scheckter about any contributions he felt Mr. Scheckter should make. If Mr. Scheckter gave his approval, Mr. Mecredy would then go to Mr. Scheckter's executive secretary and ask her to issue a check.

Analysis at 3. The Commission offered no other factual basis in support of its "reason to believe" determination that Mr. Scheckter allegedly violated 2 U.S.C. § 441(e) with respect to this contribution, except that Mr. Scheckter was not granted permanent resident status until September 1990.

The analysis utilized by the Commission presumes involvement by Mr. Mecredy and discussion between Mr. Scheckter and Mr. Mecredy regarding the appropriateness of the contribution. Yet, both contributions at issue occurred prior to Mr. Mecredy's employment with FATS. In fact, Mr. Mecredy did not meet Mr. Scheckter or begin working for FATS until the fall of 1990, Mecredy Declaration ¶ 6; Scheckter Declaration ¶ 4, almost an entire year after the Thomas contribution was made and more than a year after the Darden contribution was made. Moreover, Mr. Scheckter had been granted permanent resident status by the time Mr. Mecredy joined the company and was not, therefore, subject to the limitations of § 441(e). Accordingly, the manner in which Mr. Mecredy and Mr. Scheckter determined how political contributions should be made after Mr. Scheckter became a permanent resident is wholly irrelevant to the question of whether Mr. Scheckter acted in violation of 2 U.S.C. § 441(e) and 11 C.F.R. § 110.4(a)(3) with respect to contributions made prior to September 1990.

The factual analysis is silent, however, as to any other basis for determining that Mr. Scheckter participated in or approved of the February 1990 contribution to the Thomas for Congress campaign. Mr. Scheckter cannot recall anything about

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Anthony T. Buckley, Esquire

December 5, 1994

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this contribution except that he had no knowledge of ever being reimbursed by FATS for any political contribution, prior to learning of this fact during the internal investigation conducted by corporate counsel in May 1994. Scheckter Declaration ¶ 11. Mr. Mecredy had no involvement with FATS prior to the fall of 1990 and, thus, has no knowledge of the campaign contributions at issue. Mecredy Declaration ¶ 6. Likewise, both Ms. Dean and Mr. Motter joined the company in 1992, years after the contributions at issue were made. Their statements, therefore, are also irrelevant to how these two particular campaign contributions were handled. There is no other evidence before the Commission regarding the manner in which campaign contributions were made by Mr. Scheckter or reimbursed by FATS, except that Mr. Scheckter never managed his personal checking account. Scheckter Declaration ¶ 7. Consequently, the Commission's conclusion that Mr. Scheckter participated in the decision-making process of another in violation of 11 C.F.R. § 110.4(a)(3), by approving the Thomas campaign contribution, is entirely speculative.

It should also be noted that, in the Commission's Legal and Factual Analysis regarding Robert Mecredy, the Commission erroneously stated: "Robert Mecredy has admitted that he approached Jody Scheckter and requested that he make both of these contributions [the October 20, 1989 contribution to Darden for Congress and the February 13, 1990 contribution to Thomas for Congress]." FEC Factual and Legal Analysis Re: Robert Mecredy at 2. Not only is there absolutely no factual basis for this conclusion in the record, all the evidence before the Commission establishes that this conclusion is wrong.<sup>2</sup> In addition to the fact that both Mr. Mecredy and Mr. Scheckter have expressly denied discussing these contributions, Mecredy Declaration ¶ 7; Scheckter Declaration ¶ 6, it is uncontroverted that Mr. Mecredy was not employed by FATS at the time these contributions were made and did not even know Mr. Scheckter at the time. Mecredy Declaration ¶ 6; Scheckter Declaration ¶ 4. Consequently, the

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<sup>2</sup> The notes of interview for Mr. Mecredy regarding the manner in which political contributions were made state only:

Mr. Mecredy chooses the event that he believes is appropriate for FATS to attend ... ; Mecredy then submits a request for a personal check from Jody to contribute...."

(Mecredy Interview Notes at 3-4). These notes certainly do not support the Commission's finding that Mr. Mecredy admitted discussing these two political contributions with Mr. Scheckter.

Commission's presumption that Mr. Mecredy participated in deciding whether to make these contributions or explained the purpose of these two contributions to Mr. Scheckter at the time they were made is without basis and patently wrong.

**B. There Is No Evidence to Support a Finding that Mr. Scheckter Violated 2 U.S.C. § 441(f).**

The Commission further alleges that because Mr. Scheckter was reimbursed by FATS for seven political contributions made by him between February 13, 1990 and June 5, 1993, including the Thomas for Congress campaign contribution discussed above, there is reason to believe that Mr. Scheckter violated 2 U.S.C. § 441(f). Analysis at 6. Because the conduct prohibited by 2 U.S.C. § 441(f) is knowing conduct, the Commission's findings with respect to this provision are contrary to the uncontroverted evidence.<sup>3</sup>

1. There Is Absolutely No Evidence which Supports a Finding that Mr. Scheckter Knew that He Received Reimbursement for Political Contributions Made Between February 1990 and October 1992.

The uncontroverted evidence before the Commission is that, prior to Mr. Motter's arrival at FATS in November 1992, Mr. Scheckter had no knowledge whatsoever of any reimbursements being made to him by FATS for political contributions. Mr. Scheckter, Ms. Dean and Mr. Mecredy have all attested to this fact. Mecredy Declaration ¶ 17; Scheckter Declaration ¶¶ 5,11; Dean Interview Notes at 3. Specifically, Ms. Dean stated:

Mr. Scheckter has no knowledge of the reimbursement of political contributions she

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<sup>3</sup> 2 U.S.C. § 441(f) provides:

No person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution....

11 C.F.R. § 110.4(b)(1)(iii) further states that:

No person shall ... knowingly help or assist any person in making a contribution in the name of another.

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obtained for his account because she initiated the requests for reimbursement on her own without ever advising him.

Dean Interview Notes at 3. Moreover, there is absolutely no evidence before the Commission as to how reimbursements were obtained prior to Ms. Dean's employment in May 1992. Three of the contributions at issue pre-date Ms. Dean's employment at FATS.

In May 1994, when corporate counsel brought to Mr. Scheckter's attention the fact that he had received reimbursement from FATS for political contributions made between February 1990 and June 1993, Mr. Scheckter "expressed surprise," since he had never submitted such contributions for reimbursement, nor had he ever directed anyone else to obtain reimbursement for him. Scheckter Interview Notes at 2-3; see also Scheckter Declaration ¶ 10. Ms. Dean confirmed that neither Mr. Scheckter nor any other corporate officer ever directed or pressured her to seek reimbursement for Mr. Scheckter's political contributions. Dean Interview Notes at 3. In fact, she stated that Mr. Scheckter never indicated to her that he expected such reimbursement. Id.; see also Scheckter Declaration ¶ 10. Instead, Ms. Dean stated that she took the initiative to seek reimbursement because she viewed it as part of her responsibility to ensure that Mr. Scheckter was paid for what she perceived as lawful business-related expenses. Dean Interview Notes at 2-3. Id.

Moreover, although the requests for reimbursement indicate that the reimbursements were being sought for political contributions, all the evidence before the Commission indicates that Mr. Scheckter never saw any of these requests. Dean Interview Notes at 3; Scheckter Declaration at 7. Moreover, only the April 6, 1990 check stub contains any notification regarding the nature of the expense reimbursed. That check stub states:

41090 donation	4-6-90	500.00	500.00
41090-1 advance	4-10-90	500.00	500.00

There is nothing on the check stub from which a reasonable person could conclude that Mr. Scheckter knew that the "donation" for which he was being reimbursed on April 6, 1990 was actually a February 13, 1990 political contribution to Thomas for Congress. Moreover, there is no evidence that Mr. Scheckter ever saw this check stub and he does not recall seeing it until it was brought

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to his attention as part of the May 1994 internal investigation. Scheckter Declaration ¶ 22. This fact is not surprising, since Mr. Scheckter never managed his own checking account while at FATS. Scheckter Declaration ¶ 7. Moreover, after Ms. Dean joined FATS, she, "as a matter of routine," wrote checks, kept the balance and made all deposits into Mr. Scheckter's checking account. Dean Interview Notes at 1. Again, the uncontroverted evidence before the Commission is that Mr. Scheckter never saw any reimbursement checks nor did he know that he was being reimbursed for political contributions in violation of 2 U.S.C. § 441(f).

In spite of this evidence, the Analysis states: "it is clear that Jody Scheckter allowed his name to be used to make such contributions by Firearms Training Systems" in violation of § 441(f). Analysis at 6. This conclusion is completely without merit. All the evidence before the Commission regarding contributions made between February 1990 and June 1993 establishes without question that Mr. Scheckter had no knowledge that he had been reimbursed by FATS for any political contribution. Since Mr. Scheckter was not aware that he had been reimbursed for political contributions, he could not have knowingly allowed his name to be used by another in violation of 2 U.S.C. § 441(f). Likewise, because Mr. Scheckter did not know he had been reimbursed for political contributions, he could not knowingly have helped or assisted in making a contribution in the name of another, contrary to the mandates of 11 C.F.R. § 110.4(b)(1)(iii). The elements of the offense have not been met and cannot be met; the Commission's conclusion to the contrary is both speculative and erroneous.

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2. Mr. Scheckter Did Not Become Aware until May 1994 that He Was Being Reimbursed for Political Contributions after Mr. Motter Was Employed by FATS or that Mr. Motter Had Instituted an Unlawful Mechanism for Reimbursing Mr. Scheckter for Political Contributions.

Three of the contributions at issue, a February 2, 1993 contribution to Darden for Congress, a June 5, 1993 contribution to Friends of Newt Gingrich, and a July 14, 1993 contribution to Don Johnson for Congress, occurred after Robert Motter had been hired as the company's Chief Financial Officer. With respect to these contributions, the Commission found: (1) that Mr. Motter told Mr. Scheckter that reimbursing him for political contributions was illegal; and (2) that Motter then instituted a new reimbursement mechanism to reimburse Mr. Scheckter for political contributions and advised Mr. Scheckter of the

reimbursements. Analysis at 6. Based on these findings, the Commission concluded that Mr. Scheckter knowingly and willfully allowed his name to be used in violation of 2 U.S.C. § 441(f) for all three of the above contributions. Analysis at 6.

Taking Mr. Motter's incredible assertions at face value, Mr. Scheckter's conduct with respect to the above contributions was neither knowing nor willful. Moreover, these assertions are controverted by other, more reliable facts in the record. Finally, Mr. Scheckter denies, and has from the outset denied, that he knowingly engaged in or directed any FATS employee to engage in illegal conduct, particularly the creation of an unlawful mechanism to disguise corporate campaign contributions. Scheckter Declaration ¶ 17; Scheckter Interview Notes at 1; see also Mecredy Declaration ¶ 16. The Commission nevertheless bases its finding regarding willfulness entirely on the statement of Mr. Motter, the one individual responsible for conceiving, initiating and executing the unlawful reimbursement process.

In reaching this conclusion, the Commission ignores the fact that this statement was made by Mr. Motter several months after he inadvertently learned that his job had been advertised in the paper. See Scheckter Declaration ¶ 18. Moreover, assuming arguendo that Mr. Motter's statements are true, the most Mr. Motter has said with regard to Mr. Scheckter's knowledge about political campaign contribution reimbursements is that he recalled one brief passing conversation with Mr. Scheckter in which Mr. Scheckter allegedly told him "to make the political contributions look legal." Motter Interview Notes at 19. Mr. Motter explained that this discussion occurred at a time when Mr. Scheckter was noticeably preoccupied. Id. Yet, allegedly as a result of this cursory conversation with a preoccupied Mr. Scheckter, Mr. Motter nevertheless felt obligated to devise an elaborate and illegal mechanism to reimburse Mr. Scheckter for political campaign contributions, and then to carry it out on two separate occasions without any further discussion with Mr. Scheckter. This explanation belies credulity, particularly in view of Mr. Motter's circumstances at the time of his interview.

It should also be noted that several weeks after Mr. Motter authorized the first reimbursement to Mr. Scheckter under the new system, Mr. Motter signed a management representation letter for the 1993 Price Waterhouse Audit. This representation specifically stated that Mr. Motter was "not aware ... of any violations or possible violations of laws or regulations the effects of which should be considered for disclosure from the financial statements or as the basis for recording a loss contingency." Although allegedly concerned enough to stop the

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reimbursements to Mr. Scheckter in September 1993 because they violated federal election law, Mr. Motter was not apparently concerned enough to refrain from signing a management letter that contained a knowing false statement. Nor did the management letter stir his conscience sufficiently to restrain him from processing a second reimbursement check several weeks later.

Moreover, prior to learning of his likely termination at FATS, Mr. Motter never felt compelled to apprise anyone at FATS that he was concerned that Mr. Scheckter was unlawfully seeking reimbursement for campaign contributions or that he, Robert Motter, was directed to engage in this illegality. Although Mr. Motter had almost daily contact with Mr. Mecredy, who was primarily responsible for overseeing FATS's relationship with the U.S. Congress, Mecredy Declaration ¶ 9, Mr. Motter never once apprised Mr. Mecredy that Mr. Scheckter had directed him to obtain reimbursement for a political contribution, nor did he ever express any concern about any potential federal election campaign violations occurring at FATS. Mecredy Declaration ¶ 14. Instead, the only comment Mr. Motter ever made to Mr. Mecredy about political campaign contributions was to ask Mr. Mecredy if he knew that corporate contributions were illegal. *Id.* However, when Mr. Mecredy responded to Mr. Motter that he was aware that corporate contributions were illegal and that he, therefore, ensured that campaign contributions were always made by Mr. Scheckter with Mr. Scheckter's personal checks, Mecredy Declaration ¶ 14, Mr. Motter did not protest that this was not the case or apprise Mr. Mecredy that Mr. Scheckter was in fact getting reimbursed by FATS for campaign contributions. *Id.* Nor did he alert Mr. Mecredy to the possibility that FATS was actually violating federal election law because of these reimbursements or ask Mr. Mecredy to raise the issue with Mr. Scheckter. *Id.* He said nothing, until it became clear that he was going to be replaced as FATS's Chief Financial Officer.

Nor did Mr. Motter ever raise the issue with corporate counsel prior to his May 17, 1994 letter to Mr. Madden. In spite of the encouragement given to FATS senior managers to consult corporate counsel whenever an issue arose regarding the propriety or impropriety of a corporate act, Scheckter Declaration ¶ 19, Mr. Motter never contacted counsel about his concerns prior to learning of his proposed termination. Nor did Mr. Motter ever suggest to counsel that a corporate compliance program was needed to ensure that political contributions were made properly. He, instead, implemented an illegal reimbursement mechanism which he carried out on his own volition. Again, during the course of two audits, Mr. Motter never provided information to the auditors about any reimbursements made to Mr. Scheckter.

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Although given repeated opportunities, Mr. Motter failed to alert anyone about possible federal election law violations resulting from the reimbursements paid to Mr. Scheckter, until he inadvertently learned that he was about to be replaced as FATS's Chief Financial Officer. Mr. Motter then made a number of self-serving statements to protect himself, including accusing Mr. Scheckter of wrongdoing for which Mr. Motter was entirely responsible. Despite this fact, and the fact that Mr. Motter has made false representations in the past, the Commission nevertheless relied entirely on his self-serving statements as conclusive evidence that Mr. Scheckter knew that Mr. Motter had implemented an illegal mechanism to reimburse him for political contributions and that Mr. Scheckter condoned this illegality.

Contrary to Mr. Motter's conduct, Mr. Scheckter has always sought to ensure that FATS complied with all applicable laws and regulations. Scheckter Declaration ¶ 19. Thus, when Mr. Motter advised FATS's corporate counsel in May 1994 that FATS may have violated several federal statutes, including federal election law, Mr. Scheckter immediately made all personnel and records available to counsel to perform a thorough internal investigation into the allegations. Scheckter Declaration ¶ 14. Specifically, Mr. Scheckter advised counsel:

to conduct a full, rigorous and complete investigation into each of the allegations raised by Mr. Motter ... that he was placing all of FATS employees and resources at [counsel's] disposal to facilitate a complete investigation ... that he believed that there was absolutely no substance to any of Mr. Motter's allegations, but that if there [wa]s anything wrong, he wanted [counsel] to find out ... and inform him immediately, and provide advice and guidance on how to remedy any problem.

Scheckter Interview Notes at 1; see also Scheckter Declaration ¶ 14. Mr. Scheckter emphasized to counsel that he was committed to having FATS strictly abide by applicable laws and regulations. Id. Moreover, when counsel uncovered evidence of the unlawful reimbursements, Mr. Scheckter immediately reimbursed FATS for the contributions and urged counsel to make a voluntary disclosure to the Commission. Scheckter Declaration ¶ 15. This disclosure was made on July 1, 1994 and initiated the Commission's investigation into adverse findings against Mr. Scheckter.

Likewise, Mr. Scheckter has from the outset denied having any conversation with Mr. Motter in which he either suggested

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that Mr. Motter participate in unlawful activity or condoned such activity. Scheckter Declaration ¶ 17. Mr. Scheckter has also expressly denied that, prior to May 1994, he knew he was being reimbursed by FATS for political contributions. Scheckter Declaration ¶¶ 5,11. Ms. Dean confirmed that Mr. Scheckter was unaware that he received reimbursement for political contributions. Dean Interview Notes at 7. In addition, Mr. Scheckter never saw the two special payroll checks approved by Mr. Motter to reimburse him for political contributions nor was he apprised of them by Ms. Dean. Dean Interview Notes at 6; Scheckter Declaration ¶ 22. In addition, all the evidence before the Commission suggests that Mr. Scheckter was notorious for not seeking reimbursement from FATS for legitimate business-related expenses, including travel and meals. Mecredy Interview Notes at 5; Dean Interview Notes at 2; Scheckter Interview Notes at 3; Mecredy Declaration ¶ 17; Scheckter Declaration ¶ 8. Yet, in spite of Mr. Scheckter's general practice of not seeking reimbursement for any expenses for which he was legally entitled to reimbursement, the Commission accepted at face value Mr. Motter's claim that Mr. Scheckter not only directed him to obtain reimbursements for political contributions, but also condoned Mr. Motter's decision to break the law to obtain these reimbursements.

To support Mr. Motter's otherwise unbelievable assertions, the Commission states that, because Mr. Scheckter told Mr. Mecredy in 1994 "that Mr. Motter had suggested a reimbursement scheme" (Analysis at 6), he must have known about the reimbursements prior to May 1994. As stated repeatedly herein, Mr. Scheckter first learned that he was receiving reimbursement for political contributions as a result of the internal investigation initiated in May 1994. Scheckter Declaration ¶¶ 5,11. He did not tell Mr. Mecredy that he knew, prior to May 1994, that Mr. Motter had developed a "reimbursement scheme" or even that he knew he was being reimbursed for political contributions. Scheckter Declaration ¶ 23. Mr. Mecredy confirms this, stating:

Despite the suggestion to the contrary in Federal Election Commission documents, Mr. Scheckter never told me that Mr. Motter had suggested a reimbursement scheme to Mr. Scheckter. Rather, in May 1994, I had a conversation with Mr. Scheckter concerning FATS' internal investigation. In that conversation, Mr. Scheckter told me that an allegation had been made that Mr. Motter had suggested a reimbursement scheme to him. Mr. Scheckter indicated to me that, in fact,

Mr. Motter had not suggested such a scheme to him.

Mecredy Declaration ¶ 18. The Commission's finding of fact on this matter is nothing more than a misinterpretation of a statement in an interview memo prepared by corporate counsel subsequent to counsel's interview of Mr. Mecredy. The statement in no way suggests that it is a direct quote of a statement made by Mr. Scheckter, nor is it subject only to the adverse interpretation given it by the Commission.<sup>4</sup> The Commission's reliance on its misinterpretation of Mr. Scheckter's statement is inappropriate in light of the declarations filed by Mr. Scheckter and Mr. Mecredy.

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It is well settled that in order for a violation of the Federal Election Campaign Act to be knowing and willful, the conduct at issue "must necessarily connote 'defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act.'" American Federation of Labor v. Federal Election Comm., 628 F.2d 97, 101 (D.C. Cir. 1980), quoting Frank Greg, Jr., Inc. v. OSHA, 519 F.2d 1200 (3rd Cir. 1975). The only possible piece of evidence which supports the Commission's finding that Mr. Scheckter's conduct was knowing and willful is Mr. Motter's statement, in which he describes a single, passing conversation with Mr. Scheckter on the matter. However, Mr. Motter himself described Mr. Scheckter as preoccupied during the conversation. Motter Interview Notes at 19. Even assuming that the discussion went as Mr. Motter claims, the fact that Mr. Scheckter was preoccupied during the discussion is sufficient to undercut any finding that Mr. Scheckter acted in defiance of the law or with a reckless disregard of it.

Contrary to the Commission's assertions, Mr. Scheckter has repeatedly and expressly denied knowledge of receiving reimbursements for political contributions prior to the initiation of the internal investigation in May 1994. Both Ms. Dean and Mr. Mecredy confirm this fact. Moreover, from the moment Mr. Scheckter first learned of possible election law violations, he acted quickly and responsibly to remedy the problem. Mr. Scheckter has completely repaid FATS for all reimbursements received and the company has instituted a compliance program to avoid future violations. Scheckter

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<sup>4</sup> The statement on which the Commission places such emphasis reads as follows: "After reviewing Motter's letter Mecredy spoke with Mr. Scheckter and was told of Bob Motter suggesting a reimbursement scheme...." Mecredy Interview Notes at 4.

Declaration ¶ 15. In light of the overwhelming credible evidence before the Commission to the contrary, the finding that Mr. Scheckter knowingly and willfully violated 2 U.S.C. § 441(f) is unreasonable and not supported by the record.

The Commission's basis for concluding that the July 14, 1993 contribution constituted a knowing and willful violation is questionable on other grounds as well. The only documentary evidence which was found after an exhaustive search of the corporate records indicates that Mr. Motter requested just two bonus checks for Mr. Scheckter, one dated April 23, 1993 and one dated July 30, 1993, for contributions made on February 2 and June 5, 1993, respectively. Copies of both reimbursement checks, as well as Mr. Motter's memo request for these checks, were provided to the Commission by corporate counsel. Although Mr. Motter told corporate counsel that he believed the last reimbursement was submitted in September 1993, the corporate records contradict this claim. In addition, Ms. Dean advised corporate counsel that she provided information to Mr. Motter on at least two occasions. Counsel's memorandum to this effect, which does not provide a direct quote from Ms. Dean, but rather reflects counsel's paraphrase of the discussion, is consistent with the corporation's records, namely that two reimbursements were processed in this fashion. There is no factual evidence which supports the Commission's suggestion that the July 15, 1993 contribution was also reimbursed. The Commission's finding to the contrary is based on pure speculation, which in no way provides probable cause to believe that Mr. Scheckter knowingly and willfully violated 2 U.S.C. § 441(f).

C. **Mr. Scheckter Did Not Consent to Corporate Political Contributions Being Made By FATS.**

For the reasons set forth above, there is absolutely no evidence that Mr. Scheckter "consented" to the making of political contributions by FATS. Thus, there is no basis for the Commission's "reason to believe" finding that Mr. Scheckter violated 2 U.S.C. § 441(b)(a). The record before the Commission permits only one conclusion, namely that Mr. Scheckter had no knowledge of any reimbursement to him of corporate political contributions prior to the internal investigation conducted in May 1994. Absent knowledge that FATS had any involvement in the contributions, Mr. Scheckter could not have consented to FATS's making the contributions at issue. Moreover, immediately upon learning that he had been reimbursed for political campaign contributions, Mr. Scheckter returned the funds to the corporation. The Commission's reason to believe finding regarding a violation of § 441(b)(a) is devoid of factual basis.

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D. Conclusion

Mr. Scheckter has worked for the past ten years to develop a unique, state-of-the-art company, capable of providing needed training services to U.S. and foreign military and law enforcement personnel. Scheckter Declaration ¶ 19. Mr. Scheckter's diligence and dedication have caused the company to grow to the point where FATS now employs more than 200 employees in its Georgia facility. The demands on Mr. Scheckter as president and Chief Executive Officer of this rapidly-growing company are immense. Consequently, Mr. Scheckter has had to delegate certain responsibilities to others, relying on them to ensure the propriety of both their own actions and the company's. Scheckter Declaration ¶ 20. Due to FATS's unique customer base, Mr. Scheckter has repeatedly emphasized the need for FATS to comply fully with applicable laws. Scheckter Declaration ¶ 19. Consequently, he frequently encourages FATS employees to seek legal advice whenever there is any question about the legality or propriety of a particular course of conduct. Scheckter Declaration ¶ 19; Mecredy Declaration ¶ 15.

In this case, Mr. Scheckter unfortunately entrusted responsibility for the company's financial affairs to Mr. Motter, an individual who, willingly and on his own initiative, implemented policies Mr. Motter knew violated the law. In addition to violating both the law and the trust placed in him by Mr. Scheckter, Mr. Motter has, by his actions, created serious problems for FATS and its employees. Regardless of Mr. Motter's motivations in developing and executing the illegal campaign contribution reimbursement plan, the plan was entirely his own creation. He could have stopped the reimbursements immediately upon learning of them and then worked with the company to rectify past violations. Instead, he knowingly engaged in unlawful conduct, which he now seeks to blame on Mr. Scheckter. The evidence before the Commission clearly demonstrates that Mr. Scheckter did not participate in nor condone Mr. Motter's illegal acts.

Finally, the Commission ignores the fact that all the evidence on which it bases its findings was disclosed voluntarily by FATS in a sincere attempt to resolve this matter fully and finally. But for the company's complete cooperation, the Commission would have had no basis for any of its findings. Despite this fact, the Commission now distorts the record in order to reach meritless conclusions that Mr. Scheckter and other FATS employees violated numerous federal election laws and that, on at least three occasions, Mr. Scheckter's conduct was knowing and willful. The findings contained in the Analysis are not supported by the record and are completely contrary to the

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conciliation process through which they were generated. In light of the record before the Commission, the reason to believe findings regarding MUR 4090 with respect to Jody Scheckter, set forth in the Analysis, represent nothing more than arbitrary and capricious action by the Commission. We request, therefore, that the Commission reconsider its findings regarding Mr. Scheckter's conduct in this matter and the propriety of any future action. We would be willing to meet with you to discuss our position if that will facilitate resolution of this matter.

Very truly yours,



Gerard Treanor  
Judith L. Wheat

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DECLARATION OF JODY D. SCHECKTER

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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I, Jody D. Scheckter, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am over 18 years of age, have personal knowledge of the facts recited herein and, if called to testify as a witness, could and would competently testify thereto.

2. I am the President and Chief Executive Officer of Firearms Training Systems, Inc. (FATS) and have held this position since I started the company in 1984.

3. I am a permanent resident alien in the United States, having obtained this status on September 17, 1990.

4. I first met Robert Mecredy in the fall of 1990 when he responded to an employment ad placed by FATS in the newspaper. I had no knowledge of nor contact with Mr. Mecredy prior to the fall of 1990. In addition, Mr. Mecredy had no involvement whatsoever in the conduct of FATS's business prior to the fall of 1990.

5. I understand that the Federal Election Commission (FEC) has found reason to believe that I violated 2 U.S.C. § 441(e) with respect to two campaign contributions made by me prior to September 17, 1990: a \$500 contribution to Darden for Congress made in October 1989 and a \$500 contribution to Thomas for Congress made in February 1990. I have no recollection regarding the making of either of these contributions. Until so advised by corporate counsel pursuant to an internal investigation initiated in May 1994, I had no knowledge that political campaign contributions made by a non-permanent resident were unlawful. In addition, I had no knowledge that I had ever been reimbursed by FATS for any campaign contributions made by me.

6. I do know that Robert Mecredy never requested that I make any political contributions prior to his employment with FATS, since I did not know Mr. Mecredy prior to his employment with FATS.

7. Since beginning the company in 1984, I have never managed my personal checking account. Someone else, usually my secretary, has always maintained the account, written checks, made deposits and otherwise managed my account. To the best of my recollection, all checks payable to me by FATS, including payroll and reimbursement checks, were given directly to my secretary to deposit.

8. I am not, and have never been, in the habit of submitting any expenses for reimbursement. Unless a colleague or my secretary takes the initiative to seek reimbursement on my behalf, I do not, as a general rule, get reimbursed for my

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business-related expenses. I am often chided by my colleagues for failing to obtain reimbursements for business-related expenses.

9. Since she joined FATS on May 18, 1992, I have relied entirely on my secretary, Janice Dean, to handle my checking account, including receiving payroll, bonus and expense checks, making deposits and writing checks. I have also relied on Ms. Dean to obtain reimbursements, to the extent she is aware of business-related expenditures I have made. I have complete confidence in Ms. Dean and know if she thought that I, or the company, had engaged in any illegal conduct, that she would have confronted me without hesitation on the matter.

10. I further understand that the FEC has found reason to believe that I violated 2 U.S.C. § 441(b)(a) and § 441(f) with respect to the 1990 Thomas for Congress contribution and seven other political contributions made between 1991 and July 1993. I have never personally sought reimbursement from FATS for any political campaign contribution I have made, nor do I recall ever directing or advising anyone else to submit such expenditures for reimbursement. I never expected to receive reimbursement from any source for political campaign contributions. I was also not aware that it was illegal for corporations to make such reimbursements.

11. Prior to an internal investigation conducted by corporate counsel in May 1994, I had no knowledge whatsoever that I had been reimbursed by FATS for any political campaign contributions made by me. Moreover, Ms. Dean never advised me that she had sought or obtained reimbursements for the contributions or any other business-related expenses.

12. I have never knowingly or intentionally violated any federal election campaign law. Specifically, I have at no time knowingly received a reimbursement for a political contribution nor did I knowingly allow FATS to use my name to make political contributions. Likewise, I never consented to the making of any political contribution by FATS.

13. I first became aware of possible election violations when I was given a copy of the letter by FATS's then-Chief Financial Officer, Robert Motter, addressed to corporate counsel Tom Madden. Mr. Motter's May 17, 1994 letter was the first time Mr. Motter ever raised the issue of the possible illegality of any political campaign contributions with me.

14. Although I was unaware of any violations of federal election law at the time I received Mr. Motter's letter, I immediately instructed Clare Fawkes to raise the issue with corporate counsel and made all FATS's employees and records available for counsel's review. Pursuant to the internal

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investigation conducted by corporate counsel in May 1994, I learned for the first time that I had, in fact, been reimbursed by FATS for political campaign contributions and that this was illegal.

15. Upon learning of these reimbursements, I immediately repaid FATS for the full amount of campaign contributions previously reimbursed. With the assistance of corporate counsel, FATS instituted a strict compliance policy to ensure future compliance with all aspects of federal election laws. I also urged that FATS make full disclosure of all possible federal election violations to the FEC, which was done by counsel on July 1, 1994.

16. Robert Motter was hired as Chief Financial Officer in November 1992. As Chief Financial Officer, Mr. Motter was responsible for overseeing and ensuring the propriety of all corporate financial matters.

17. Mr. Motter never told me that I was being illegally reimbursed by FATS for political contributions. Moreover, I never directed Mr. Motter to create an unlawful reimbursement mechanism. I have never condoned illegal conduct on the part of FATS or any FATS employee and did not condone Mr. Motter's plan to unlawfully reimburse political campaign contributions.

18. Mr. Motter and I did not enjoy a good working relationship and I quickly lost confidence in him. Several months prior to May 1994, it was decided that Mr. Motter should be replaced, however, for business reasons, no action was taken until an ad was run in the newspaper advertising the Chief Financial Officer position. Mr. Motter has admitted that he learned from this ad that he was to be terminated, immediately prior to issuing the May 17, 1994 letter referred to in paragraph 13.

19. FATS is dedicated to providing state-of-the-art training devices to foreign and domestic military and law enforcement agencies. Because of the specialized nature of FATS's clientele, I am especially sensitive to the need to have FATS comply with all applicable regulations and to conduct itself in all matters as a responsible corporate citizen. I have made it an integral part of my business practices to emphasize to all company employees the need for FATS to be in compliance with all laws and regulations, as well as to abide by all laws in the conduct of my affairs. The senior managers frequently consult with, and have access to, corporate counsel to verify the legality of many varied issues, however inconsequential the issues may be.

20. FATS is a small, rapidly growing company, which, due to the highly specialized nature of the services it performs, is

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intensely regulated. The company's growth since its inception in 1984 has been exponential. Consequently, I have had to rely on senior employees such as Mr. Motter to oversee certain aspects of the business and have delegated authority to these employees to ensure that the company's business is conducted properly and in accordance with applicable laws.

21. I, along with other FATS employees, relied on Mr. Motter to oversee the propriety of the expenditure of corporate funds, including ensuring that all corporate expenditures complied with applicable laws. I had no reason to expect that Mr. Motter would conduct himself in anything other than a lawful manner. I assumed, as I understand Ms. Dean assumed, that Mr. Motter would not authorize an action which he clearly knew to be unlawful. The creation of an unlawful reimbursement mechanism was entirely Mr. Motter's doing and represented a complete abdication of his responsibilities as Chief Financial Officer.

22. I never saw the two special payroll bonus checks Mr. Motter authorized to reimburse me for political campaign contributions prior to the May 1994 internal investigation. I understand that a thorough search of all FATS financial records has been performed as part of that investigation and that no additional special payroll bonus checks have been found. Likewise, I do not recall seeing the April 1990 check stub reflecting reimbursement of a \$500.00 donation prior to the May 1994 internal investigation.

23. In May 1994, I was first advised of Mr. Motter's allegation that he had suggested an unlawful reimbursement plan to me. It is this allegation which I shared with Mr. Mecredy in May 1994. At that time I told Mr. Mecredy that Mr. Motter had never suggested such an illegal plan to me. Mr. Motter never did suggest such a plan to me nor did I ever, nor would I ever, condone the implementation or execution of any unlawful reimbursement plan.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: December 6th, 1994.

  
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Jody D. Schaeckter

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**December 5, 1994**  
**CONFIDENTIAL TREATMENT**  
**REQUESTED BY**  
**ROBERT F. MECREDY**

Anthony T. Buckley, Esquire  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4090 -- Robert Mecredy

Dear Mr. Buckley:

I am writing in response to Trevor Potter's letter of October 27, 1994 to Thomas J. Kelly, Jr., concerning the above-referenced matter and the Factual and Legal Analyses that accompanied Mr. Potter's letter. We represent Mr. Robert F. Mecredy in connection with this matter. Accompanying this letter is Mr. Mecredy's declaration and his resume, which is attached as an exhibit to his declaration.

The Federal Election Commission ("Commission") has made a finding that Mr. Mecredy has violated 2 U.S.C. § 441e. The Commission's finding and its so-called factual analysis as it pertains to the alleged violation are entirely without basis in fact. The Commission has alleged that Mr. Mecredy was involved with Mr. Jody D. Scheckter in the making of two political contributions prior to Mr. Scheckter becoming a permanent resident of the United States. The alleged contributions were to "Darden for Congress" in October 1989 and to "Thomas for Congress" in February 1990. Mr. Mecredy had absolutely no involvement in those contributions. Mr. Mecredy did not even know Mr. Scheckter at the time of the

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alleged contributions and did not meet him or become an employee of Firearms Training Systems, Inc. ("FATS") until the Fall of 1990.<sup>1</sup>

Mr. Mecredy currently is the Director of United States Sales and Marketing at FATS. He was hired by FATS in November of 1990, and started work there on November 26, 1990. His responsibilities currently encompass marketing and sales functions servicing domestic law enforcement and all of the United States military. Immediately prior to joining FATS, Mr. Mecredy was employed by Raytheon Company as a Marketing Director in the Washington, D.C. metropolitan area. He worked for Raytheon from March 1990 through November 1990 (a date subsequent to both of the political contributions at issue).

Immediately prior to joining Raytheon, Mr. Mecredy was employed by Communications Technologies Applications, Inc., as a Vice President. He was employed by Communications Technologies Applications, Inc., from May 1988 until March 1990.

The first communication Mr. Mecredy ever had with Jody D. Scheckter, and the first time the two men met, was in the Fall of 1990, shortly before Mr. Mecredy was hired by FATS. Mr. Mecredy had no knowledge of Mr. Scheckter or of FATS prior to the Fall of 1990. A fortiori, Mr. Mecredy had absolutely no involvement in Mr. Scheckter's business or personal affairs or decisions, or FATS' operations, prior to the Fall of 1990. In particular, Mr. Mecredy had no involvement with, or connection to, a contribution of \$500 on October 20, 1989 to "Darden for Congress" or a contribution of \$500 on February 13, 1990 to "Thomas for Congress."

The Commission asserts that Mr. Mecredy "has admitted that he approached Jody Scheckter and requested that he make both of these contributions." Factual and Legal Analysis (Mecredy) at 2. That assertion is false. Mr. Mecredy has never admitted that and, in fact, he did not approach Mr. Scheckter and request that he make either of those contributions.

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<sup>1</sup>Please refer to the accompanying declaration of Mr. Mecredy for the evidentiary source of the recitations of fact contained in this letter.

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Mr. Mecredy has never knowingly solicited a political contribution from an individual who, at the time, was not a citizen of the United States and not lawfully admitted for permanent residence in the United States. Moreover, to the best of his knowledge, Mr. Mecredy has never solicited a political contribution from an individual who, at the time, was not a citizen of the United States and not lawfully admitted for permanent residence in the United States.

In May 1994, FATS commenced an internal investigation regarding political contributions made by Mr. Scheckter. Mr. Mecredy learned of the investigation toward the end of May 1994. Prior to learning of the investigation, Mr. Mecredy had no knowledge that Mr. Scheckter had made political contributions prior to becoming a permanent resident in the United States or that Mr. Scheckter had received reimbursement for political contributions. Mr. Mecredy would have immediately intervened to stop such activities had he known that such activities were taking place.

Commencing in early 1991, Mr. Mecredy became the person primarily responsible for overseeing FATS' relations with the United States Congress. Commencing in the Spring or Summer of 1991, Mr. Scheckter began to forward all solicitations for political contributions received by him to Mr. Mecredy. Mr. Mecredy would review the solicitations and advise Mr. Scheckter regarding which solicitations he thought Mr. Scheckter should respond to with a donation. The guiding principal behind the choices was Mr. Scheckter's desire to support candidates who would be effective advocates for a strong national defense.

Mr. Mecredy was not involved with any unsolicited political contributions and, to the best of Mr. Mecredy's knowledge, Mr. Scheckter did not make any unsolicited political contributions. Rather, all contributions were made in response to written solicitations, with one exception. In that instance, a solicitation was made over the telephone, but it was then followed up in writing.

The contribution process worked as follows: Once Mr. Scheckter and Mr. Mecredy agreed that Mr. Scheckter should make a donation, Mr. Mecredy would give a note attached to the relevant solicitation to Mr. Scheckter's secretary, Janice Dean, stating that a check in the agreed amount should be made out to the solicitor. Ms. Dean would then make out a check

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from Mr. Scheckter's personal checkbook, have Mr. Scheckter sign the check, and then she would deliver the check to Mr. Mecredy. Sometimes she would deliver it by putting it in Mr. Mecredy's in-box and sometimes by putting it on his desk. Mr. Mecredy would then either mail the check to the candidate or it would be hand-delivered at the reception for the candidate. Prior to FATS' internal investigation, Mr. Mecredy had no knowledge that Ms. Dean ever sought reimbursement for Mr. Scheckter from FATS for those personal checks.

Mr. Robert Motter was aware that Mr. Mecredy was the person primarily responsible for FATS' governmental relations and that Mr. Scheckter consulted Mr. Mecredy on a regular basis regarding Mr. Scheckter's political contributions and other issues. As a result of FATS' internal investigation, Mr. Mecredy learned that Mr. Motter concocted an alternative method to provide Mr. Scheckter with reimbursement for political contributions.

Mr. Motter and Mr. Mecredy had almost daily contact when Mr. Mecredy was not traveling. At no time, however, did Mr. Motter apprise Mr. Mecredy of the fact that he had devised such a method or that Mr. Scheckter had ever been reimbursed for a political contribution. Indeed, the only conversation Mr. Mecredy ever had with Mr. Motter concerning political contributions was a passing conversation in late 1993 or early 1994. In that conversation, Mr. Motter asked whether Mr. Mecredy knew that it is illegal for a corporation to make campaign contributions. Mr. Mecredy stated that he was aware of that, and that that was why he made sure that only personal checks from Mr. Scheckter's account were used for contributions. That was the extent of the conversation.

At the time, Mr. Mecredy assumed that Mr. Motter was merely making sure that Mr. Mecredy knew the state of the law since he knew that Mr. Mecredy was involved in FATS' governmental relations and in advising Mr. Scheckter on political contributions. Mr. Mecredy rightfully assumed that Mr. Motter wanted to make sure that FATS did not do anything illegal. Mr. Mecredy's response was intended to assure Mr. Motter of what Mr. Mecredy believed to be the truth: that the only contributions being made were personal contributions by Mr. Scheckter.

Given Mr. Motter's devious method that has now been revealed, however, it appears that Mr. Motter made that comment to Mr. Mecredy as part of a ploy to make it appear as

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if others at FATS were involved in, or approved of, Mr. Motter's illegal reimbursement method. Had Mr. Motter truly been concerned because FATS was engaging in conduct he believed to be illegal and should be stopped, Mr. Motter would have made a clear statement to Mr. Mecredy that Mr. Scheckter was receiving reimbursement from FATS for his political contributions, so that Mr. Mecredy could then put a stop to the reimbursements. The fact that Mr. Motter did not do so suggests that he was acting duplicitously, interested merely in casting a cloud of suspicion over others at FATS, and FATS itself, by creating an event which he could later refer to as evidence of a supposed conspiracy within FATS to circumvent the Federal election laws. Such a conspiracy did not, and does not, exist.

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Mr. Mecredy has had a close working relationship with Mr. Scheckter for many years. It is Mr. Mecredy's opinion that it is extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws. In Mr. Mecredy's experience, Mr. Scheckter is quick to encourage FATS' employees, including Mr. Mecredy, to seek legal advice whenever there is a question of whether a possible course of conduct is legal and proper. In the four years that Mr. Mecredy has known Mr. Scheckter, Mr. Mecredy is unaware of any instance in which Mr. Scheckter has suggested that FATS should engage in conduct Mr. Scheckter knew to be illegal or an instance in which he has pursued a course of conduct after being advised that the course was potentially improper. Rather, in Mr. Mecredy's experience, Mr. Scheckter always puts FATS' interests first and does his best to make sure that FATS abides by the law. Given that history, it is extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws. In addition, the amount of money Mr. Scheckter received in reimbursement from FATS for his contributions was relatively small. It would seem quite unlikely that Mr. Scheckter (or anyone) would invest so much time and effort building a company only to knowingly put the company in jeopardy over such a relatively small amount of money.

In addition, it would seem unlikely that Mr. Scheckter was aware that he was receiving reimbursement for his donations when he made them, since he frequently contributed less than the maximum amount permitted by Federal law for a contribution. Indeed, Mr. Scheckter occasionally questioned the amount of the contribution Mr. Mecredy recommended and suggested a smaller contribution. Had Mr.

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Scheckter known that FATS would be reimbursing him for the contributions (and had he approved of such conduct), it would be only rational that he would have given the full amount allowed for a contribution, since FATS could easily have afforded it. The fact that most of the contributions were well below the legal limit suggests that Mr. Scheckter was not aware at the time of the contributions that he would be receiving reimbursement for them.

It is not surprising that Mr. Scheckter would be unaware he had been receiving reimbursements for his political contributions. Mr. Scheckter is an extremely busy individual and, by choice and necessity, has others take care of many matters for him. An example of that is the fact that Mr. Scheckter's secretary is in charge of his personal checkbook. Another example is the fact that when Mr. Scheckter travels with another FATS employee, that employee is placed in charge of obtaining reimbursement for expenses incurred on the trip by both the employee and by Mr. Scheckter. Given the fact that Mr. Scheckter generally delegates tasks related to his personal finances and expenditures on behalf of FATS, it would not be surprising that Mr. Scheckter would be unaware that he had received reimbursement for particular personal expenditures.

The Commission's assertion that Mr. Mecredy stated that, sometime in May 1994, Mr. Scheckter told Mr. Mecredy that Mr. Motter had suggested a reimbursement scheme to Mr. Scheckter is incorrect. Rather, in May 1994, Mr. Mecredy had a conversation with Mr. Scheckter concerning FATS' internal investigation. In that conversation, Mr. Scheckter told Mr. Mecredy that an allegation had been made that Mr. Motter had suggested a reimbursement scheme to him. Mr. Scheckter indicated to Mr. Mecredy that, in fact, Mr. Motter had not suggested such a scheme to him.

The Commission's investigation has been deeply flawed, as the foregoing discussion demonstrates. It is troubling that the United States government would do such a poor job of investigation that it could allege that Mr. Mecredy had violated federal law in connection with political contributions by Mr. Scheckter when the most rudimentary fact-checking would have revealed that Mr. Mecredy had not even heard of Mr. Scheckter or of FATS at the relevant time. Not only that, but the Commission has invented supposed statements by Mr. Mecredy that he simply did not make. Indeed, at least one of the alleged statements--the so-called "admission" that

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Mr. Mecredy advised Mr. Scheckter to make two donations at a time that Mr. Scheckter was not a permanent resident--defies logic and is patently absurd.

I urge you to undertake a careful reexamination of all of the Commissions adverse findings and factual allegations in this matter, not only those that pertain to Mr. Mecredy. I am confident that a thorough investigation--conducted in the light of Mr. Motter's clear bias and motive to lie--will demonstrate that the only person connected with this matter who willfully violated the federal election laws was Mr. Motter himself.

Very truly yours,

  
F. Joseph Warin

FJW/mbh

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FOR THE FEDERAL ELECTION COMMISSION  
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**DECLARATION OF ROBERT F. MCCRERY**

I, Robert F. McCredy, declare under penalty of perjury,

pursuant to 28 U.S.C. § 1746, as follows:

1. I have personal knowledge of the facts recited herein and, if called and sworn as a witness, I could and would competently testify thereto.

2. I am the Director of United States Sales and Marketing at Firearms Training Systems, Inc. ("FATS"). I was hired by FATS in November of 1990, and started work there on November 26, 1990. My responsibilities currently encompass marketing and sales functions servicing domestic law enforcement and all of the United States military. My title was Director of United States Military Marketing at the time I joined the company.

3. Attached to this declaration as "Exhibit A" is a copy of my resume as it existed at the time I joined FATS.

4. Immediately prior to joining FATS, I was employed by Raytheon Company as a Marketing Director in the Washington, D.C. metropolitan area. I was employed by Raytheon from March 1990 through November 1990. At Raytheon, my duties included direct marketing activities for Raytheon's Army and Marine Corps programs.

5. Immediately prior to joining Raytheon, I was employed by Communications Technologies Applications, Inc., as a Vice President. I was employed by Communications Technologies Applications, Inc., from May 1988 until March 1990. The company was a training services provider, and my duties at the company included the direction of operations, marketing, and sales and the preparation of government and industry proposals.

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6. The first communication I ever had with Jody D. Scheckter, and the first time I met him, was in the Fall of 1990, shortly before I was hired by FATS. I had no knowledge of Mr. Scheckter or of FATS prior to the Fall of 1990. As one would expect, therefore, I had absolutely no involvement in Mr. Scheckter's business or personal affairs or decisions, or FATS' operations, prior to the Fall of 1990.

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7. I had absolutely no involvement in the making of political contributions to "Darden for Congress" in 1989 or "Thomas for Congress" in 1990. In particular, I had no involvement with, or connection to, a contribution of \$500 on October 20, 1989, to "Darden for Congress" or a contribution of \$500 on February 13, 1990, to "Thomas for Congress." I have never admitted that I approached Jody Scheckter (or anyone else) and requested that he make those contributions and I did not approach Jody Scheckter (or anyone else) and request that he make those contributions. In addition, I had no knowledge that such contributions were made until May 1994. I have never knowingly solicited a political contribution from an individual who, at the time, was not a citizen of the United States and not lawfully admitted for permanent residence in the United States and, to the best of my knowledge, I have never solicited a political contribution from an individual who, at the time, was not a citizen of the United States and not lawfully admitted for permanent residence in the United States.

8. In May 1994, FATS commenced an internal investigation regarding political contributions made by Mr. Scheckter. I learned of the investigation toward the end of May 1994. Prior to learning of the investigation, I had no knowledge that Mr. Scheckter had made

political contributions prior to becoming a permanent resident in the United States or that he had received reimbursement for political contributions. I would have immediately intervened to stop such activities had I known that such activities were taking place and were occurring while I was a FATS employee.

9. Commencing in early 1991, I became the person primarily responsible for overseeing FATS' relations with the United States Congress. Commencing in the Spring or Summer of 1991, Mr. Scheckter began to forward all solicitations for political contributions received by him to me. I would review the solicitations and advise Mr. Scheckter regarding which solicitations I thought he should respond to with a donation. Mr. Scheckter is an advocate of a strong national defense, so I would generally recommend contributions to candidates who I expected to be good advocates for a strong national defense.

10. To the best of my knowledge, Mr. Scheckter did not make unsolicited donations. All donations were made in response to written solicitations, with one exception. In that instance, a solicitation was made over the telephone, but it was then followed up in writing.

11. Once Mr. Scheckter and I agreed that he should make a donation, I would give a note attached to the relevant solicitation to Mr. Scheckter's secretary, Janice Dean, stating that a check in the agreed amount should be made out to the solicitor. Ms. Dean would then make out a check from Mr. Scheckter's personal checkbook, have Mr. Scheckter sign the check, and then she would deliver the check to me. Sometimes she would deliver it by putting it in my in-box and sometimes by putting it on my desk. I would then either

mail the check to the candidate or it would be hand-delivered at the reception for the candidate. As noted above, I had no knowledge (until FATS' internal investigation) that Ms. Dean ever sought reimbursement for Mr. Scheckter from FATS for those personal checks.

12. Mr. Robert Motter was aware that I was the person primarily responsible for FATS' governmental relations and that Mr. Scheckter consulted me on a regular basis regarding his political contributions and other issues. As a result of FATS' internal investigation, I have learned that Mr. Motter concocted an alternative method to provide Mr. Scheckter with reimbursement for political contributions.

13. Mr. Motter and I had almost daily contact when I was not traveling. At no time, however, did Mr. Motter apprise me of the fact that he had devised such a method or that Mr. Scheckter had ever been reimbursed for a political contribution. Indeed, to the best of my knowledge, the only conversation I ever had with Mr. Motter concerning political contributions was a passing conversation in late 1993 or early 1994. In that conversation, Mr. Motter asked whether I knew that it is illegal for a corporation to make campaign contributions. I stated that I was aware of that, and that that was why I made sure that only personal checks from Mr. Scheckter's account were used for contributions. That was the extent of the conversation.

14. At the time, I assumed that Mr. Motter was merely making sure that I knew the state of the law since he knew that I was involved in FATS' governmental relations and in advising Mr. Scheckter on political contributions. I assumed that he wanted to make sure that FATS did not do anything illegal. My response was

intended to assure him of what I believed to be the truth: that the only contributions being made were personal contributions by Mr. Scheckter. Given subsequent events, however, I now suspect that Mr. Motter made that comment as part of a ploy to make it appear as if others at FATS were involved in, or approved of, his illegal reimbursement method. Had Mr. Motter not been acting duplicitously, I believe he would have stated to me clearly that Mr. Scheckter was receiving reimbursements so that I could put a stop to them. Alternatively, had Mr. Motter not been acting duplicitously and had he been under the impression that I had approved of the reimbursements, I believe he would have confronted me directly regarding the impropriety of reimbursements and the need to stop them. In addition, if Mr. Motter had been concerned because he believed FATS was doing something illegal which he wanted stopped, I believe he would have presented such information to me in a more formal context than a passing conversation. The fact that Mr. Motter did not take such actions suggests to me that he was interested merely in casting a cloud of suspicion over others at FATS, and FATS itself, by creating an event which he could later refer to as evidence of a supposed conspiracy within FATS to circumvent the Federal election laws. Such a conspiracy did not, and does not, exist.

15. I find it extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws. I have had a close working relationship with Mr. Scheckter for many years. I deal with him on a daily basis on a variety of topics. Mr. Scheckter frequently seeks the counsel of others on issues of concern to FATS, often assembling groups of employees to discuss important matters.

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For instance, Mr. Scheckter often consults with me (and others) on research and development, manufacturing, and international issues in addition to issues relating directly to domestic and U.S. Military sales. In the course of such meetings, Mr. Scheckter is quick to encourage FATS' employees, including me, to seek legal advice whenever there is a question of whether a possible course of conduct is legal and proper. In the four years that I have known Mr. Scheckter, I am unaware of any instance in which he has suggested that FATS should engage in conduct he knew to be illegal or an instance in which he has pursued a course of conduct after being advised that the course was potentially improper. That is one reason why I find it extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws: he always puts FATS' interests first and does his best to make sure that FATS abides by the law. In addition, the amount of money Mr. Scheckter received in reimbursement from FATS for his contributions was relatively small. It would seem quite unlikely that Mr. Scheckter (or anyone) would invest so much time and effort building a company only to knowingly put the company in jeopardy over such a relatively small amount of money.

16. I have no reason to believe that Mr. Scheckter was aware that he was receiving reimbursement for his donations when he made them. In addition, it seems unlikely that Mr. Scheckter was aware that he was receiving reimbursement for his donations when he made them, since he frequently contributed less than the maximum amount permitted by Federal law for a contribution. In fact, there were occasions when Mr. Scheckter questioned the amount of the contribution I recommended and suggested a smaller contribution.

Had he known that FATS would be reimbursing him for the donations (and had he approved of such conduct), it would be only rational that he would have given the full amount allowed for a contribution, since FATS could easily have afforded it. The fact that most of the contributions were well below the legal limit suggests to me that Mr. Scheckter was not aware at the time of the contributions that he would be receiving reimbursement for them.

17. That Mr. Scheckter would be unaware he had been receiving reimbursements for his political contributions would not surprise me. Mr. Scheckter is an extremely busy individual and, by choice and necessity, has others take care of many matters for him. An example of that is the fact that Mr. Scheckter's secretary is in charge of his personal checkbook. Another example is the fact that when Mr. Scheckter travels with another FATS employee, that employee is placed in charge of obtaining reimbursement for expenses incurred on the trip by both the employee and by Mr. Scheckter. Given the fact that Mr. Scheckter generally delegates tasks related to his personal finances and expenditures on behalf of FATS, it would not surprise me that Mr. Scheckter would be unaware that he had received reimbursement for particular personal expenditures.

18. Despite the suggestion to the contrary in Federal Election Commission documents, Mr. Scheckter never told me that Mr. Motter had suggested a reimbursement scheme to Mr. Scheckter. Rather, in May 1994, I had a conversation with Mr. Scheckter

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concerning FATS' internal investigation. In that conversation, Mr. Scheckter told me that an allegation had been made that Mr. Motter had suggested a reimbursement scheme to him. Mr. Scheckter indicated to me that, in fact, Mr. Motter had not suggested such a scheme to him.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: December 2, 1994.

  
Robert F. Mecredy

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December 5, 1994

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090 - Janice Dean

Dear Mr. Buckley:

This submission is made in response to Chairman Potter's letter of October 27, 1994, to Thomas J. Kelly, Jr., and its enclosed Factual and Legal Analysis ("Analysis") relating to my client, Janice Dean.

I would first offer my thanks to you and the office of General Counsel for extending me the courtesy of a twenty day extension in which to reply. I appreciate your recognition that this additional period of time was needed in view of my recent entry as Ms. Dean's counsel in the matter under consideration.

The Federal Election Commission ("Commission") has found that there is reason to believe that Ms. Dean, during her employment as a secretary with Firearms Training Systems, Inc. ("FATS"), knowingly and wilfully violated 2 U.S.C. §441(f), which provides in pertinent part:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution ....

(Emphasis added.) Analysis at 1.

The Analysis also states that, "This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another," citing 11 C.F.R. §110.4(b)(1)(iii). Analysis at 1. While a question

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exists as to whether this latter provision is a proper implementation of the Commission's power to prescribe "...any rule, regulation, or form ..." (2 U.S.C. §438), such issue will be left to be resolved at a later time in the event that this case proceeds forward.

The Analysis concluded that, "Mr. Scheckter and Ms. Dean were involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	08-13-92	Richard Ray for Congress	\$ 500
2	10-14-92	Friends of Newt Gingrich	\$1,000
3	02-02-93	Darden for Congress	\$1,000
4	06-05-93	Friends of Newt Gingrich	\$1,000
5	07-14-93	Don Johnson for Congress	\$ 500
			total \$4,000"

Analysis at 1.

In order to properly evaluate Ms. Dean's conduct, and to reach a reasonable conclusion as to the action, if any, that it should take, the Commission must have a proper perspective of her background. Ms. Dean is a high-school educated, forty-seven year old grandmother with some twelve years' secretarial experience before beginning employment with FATS on May 18, 1992. At that time, she was thrust into an intense, exhausting job with all of the pressures experienced by members of a dynamic and rapidly growing business.

Ms. Dean was loyal to her boss, Mr. Scheckter, and to FATS, and as a part of those loyalties would never have considered doing anything of a questionable nature or that would have in any way jeopardized Mr. Scheckter, FATS, or herself.

At no time, up until late May, 1994, when FATS retained the law firm of Venable, Baetjer, Howard & Civiletti to conduct an internal investigation, had Ms. Dean ever heard of

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the Federal Election Campaign Act ("Act") or its restrictions. In attempting to fulfill her many responsibilities, including maintaining Mr. Scheckter's checkbook and obtaining expense reimbursements to which she understood he was entitled, she continued the practice of seeking recoupment for political contributions as had been done for over two years prior to her arrival.

The Commission should also give appropriate weight to the philosophy of FATS' President (to which his secretary, Ms. Dean, was exposed on a daily basis and which became her philosophy), as expressed by employee Robert F. Mecredy who has had a close working relationship with Mr. Scheckter since the fall of 1990, and deals with him on a variety of topics. Mr. Mecredy notes that "Mr. Scheckter is quick to encourage FATS' employees ... to seek legal advice whenever there is a question of whether a possible course of conduct is legal and proper." In the four years that he has known Mr. Scheckter, Mr. Mecredy was "unaware of any instance in which he has suggested that FATS should engage in conduct he knew to be illegal or an instance in which he has pursued a course of conduct after being advised that the course was potentially improper." Mr. Mecredy found it "extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws ... and does his best to make sure that FATS abides by the law." (Mecredy Declaration.)

That this was the corporate philosophy is further supported by Mr. Mecredy's observation that FATS' Chief Operating Officer ("COO"), Clare Fawkes, "was a stickler about everything being done 'by the book.'" (Mecredy Interview Notes at 5).

As pointed out by Mr. Mecredy, it seems quite unlikely that anyone would invest so much time and effort to build such a successful, profitable company and then jeopardize it over a trivial amount of money. Even more so with Mr. Scheckter's secretary, Ms. Dean. Her respect for her boss and her loyalty to the corporation makes it even less likely that she would jeopardize Mr. Scheckter, FATS, and her job over a small amount of money when she had absolutely nothing to gain. Rather than hazard any or all of the foregoing, Ms. Dean's natural instinct would be to do the very opposite, that is, to make every effort to avoid any impropriety. Had she had any conception that her conduct was improper, at a minimum she

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would have discussed it with and received guidance from Mr. Scheckter.

THE PRE-ROBERT MOTTER REIMBURSEMENTS

Contributions 1 and 2

The Commission's finding that requests for reimbursement for contributions 1 and 2 in the above chart were handled the way other business-related expense reimbursement requests were routinely handled within FATS is, of course, accurate. Analysis at 2. Because each such request clearly stated it was reimbursement for a political contribution, there was clearly no knowing or wilful attempt to evade the provisions of the Act. At worst, what existed was an inadvertent violation of the Act by a well-meaning secretary involving, to Mr. Scheckter, a de minimis amount of money, for which Ms. Dean had nothing to gain and for which she received not so much as a "thanks," inasmuch as Mr. Scheckter was unaware that reimbursements were being made. (Dean Interview Notes at 3; Scheckter Interview Notes at 3; Scheckter Declaration.)

It is clear that Ms. Dean acted completely innocently and in total ignorance of the requirements of the Act.

Further, as a result of its own internal investigation which resulted in FATS' voluntarily reporting this matter to the Commission, FATS implemented a strict policy (a copy of which has been previously provided to the Commission) to ensure compliance with the Act. Ms. Dean has both carefully read these broad rules prohibiting all corporate political activity, and has been personally responsible for ensuring distribution of copies of that policy to the head of each corporate department.

Quoting from 2 U.S.C. §437(g)(4)(A)(i), the Commission, at the appropriate time, "...shall attempt ... to correct or prevent such violation by informal methods of conference, conciliation, and persuasion...." If there was ever an instance where correction has already occurred, and where, by virtue of Ms. Dean having gone through this ordeal, prevention of future similar conduct is assured, this is that case.

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Accordingly, the Commission can and should, at this juncture of the proceedings, decline to expend further resources in investigating Ms. Dean, concerning whom no benefit will be gained by proceeding further in this matter.

#### THE POST-ROBERT MOTTER REIMBURSEMENTS

##### Contributions 3, 4 and 5

It must first be pointed out that there is no evidence sufficient to support a reason to believe that reimbursement for contribution number 5 in the above chart (07-14-93) was ever made. The Analysis itself states that this contribution was only "possibly" reimbursed. Analysis at 3. A thorough search of FATS' corporate records has disclosed that of these three contributions, only numbers 3 (02-02-93) and 4 (06-05-93) were reimbursed.

Mr. Robert R. Motter's ("Motter") recollection that he was involved in reimbursing three contributions is simply wrong. The corporate records, which entail all reimbursement checks issued, and which fail to reflect issuance of reimbursement check number 5, are accurate. A "mere possibility" that reimbursement number 5 was made, particularly in light of the indisputable evidence to the contrary, is insufficient to raise this speculative allegation to a level of "reason to believe" that a violation of the Act has occurred.

Contributions 3 and 4 in the above chart were made after Motter, FATS' former Chief Financial Officer ("CFO"), was hired in November, 1992. The Analysis concludes that in February, 1993, Ms. Dean sought reimbursement from Motter for the first of those two contributions, and at that time, "Motter informed her that it was illegal for corporations to reimburse individuals for political contributions ... [and] ... he insisted that no paper trail should be created which tied reimbursements ... to ... Scheckter's political contributions." Analysis at 3. This finding is contrary to the true facts and to the information before the Commission.

Accurately stated, the information available to the Commission is that Motter told Ms. Dean that corporations could not make reimbursements for political contributions

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through the normal corporate expense reimbursement method, but that another method, the appropriateness of which he was uncertain and about which he had to give some consideration, could possibly be used. That other method involved paying Mr. Scheckter back in the form of a taxable bonus.

Further, it is inaccurate to state that Motter insisted that no "paper trail" should be created. These words were neither used nor implied by Motter, and erroneously suggest that Motter and Ms. Dean reached some sort of sub rosa agreement. What in fact happened was that Motter told Ms. Dean that the submission of a formal request was unnecessary, that he, not she, would handle all documentation, and that all she had to do was periodically provide him with a note summarizing Mr. Scheckter's contributions. This seemed logical to Ms. Dean, inasmuch as there was no other procedure of which she was aware for her to submit a request for a special bonus. She followed Motter's instructions, gave him a note with the amount of the first "Motter" reimbursement, and it was not until some time later that Motter caused the first bonus check to be prepared.

Ms. Dean believed political contributions were legitimate, reimbursable expenses, and she was unaware of anything prohibiting FATS from reimbursing, in some form, those expenditures. (Dean Interview Notes at 2 - 3.)

Prior to Motter being hired by FATS as its CFO, Ms. Dean had received and reviewed his impressive application and resume'. Motter's educational history reflected undergraduate degrees in both accounting and political science. His employment history included ownership of his own business; fifteen years as a member of the adjunct teaching faculty at York College of Pennsylvania; and employment with various large corporations in management positions of ever-increasing responsibility over a period of eighteen years, rising to the level of Vice President, Finance and Administration of an international corporation, where, according to his claims, one of his responsibilities was to ensure financial compliance with U.S. Government requirements.

Motter began at a salary of \$85,000, a \$5,000 relocation allowance, and an anticipated 20% bonus. At the same time, Ms. Dean's salary was in the mid-20's.

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Ms. Dean held Motter "... in high regard and believed he was a man of integrity. She trusted ... [him] ... and his judgment because of his integrity and because he seemed to know what he was doing and was very knowledgeable about his job." (Dean Interview Notes at 3.)

The general respect in which Motter was held is also reflected in the interview of Mary Miles, with whom Motter worked closely. (Miles Interview Notes at 3.)

Based upon the high regard in which she held Motter, her opinion that he was a man of honesty and integrity, and the time gap between the contribution (2-2-93) and when the first check under the reign of Motter was issued (4-30-93), Ms. Dean, who had no financial experience and no knowledge of the Act or its limitations, should and did rely upon the CFO's expertise. She reasonably assumed that Motter had given the matter the appropriate consideration during that period and that he had properly concluded that political expenditures could be compensated by means of a taxable bonus.

Ms. Dean considered Motter to be a decent man and relied upon that opinion, as well as upon his expertise acquired through his education and experience, in concluding that he would do what was right, to the extent that she didn't think twice about the propriety of his decision. She believed he had figured out an "appropriate and legitimate method for making the reimbursements." (Dean Interview Notes at 6 - 7.)

Additionally, the Analysis fails to note that Motter claims he did not recall any conversations about this subject with the COO, Ms. Fawkes (Motter Interview Notes at 20), while Ms. Fawkes recalls that:

[Motter] mentioned he was changing how Jody Scheckter would be reimbursed for political contributions; Mr. Motter told Clare [Fawkes] that he would use a manufacturing bonus approach; Clare said it was fine with her if that was the best way to accomplish such reimbursements in Motter's judgment ... Clare fully relied on Mr. Motter to only suggest legitimate and appropriate approaches, and had no

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basis to suspect that this reimbursement issue involved any problems.

(Fawkes Interview Notes at 2.)

Had Ms. Dean felt that Motter's handling of the reimbursements was questionable, she would surely have consulted Mr. Scheckter, Ms. Fawkes, and even Mr. Mcredy. She has almost daily contact with each of these individuals and would have sought their advice had Motter given her any reason to believe that his proposal was improper.

Additionally, it is noted that Motter signed off as CFO on FATS' management letter for the 1993 Price Waterhouse audit on May 19, 1993, nineteen days after causing the 4-30-93 reimbursement check to be issued, and over two months before causing the 7-30-93 reimbursement check to be issued. In that letter, Motter represented that he was "...not aware of any violations or possible violations of laws or regulations ...."

While the undersigned cannot know what was in Motter's mind at that time, but only what he now claims, it must be observed that Motter, at the time he told Ms. Dean about his approach, may have possibly thought that such a method was proper. This becomes even more likely in view of his later comment to Ms. Fawkes, the COO, that he was changing how Mr. Scheckter would be reimbursed, and the delay between the first request to him and issuance of the 4-30-93 check.

The Analysis also finds that, "With Robert Motter's participation, certain violations become knowing and wilful." Analysis at 3 - 4. In this Circuit it has been held that a knowing and wilful violation of the Act "must necessarily connote defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act." American Federation of Labor v. Federal Election Comm., 628 F2d 97, 101 (D.C. Cir. 1980), quoting Frank Greg, Jr., Inc. v. OSHA, 519 F.2d 1200 (3rd Cir. 1975).

Ms. Dean, relying on what had been done before she came to work for FATS, had absolutely no reason to question whether Mr. Scheckter should be paid for his contributions. Based upon what she knew, he should be. When Motter arrived on the scene, to Ms. Dean the question simply became one of which

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procedure to follow: (1) the normal corporate expense reimbursement method, or (2) the issuing of a bonus check. This was not a secretarial decision; rather, it was a function of the financial department, led by its CFO, to decide whether to make, and the appropriate method to use in making, such payments.

Ms. Dean reasonably relied upon what has now proved to be the unsound advice of Motter. She did not possess Motter's background, education or experience, nor was she paid his salary. What was expected of Motter could not be expected of Ms. Dean. It is submitted that her state of mind was innocent and that no reason exists to believe that she acted in a manner which demonstrates a knowing, conscious and deliberate flaunting of the Act.

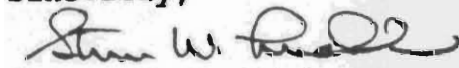
At worst, it can be argued that Ms. Dean made an honest mistake in reliance upon Motter. That being the case, it is submitted that it would be improper to find that her actions were knowing and wilful. Concomitantly, it would therefore serve no useful purpose to further pursue this matter against Ms. Dean, who, through this unfortunate experience, has already undergone a great deal of suffering and embarrassment and whose conduct in the future will, without any doubt, conform to that which is required by the Act.

Accordingly, and for the foregoing reasons, it is requested that only the reimbursement for checks 1 through 4 on the above chart should be considered; that there is no sufficient basis to conclude that Ms. Dean acted in a knowing and wilful manner with respect to checks 3 and 4; and that the purposes of the Act would be served by declining further action against Ms. Dean.

Finally, pursuant to 2 U.S.C. §437g(a)(12)(A), it is requested that the notification and this investigation not be made public.

I would appreciate the opportunity to explore with you at a mutually convenient time the Commission's inquiry concerning Ms. Dean.

Sincerely,



Steven W. Ludwick

SWL:dsw

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FEDERAL ELECTION COMMISSION MAIL ROOM  
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December 6, 1994

CONFIDENTIAL TREATMENT  
REQUESTED BY  
JANICE DEAN

DEC 8 3 31 PM '94

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

FOIA Officer  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090 -- Request for Confidential Treatment  
By Janice Dean

Dear Sir or Madam:

Pursuant to 2 U.S.C. § 437g(a)(12)(A) and 11 C.F.R. § 4.5(a), as counsel for and on behalf of Janice Dean, I request that confidential treatment be accorded to the investigation and to all submissions on her behalf to the Federal Election Commission in connection with the above-referenced matter under review.

Please inform me promptly of any request under the Freedom of Information Act seeking access to the material described above, so that I may substantiate the grounds for confidential treatment.

Thank you.

Sincerely,

Steven W. Ludwick

SWL:dsw

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**CHILIVIS & GRINDLER**

ATTORNEYS AT LAW

3127 MAPLE DRIVE, N.E.  
ATLANTA, GEORGIA 30305

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December 16, 1994

mwr 4090

**VIA FACSIMILE AND REGULAR MAIL**

Anthony Buckley, Esq.  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

Re: Robert Motter

Dear Mr. Buckley:

It was a pleasure meeting you in Atlanta earlier this week. During the interview of my client, Mr. Motter, you requested that he provide you with certain information. Pursuant to your request, he has now gathered that information, which is as follows:

1. Mary Jo Stenzel  
Telsystems Atlanta, Inc.  
President, John Vigliotti

Ms. Stenzel was the former receptionist at FATS whom Mr. Scheckter "followed" to her new job.

2. Richard Schaeffer  
1285 Creek Laurel Drive  
Lawrenceville, Georgia 30243

It is believed, on second hand information, that Mr. Schaeffer's termination from FATS was due to his unwillingness to make false statements as relates to FATS' affirmative action program/EEO practices.

3. Gary Meyer  
Miller/Zell, Inc.

Mr. Meyer was Mr. Motter's predecessor as CFO at FATS.

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Anthony Buckley, Esq.  
December 16, 1994  
Page 2

4. Mike Forry  
113 Elcona Drive  
Fayetteville, Georgia 30214

Weapons production supervisor at FATS who suffered several demotions, eventually quit and accepted a job with a FATS supplier. Based upon the second hand information which Mr. Motter related to you during the interview, Mr. Scheckter "followed" Mr. Forry to his new company.

I believe this responds to all of your requests. If we can be of any further assistance or provide any further information, please call me.

Sincerely,



Thomas D. Bever

TDB/bc

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BEFORE THE FEDERAL ELECTION

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

In the Matter of )  
 )  
Firearms Training Systems, Inc. )  
Jody D. Scheckter )  
Robert Motter )  
Robert Mecredy )  
Janice Dean )

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NUR 4090

**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 18, 1994, the Commission found reason to believe that Firearms Training Systems, Inc. ("Firearms Systems") violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f; that Jody D. Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Mecredy violated 2 U.S.C. § 441e; and that Janice Dean violated 2 U.S.C. § 441f and knowingly and willfully violated 2 U.S.C. § 441f. At that time, the Commission approved one joint conciliation agreement which addressed the violations of all of the Respondents.

As noted in the General Counsel's Report in this matter dated November 22, 1994, the Commission's offer of a joint agreement was quickly rejected by common counsel for Firearms Systems, Jody Scheckter, Robert Mecredy and Janice Dean. The Commission was further informed in that report that we anticipated that certain discovery would be necessary, but that we were waiting to receive responses to the Commission's reason to believe findings so that we could properly advise the Commission.

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**II. RESPONSES TO REASON TO BELIEVE FINDINGS**

This Office has now received responses to the Commission's findings from Firearms Systems, Jody Scheckter, Robert Mecredy and Janice Dean and Robert Motter, and these are discussed in detail below. In addition, while on a trip to Atlanta to conduct a deposition in another matter, staff of this Office met with Robert Motter, and his comments from that interview are incorporated in his discussion below. Also, the interview notes of Clare Fawkes, a non-respondent witness who is Jody Scheckter's wife and the Chief Operating Officer of Firearms Systems, appear to have new relevance. Those notes are also discussed below. Further, this Office has interviewed six former employees of Firearms Systems, and their comments are also discussed below.<sup>1</sup>

**A. Response of Robert Motter**

Robert Motter's response is in the form of a letter from counsel without an accompanying affidavit, and certain documents. Attachment 1. However, because Motter's interview statements are consistent with the statements made by counsel in the submission, no distinction is made between the two in the discussion below.

According to Motter, he joined Firearms Systems on November 18, 1992, and quickly became disillusioned with the working environment created by Jody Scheckter. According to him,

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1. Five of the former employees were identified by Robert Motter as individuals who might be knowledgeable about the political contributions and who could shed light on the atmosphere at Firearms Systems. The sixth former employee was interviewed by counsel for Firearms Systems during the course of its internal investigation, and also appeared knowledgeable on these issues. See MUR 4090, First General Counsel's Report dated October 5, 1994, Attachment 2 at 1-7.

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in mid-December 1992, he called the Human Resources Manager at home and informed the manager that he would not be coming back. The next day, Motter went into the office to clean out his personal effects, and was met by Jody Scheckter. The two had a conversation, in which Scheckter admitted that the way he ran the company was different than most people, and eventually convinced Motter to stay.

In February 1993, Motter was approached by Janice Dean, who requested that Motter reimburse Scheckter for a political contribution he had made. Motter told Dean that he thought it was illegal to reimburse Scheckter for the contribution, and Dean replied that Scheckter wanted to be reimbursed and that he had been reimbursed in the past. Immediately following this discussion with Dean, Motter called Billy Koons, a tax partner at Price Waterhouse, Firearms Systems' accounting firm, to check on the legality of the reimbursements. On February 5, 1993, a day or two later, Dan Bauer of Price Waterhouse sent Motter some information, see Attachment 1 at 16-31, and in reviewing it, Motter concluded that it would be illegal to reimburse Jody Scheckter for any contributions.

On either February 5 or 6, 1993, Motter went to Jody Scheckter with the documents he had received from Price Waterhouse, and informed him directly that it would be illegal to reimburse him for any political contributions. Motter states that Scheckter told Motter that he had always been reimbursed before, and that he wanted to be reimbursed for that contribution. Motter quoted Jody Scheckter as stating, "Make it look legal."

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During this course of events, Motter became aware of the method previously employed by Firearms Systems in making reimbursements. Counsel contends that, had Scheckter not ordered Motter to "make it look legal," Motter would have used this method.<sup>2</sup> In order to comply with Scheckter's order, Motter devised the second method, which involved running the reimbursement through payroll and marking it up so that, with withholding tax taken out, the final amount equaled the amount of the contribution. This would be listed as a bonus for Jody Scheckter.

Motter stated that, although he knew that the reimbursement was illegal, he did not feel secure in his job, and he felt that if he defied Scheckter, he might lose it.

Approximately three months later, Janice Dean approached him regarding another political contribution. Motter told her that this would be the last one that he would reimburse, and not to approach him anymore. Motter was not approached for any other reimbursements.<sup>3</sup>

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2. Such an effort would not diminish the fact that, at least at this juncture, the violations of the Act became knowing and willful. At best, it may indicate that Robert Motter's version of events is true, as he would have no other reason to change the reimbursement method.

3. In the First General Counsel's Report in this matter, this Office advised that there may have been a third contribution which had been reimbursed through the method devised by Robert Motter. This had been based on statements by Robert Motter and Janice Dean which had been supplied by then-common counsel. It now appears, based on Robert Motter's statements during the interview, and other statements made in response to the Commission's reason to believe findings, that only two contributions were reimbursed by this method.

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Motter stated that the instant matter, and an investigation of Firearms Systems by the Department of Justice which is currently underway, were precipitated by his refusal to sign the 1994 management representation letter for the annual audit.<sup>4</sup> He refused because he could not attest that Firearms Systems was compliant with all laws. Besides the violations of the Act, Motter understood that Firearms Systems was also in violation of certain Bureau of Alcohol, Tobacco and Firearms regulations, and the Foreign Corrupt Practices Act. He brought these violations to the attention of appropriate Federal agencies. He has been immunized by the Justice Department for his proffer.

Motter acknowledged that he signed the 1993 management representation letter, in which he certified that Firearms Systems was compliant with all laws to which it was subject, even though he was aware of the violations at that time. He explained that in 1993, he had not yet moved into his new house, and his wife had not yet found a job. In view of these facts, while he felt uneasy, he still signed the 1993 letter.<sup>5</sup> In 1994, he became aware of the extent of the Foreign Corrupt Practices Act violations, and decided he could not sign the letter.

Motter informed the corporation's outside counsel of his concerns, and this prompted the internal investigation which resulted in the sua sponte submission. Mr. Motter has not denied

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4. The Justice Department is aware of the FECA violations but, as this Office understands, is not prosecuting them because they do not fall within their internal guidelines.

5. Counsel's submission cites these concerns as reasons why Motter effectuated the first reimbursement.

his knowing and willful activity. He has, however, stated that others were aware of the activity, and that it was only done on the insistence of Jody Scheckter. Indeed, in his interview, he stated that Jody Scheckter believes that the United States takes too much of a moralistic view as to how business should be run. Motter was terminated by Firearms Systems after the FBI conducted a search of Firearms Systems and after Firearms Systems was awarded a major Marine Corps contract. Motter is currently litigating a wrongful dismissal suit against Firearms Systems in a whistle-blower action filed with the Inspector General of the Department of Defense.

**B. Response of Jody Scheckter**

Jody Scheckter has provided an affidavit regarding the Commission's Factual and Legal Analysis, as well as argument from counsel. Attachment 2. The discussion below relies only on the facts as stated by Jody Scheckter.

Scheckter notes that, with regard to the first two contributions, Robert Mecredy had not yet come to work for Firearms Systems, and therefore could not have participated in the process. Id. at 17. Scheckter also states that he did not learn that he had been reimbursed for the second contribution, which was made in February 1990, until May 1994. Id.<sup>6</sup>

Scheckter states generally that he is not, and never has been, "in the habit of submitting any expenses for reimbursement.

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6. In addition, Scheckter's counsel has interposed a constitutional objection to the Commission's findings with respect to these contributions, arguing that they violate his first amendment rights. Id. at 3.

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Unless a colleague or [his] secretary takes the initiative to seek reimbursement on [his] behalf, [he does] not, as a general rule, get reimbursed for [his] business-related expenses." Id. at 17-18. As he stated in the interview notes provided by then-common counsel, Scheckter reiterates that he is "often chided by [his] colleagues for failing to obtain reimbursements for business-related expenses." Id. at 18. Scheckter further states that, since Janice Dean joined Firearms Systems, he has relied on her to maintain his personal checking account, including making deposits of all checks, and obtaining reimbursements of his business-related expenditures. Id.

With regard to those contributions made after Scheckter became a permanent resident, he states that he never personally sought reimbursement, nor does he recall directing anyone to submit such expenditures for reimbursement. Id. He further states that he never expected to receive reimbursements from any source for these contributions. Id. He states that Janice Dean never advised him that she had sought or obtained reimbursement for the political contributions or "any other business-related expenses." Id.

Specifically, Scheckter states that he first learned of possible violations when he was given a copy of Motter's May 17, 1994 letter to corporate counsel. Id. He denies that Motter advised him that it would be illegal for Firearms Systems to reimburse Scheckter for his political contributions. Id. at 19. Scheckter also states that he never directed Motter to create an unlawful reimbursement mechanism, and that he has never condoned

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any illegal activity on the part of Firearms Systems or any Firearms Systems employee. Id.

Scheckter states that he and Motter did not enjoy a good working relationship, and that he quickly lost confidence in Motter. Id. He further states that several months prior to May 1994, "it was decided that Mr. Motter should be replaced, however, for business reasons, no action was taken until an ad was run in the newspaper advertising" Motter's position. Id. Scheckter implies that the initial letter to counsel written by Motter was issued in response to Motter's discovery of this ad. Id.

C. Response of Robert Mecredy

Robert Mecredy has provided an affidavit regarding the Commission's Factual and Legal Analysis, as well as argument from counsel. Attachment 3. The discussion below relies only on the facts as stated by Robert Mecredy.

Mecredy first indicates that the finding made against him regarding a violation of 2 U.S.C. § 441e is in error. Specifically, Mecredy states that he was not working for Firearms Systems at the time that the contribution in question was made, and did not participate in its making. Jody Scheckter's affidavit supports this statement. Id. at 9.<sup>7</sup>

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7. The recommendation against Robert Mecredy was based on information provided by then-common counsel. That information described generally the procedures followed when political contributions were made by Jody Scheckter, including Robert Mecredy's involvement. The information noted that Janice Dean, Scheckter's secretary, was not involved in all of the contributions, but did not make any such distinction with respect to Mr. Mecredy. Once the investigation is complete, this Office

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Mecredy further states that, in the Spring or Summer of 1991, Jody Scheckter began to forward to him all solicitations Scheckter received for political contributions. Id. at 10. Mecredy would review the solicitations and advise Scheckter as to which he should respond to with a contribution. Id. Once Scheckter and Mecredy agreed that Scheckter should make a contribution, Mecredy would give a note attached to the solicitation to Scheckter's secretary, stating that a check in the agreed amount should be made out. Id.<sup>8</sup> The secretary would make out the check, have Scheckter sign it, and then deliver it to Mecredy. Id. Mecredy would either mail the contribution or hand-deliver it at a reception. Id. at 10-11.

Mecredy expresses surprise that Motter did not apprise him of the fact that Scheckter had been reimbursed for political contributions, or that a method to hide this fact had been invented. Mecredy says that he had one passing conversation with Motter regarding political contributions, and that at that time, Motter asked whether Mecredy knew it was illegal for corporations to make political contributions. Id. at 11. Mecredy stated that he was aware of that, and that was why he had Scheckter make

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(Footnote 7 continued from previous page)  
will make the appropriate recommendation to the Commission regarding Mr. Mecredy.

8. Mecredy specifically identifies Janice Dean as the secretary to whom he would give the information. However, as noted in the First General Counsel's Report in this matter dated October 5, 1994, Janice Dean did not become Jody Scheckter's Executive Secretary until sometime after April 14, 1992. Thus, Robert Mecredy's account is in error as to whom he delivered two of the contribution requests.

contributions from his personal account. Id. That was the extent of the conversation. Mecredy suggests that Motter made his comment "as part of a ploy to make it appear that others at [Firearms Systems] were involved in, or had approved of, his illegal reimbursement method." Id. at 12.

Mecredy finds it unlikely that Scheckter would knowingly violate Federal election laws. Id. He also finds it unlikely that Scheckter would have been aware that he was receiving reimbursements for his contributions. Id. at 13. Mecredy notes that Scheckter is "an extremely busy individual and, by choice and necessity, has others take care of many matters for him." Id. at 14. Mecredy points out, for example, that when Scheckter travels with another Firearms Systems employee, that employee is placed in charge of obtaining reimbursements for expenses incurred on the trip by Mr. Scheckter. Id.

#### D. Response of Janice Dean

Ms. Dean's response is in the form of a letter submitted by counsel. Attachment 4. Counsel states that Ms. Dean "is a high-school educated, forty-seven year old grandmother with some twelve years' secretarial experience before beginning employment with [Firearms Systems] on May 18, 1992." Id. at 2. Counsel states that, until the internal investigation conducted by Firearms Systems, Dean was unaware of the Commission or its restrictions, and that, in seeking reimbursement for Scheckter's political contributions, she continued a practice that had been in existence for over two years prior to her arrival at Firearms Systems. Id. at 2-3. Counsel next cites to statements by Robert

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McCredy in his response to the Commission, regarding Scheckter's attitudes toward illegal conduct by Firearms Systems or its employees. Id. at 3.

Counsel suggests that Ms. Dean would have made every effort to avoid any impropriety and, had she any concerns in this regard, she would have discussed them with Scheckter. Id. at 3-4.

With regard to the contributions which were reimbursed prior to the arrival of Robert Motter, counsel argues that at worst, what existed were inadvertent violations of the Act, and that Ms. Dean acted "completely innocently and in total ignorance of the requirements of the Act." Id. at 4.

With regard to the contributions which were reimbursed after the arrival of Robert Motter, counsel argues that Motter initially told Dean that corporations "could not make reimbursements for political contributions through the normal corporate expense reimbursement method, but that another method, the appropriateness of which he was uncertain and about which he had to give some consideration, could possibly be used." Id. at 5-6. (Emphasis in original).

Counsel also argues that Motter never insisted that no paper trail should be created, and that Motter neither used nor implied those words. Id. at 6. Counsel alleges that Motter told Dean that: "the submission of a formal request was unnecessary, that he, not she, would handle all documentation, and that all she had to

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do was periodically provide him with a note summarizing Mr. Scheckter's contributions." Id. Counsel further argues that Dean relied on Motter's expertise, citing a number of factors. Id. at 6-7.

**E. Response of Firearms Systems**

Counsel for Firearms Systems has submitted a response without accompanying affidavits. Attachment 5. Counsel argues that no culpability can attach to the corporation, asserting that none of the corporation's' current officers or employees, with the exception of Janice Dean, were aware of the reimbursements until the time of Firearms Systems' internal investigation. Id. at 3.

Counsel further argues that Firearms Systems should not be held liable for the actions of Robert Motter. Counsel asserts that the creation of the reimbursement scheme by Robert Motter was "ultra vires and a rogue act", that his actions in no way benefited the corporation, and that Firearms Systems never authorized Motter's actions nor subsequently acquiesced in them. Id. at 3-4.

Counsel cites Robert Mecredy as stating that Scheckter is notorious for not submitting any reimbursement requests and that it would be out of character for him to submit a request for reimbursement for political contributions. Id. at 6. Counsel further notes that Mecredy could not have violated the Act, since he was not employed by Firearms Systems at the time of the alleged violations. Id. at 5-6.

Counsel takes issue with the findings against Janice Dean. Counsel suggests that, with respect to the knowing and willful

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violations by Dean, Ms. Dean understood that Motter had "devised an appropriate and legitimate means of making" the reimbursements, and that Dean did not believe that an illegal scheme had been created. Id. at 7.

Counsel also points out that, in reviewing Motter's conduct, it is important to note that he signed the 1993 management representation letter. Id. at 8. Counsel appears to suggest that this action by Motter calls his credibility into question.

**F. Interview Notes of Clare Fawkes**

The interview notes of Clare Fawkes were previously attached to the First General Counsel's Report in this matter. See MUR 4090, First General Counsel's Report dated October 5, 1994, Attachment 2 at 47-48. The notes indicate that Ms. Fawkes was interviewed alone at certain times, and with Jody Scheckter present at others.

Ms. Fawkes first states that prior to Robert Motter joining Firearms Systems, she had seen a reimbursement check for Jody Scheckter for a political contribution. She never spoke about it or made any inquiry into the reimbursement. While she was aware that corporations could not make contributions, she did not realize that corporations could not reimburse individuals for contributions they made on personal accounts.

Ms. Fawkes states that she had a three-minute conversation with Robert Motter in early 1993, in which he mentioned that he was changing the method for reimbursing Jody Scheckter for political contributions, stating that he would use a manufacturing bonus approach. Fawkes states that she replied, telling Motter

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that his decision was fine with her if that was the best way to accomplish such reimbursements in his judgment. Fawkes further states that she was not aware of any legal issue, and that she thought Motter was making the changes for efficiency and streamlining purposes. She claims that Jody Scheckter has no knowledge of what he is reimbursed for and specifically no knowledge of the political contribution issue.

#### G. Interviews of Former Employees

While only one of the individuals had any knowledge regarding political contributions, they all commented on the atmosphere at Firearms Systems, and all were in basic agreement that Jody Scheckter was a very demanding employer and a difficult person to work for. Several suggested that one's job was never secure at Firearms Systems. Four of the individuals were able to comment on Robert Motter, with three giving him high marks for integrity. The fourth individual, who left Firearms Systems more recently and on better terms than the others, blames Motter for creating the current turmoil there, suggesting that he is seeking revenge. This individual also recalls that, prior to Motter's arrival, a political contribution drawn on a corporate account was returned to the corporation. See id., Attachment 2 at 6.

#### III. ANALYSIS

It is uncontroverted that Jody Scheckter made political contributions and that he was reimbursed for them by Firearms Systems. It is also clear that Janice Dean processed a number of these reimbursements, and that Robert Motter set up a process to disguise the fact that corporate reimbursements were occurring.

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Evidence is only unclear as to when Jody Scheckter first knew that he was being reimbursed for these contributions, and when he first knew that such reimbursements are illegal.

Nevertheless, the submissions by Firearms Systems and the individuals still in its employ, Jody Scheckter, Robert Mecredy and Janice Dean, all seek to portray Robert Motter as the only person liable for any violation in this matter, and take special efforts to convince the Commission that Jody Scheckter is blameless for any wrongdoing. While these points are made separately, it is clear from the responses these respondents are coordinating their efforts. This coordination first became apparent when counsel for Robert Mecredy sent in a request for an extension of time, reciting the exact language used by counsel for Jody Scheckter in seeking identical extension of time. More recently, the response from Janice Dean cites to the submissions of Robert Mecredy and Jody Scheckter and the response from Jody Scheckter references Robert Mecredy's submission. Although there is nothing unlawful about such coordination, it does suggest caution in affording too much credence to the story until it is subject to further examination. That is especially true here, where Robert Motter and Jody Scheckter are the only individuals currently identified who can speak with certainty on the issues.

Moreover, the assertions of Firearms Systems and its employees raise additional questions. For example, as a basis for their contention that Mr. Scheckter did not know he was being paid by the corporation for his contributions, the respondents claim that Janice Dean initially carried out the reimbursements on her

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own initiative and that, later, Mr. Motter was the sole corporate executive who knew about the practice. However, in her interview notes, Clare Fawkes, the Chief Operating Officer of the corporation as well as Mr. Scheckter's own spouse, reported that she too was aware of the corporate reimbursement practice and Mr. Motter's role, demonstrating that knowledge of the reimbursement practice was more widespread.

Furthermore, in contrast to repeated suggestions that it would be out of character for Jody Scheckter to seek reimbursement for his expenses, Robert Mecredy has most recently suggested that Scheckter's practice is to obtain reimbursements, but to have others obtain such reimbursements for him.<sup>9</sup> The question then arises as to whether Scheckter was instrumental in having his secretary, the individual responsible for maintaining his personal bank accounts, obtain reimbursements for political contributions.<sup>10</sup>

9. Specifically, Mecredy states that "when Mr. Scheckter travels with another [Firearms Systems] employee, that employee is placed in charge of obtaining reimbursement for expenses incurred on the trip by both the employee and by Mr. Scheckter." Attachment 3 at 14. This is in contrast to other statements which suggest that Jody Scheckter does not concern himself with being reimbursed for expenses. See Attachment 2 at 17 (Scheckter affidavit, wherein he states that he "is often chided about not submitting anything for reimbursement from the company." cf. MUR 4090, First General Counsel's Report dated October 5, 1994, Attachment 2 at 15 (Mecredy interview notes, wherein he states that Scheckter "is notorious for not submitting anything, including meals or business travel for reimbursement, so it would be totally uncharacteristic for him to direct that he be reimbursed for these political contributions.")).

10. Janice Dean's statements are inconclusive in this regard. Although in her interview statement she suggested that she processed such reimbursements on her own volition, counsel for Janice Dean has more recently stated that the practice of reimbursing Jody Scheckter for political contribution had been in existence for two years prior to Dean's arrival.

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As noted above, different stories are being told, and discovery will be necessary to resolve the inconsistencies.

**IV. DISCOVERY PLAN**

In order to discover relevant information, this Office believes that depositions should be conducted, and documents and written answers should be obtained.

Attached for the Commission's approval are a Subpoena to Produce Documents and Order to Submit Written Answers to Firearms Systems, and a Subpoena to Produce Documents to Jody Scheckter. Both document subpoenas requests all documents related to political contributions by Jody Scheckter. Such documents would include solicitations, copies of checks and documents relating to reimbursements. The questions to Firearms Systems request a description of the normal process by which Jody Scheckter's expenses are reimbursed, and the identities of all persons who were involved in that process, during the period in question.

Additionally, this Office recommends that the Commission approve appropriate deposition subpoenas for Jody Scheckter, Robert Mecredy, Janice Dean, Robert Motter, Clare Fawkes and the individuals to be identified as being involved in the reimbursement process. The inconsistencies in the versions of events told by Motter and Scheckter, Dean and Mecredy, and the internal conflicts between Mecredy's statements, as well as the

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need to find out how the procedure for reimbursing political contributions got its start, suggest that depositions are appropriate.

**IV. RECOMMENDATIONS**


1. Approve the attached Subpoena to Produce Documents and Order to Submit Written Answers to Firearms Training Systems, Inc.
2. Approve the attached Subpoena to Produce Documents to Jody Scheckter.
3. Approve the appropriate deposition subpoenas for Jody Scheckter, Robert Mecredy, Janice Dean, Robert Motter, Clare Fawkes, and the individuals to be identified as involved in the reimbursement process.
4. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

Date

3/31/95

BY:

  
Lois G. Lerner  
Associate General Counsel

**Attachments**

1. Submissions of Robert Motter
2. Submission of Jody Scheckter
3. Submission of Robert Mecredy
4. Submission of Janice Dean
5. Submission of Firearms Systems
6. Subpoena and Order to  
Firearms Systems
7. Subpoena to Jody Scheckter

Staff Assigned: Tony Buckley

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FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA R. DAVIS *L.R.D.*  
COMMISSION SECRETARY

DATE: APRIL 6, 1995

SUBJECT: MUR 4090 - GENERAL COUNSEL'S REPORT  
DATED MARCH 31, 1995

The above-captioned document was circulated to the  
Commission on MONDAY, APRIL 3, 1995 at 11:00 a.m.

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

Commissioner Aikens \_\_\_\_\_  
Commissioner Elliott \_\_\_\_\_  
Commissioner McDonald \_\_\_\_\_  
Commissioner McGarry \_\_\_\_\_  
Commissioner Potter XXX  
Commissioner Thomas \_\_\_\_\_

This matter will be placed on the meeting agenda  
for TUESDAY, APRIL 18, 1995

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4090  
Firearms Training Systems, Inc.; )  
Jody D. Scheckter; )  
Robert Motter; )  
Robert Mecredy; )  
Janice Dean )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 18, 1995, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 4090:

1. Approve the Subpoena to Produce Documents and Order to Submit Written Answers to Firearms Training Systems, Inc., as recommended in the General Counsel's March 31, 1995 report.
2. Approve the Subpoena to Produce Documents to Jody Scheckter as recommended in the General Counsel's March 31, 1995 report.
3. Approve the appropriate deposition subpoenas for Jody Scheckter, Robert Mecredy, Janice Dean, Robert Motter, Clare Fawkes, and the individuals to be identified as involved in the reimbursement process as recommended in the General Counsel's March 31, 1995 report.

(continued)

97043773303

Federal Election Commission  
Certification for MUR 4090  
April 18, 1995

Page 2

4. Approve the appropriate letters as recommended in the General Counsel's March 31, 1995 report.

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

Attest:

4-20-95  
Date

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

97043773304



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 24, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Gerard Treanor, Esq.  
Cacheris & Treanor  
1100 Connecticut Avenue, N.W.  
Suite 730  
Washington, D.C. 20036

RE: MUR 4090  
Jody D. Scheckter

Dear Mr. Treanor:

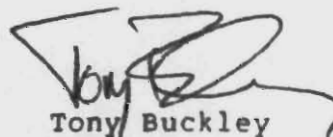
On October 27, 1994, your client, Jody Scheckter, was notified that the Federal Election Commission had found reason to believe he violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly and willfully violated 2 U.S.C. § 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring Mr. Scheckter to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

It is required that your client produce all documents within 30 days of your receipt of this subpoena.

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

Sincerely,

  
Tony Buckley  
Attorney

Enclosure  
Subpoena

97043773305

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
) MUR 4090  
)

**SUBPOENA TO PRODUCE DOCUMENTS**

TO: Jody D. Scheckter  
c/o Gerard Treanor, Esq.  
Cacheris & Treanor  
1100 Connecticut Avenue, N.W.  
Suite 730  
Washington, D.C. 20036

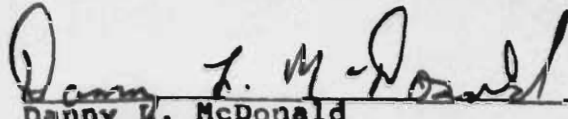
Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

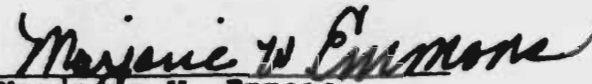
97043773306

WHEREFORE, the Chairman of the Federal Election Commission  
has hereunto set his hand in Washington, D.C. on this *24<sup>th</sup>* day  
of *April*, 1995.

For the Commission,

  
\_\_\_\_\_  
Danny P. McDonald  
Chairman

ATTEST:

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

Attachments  
Instructions and Definitions  
Document Request (1 page)

97043773307

INSTRUCTIONS

In answering this request for production of documents, furnish all documents, however obtained, that are in possession of, known by or otherwise available to you, including documents appearing in your records.

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

Unless otherwise indicated, the discovery request shall refer to the time period from February 1, 1990 to July 31, 1993.

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

DEFINITIONS

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

"You" shall mean the named respondent in this action to whom these discovery requests are addressed.

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

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

97043773308

PRODUCTION OF DOCUMENTS

1. Produce all documents in any way related to political contributions by you, including, but not limited to, solicitations, checks, bank statements, computer records, electronic mail or "e-mail", and documents related to reimbursements for such contributions.

2. For the period July 1, 1993 through December 1, 1993, produce all documents related in any way to the reimbursement of you for any expenses by Firearms Training Systems, Inc.

97043773309



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 24, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Thomas J. Kelly, Jr., Esq.  
Venable, Baetjer, Howard & Civiletti  
1201 New York Avenue, N.W.  
Suite 1000  
Washington, D.C. 20005-3917

RE: MUR 4090  
Firearms Training Systems, Inc.

Dear Mr. Kelly:

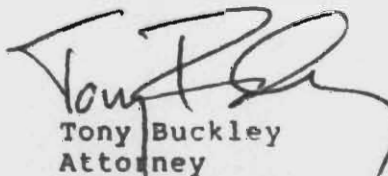
On October 27, 1994, you were notified that the Federal Election Commission had found reason to believe your client, Firearms Training Systems, Inc., violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena and order requiring your client to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

It is required that your client submit all answers to questions under oath and produce all documents within 30 days of your receipt of this subpoena and order.

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

Sincerely,

  
Tony Buckley  
Attorney

Enclosure  
Subpoena and Order

9704377331C

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
) MUR 4090  
)

SUBPOENA TO PRODUCE DOCUMENTS  
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Firearms Training Systems, Inc.  
c/o Thomas J. Kelly, Esq.  
Venable, Baetjer, Howard & Civiletti  
1201 New York Avenue, N.W.  
Suite 1000  
Washington, D.C. 20005-3917

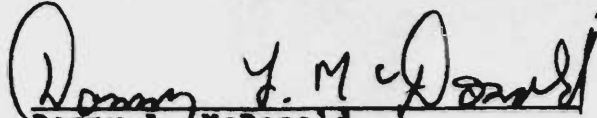
Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment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

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

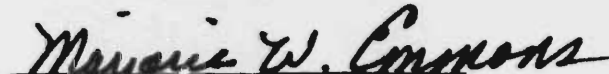
9704373311

WHEREFORE, the Chairman of the Federal Election Commission  
has hereunto set his hand in Washington, D.C. on this *24<sup>th</sup>* day  
of *April*, 1995.

For the Commission,

  
\_\_\_\_\_  
Danny L. McDonald  
Chairman

ATTEST:

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

Attachments  
Instructions  
Definitions  
Interrogatories and  
Document Requests (1 page)

97043773312

INSTRUCTIONS

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

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from February 1, 1990 to July 31, 1993.

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

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DEFINITIONS

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

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

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

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

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

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

9704377314

INTERROGATORIES

1. Identify all of the steps that take place in your normal process for issuing reimbursement checks to Jody Scheckter for business-related expenses.
2. Identify and state the role of all persons involved in any way in the process described in answer to Question 1.

PRODUCTION OF DOCUMENTS

1. Produce all documents in any way related to political contributions by Jody Scheckter, including, but not limited to, solicitations, checks, bank statements, computer records, electronic mail or "e-mail", and documents related to reimbursements for such contributions.
2. For the period July 1, 1993 through December 1, 1993, produce all documents related in any way to the reimbursement of Jody Scheckter for any expenses.

97043773315

1201 New York Avenue, N.W., Suite 1000  
Washington, D.C. 20005-3917  
(202) 962-4800, Fax (202) 962-8300

OFFICES IN

WASHINGTON, D.C.  
MARYLAND  
VIRGINIA

**VENABLE**  
ATTORNEYS AT LAW

Thomas J. Cooper  
(202) 962-4857

May 17, 1995

Anthony T. Buckley, Esq.  
Federal Election Commission  
999 E Street, N.W., Room 657  
Washington, D.C. 20463

Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Mecredy

MAY 17 5 16 PM '95

FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL

Dear Mr. Buckley:

I am writing on behalf of this firm's client, Firearms Training Systems, Inc. ("the Corporation"), and Gerard Treanor of the firm of Cacheris & Treanor and his client, Mr. Jody D. Scheckter. On behalf of the Corporation and Mr. Scheckter, I request a 20-day extension on the return date for the subpoenas and order served on this firm and Cacheris & Treanor with respect to the Corporation and Mr. Scheckter.

The extension is required because we are advised that the necessary documents will not be available for preliminary review and copying by the Corporation until May 30, 1995. Once the records have been copied, counsel need to review them to ensure that they comply with the subpoenas and order.

We understand that if a 20-day extension is granted that the new return date on the subpoenas and order will be June 21, 1995.

Mr. Treanor has informed me that he is providing your office with a letter which authorizes us to communicate with you on his behalf and Mr. Scheckter's with respect to the subpoena and order.

Thank you for your attention in this matter.

Sincerely,

  
Thomas J. Cooper

cc: Gerard Treanor, Esq.  
2DOCS1.1066.01

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 18, 1995

Thomas J. Cooper, Esq.  
Venable, Baetjer, Howard & Civiletti  
1201 New York Avenue, N.W.  
Suite 1000  
Washington, D.C. 20005-3917

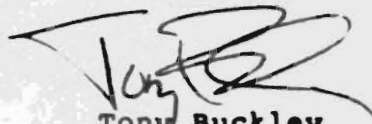
RE: MUR 4090  
Firearms Training Systems, Inc.  
Jody D. Scheckter

Dear Mr. Cooper:

This is in response to your letter dated May 17, 1995, which we received on that same date, requesting extensions of 20 days for your client, Firearms Training Systems, Inc., and for Respondent Jody D. Scheckter, to respond to the Federal Election Commission's Subpoenas and Orders in this matter. (Counsel for Mr. Scheckter has authorized you to make this request on his behalf). After considering the circumstances presented in your letter, and in our more detailed telephone conversation yesterday, the Office of the General Counsel has granted the requested extensions. Accordingly, the responses are due by the close of business on June 21, 1995.

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

Sincerely,

  
Tony Buckley  
Attorney

97043773317

CACHERIS & TREANOR

ATTORNEYS AT LAW

1100 CONNECTICUT AVENUE, N.W.

SUITE 730

WASHINGTON, D. C. 20036

TELEPHONE: (202) 778-8700

FAX: (202) 778-8702/22

VIRGINIA OFFICE:  
705 PRINCE STREET  
ALEXANDRIA, VA 22314  
(703) 549-8181

PLATO CACHERIS  
GERARD TREANOR  
PHILIP T. INGLIMA\*

JUDITH L. WHEAT  
KARL A. RACINE†  
JOHN F. HUNDLEY‡

PHILIP T. WHITE†  
OF COUNSEL

\* ADMITTED IN D. C., N. Y. & N. J. ONLY  
† ADMITTED IN D. C. & MD. ONLY  
‡ ADMITTED IN VA. ONLY  
§ ADMITTED IN D. C. ONLY

May 17, 1995

**VIA FACSIMILE**

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 621  
999 E Street, N.W.  
Washington, D.C. 20463

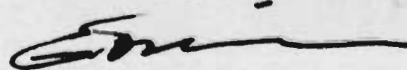
Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert Mecredy

Dear Mr. Buckley:

By this letter, I hereby authorize Thomas J. Cooper of the firm of Venable, Baetjer, Howard & Civiletti to act on behalf of this firm and its client, Jody D. Scheckter, with respect to communications to obtain an extension of the return date for the subpoena duces tecum served on this firm with respect to Mr. Scheckter.

Thank you for your assistance in this matter.

Very truly yours,



Gerard Treanor

cc: Thomas J. Cooper, Esquire

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM  
MAY 19 9 06 AM '95

**VENABLE**  
ATTORNEYS AT LAW

June 21, 1995

Thomas J. Cooper  
(202) 962-4857

JUN 21 4 30 PM '95

FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

**By Hand Delivery**

Anthony T. Buckley, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Mr. Buckley:

I am writing on behalf of this firm's client, Firearms Training Systems, Inc. ("the Corporation"), and Gerard Treanor, Esq. of the firm of Cacheris & Treanor and his client, Mr. Jody D. Scheckter.

I am enclosing materials in response to the Federal Election Commission's subpoenas of April 24, 1995, to the Corporation and to Mr. Scheckter. Mr. Treanor has authorized me to make production of materials in response to the subpoena issued to Mr. Scheckter. He has also informed me that he is providing your office with a letter which authorizes us to take this action.

While our clients have complied with the subpoenas to the best of their ability, there were documents, as we discussed previously, which are within the scope of the subpoenas and which are in the possession of the Federal Bureau of Investigation.

Although we had the assistance of the Bureau in obtaining copies of some of the enclosed material, and while we believe the production is complete with respect to all documents in the possession of the Corporation or Mr. Scheckter, we cannot guarantee that copies of all relevant documents held by the Bureau have been produced. In light of the unusual circumstances associated with the production of documents in response to your subpoenas, namely, that some applicable documents were in the possession of the Bureau, we were unable to conduct the type of intense document search that is our practice in responding to subpoenas. Of course, we will immediately produce any additional relevant documents which we obtain.

Sincerely,



Thomas J. Cooper

Enclosure

97043773319

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
)  
)

MUR 4090

**FIREARMS TRAINING SYSTEMS, INC.'S ANSWERS  
TO THE ORDER TO SUBMIT WRITTEN ANSWERS**

JUN 21 4 34 PM '95  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF FEDERAL  
COUNSEL

1. Identify all of the steps that take place in your normal process for issuing reimbursement checks to Jody Scheckter for business-related expenses.

**Answer:**

Mr. Scheckter's secretary from time to time submitted requests for reimbursement of various business related expenses incurred by Mr. Scheckter. The normal process for all employees seeking an expense reimbursement was to complete an expense report with all relevant receipts and supporting documentation attached to the expense reimbursement request. The original or top copy of an expense report, with attachments, was submitted to the accounting department for approval and reimbursement, and processed for payment. The accounting personnel would verify the total was correct, receipts and supporting documentation matched the amounts being claimed, the appropriate accounting codes assigned, and were then either entered into the accounts payable computer system or a manual check was issued depending upon the urgency of the request. The secretary was not directed by Mr. Scheckter to obtain reimbursement for his business expenses, including political contributions, and Mr. Scheckter was not aware of reimbursements made to him.

The secretary kept Mr. Scheckter's checkbook, and when she wrote a check which she believed was for a business related expense, she, on her own initiative and as part of her duties, would submit the item for reimbursement. She would also submit expense reimbursement request for business related travel and entertainment as and when she found receipts and/or supporting documentation to turn into accounting.

At some point early in 1993, the procedure for reimbursement of political contributions was changed. When the secretary sought reimbursement for a political contribution in the normal manner, Mr. Robert Motter, the then Chief Financial Officer of the Corporation, advised her that it was not proper for a company to make such reimbursements. Mr. Motter then advised the secretary that reimbursements for such contributions could be made if they were submitted quarterly in arrears, and

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that he would authorize the issuance of a special bonus to cover the amount of the contributions on a quarterly basis. Henceforth, the requests for reimbursement of political contributions were submitted as per the instructions of the Chief Financial Officer.

Mr. Scheckter generally had no knowledge of the balance or the specific checks written from his checkbook. The secretary wrote the checks, kept the balance, verified the bank statements, and made the deposits into Mr. Scheckter's account as a matter of course. The reimbursement requests filed by the secretary on behalf of Mr. Scheckter were typically made without Mr. Scheckter's knowledge, direction or approval. Mr. Scheckter typically did not personally submit any expenses, even from business trips, for reimbursement and did not know any of the details of his own finances.

2. Identify and state the role of all persons involved in any way in the process described in answer to Question 1.

**Answer:**

In a good faith effort to respond completely to the interrogatories, we are identifying by name and job title all persons who we believe could have been involved in the reimbursement process during the applicable time period. Their job titles are indicative of their role in the process. Since we have, if anything, erred on the side of completeness, we note that some of these persons may not have had a specific or relevant role within the applicable period. The foregoing is provided in satisfaction of your instruction that we set forth the identification of each person who may be capable of furnishing testimony concerning the responses given.

970437331

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Mary Miles	Senior Accountant	18 Nov 1991	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
1826 Flager Ave	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Atlanta, GA 30309			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Sharon Luke	Accounting Clerk	27 Nov 1992	21 May 1993
<i>Last Known Address</i>	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
2204 Park Lake Lane	<i>Last Known</i>	<i>Last Known</i>	
Norcross, GA 30092			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Carole Greer	Supervisor/General Accounting	4 May 1993	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
3664 Courtside Terrace	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Norcross, GA 30092			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Lynne Robertson	Accounting Clerk	15 Nov 1991	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
3678B Morningside	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Doraville, GA 30340			

97043773322

97043773323

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Penny Lampley (Black)	Accounting Clerk	6 Nov 1989	1 Sep 1993 - rehired in 1995
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
1880 Hampton Ridge Road	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Norcross, GA 30093			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Jim McRaney	Controller	5 Sep 1989	28 Dec 1990
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
114 Bunkers Trace	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Warner Robins, GA 31088			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Gary Meyer	Director of Finance & Accounting	28 Jan 1991	31 Jul 1992
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
5049 Sirron Ct.	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Dunwoody, Ga 30338			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Clare Fawkes	Chief Operating Officer	1984	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
4500 Candacraig	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Alpharetta, GA 30202			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Jody Scheckter	President	1984	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
4500 Candacraig	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Alpharetta, GA 30202			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Robert Motter	Chief Financial Officer	23 Nov 1992	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
4474 Heatherfield Trace Suwanee, GA 30174	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Marilyn Meuller	Exe. Secretary	14 Mar 1991	2 Aug 1991
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
6041 Coventry Cr. Alpharetta, GA 30201	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Krista Talbot	Accounting Clerk	2 May 1990	22 Nov 1991
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	
3900 B Springs Lane Norcross, GA 30092	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Janice Dean	Exe. Secretary	18 May 1992	N/A
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known Last</i>	
3866-G Westchase Village Lane Norcross, GA 30092	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	

97043773324

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Jean Boswell	Admin. Assistant	15 Jan 1993	9 Mar 1993
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
220 Lackland Court	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Dunwoody, GA 30350			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Nina Frasier	Exe. Secretary	21 Oct 1991	24 Apr 1992
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
1383 Branch Drive	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Tucker, GA 30082			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Susan Bruno	Sales Secretary	12 Sep 1989	28 Feb 1991
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
Rt. 3, Box 177-2	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Dahlonega, GA 30533			

<i>Name</i>	<i>Job Title</i>	<i>Date Employment Began</i>	<i>Date Employment Ended</i> (if during relevant period)
Veronica Thomas	Temporary Clerk	5 Jan 1990	Unknown
<i>Last Known Address</i>	<i>Last Known</i>	<i>Last Known</i>	<i>Last Known</i>
3402 Wynnewood Ln.	<i>Home Tel. Number</i>	<i>Work Tel. Number</i>	
Duluth, GA 30136			

9704373325

**Preparation**

The responses to these interrogatories were drafted by Thomas J. Cooper, Esq. and Fernand A. Lavallee, Esq. of the firm of Venable, Baetjer, Howard & Civiletti, and reviewed by Clare Fawkes, Chief Operating Officer of Firearms Training Systems, Inc.

I swear or affirm under the penalty of perjury, that the foregoing responses are true and complete to the best of my knowledge and belief.

Date: 20<sup>th</sup> June 1995



---

Clare Fawkes  
Chief Operating Officer  
Firearms Training Systems, Inc.

97043773326

**Firearms Training Systems, Inc.**

**Response to FEC Subpoena**

June 21, 1995

97043173327

Bates	Date	Document Type	Description	Paragraph
000001 - 000004	10/25/91	Fax	From R. Wade to C. Fawkes, re: DCCC reception	1
000005 - 000008	10/30/91	Letter	From V. Fazio to C. Fawkes, re: 10/28 reception	1
000007 - 000008	10/30/91	Letter	From J. Scheckter to V. Fazio re: 10/28 reception	1
000009 - 000009	2/13/90 - 3/7/90	Check Register	Check Register	1
000010 - 000010	11/22/91	Check	FATS check payable to J. Scheckter, \$2,000	1
000011 - 000011	10/25/91	Check	Personal check from J. Scheckter to Democratic Congressional Committee, \$2,000	1
000012 - 000012	10/22/91	Check	Back of personal check from J. Scheckter to Democratic Congressional Committee, \$2,000	1
000013 - 000014	11/6/91	Expense Report	Reimbursement Request for Democratic Congressional Committee Reception	1
000015 - 000015	11/12/91	Expense Report	Reimbursement Request for Democratic Congressional Committee Reception	1
000016 - 000016	10/25/91	Fax	RSVP to invitation of DCCC reception	1
000017 - 000023	various	Correspondence	Re: DCCC reception	1
000024 - 000026	4/13/92	Check	FATS check for \$2,000 to J. Scheckter and supporting documents	1
000027 - 000033	5/11/92 - 5/27/92	Correspondence	Misc. correspondence re: John Glenn for Senate reception	1
000034 - 000037	9/11/92	Check	FATS check to J. Scheckter for \$500 and related documents	1
000038 - 000041	8/14/92	Expense Report	Re: contribution to R. Ray and related documents	1
000042 - 000048	10/23/92	Check	FATS check to J. Scheckter \$1,000 and related documents	1
000049 - 000049	various	Checks	Copies of J. Scheckter personal checks	1
000050 - 000051	2/1/93	Check	J. Scheckter personal check, \$1,000 and related document	1
000052 - 000052	1/20/94	Check	FATS check to J. Scheckter for \$435.01	2
000053 - 000055	8/26/93	Expense Report	Expense Report and related documents	2
000056 - 000058	10/13/93	Expense Report	Expense Report and related documents	2
000059 - 000062	9/3/93	Expense Report	Expense Report and related documents	2
000063 - 000066	10/29/93	Expense Report	Expense Report and related documents	2
000067 - 000067	2/13/90	Check	J. Scheckter personal check for \$500	1
000068 - 000068	4/14/93	Memo	From R. Motter to L. Robertson re: J. Scheckter Bonus	1
000069 - 000069	4/14/93	Memo	From R. Motter to L. Robertson re: J. Scheckter Bonus	1
000070 - 000071	7/16/93	Payroll Register	Autopay Payroll Register	2

GINN, EDINGTON, WADE & SANDERS

803 PRINCE STREET  
OLD TOWN  
ALEXANDRIA, VIRGINIA 22314  
703-836-3328  
FAX 703-838-1403

RONALD B. GINN  
WILLIAM H. EDINGTON  
T. ROGERS WADE  
MARK W. SANDERS

ATLANTA OFFICE  
ONE CNN CENTER  
SUITE 1300  
ATLANTA, GEORGIA 30303  
404-888-8341  
FAX 404-828-6921

TELETYPE COVER SHEET

DATE 25 Oct 91

NO. OF PAGES 4  
(including cover sheet)

TO Clairice Fawkes

FROM Rogers Wade

FAX NUMBER 242 6962

- Approval
- Note & File
- Your Comments
- Per Our Conversation
- For Your Information
- Per Your Request
- RUSH - Immediate Action

REMARKS:

\*If there is a problem in the reception of this FAX, please call (404) 688-9341.

000001

97043173328



DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

Mr. Fazio, CA  
Chairman

October 4, 1991

Mr. Mark Sanders  
Ginn, Edington, Wade & Sanders  
1360 South CNN Center  
Atlanta, GA 30303

Dear Mark:

The Georgia Delegation, along with the Democratic Congressional Campaign Committee (DCCC), would like to extend an invitation for you to join us at a very special event in Atlanta with the Speaker of the U.S. House of Representatives, the Honorable Thomas S. Foley. ~~The reception will be held Monday, October 29, 1991 at The Commerce Club, 34 Broad Street, from 5 o'clock until 7 o'clock in the evening.~~

(Handwritten note)

The DCCC is our national political organization which assists House members' personal campaign committees with an extensive list of services including the media facilities, fundraising, research, and consulting services.

With the possibility of as many as 100 open or highly competitive Congressional races -- and more importantly, the fact that Democrats will be running in new districts in our own state -- we face a political and financial challenge unlike any in two decades. We need your support to meet this challenge and would like you to contribute \$1,000 to this event.

97043773309



We look forward to seeing you on October 28th, however, if you are unable to attend, we would appreciate your financial support.

Sincerely,

*Doug Barnard Jr*  
DOUG BARNARD

*CH*  
CHARLES HATCHER

*Lindsay Thomas*  
LINDSAY THOMAS

*Buddy Darden*  
GEORGE (BODDY) DARDEN

*Ed Jenkins*  
ED JENKINS

*Richard Ray*  
RICHARD RAY

*J. Roy Rowland*  
J. ROY ROWLAND

*John Lewis*  
JOHN LEWIS

*Ben Jones*  
BEN JONES

97043773330

DIRECTIONS TO COMMERCE CLUB

85 South to Exit 99 (Williams Street).

Follow Williams Street until it deadends into International Boulevard.

Turn right onto International Boulevard. Go 1 block.

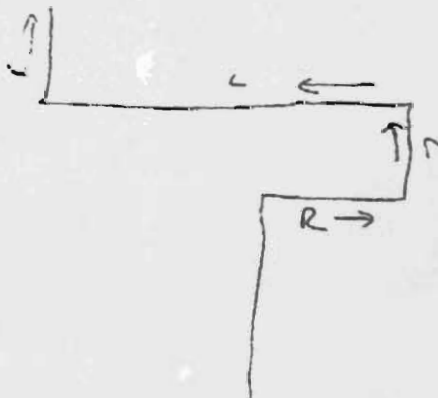
Turn left onto Techwood.

Go to the next stop light and turn left onto Walton.

Continue on Walton to the 4th stop light.

Turn right onto Broad Street.

Entrance to the Commerce Club garage is on the right.



970437331

000004



HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

VIC FAZIO  
FOURTH DISTRICT  
CALIFORNIA

October 30, 1991

Mr. Jody Scheckter  
and Ms. Clare Fawkes  
Firearms Training Systems, Inc.  
110 Technology Parkway  
Norcross, GA 30092

Dear Jody and Clare:

Thank you for helping the Georgia delegation hold a successful reception for Speaker Tom Foley on October 28.

Your support is vital as we work to maintain a Democratic majority in Congress. I look forward to working with you over the election cycle.

Again, thank you.

Sincerely,

*Vic*  
VIC FAZIO

Not Paid For At Public Expense.  
Contributions Are Not Tax Deductible.

000005



HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

VIC FAZIO  
FOURTH DISTRICT  
CALIFORNIA

October 30, 1991

Mr. Jody Scheckter  
and Ms. Clare Fawkes  
Firearms Training Systems, Inc.  
110 Technology Parkway  
Norcross, GA 30092

Dear Jody and Clare:

Thank you for helping the Georgia delegation hold a successful reception for Speaker Tom Foley on October 28.

Your support is vital as we work to maintain a Democratic majority in Congress. I look forward to working with you over the election cycle.

Again, thank you.

Sincerely,

*Vic*  
VIC FAZIO



fats

**FIREARMS TRAINING  
SYSTEMS, INC.**

110 Technology Parkway  
Norcross, Georgia 30092 U.S.A.  
Fax No. (404) 242-6962  
Telex No. 517354 FATS  
Tel: (404) 448-7318

October 30, 1991

Congressman Vic Fazio  
Chairman  
Democratic Congressional  
Campaign Committee  
430 South Capitol Street  
Washington, DC 20030

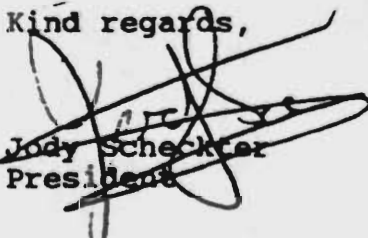
Dear Congressman Fazio,

I enjoyed meeting you on Monday evening and having the opportunity of explaining FATS to you. It was a most entertaining evening and it was good to see the support given to the Georgia Delegation.

We were intrigued by your introduction to Congressman Foley, as Speaker of the House being the equivalent to the Prime Minister at the House of Commons. Being a little more familiar with British politics than American, do we assume, therefore, that President Bush is Queen?

I hope that our paths may cross again in the not too distant future. You will always be welcome to visit our facility in Norcross for some hands-on simulator shooting practice. I have enclosed a list of the law enforcement agencies in California that are utilizing FATS training for your information.

Kind regards,

  
Jody Scheckter  
President

970437334

FIREARMS TRAINING SYSTEMS  
California Customers

Federal Agencies

US Border Patrol	Dublin, CA
US Border Patrol	El Centro, CA
US Border Patrol	Laguna Niguel, CA
US Border Patrol	San Ysidro, CA
US Internal Revenue Service	San Francisco, CA
US Postal Service	San Bruno, CA

State and Local Law Enforcement Agencies

California Dept. of Justice/Bureau Narcotics	Sacramento, CA
California Highway Patrol	Sacramento, CA
California State Police	Sacramento, CA
Federal Reserve Bank of San Francisco	San Francisco, CA
Long Beach Police Dept.	Long Beach, CA
Los Angeles Police Dept.	Los Angeles, CA
Mendocino County Sheriff's Dept.	Ukiah, CA
Mountain View Police Dept.	Mountain View, CA
Orange County Sheriff's Dept.	Orange, CA
Pasadena Police Dept.	Pasadena, CA
Richmond Police Dept.	Richmond, CA
Sacramento County Sheriff's Dept.	Carmichael, CA
San Diego Police Dept.	San Diego, CA
San Diego Sheriff's Dept.	San Diego, CA
San Francisco Police Dept.	San Francisco, CA
San Joaquin Risk Management Group	Delano, CA
San Joaquin Sheriff's Dept.	Stockton, CA
San Luis Obispo Police Dept.	San Luis Obispo, CA
Santa Clara County Dept. of Corrections	Milpitas, CA

Criminal Justice Institutes & Private Agencies

Golden West College	Huntington Beach, CA
Shooting Simulator Service	Whittier, CA

Rev: October 31, 1991



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1990

BE SURE TO DEDUCT ANY PER CHECK CHARGES OR MAINTENANCE CHARGES THAT MAY APPLY.

DATE	CHECK NUMBER	CHECKS ISSUED TO OR DEPOSIT RECEIVED FROM	AMOUNT OF DEPOSIT	✓ T	AMOUNT OF CHECK	BALANCE
						51.800 - 00
13 Feb	664	Thomas for Congress		✓	500.00	300.00
13 Feb	665	Schechter Farm		✓	900.00	-8700.00
13 Feb		Deposit	10,000.00	✓		1900.00
14 Feb	666	American Express		✓	91.60	1209.40
15 Feb	667	Star Bicycle Sports - car tag		✓	295.24	913.16
15 Feb	668	Mrs Sandra Lee		✓	215.00	698.16
15 Feb	669	Mrs Sandra Lee - groceries		✓	150.00	548.16
20 Feb	670	Mrs Sandra Lee - groceries		✓	150.00	398.16
20 Feb	671	Mrs Sandra Lee		✓	215.00	183.16
21 Feb		Transfer to S. Farm Acct		✓	1,500.00	-1316.54

19 Feb		Deposit	910.98	✓		-353.46
5 Mar	672	Allen Hills Iron Co.		✓	68.50	-421.96
26 Feb	673	PT World of Tennis		✓	288.48	-710.44
22 Feb		Deposit	1000.00	✓		289.56
1 Mar	674	Albert Electronics	VOID OK		50.51	
2 Mar	675	Mrs Sandra Lee		✓	815.00	74.56
2 Mar	676	Mrs Sandra Lee - groceries		✓	150.00	-75.44
2 Mar	677	Shipping Stores EMP		✓	85.92	-161.36
2 Mar	678	Schechter Farm		✓	2000.00	-2161.36
2 Mar		PATS - Feb 16 - Mar 2 H+	2956.86	✓		795.50
7 Mar	679	1st Bankcard Center	VOID		184.91	
7 Mar	680	1st Bankcard Center		✓	328.30	467.18

REMEMBER TO RECORD ALL DEPOSITS AND WITHDRAWALS AS WELL AS PRE-AUTHORIZED TRANSACTIONS.

000000

VENDOR: 509230

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 003361

VOUCHER NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
012889	102891	10/28/91	2,000.00	2,000.00	.00	2,000.00
					CHECK TOTAL	2,000.00

*1/25  
CAUSE & return*

CHECK NO.	CHECK DATE	VENDOR NO.
3361	11/22/91	509230

**fats**

CHECK NO. 003361

FIREARMS TRAINING SYSTEMS, INC.

OPERATING ACCOUNT

110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30092

64-1278  
611



THE CITIZENS AND SOUTHERN NATIONAL BANK  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT  
\*\*\*\*\*2,000.00

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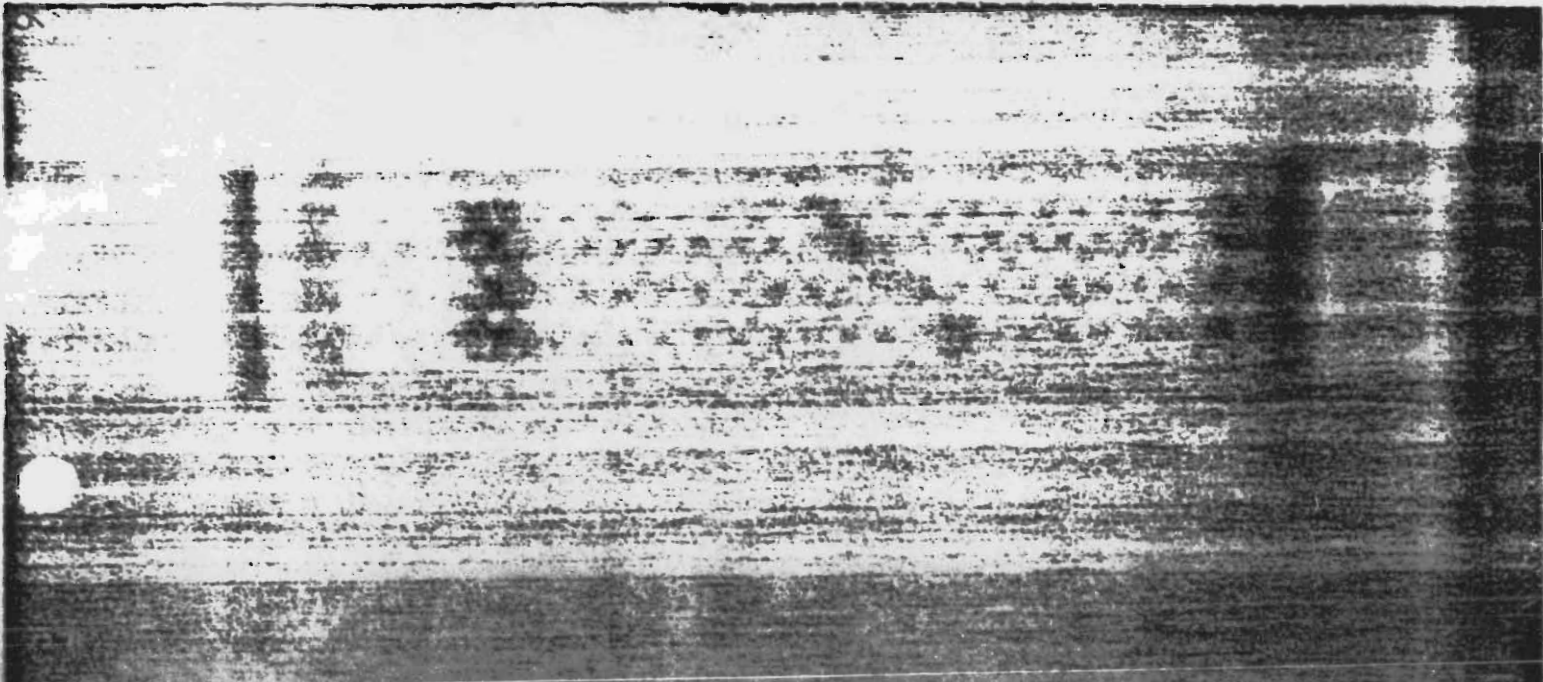
TWO THOUSAND AND 00/100 DOLLARS

PAY  
TO THE  
ORDER OF

SCHECKTER, JODY

*Jody*  
NON-NEGOTIABLE  
AUTHORIZED SIGNATURE

000010



9 7 0 4 3 7 7 3 3 7 8

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

10/25 1991 0922  
64-1/618

Pay to the Order of Democratic Congressional Campaign Comm \$ 2,000.00  
Two Thousand & 00/100 Dollars

**FIRST ATLANTA**

The First National Bank of Atlanta

Atlanta, Georgia

1,000 Class FIDELITY

For Jody Schecter

Signed

DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE  
FOR DEPOSIT ONLY  
PAY TO THE ORDER OF  
D.C. NATIONAL BANK  
15 GENERAL ACCOUNTS  
268-071-8

FOR DEPOSIT ONLY - FEDERAL RESERVE ONLY

SOVERAN BK / DCN  
1000 270 7235  
649 3rd WILMESHIRE  
AV. WILMINGTON, MD.  
30540-0120-4

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FEDERAL RESERVE BANK REGULATORY

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DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE  
FOR DEPOSIT ONLY  
PAY TO THE ORDER OF  
D.C. NATIONAL BANK  
15 GENERAL APT 1903  
268-071-8

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

SOVERAN BK / DCN  
270 7233  
649 N. E. EMPSHIRE  
HARRISVILLE, MD.  
PO540-0120-44

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FEDERAL RESERVE BANK  
WASHINGTON DC

081000052  
NO 91 01

000012

# EXPENSE REPORT

(ATTACH RECEIPTS IF POSSIBLE)

44691

TO FATS

FROM Jody Schecter

FOR PERIOD ENDING	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTALS
	CITY <u>INDIANAPOLIS</u>	CITY <u>ATLANTA</u>	<u>OCT 28, 1991</u>	CITY	CITY	CITY	CITY	
1 HOTEL MOTEL								1
2 BREAKFAST								2
3 LUNCH								3
4 DINNER								4
5 PLANE-RAIL BUS FARE								5
6 LOCAL TAXIS BUS FARE								6
7 AUTO EXPENSE-REPAIR-TIRES-SUPPLIES								7
8 GAS AND OIL								8
9 LUBRICATION AND WASH								9
10 GARAGE PARKING								10
11 TOLLS								11
12 PHONE TELEGRAMS								12
13 TIPS								13
14 ENTERTAINMENT								14
15 <u>DCC</u> <sup>4K</sup>		<u>2,000.00</u>					<u>2,000.00</u>	15
16 <u>Reception</u>								16
<b>TOTALS</b>		<u>2,000.00</u>					<u>2,000.00</u>	

Receipt

STATE BUSINESS PURPOSE-- PEOPLE ENTERTAINED--PLACE OF ENTERTAINMENT AND TIME--LIST CALLS MADE

Democratic Congressional Campaign Committee Reception -

Clare Fawkes  
Jody Schecter

I HEREBY CERTIFY THAT THE ABOVE EXPENDITURES REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDES NO ITEMS OF A PERSONAL NATURE.

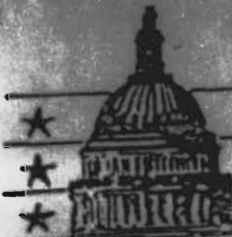
SIGNED Jody Schecter

DATE	REPAYMENT RECAP	AMOUNT	MILEAGE RECORD	APPROVAL	CASHIERS MEMO
	ADVANCE RECEIVED		END OF TRIP		CHECK NO.
	REIMBURSED		LESS START		<b>000013</b>
	TOTAL		MILES PER TRIP		DATE
	EXPENSE FOR WEEK				AMOUNT
	OVER OR SHORT				

9704373310

File: Political Functions.

JS Check # 92



DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

Vic Fazio, CA  
Chairman

DOUG BARNARD  
RICHARD RAY  
BUDDY DARDEN

ED JENKINS  
LINDSAY THOMAS  
JOHN LEWIS

CHARLES HATCHER  
J. ROY ROWLAND  
BEN JONES

INVITE YOU TO A RECEPTION

HONORING

THE HONORABLE THOMAS S. FOLEY

THE COMMERCE CLUB

MONDAY, OCTOBER 28, 1991

5:00 - 7:00PM

Yes, I will attend the DCCC reception for Speaker Foley.  
I will bring my check for \$2,000 to the reception.

I cannot attend, but wish to offer my support. Enclosed is  
a contribution for \$\_\_\_\_\_.

Please make checks payable to:

Democratic Congressional Campaign Committee  
430 South Capitol Street, SE  
Washington, DC 20003

The following information is required by the FEC:

NAME Jody Scheckter Clare Fawkes  
OCCUPATION President Management Director  
EMPLOYER Firearms Training Systems, Inc.  
MAILING ADDRESS 110 Technology Parkway  
Norcross, GA 30092  
DAYTIME TELEPHONE 404-448-7318

Contributions to the DCCC are not tax deductible for federal income tax purposes. This solicitation is intended to raise funds for the DCCC.

ACTIVITY REPORT

10/25/91 17:19

1505359

000014  
F.I.T.S.

MODE	CONNECTION TEL	CONNECTION ID	START TIME	USAGE T.	PAGES
TX	12024853427:15117	6-3	10/25 17:18	01'00	01(00)

9704373311

# EXPENSE REPORT

(ATTACH RECEIPTS IF POSSIBLE)

TO FATS

FROM Jody Schickler

FOR PERIOD ENDING	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTALS
	CITY <u>INDIANAPOLIS</u>	CITY <u>ATLANTA</u>	<u>OCT 28, 1991</u>	CITY	CITY	CITY	CITY	
1 HOTEL MOTEL								1
2 BREAKFAST								2
3 LUNCH								3
4 DINNER								4
5 PLANE-RAIL BUS FARE								5
6 LOCAL TAXIS BUS FARE								6
7 AUTO EXPENSE-RE- PAIR-TIRES-SUPPLIES								7
8 GAS AND OIL								8
9 LUBRICATION AND WASH								9
10 GARAGE PARKING								10
11 TOLLS								11
12 PHONE TELEGRAMS								12
13 TIPS								13
14 ENTERTAINMENT								14
15 <u>DCCC*</u>		<u>2,000.00</u>						15
16 <u>Reception</u>								16
TOTALS		<u>2,000.00</u>						<u>2,000.00</u>

ENTERED NOV 21 1991

VENDOR # 509230  
 DUES DATE 11  
 INVOICE # 102891  
 ACCOUNT # 7550-1600-2,000.00

OK  
to Pay  
GAM

OK  
to Pay  
GAM

STATE BUSINESS PURPOSE—PEOPLE ENTERTAINED—PLACE OF ENTERTAINMENT AND TIME—LIST CALLS MADE

Democratic Congressional Campaign Committee Reception -  
Clare Fawkes  
Jody Schickler

**RECEIVED NOV 12 1991**

I HEREBY CERTIFY THAT THE ABOVE EXPENDITURES REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDES NO ITEMS OF A PERSONAL NATURE.

12889 SIGNED [Signature]

DATE	REPAYMENT RECAP	AMOUNT	MILEAGE RECORD		APPROVAL	CASHIERS MEMO
	ADVANCE RECEIVED		END OF TRIP			CHECK NO.
	REIMBURSED		LESS START			
	TOTAL		MILES PER TRIP			
	EXPENSE FOR WEEK					<u>000015</u>
	OVER OR SHORT				DATE	AMOUNT

97043773342

File: Political Functions.

JS Check # 922



DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

Vic Fazio, CA  
Chairman

DOUG BARNARD  
RICHARD RAY  
BUDDY DARDEN

ED JENKINS  
LINDSAY THOMAS  
JOHN LEWIS

CHARLES HATCHER  
J. ROY ROWLAND  
BEN JONES

INVITE YOU TO A RECEPTION

HONORING

THE HONORABLE THOMAS S. FOLEY

THE COMMERCE CLUB

MONDAY, OCTOBER 28, 1991

5:00 - 7:00PM

  x   Yes, I will attend the DCCC reception for Speaker Foley.  
I will bring my check for \$2,000 to the reception.

   I cannot attend, but wish to offer my support. Enclosed is  
a contribution for \$\_\_\_\_\_.

Please make checks payable to:

Democratic Congressional Campaign Committee  
430 South Capitol Street, SE  
Washington, DC 20003

The following information is required by the FEC:

NAME Jody Scheckter Clare Fawkes  
OCCUPATION President Management Director  
EMPLOYER Firearms Training Systems, Inc.  
MAILING ADDRESS 110 Technology Parkway  
Norcross, GA 30092  
DAYTIME TELEPHONE 404-448-7318

Contributions to the DCCC are not tax deductible for federal income tax purposes. This solicitation is intended to raise funds to support the DCCC.

97043773343

• ACTIVITY REPORT •

10/25/91 17:19

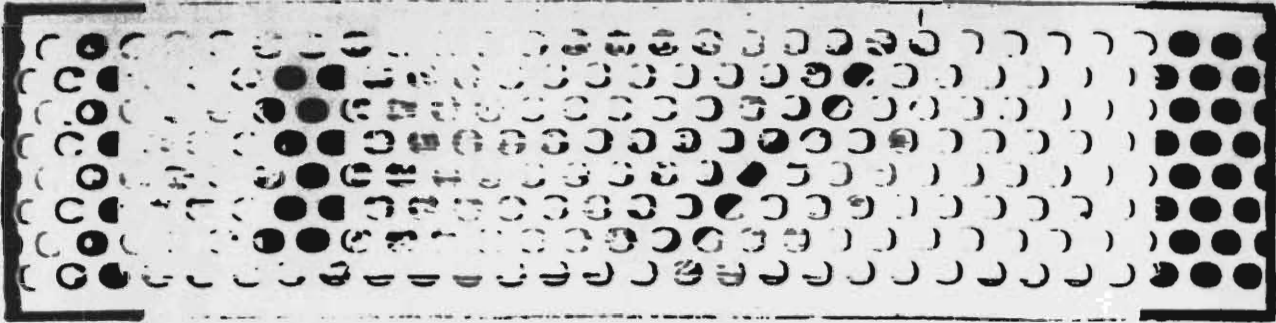
585359

000016

F.A.T.S.

MODE	CONNECTION TEL	CONNECTION ID	START TIME	USAGE T.	PAGES
TX	128248534271:5117	8-3	10/25 17:18	01'00	01(00)

97043173314



X Yes I will -

~~XX~~ enclosed -

I will tip my doc a f. \$2000

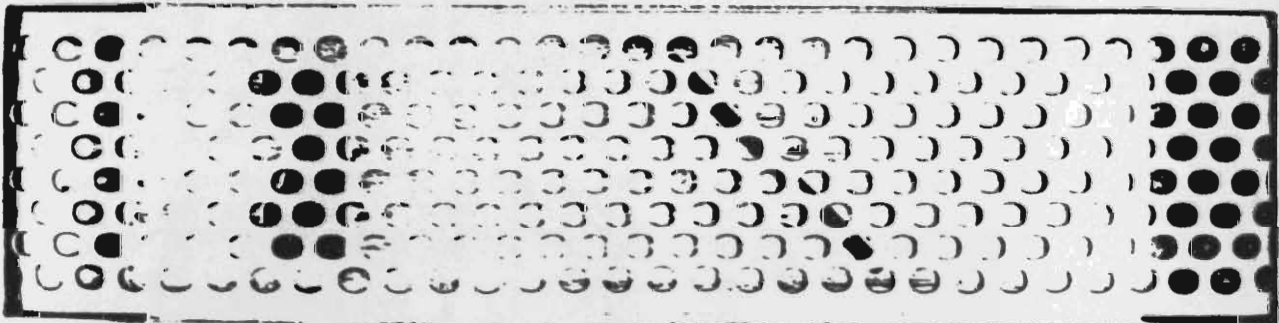
ATTN:

Don

SCHIMANSKI

JS = (7

FAX 202-485-3427



000017

File: Political Functions

JS Check # 92



DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

Vic Fazio, CA  
Chairman

DOUG BARNARD  
RICHARD RAY  
BUDDY DARDEN

ED JENKINS  
LINDSAY THOMAS  
JOHN LEWIS

CHARLES HATCHER  
J. ROY ROWLAND  
BEN JONES

INVITE YOU TO A RECEPTION

HONORING

THE HONORABLE THOMAS S. FOLEY

THE COMMERCE CLUB

MONDAY, OCTOBER 28, 1991

5:00 - 7:00PM

Y Yes, I will attend the DCCC reception for Speaker Foley.  
I will bring my check for \$2,000 to the reception.

       I cannot attend, but wish to offer my support. Enclosed is  
a contribution for \$\_\_\_\_\_.

Please make checks payable to:

Democratic Congressional Campaign Committee  
430 South Capitol Street, SE  
Washington, DC 20003

The following information is required by the FEC:

NAME Jody Scheckter Clare Fawkes  
OCCUPATION President Management Director  
EMPLOYER Firearms Training Systems, Inc.  
MAILING ADDRESS 110 Technology Parkway  
Norcross, GA 30092  
DAYTIME TELEPHONE 404-448-7318

Contributions to the DCCC are not tax deductible for federal income tax purposes. This solicitation is  
intended to raise funds to support the activities of the DCCC.

\* ACTIVITY REPORT \*

10/25/91 17:19

585369

000018  
F.A.T.S.

MODE	CONNECTION TEL	CONNECTION ID	START TIME	USAGE T.	PAGES
TX	12024853427::5117	6-3	10/25 17:18	01'00	01(00)

97043773315



DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

Vic Fazio, CA  
Chairman  
DOUG BARNARD  
RICHARD RAY  
BUDDY DARDEN

ED JENKINS  
LINDSAY THOMAS  
JOHN LEWIS

CHARLES HATCHER  
J. ROY ROWLAND  
BEN JONES

INVITE YOU TO A RECEPTION

HONORING

THE HONORABLE THOMAS S. FOLEY

THE COMMERCE CLUB

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Yes, I will attend the DCCC reception for Speaker Foley.

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Please make checks payable to:

Democratic Congressional Campaign Committee  
430 South Capitol Street, SE  
Washington, DC 20003

The following information is required by the FEC:

NAME \_\_\_\_\_

OCCUPATION \_\_\_\_\_

EMPLOYER \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_

DAYTIME TELEPHONE \_\_\_\_\_

Contributions to the DCCC are not tax deductible for federal income tax purposes. This solicitation is intended to raise funds to support the activities of the DCCC in connection with both federal and nonfederal elections and the DCCC building fund. Contributions not lawful under federal law (corporate or labor union treasury funds, funds over the federal contribution limits, etc.) will be used by the DCCC only for building fund or nonfederal election activity.

430 SOUTH CAPITOL STREET • WASHINGTON, D.C. 20003 • (202) 863-1500

Contributions to the DCCC are not tax deductible.  
Not for and authorized by the Democratic Congressional Campaign Committee



000019

97043773346

**DIRECTIONS TO COMMERCE CLUB**

85 South to Exit 99 (Williams Street).

Follow Williams Street until it deadends into International Boulevard.

Turn right onto International Boulevard. Go 1 block.

Turn left onto Techwood.

Go to the next stop light and turn left onto Walton.

Continue on Walton to the 4th stop light.

Turn right onto Broad Street.

Entrance to the Commerce Club garage is on the right.

97043373347

**GINN, EDINGTON, WADE & SANDERS**

803 PRINCE STREET  
OLD TOWN  
ALEXANDRIA, VIRGINIA 22214  
703-836-2328  
FAX 703-836-1403

RONALD B. GINN  
WILLIAM H. EDINGTON  
T. ROGERS WADE  
MARK W. SANDERS

ATLANTA OFFICE  
ONE GNN CENTER  
SUITE 1380  
ATLANTA, GEORGIA 30303  
404-888-9341  
FAX 404-888-4921

**REMOVE COVER SHEET**

DATE 25 Oct 91

NO. OF PAGES 4  
(including cover sheet)

TO Clairie Fawkes

FROM Rogers Wade

FAX NUMBER 242 6962

- Approval
- Note & File
- Your Comments
- Per Our Conversation

- For Your Information
- Per Your Request
- HUSH - Immediate Action

**REMARKS:**

\*If there is a problem in the reception of this FAX, please call (404) 688-9341.

97043773318



Vic Fazio, CA  
Chairman

October 4, 1991

Mr. Mark Sanders  
Ginn, Edington, Wade & Sanders  
1360 South CNN Center  
Atlanta, GA 30303

Dear Mark:

The Georgia Delegation, along with the Democratic Congressional Campaign Committee (DCCC), would like to extend an invitation for you to join us at a very special event in Atlanta with the Speaker of the U.S. House of Representatives, the Honorable Thomas S. Foley. The reception will be held Monday, October 28, 1991 at The Commerce Club, 34 Broad Street, from 5 o'clock until 7 o'clock in the evening.

(DCCC)

The DCCC is our national political organization which assists House members' personal campaign committees with an extensive list of services including the media facilities, fundraising, research, and consulting services.

With the possibility of as many as 100 open or highly competitive Congressional races -- and more importantly, the fact that Democrats will be running in new districts in our own state -- we face a political and financial challenge unlike any in two decades. We need your support to meet this challenge and would like you to contribute \$1,000 to this event.

97043773319

We look forward to seeing you on October 28th, however, if you are unable to attend, we would appreciate your financial support.

Sincerely,

*Wally Barnard Jr*  
WALLY BARNARD JR

*Charles Hatcher*  
CHARLES HATCHER

*Lindsay Thomas*  
LYNSAY THOMAS

*Buddy Darden*  
GEORGE (BODDY) DARDEN

*Ed Jenkins*  
ED JENKINS

*Richard Ray*  
RICHARD RAY

*J. Roy Rowland*  
J. ROY ROWLAND

*John Lewis*  
JOHN LEWIS

*Ben Jones*  
BEN JONES

97043773350

ENDOR:

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 000788

CHECK NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
6525		4/10/92	2000.00	2000.00		2000.00

CHECK NO.	CHECK DATE	VENDOR NO.
000788	4/13/92	509250

fats

CHECK NO. 000788

FIREARMS TRAINING SYSTEMS, INC.

MANUAL CHECKING ACCOUNT  
110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30092

64-1278  
611

NationsBank  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT

\*\*\*\*\*2,000.00

TWO THOUSAND AND 00/100 DOLLARS

JODY SCHECKTER

TO THE  
ORDER OF

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

[Redacted signature area]

9  
7  
0  
4  
3  
7  
3  
3  
5  
1

000024

REQUEST FOR F.A.T.S. CHECK

P.O. # \_\_\_\_\_

DATE: 4/10/92

VENDOR NAME & ADDRESS:

Jody Schecter  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHECK AMOUNT: \$2,000<sup>00</sup>

FOR: Attendance by Jody Schecter and Bob McCredy -  
John Glenn for Senate Reception @ \$1,000.00 per person  
Reception 4/15/92

SPECIAL INSTRUCTIONS: \_\_\_\_\_  
\_\_\_\_\_

DATE NEEDED: 4/13/92

REQUESTED BY: Jody Schecter

APPROVED BY: J.

97043773352

7550 - 1600  
1600 (Hodge)  
1301 1000

ENTERED APR 25 1992



000025

4/13/92

Attendance by Jody Scheekter

and

Bob McCreedy

my

John Glenn for Senate Committee

P.O. Box 523024, Springfield, VA 22152

(703) 569-8818

this for  
A mail-in.

\_\_\_\_\_ I will attend the reception for Senator John Glenn on April 15 at the Atlanta Ritz-Carlton  
from 5:30-7:30 p.m. Enclosed is my contribution of \$ \_\_\_\_\_ for \_\_\_\_\_ person(s)  
\_\_\_\_\_ I am unable to attend but wish to contribute \$ \_\_\_\_\_

Please make checks payable to John Glenn for Senate Committee.

The following information is required by the Federal Election Commission:

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone (0) \_\_\_\_\_ Telephone (70) \_\_\_\_\_

Occupation \_\_\_\_\_

Place of Business \_\_\_\_\_

Corporate checks cannot be accepted. Political contributions are not tax deductible.

Authorized and paid for by the John Glenn for Senate Committee

This contribution is not tax deductible. Corporate checks are

prohibited by law. Contribution \$1,000 per person.

000026

97043773353

John Glenn for Senate Committee

P.O. Box 523024, Springfield, VA 22152

(703) 569-8818

I will attend the reception for Senator John Glenn on April 15 at the Atlanta Ritz-Carlton from 5:30-7:30 p.m. Enclosed is my contribution of \$ 2,000.00 for 2 person(s)

I am unable to attend but wish to contribute \$

Please make checks payable to John Glenn for Senate Committee.

The following information is required by the Federal Election Commission:

Name Jody Schockler Quasi: Bob DiCredy

Address 110 Technology Parkway

City Norcross State GA Zip 30092

Telephone (O) 404-448-7318 Telephone (H) [REDACTED]

Occupation Company President

Place of Business Norcross, GA

Corporate checks cannot be accepted. Political contributions are not tax deductible.

Authorized and paid for by the John Glenn for Senate Committee

This contribution is not tax deductible. Corporate checks are

prohibited by law. Contribution \$1,000 per person.

JS Check # 1049

97043173354

000027

JOHN GLENN '92

TO: Jody Scheckter

FROM: Lisa Buckley

FAX NUMBER: 404/242-6962

DATE: 5/13/92

TIME: \_\_\_\_\_

PHONE NUMBER: (614) 341-6909

NOTES/COMMENTS: Please fax back today.  
Thank you.

JOHN GLENN FOR SENATE COMMITTEE FAX NUMBER: 614-341-6920

NUMBER OF PAGES 2

97043773355



fats

TELEFAX

**FIREARMS TRAINING SYSTEMS, INC.**

**FAX TO:** Geniene Pernotto  
JOHN GLENN '92

**FAX NO:** 1/614-341-6920

**FROM:** Mr. Jody Scheckter

**DATE:** 13 May 1992

**PAGE 1 OF 2**

Attached is the signed statement for the John Glenn for Senate Committee. The original will be mailed to you today.

Sincerely,

*[Handwritten signature]*  
Jody Scheckter  
President

*Page 10*  
*John Glenn*

ACTIVITY REPORT

585369

F.A.T.S.

MODE	CONNECTION TEL	CONNEL...	TIME	USAGE T.	PAGES
TX	16143416920::5555	6-3	05/13 15:30	01'13	02(00)

**Firearms Training Systems, Inc.**

090029

**110 Technology Parkway, Norcross, GA 30092**

**Telephone: (404)448-7318 Telefax: (404)242-6962 Telex: 517354FATS**

fats

9704377336

# JOHN GLENN '92

May 11, 1992

Jody D. Scheckter  
6096 Courtside Dr.  
Norcross, GA 30092

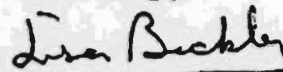
Dear Mr. Scheckter:

Senator Glenn has asked me to thank you again for your generous contribution to his 1992 Senate re-election campaign.

The re-election committee must comply with federal election laws which impose a \$1,000 limit on contributions per elections and require the signature of each contributor on his/her check or documentation identifying the contribution. In order to meet these compliance standards, please sign the statement below and return it to me at the address below.

JOHN GLENN FOR SENATE COMMITTEE  
42 E. Gay St., 10th Floor  
Columbus, Ohio 43215

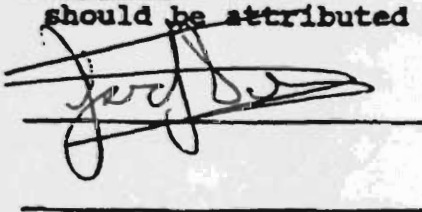
Sincerely,



Lisa N. Buckley  
Deputy Finance Director

PLEASE SIGN THE STATEMENT BELOW: DO NOT DETACH STUB

I verify that the aggregate contribution of \$2,000 dated April 14, 1992 should be attributed as indicated:



\$1,000 Primary

\$1,000 General

970437337

John Glenn for Senate Committee

P.O. Box 523024, Springfield, VA 22152

(703) 569-8818

I will attend the reception for Senator John Glenn on April 15 at the Atlanta Ritz-Carlton from 5:30-7:30 p.m. Enclosed is my contribution of \$ 2,000.00 for 2 person(s)

I am unable to attend but wish to contribute \$ \_\_\_\_\_

Please make checks payable to John Glenn for Senate Committee.

The following information is required by the Federal Election Commission:

Name Jody Schockter Guest: Bob Muevedy

Address 110 Technology Parkway

City Norcross State GA Zip 30092

Telephone (O) 404-448-7318 Telephone (H) [REDACTED]

Occupation Company President

Place of Business Norcross, GA

Corporate checks cannot be accepted. Political contributions are not tax deductible.

Authorized and paid for by the John Glenn for Senate Committee

This contribution is not tax deductible. Corporate checks are prohibited by law. Contribution \$1,000 per person.

JS Check # 1049

97043773358

000031

# JOHN GLENN '92

May 27, 1992

Joy D Scheckter  
6096 Courtside Dr.  
Norcross, GA 30092

Dear Joy:

Thank you so much for your support of my reception on April 15th in Atlanta. Your effort helped make the event a great success. I deeply appreciate you taking the time to express your support.

This promises to be an exciting and challenging year for Ohio, the nation, and the world. The events of the past year have reshaped our foreign policy and economy. With your support and advice, I intend to continue my efforts in the United State Senate on behalf of Ohio and our nation.

I'm so grateful for the faith you've shown in me. Please be assured that your contribution will be put to good use and that your generosity is greatly appreciated. Thanks again for your friendship and support.

Best Regards,

  
JOHN GLENN

9704317339

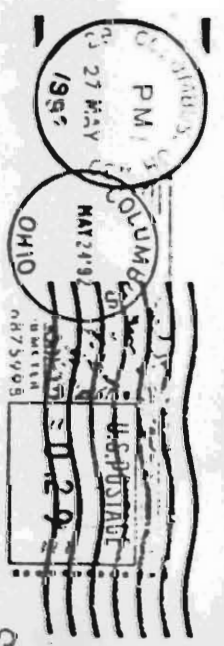
# JOHN GLENN '92

37 West Broad Street • Suite 430  
Columbus, Ohio 43215

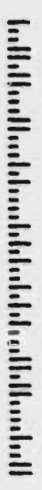
*Call & ask how to  
visit his grave  
properly.*

*Called  
6-16-92  
1/2 hrs. - 1/2 hr.*

Joy D Scheckter  
6096 Courtside Dr.  
Norcross GA 30092



Authorized and paid for by the John Glenn for Senate Committee, William J. Brown, 1  
37 West Broad Street • Suite 430 • Columbus, Ohio 43215 • (614) 341-0000



000033

21  
6

ENDOR: 0092347

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 007377

DUCHER NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
0017	000119	07/01/92	500.00	500.00	.00	500.00
					CHECK TOTAL	500.00

DELIVERED SEP 14 1992

CHECK NO.	CHECK DATE	VENDOR
007377	09/14/92	FIREARMS TRAINING SYSTEMS, INC.

fats®

CHECK NO. 007377

FIREARMS TRAINING SYSTEMS, INC.

OPERATING ACCOUNT  
110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30092

64-1278  
611

NationsBank  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT
500.00

970437361

FIVE HUNDRED AND 00/100 DOLLARS

SHECKTER, JOEY

TO THE  
ORDER OF

NON-NEGOTIABLE  
AUTHORIZED SIGNATURE



000034

# EXPENSE REPORT

(ATTACH RECEIPTS IF POSSIBLE)

TO FATS

FROM JODY SCHECKTER

97043173362

FOR PERIOD	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTAL
ENDING <u>9/1/92</u>								
1 HOTEL								
2 BREAKFAST								
3 LUNCH								
4 DINNER								
5 PLANE-RAIL BUS FARE								
6 LOCAL TAXIS BUS FARE								
7 AUTO EXPENSE-RE- PAIR-TIRES-SUPPLIES								
8 GAS AND OIL								
9 LUBRICATION AND WASH								
10 GARAGE PARKING								
11 TOLLS								
12 PHONE TELEGRAMS								
13 TIPS								
14 ENTERTAINMENT								
15								
16								
TOTALS								500.00

ENTERED SEP 11 1992

509230

VENDOR #

INVOICE #

VOUCHER #

JOB #

ACCOUNT #

003192

2011

AMOUNT

0550 - 1600 = 500.00

STATE BUSINESS PURPOSE—PEOPLE ENTERTAINED—PLACE OF ENTERTAINMENT AND TIME—LIST CALLS MADE


CONTRIBUTION - SEE ATTACHED

PAID SEP 11 1992

I HEREBY CERTIFY THAT THE ABOVE EXPENDITURES REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDE NO PERSONAL EXPENSE

RECEIVED SEP 11 1992

SIGNED *V. Thomas for Jody Schekter*

DATE	REPAYMENT RECAP	AMOUNT	MILEAGE RECORD	APPROVAL	CASHIERS MEMO
	ADVANCE RECEIVED		END OF TRIP		CHECK NO
	REIMBURSED		LESS START		
	TOTAL		MILES PER TRIP		
	EXPENSE FOR WEEK				000035
	OVER OR SHORT				DATE AMOUNT




14 August 1992

Richard Ray for Congress  
Attn: Ms. Macy Skinner  
P.O. Box 1649  
Byron, GA 31008

Dear Ms. Skinner:

I have enclosed a contribution to Congressman Ray's reelection campaign. Please pass on to him my best wishes for the November election. He will win!

Sincerely,

  
Jody Schechter  
President

Enclosure: Check in the amount of \$500.00

JS/jd

97043773363

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

8-13

1014

64-101

Pay to the Order of Richard Ray for Congress \$ 500.00  
Five Hundred + 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Campaign Relection Signed



97043773364

000037

(ATTACH RECEIPTS IF POSSIBLE)

TO FATS

FROM 1001 SCHECKTER

FOR PERIOD ENDING		SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTAL \$
		CITY	CITY	CITY	CITY	CITY	CITY	CITY	
1	HOTEL MOTEL								
2	BREAKFAST								
3	LUNCH								
4	DINNER								
5	PLANE-RAIL BUS FARE								
6	LOCAL TAXIS BUS FARE								
7	AUTO EXPENSE REPAIR-TIRES-SUPPLIES								
8	GAS AND OIL								
9	LUBRICATION AND WASH								
10	GARAGE PARKING								
11	TOLLS								
12	PHONE TELEGRAMS								
13	TIPS								
14	ENTERTAINMENT								
15									
16									
<b>TOTALS</b>									<u>500.00</u>

9704317365

STATE BUSINESS PURPOSE--PEOPLE ENTERTAINED--PLACE OF ENTERTAINMENT AND TIME--LIST CALLS MADE

CONTRIBUTION - SEE ATTACHED

I HEREBY CERTIFY THAT THE ABOVE EXPENDITURES REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDES NO ITEMS OF A PERSONAL NATURE.

SIGNED J. Thomas for Judy Schecter

DATE	REPAYMENT RECAP	AMOUNT	MILEAGE RECORD	APPROVAL	CASHERS MEMO
	ADVANCE RECEIVED		END OF TRIP		CHECK NO.
	REIMBURSED		LESS START		<u>000038</u>
	TOTAL		MILES PER TRIP		DATE
	EXPENSE FOR WEEK				AMOUNT
	OVER OR SHORT				



14 August 1992

Richard Ray for Congress  
Attn: Ms. Macy Skinner  
P.O. Box 1649  
Byron, GA 31008

Dear Ms. Skinner:

I have enclosed a contribution to Congressman Ray's reelection campaign. Please pass on to him my best wishes for the November election. He will win!

Sincerely,

  
Jody Schechter  
President

Enclosure: Check in the amount of \$500.00

JS/jd

FIREARMS TRAINING SYSTEMS, INC.

110 Technology Parkway Norcross, Georgia 30092, U.S.A. Tel (404) 448-7318 Fax (404) 242-6962

000039

97043173366

JODY D. SCHECKTER  
6095 COURTSIDE DR.  
NORCROSS, GA 30092

8-13

1014

1984-1-1/10

Pay to the Order of Richard Ray for Congress \$ 500.00

Five Hundred + 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Commission, Re-election Signed 

97043773367

000040

JS - I think we should  
need a personal check of  
\$500.00.  
lets discuss it.

Clare

5 Aug

I spoke with Sally Gains in Mr Ray's office. She said the contribution should be mailed to the below address. The check is made out to Richard Ray for Congress.

Although not a Washington address I am sure he gets a list of contributors. I also asked Sally to say hello to Mr Ray and that we appreciate all of his support.

I recommend a short letter: (On FATS stationary)

Richard Ray for Congress  
PO Box 1649  
Attn: Macy Skinner  
Byron, Georgia 31008

Dear Ms Skinner:

I have enclosed a contribution to Congressman Ray's reelection campaign. Please pass on to him my best wishes for the November election. He will win!

Sincerely,

*Jim*

Mr. D. handed this back to me.

*Jane*

*\$500*

97043773348

VENDOR: 509230

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 07964

OUCHER NO	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
21259	101492	10/14/92	1,000.00	1,000.00	.00	1,000.00
					CHECK TOTAL	1,000.00

DELIVERED OCT 28 1992

CHECK NO.	CHECK DATE	VENDOR NO.
7964	10/23/92	509230

fats

CHECK NO. 07964

FIREARMS TRAINING SYSTEMS, INC.

OPERATING ACCOUNT  
110 TECHNOLOGY PARKWAY 448-7318  
NORCROSS, GA 30092

64-1278  
611

NationsBank  
ATLANTA, DEKALB COUNTY, GEORGIA

CHECK AMOUNT

1,000.00

ONE THOUSAND AND 00/100 DOLLARS

PAY  
TO THE  
ORDER OF

SHECKTER, JODY

NON-NEGOTIABLE

AUTHORIZED SIGNATURE

*[Handwritten Signature]*



970433

000042

# EXPENSE REPORT

(ATTACH RECEIPTS IF POSSIBLE)

TO **FATS**

FROM

*Jody Schecter*

FOR PERIOD	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.
ENDING <b>14 Oct. 92</b>	/ / / / / / / /						
	CITY	CITY	CITY	CITY	CITY	CITY	CITY
							TOTALS
1 HOTEL							
2 BREAKFAST							
3 LUNCH							
4 DINNER							
5 PLANE-RAIL BUS FARE							
6 LOCAL TAXIS BUS FARE							
7 AUTO EXPENSE-RE- PAIR-TIRES-SUPPLIES							
8 GAS AND OIL							
9 LUBRICATION AND WASH							
10 GARAGE PARKING							
11 TOLLS							
12 PHONE TELEGRAMS							
13 TIPS							
14 ENTERTAINMENT							
15							
16 <i>Misc</i>							
TOTALS							

VENDOR #

*507230*

DUE DATE

*10/14/92*

INVOICE #

*21259*

VOUCHER #

JOB #

ACCOUNT #

AMOUNT

*7500 - 6500 = 1,000.00*

*\$1,000-*

*\$1,000-*

ENTERED OCT 23 1992

STATE BUSINESS PURPOSE - PEOPLE ENTERTAINED - PLACE OF ENTERTAINMENT AND TIME - LIST CALLS MADE

*Political Contribution to Congressman Dingriek*

*Hi. Copy of check list  
saved 10/20/92  
Joice will forward  
copy of cancel  
check when it  
arrives back w/  
STMT.*

PAID OCT 26 1992

3 REPRESENT CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND

SIGNED

*Jody Schecter*

MILEAGE RECORD

APPROVAL

CASHIERS MEMO

IF

CHECK NO

*000043*

OVER OR SHORT

PEN (RIP)

DATE

AMOUNT

9704373370





JODY D. SCHECKTER  
686 COURTSIDE DR.  
VONCROSS, GA 30092

1025

October 14 19 92 64-1010

Pay to the Friends of Newt Gingrich \$ 1,000.00

One Thousand and 00/100 \_\_\_\_\_ Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

Political Contribution Signed \_\_\_\_\_

9704373373

Expense  
Report  
filed  
10-16-92

000046

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
WORCROSS, GA 30092

1025

October 14 19 92 64-1010

Pay to the Order of Friends of Newt Gingrich \$ 1,000.00

.e Thousand and 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Political Contribution Signed

[Redacted Signature]

9 7 0 4 3 7 7 3 3 7 4

000047

# Receipt

Date Oct 14 19 92

No. 38202

RECEIVED FROM

Jody Scheckter

\$1,000

DOLLARS

FOR RENT

FOR

Congressional Club Membership

FROM

TO Nancy Desmond

ACCOUNT		
PAYMENT	<u>1000-</u>	
BALANCE DUE		

cash

check

money order

BY

Nancy Desmond

TC-2701

9704373375

000048

JODY SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

416-27-1017

0-13 1992

1014  
64-1/610

Pay to the Order of Richard Ross Investigations \$ 500.00

Five Hundred + 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Commission Deduction Signed 

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

4/14 1992

1049  
64-1/610

Pay to the Order of John Glenn for Senate Committee \$ 2,000<sup>00</sup>

Two Thousand + 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Receipt 4/15/92 Signed 

JODY D. SCHECKTER  
6096 COURTSIDE DR.  
NORCROSS, GA 30092


October 14 1992

1025  
64-1/610

Pay to the Order of Friends of Newt Gingrich \$ 1,000.00

One Thousand and 00/100 Dollars

**FIRST ATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

For Political Contribution Signed 

9704373376

000049

JODY D. SCHECKTER 0990  
6096 COURTSIDE DR.  
NORCROSS, GA 30092

086

64-17610

1 Feb. 1993

PAY TO THE  
ORDER OF

Donation for Congress Committee | \$1,000.<sup>00</sup>

One Thousand and 00/100

DOLLARS

**WACHOVIA**

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



FBI Political Contribution

97043773377

000050

Re-elect  
CONGRESSMAN  
BUDDY  
★★ DARDEN  
★★

February 24, 1993

Mr. Jody D. Scheckter  
6096 Courtside Drive  
Norcross, GA 30092

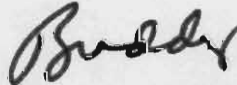
Re: Check Number 1086 dated February 1, 1993 in the amount  
of \$1000.00

Dear Jody:

Thanks to your generosity and enthusiasm, the breakfast of  
February 17th was a tremendous success. Lillian and I appreciate  
the financial commitment you have made to the continuation of  
effective leadership for the Seventh District of Georgia.

Your active support is very important to our continuing  
campaign effort, and I appreciate your input and encouragement.

Sincerely,



George (Buddy) Darden



97043773378

VENDOR: 507230		FIREARMS TRAINING SYSTEMS, INC.			CHECK NO. 016466	
VOUCHER NO.	INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
035522	012093	01/03/74	45.00	15.36	.00	44.36
035530	001342	02/13/72	10.00	5.00	.00	5.00
035529	061673	06/02/70	12.00	11.00	.00	12.00
035524	050351	05/03/72	10.00	10.00	.00	10.00
035528	101150	10/11/73	10.00	10.00	.00	10.00
035531	101150	10/11/73	10.00	10.00	.00	10.00
035523	101150	10/11/73	10.00	10.00	.00	10.00
035525	120600	12/02/73	107.77	107.77	.00	107.77
					CHECK TOTAL	435.01

CHECK NO.	CHECK DATE	VENDOR NO.
016466	01/10/74	507230

**fats**

CHECK NO. 016466

**FIREARMS TRAINING SYSTEMS, INC.**

A/P ACCOUNT  
7340 McGinnis Ferry Road  
Suwanee, GA 30174  
(404) 813-0180

64-116  
811



CHECK AMOUNT
435.01

FOUR HUNDRED THIRTY-FIVE AND 01/100 DOLLARS

TO THE ORDER OF SCHECKTER, JOBY

**NON-NEGOTIABLE**  
*JOBY SCHECKTER*  
AUTHORIZED SIGNATURE



97043773379

000052

NAME Scheckter, Giny DATE 8-26-93

VENDOR # 309230

DUE DATE ①

INVOICE # 82693

VOUCHER #

JOB #

	DEPT.	CHARGE
HOTEL	7460	\$
MEALS	7440	\$
AUTO	7410	\$
MISC	7470-1600	\$ 12.00
ENTERTAIN	7450	\$
CAR RENT	7420	\$
PHONE	7480	\$
AIR FARE	7430	\$
POSTAGE	7520	\$
SUPPLIES	7640	\$

TOTAL 12.00

V# 35329

ENTERED JAN 19 1994

910

9704373300



HARTSFIELD ATLANTA  
INT'L AIRPORT

\*\*\* thank you \*\*\*

Entrance: 17:55 08/24/93 Lane 23

Exit 11:18 08/26/93 Lane 53

CASHIER 191 SEQ# 3042

AMOUNT PAID \$012.00

970437733382

000055

NAME Scheeky, Gary DATE 10-13-93

VENDOR # S 09230

DUE DATE (1)

INVOICE # 101393

VOUCHER #

JOB #

V# 35528

	DEPT.	CHARGE
HOTEL	7460	\$
MEALS	7440	\$
AUTO	7410	\$
MISC	7470-1600	\$ 13.00
ENTERTAIN	7450	\$
CAR RENT	7420	\$
PHONE	7480	\$
AIR FARE	7430	\$
POSTAGE	7520	\$
SUPPLIES	7640	\$

ENTERED JAN 19 1994

570

TOTAL 13.00

97043773383



OCTOBER

HARTSFIELD ATLANTA 16  
INT'L AIRPORT

\*\*\* thank you \*\*\*

Entrance: 10:48 10/11/93 Lane 22

Exit 11:34 10/13/93 Lane 56

CASHIER 098 SER# 0434

AMOUNT PAID \$013.00

9704373335

000059

NAME Schechter, Gedy DATE 9-3-93

VENDOR # S 09230

DUE DATE (1)

INVOICE # 090393

VOUCHER #

JOB # CON 002

	DEPT.	CHARGE
HOTEL	7460 - <del>6000</del>	\$ 78.80
MEALS	7440	\$
AUTO	7410	\$
MISC	7470	\$
ENTERTAIN	7450	\$
CAR RENT	7420	\$
PHONE	7480 - <del>6000</del>	\$ 5.89
AIR FARE	7430	\$
POSTAGE	7520	\$
SUPPLIES	7640	\$

TOTAL 84.69

V# 35524

ENTERED JAN 1 5 1994

CLG

97043773366

# EXPENSE REPORT

(ATTACH RECEIPTS IF POSSIBLE)

*Jody Schecter*

TO August 29, 1993 FROM SEPT 4 1993

FOR PERIOD	SUN.	MON.	TUES.	WED.	THUR.	FRI.	SAT.	TOTALS
ENDING	CITY	CITY	CITY	CITY	CITY	CITY	CITY	
1 HOTEL MOTEL								£ 49.50 (\$ 78.80)
2 BREAKFAST								(£ 78.80)
3 LUNCH								
4 DINNER								
5 PLANE-RAIL BUS FARE								
6 LOCAL TAXIS BUS FARE								
7 AUTO EXPENSE-REPAIR-TIRES-SUPPLIES								
8 GAS AND OIL								
9 LUBRICATION AND WASH								
10 GARAGE PARKING								
11 TOLLS								
12 PHONE TELEGRAMS								£ 3.70 (\$ 5.87)
13 TIPS								(£ 5.87)
14 ENTERTAINMENT								
15								
16								
TOTALS								£ 53.20 (\$ 84.67)

RECEIVED JAN 17 1994

UK  
SEPT 31 1993

97043773397

STATE BUSINESS PURPOSE—PEOPLE ENTERTAINED—PLACE OF ENTERTAINMENT AND TIME—LIST CALLS MADE

*British Contract*

I EXPRESSLY CERTIFY THAT THE ABOVE EXPENDITURE CONSISTS OF CASH SPENT FOR LEGITIMATE COMPANY BUSINESS ONLY AND INCLUDES NO ITEMS OF A PERSONAL NATURE

SIGNED *J. O. for Jody Schecter*

DATE	REPAYMENT RECEIVED	AMOUNT	MILEAGE RECEIVED	CARRIER'S MILEAGE
	ADVANCE RECEIVED		END OF TRIP	
	REIMBURSED		LESS START	
	TOTAL		MILES PER TRIP	CHECK NO.
	EXPENSE FOR WEEK			000060
	OVER OR SHORT			DATE
				AMOUNT

# THE OLD BELL HOTEL

Market Place, Warminster, Wiltshire BA12 9AN  
 Telephone: (0985) 216611

RAC AA Egon Ronay Michels

Date:

3.9.93

Rate

£45

Number of Guests

1

Room No.

B1

To: Schechter

---



---



---

**INVOICE**

VAT Reg No 543 3380 57

	3.9							
	£	p	£	p	£	p	£	p
Brought forward								
00 Apartments \$716	45	00						
03 Breakfast								
02 Newspapers								
01 Telephone \$716	4	50						
7								
Tea/Coffee								
Meals Luncheon								
30 Dinner								
4 Bar Drinks								
Bar Snacks								
Cold Table								
9								
TOTAL (including VAT)	49	50						
VAT %								
TOTAL (excluding VAT)								

GRATUITIES AT CUSTOMERS DISCRETION

\$78.80

ment by Cheque only accepted if supported by a Bankers Cheque Card - Access - Diners Club - Barclaycard - American Express

MR JOOY D - SCHECKTER

CARDHOLDER'S SIGNATURE

CARDHOLDER'S DECLARATION: The holder of the card identified on the item is authorized to pay the amount shown as TOTAL upon proper presentation. I promise to pay such TOTAL (together with any other charges due thereon) subject to and in accordance with the agreement governing the use of such card.

PAID BY F100



DATE TIME

DEPT SALES No INITIALS

DESCRIPTION AMOUNT

AUTHORISATION CODE TOTAL POUNDS PENCE

PLEASE KEEP THIS COPY FOR YOUR RECORDS

SALES VOUCHER

CARDHOLDER COPY

6 8 3 3 7 7 3 4 0 7 6

000062

NAME Schechter, Gody DATE 10-29-93

VENDOR # S09230

DUE DATE ①

INVOICE # 102993

VOUCHER #

JOB #

	DEPT.	CHARGE
HOTEL	7460	\$
MEALS	7440 - 1600	\$ 69.96
AUTO	7410 - 1600	\$ 73.23
MISC	7470	\$
ENTERTAIN	7450	\$
CAR RENT	7420	\$
PHONE	7480	\$
AIR FARE	7430	\$
POSTAGE	7520	\$
SUPPLIES	7640	\$

V# 35523

ENTERED JAN 19 1994

TOTAL 143.19

973

9704377339C



2150 1080 2010

1/200 1 1/4 0/1

INTERCITY OR-55 SV

CONFIRMED *[Signature]* CARDHOLDER'S SIGNATURE

<b>INTERCITY</b>			<b>BANK CREDIT CARD VOUCHER</b>	
DATE	BILL & BOOK NO.	STEWARD	CIRCUIT NO.	
29/10/93	703238	WT	2907	
NUMBER	RESTAURANT CAR SERVICES	UNIT COST	AMOUNT	
1	Meal.		16.35	
			1.65	
	<b>TOTAL</b>	<b>£</b>	<b>18.00</b>	

CARDHOLDER'S COPY

*[Handwritten mark]*

874378620

97043773392

**METHOD OF PAYMENT** Gratuities at your discretion  
Your Chief Steward will separate this bill after departure. Please retain both sections

DATE 29/10/93 TIME 14.45 COACH 5

<b>CREDIT CARDS</b>		£	p
	Food	13.95	
	Drink	2.40	
VAT at Standard Rate	Total	16.35	
<b>CASH AND CHEQUES</b>			
	Food		
	Drink		
VAT at Standard Rate	Total		
<b>EXECUTIVE VOUCHERS</b> Voucher No's. must be entered on the Bill			
Voucher No.		£	p
	Food only		
VAT at Standard Rate	Total		
<b>OTHER VOUCHERS/WARRANTS/SIGNATURE</b>			
Voucher No.		£	p
	Food		
	Drink		
VAT at Standard Rate	Total		

We thank you for your custom and look forward to seeing you again

InterCity, Tournament House, Paddington Station  
London W2 1HQ  
VAT Reg. No. 232 1646 92 (full receipts available from above)

**M 703238**

000063

T 3

242

242 Blackfriars Road, London, SE1 9UF  
Tel: 011 908 8688 VAT Reg No: 324 5749 33

SERVER	TABLE #	COVERS
DESCRIPTION		
Bever		2.00
1 x Cambridge		4.00
1 x Cheese		5.95
1 x Pad		5.00
1 x Call		1.10
1 x Lemonade	0.30	0.30
11 x Res	1.85	23.65
SERVICE CHARGE 10%		2.30
Prices inclusive of VAT at 17%		25.95
TOTAL		25.95

3711

Thank You

### British Rail \*Excess/Travel Ticket

Issued by Travelling Ticket Staff  
Kings Cross (E)

Train 27.00 Date 29/10/93

Ticket held No. \_\_\_\_\_ Description SCR

To \_\_\_\_\_ From \_\_\_\_\_

Via \_\_\_\_\_

To Grantham Description SCR

From London

Via \_\_\_\_\_

Description of Ticket	Class	No. of Passengers (in words)				Amount	
		Single	Two	Three	Four	E	P
Without Tickets						46	2
Supplement	29	1		0			
Out of date/Overdistance				1			
Total						46	2

Valid until 20th Nov 93 Collected by [Signature]

Issued subject to the Regulations and Conditions in the Publications and Notices of the British Railways Board. Not Transferable.  
B.R. 4408/112 Revised \*DELETE AS APPROPRIATE

87325

000066

97043173324

To receive your tickets, please fill out this reservation form and return in the enclosed envelope.

I would like the following tickets:  
TWO tickets at \$250.00 each.

I regret that I cannot attend, but enclosed is my contribution of \$ \_\_\_\_\_

Please mail my tickets to me at the address on the other side of this card.

Please hold my tickets. Will call for them in the name of: \_\_\_\_\_

Please make check payable to:

**THOMAS FOR CONGRESS'**  
P.O. Box 1983  
Jesup, Georgia 31545

JODY D. SCHECKTER  
6086 COURTSIDE DR.  
NORCROSS, GA 30092

2-13 1990 0664  
64-1  
610

Pay to the Order of Thomas for Congress \$ 500.00  
Five hundred & no/100 Dollars

**FIRSTATLANTA**  
The First National Bank of Atlanta  
Atlanta, Georgia

*[Signature]* 000067

I-N-T-E-R-O-F-F-I-C-E M-E-M-O

TO: L. Robertson

DATE: 14 April 1993

FR: R. Motter

SUBJ: J. Scheckter Bonus

Please prepare a special payroll bonus check for Mr. Jody Scheckter in the net amount of one thousand dollars (\$1,000.00). Payment should be made on Friday, 23 April 1993 in conjunction with the normal processing of payroll but via a separate check. If you have any questions, please see me.

Thanks,

*Bob*

97043773325

000068

I-N-T-E-R-O-F-F-I-C-E M-E-M-O

TO: L. Robertson

DATE: 14 July 1993

FR: R. Motter

SUBJ: J. Scheckter Bonus

---

Please prepare a special payroll bonus check for Mr. Jody Scheckter in the net amount of one thousand dollars (\$1,000.00). Payment should be made on Friday, 30 July 1993 in conjunction with the normal processing of payroll but vial a separate check. If you have any questions, please see me.

Thanks.

*Bob*

9704373326

**CACHERIS & TREANOR**

ATTORNEYS AT LAW

1100 CONNECTICUT AVENUE, N.W.

SUITE 730

WASHINGTON, D.C. 20036

TELEPHONE: (202) 775-8700

FAX: (202) 775-8702/23

VIRGINIA OFFICE:  
705 PRINCE STREET  
ALEXANDRIA, VA 22314  
(703) 549-8181

PLATO CACHERIS  
GERARD TREANOR  
PHILIP T. INGLIMA\*

JUDITH L. WHEAT  
KARL A. RACINE\*  
JOHN F. HUNDLEY\*

PHILIP T. WHITE\*  
OF COUNSEL

\* ADMITTED IN D.C., N.Y. & N.J. ONLY  
\* ADMITTED IN D.C. & MD. ONLY  
\* ADMITTED IN VA. ONLY  
\* ADMITTED IN D.C. ONLY

June 21, 1995

JUN 23 12 06 PM '95

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

**VIA FACSIMILE**

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 621  
999 E Street, N.W.  
Washington, D.C. 20463

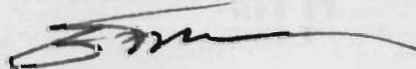
Re: MUR 4090  
Firearms Training Systems, Inc.; Jody D. Scheckter;  
Janice Dean; and Robert McCredy

Dear Mr. Buckley:

By this letter, I hereby authorize Thomas J. Cooper of the firm of Venable, Baetjer, Howard & Civiletti to act on behalf of this firm and its client, Jody D. Scheckter, with respect to the production of materials made in response to the subpoena issued to Mr. Scheckter.

Thank you for your assistance in this matter.

Very truly yours,



Gerard Treanor

cc: Thomas J. Cooper, Esquire

97043773397

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

AUG 2 4 30 PM '95

In the Matter of	)	
	)	
Firearms Training Systems, Inc.	)	MUR 4090
Jody D. Scheckter	)	
Robert Motter	)	
Robert Mecredy	)	
Janice Dean	)	

**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On April 18, 1995, the Commission approved a Subpoena to Produce Documents and Order to Submit Written Answers to Respondent Firearms Training Systems, Inc. ("Firearms Systems") and a Subpoena to Produce Documents to Respondent Jody Scheckter. Responses were submitted jointly and were received in this Office on June 21, 1995, after an extension of time had been granted.<sup>1</sup>

In requesting the extension of time, Respondents pointed out that the documents subpoenaed by the Commission were in the control of the FBI, and that counsel for Respondents would have to coordinate with the FBI to review the documents. In submitting responsive documents, Respondents stated that, while they "believe the production is complete with respect to all documents in

---

1. The joint extension of time had been requested by counsel for Firearms Systems, who had been authorized by counsel for Jody Scheckter to act on Scheckter's behalf. These requests make even more obvious the fact that Respondents are coordinating their efforts before the Commission and deserve a high degree of scrutiny.

97043773398

possession of [Firearms Systems] or Mr. Scheckter," they could not "guarantee that all relevant documents held by the Bureau have been produced."

## II. ANALYSIS

Among the documents produced were administrative copies of checks drawn on a Firearms Systems corporate account which reimbursed Jody Scheckter for political contributions to the Democratic Congressional Campaign Committee ("DCCC"), the John Glenn for Senate Committee ("Glenn Committee"), Richard Ray for Congress and Friends of Newt Gingrich. Also, in the initial sua sponte submission, counsel had submitted an administrative copy of the reimbursement check for Scheckter's contribution to Thomas for Congress which was drawn on a different Firearms Systems corporate account.<sup>2</sup>

With only administrative copies of the checks in hand, this Office cannot currently identify who endorsed the reimbursement checks. Such information is important because it may prove probative on the issue of whether Jody Scheckter knew he was being reimbursed for his political contributions, an allegation which Scheckter maintains is not true. It is also appropriate that such information be obtained before the depositions of the major

---

2. This Office has concluded that the copies produced are administrative copies for several reasons. First, attached to the check is a receipt which denotes voucher number, invoice number, invoice date, invoice amount, amount paid, discount taken and net check amount. Second, the word "NON-NEGOTIABLE" appears in the signature line. As administrative copies, and not copies of the actual negotiated instruments, they would not have been endorsed and then processed for payment.

97043773399

players in this matter are conducted, as it is quite possible we will want to introduce them as exhibits in certain depositions.

Given the statements by counsel accompanying the subpoena production, it does not appear that any further request to Respondents will result in our obtaining the desired copies, and would only cause delay in acquiring them.<sup>3</sup> From copies of checks on hand, this Office has identified two Firearms Systems accounts at two different banks on which reimbursement checks were drawn.<sup>4</sup> This Office has drafted subpoenas to the two banks which specifically seek copies of the checks at issue. In addition, the subpoena to the Trust Company Bank seeks checks from the last two-and-one-half months of 1989, in amounts of \$500 or more, made payable to Jody Scheckter, in an effort to obtain a copy of the

3. In addition, this Office has twice contacted appropriate officials at the Justice Department in an effort to obtain whatever documents they may have regarding these violations, including copies of checks. The Justice Department is unable to provide any documents to the Commission.

4. The reimbursement check for the Thomas for Congress contribution was drawn on an account at Trust Company Bank in Atlanta. The remaining checks were drawn on the same account at NationsBank in Atlanta, but the checks themselves suggest they were not all issued in a similar manner. The reimbursement checks for the DCCC, Richard Ray for Congress and Friends of Newt Gingrich contributions all state that they are from the Operating Account at NationsBank in Atlanta. (The DCCC check was actually drawn on an account at The Citizens and Southern National Bank in Atlanta, but it appears that that bank has been taken over by NationsBank, and the accounts bear the same number). The reimbursement check for the Glenn Committee contribution states that it is from the Manual Checking Account. Nevertheless, all NationsBank checks bear the same account number.

97043773400

reimbursement check for the first contribution to Darden to Congress.

Accordingly, this Office recommends that the Commission authorize the attached subpoenas to produce Documents to Trust Company Bank and NationsBank.

**III. RECOMMENDATIONS**

1. Approve the attached Subpoenas to Produce Documents to Trust Company Bank and NationsBank.
2. Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

8/2/95  
Date

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

**Attachments**

1. Subpoena to Trust Company Bank
2. Subpoena to NationsBank

Staff Assigned: Tony Buckley

97043773401

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
 Firearms Training Systems, Inc.; ) MUR 4090  
 Jody D. Scheckter; )  
 Robert Motter; )  
 Robert Mecredy; )  
 Janice Dean; )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 8, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 4090:

1. Approve the Subpoenas to Produce Documents to Trust Company Bank and NationsBank, as recommended in the General Counsel's Report dated August 2, 1995.
2. Approve the appropriate letters, as recommended in the General Counsel's Report dated August 2, 1995.

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

Attest:

8-8-95  
Date

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

Received in the Secretariat: Wed., Aug. 02, 1995 4:30 p.m.  
 Circulated to the Commission: Thurs., Aug. 03, 1995 11:00 a.m.  
 Deadline for vote: Tues., Aug. 08, 1995 4:00 p.m.

lrd

9704373402



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 10, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

John Hollister, General Counsel  
Trust Company Bank  
P.O. Box 4418  
Center Code 662  
Atlanta, GA 30302

RE: MUR 4090

Dear Mr. Hollister:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires Trust Company Bank to provide certain information in connection with an investigation it is conducting. The Commission does not consider Trust Company Bank a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You are required to submit the information within 30 days of your receipt of this subpoena. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Tony Buckley  
Attorney

Enclosure  
Subpoena

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

97043773403

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
)  
)

MUR 4090

**SUBPOENA TO PRODUCE DOCUMENTS**

TO: Trust Company Bank  
ATTN: John Hollister, General Counsel  
P.O. Box 4418  
Center Code 662  
Atlanta, GA 30302

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

97043773404

WHEREFORE, the Vice Chairman of the Federal Election  
Commission has hereunto set her hand in Washington, D.C., on  
this *9th* day of *August*, 1995.

For the Commission,

*Lee Ann Elliott*  
\_\_\_\_\_  
Lee Ann Elliott  
Vice Chairman

ATTEST:

*Marjorie W. Emmons*  
\_\_\_\_\_  
Marjorie W. Emmons  
Secretary to the Commission

Attachment  
Instructions and Document Requests

97043773405

INSTRUCTIONS

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

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

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

DOCUMENT REQUESTS

1. For Firearms Training Systems, Inc. account produce copies of all checks negotiated between October 20, 1989 and December 31, 1989 made payable to Jody Scheckter, in amounts of \$500 or more.
2. For Firearms Training Systems, Inc. account produce a copy of check number 108864, negotiated between April 10, 1990 and May 10, 1990.

9704373406



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 10, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Nancy Tuck, Senior Vice President  
NationsBank of Georgia, N.A.  
6000 Feldwood Road  
College Park, GA 30349

RE: MUR 4090

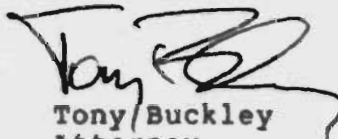
Dear Ms. Tuck:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires NationsBank of Georgia, N.A. to provide certain information in connection with an investigation it is conducting. The Commission does not consider NationsBank of Georgia, N.A. a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You are required to submit the information within 30 days of your receipt of this subpoena. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

  
Tony Buckley  
Attorney

Enclosure  
Subpoena

9704373407

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

)  
)  
)

MUR 4090

**SUBPOENA TO PRODUCE DOCUMENTS**

TO: NationsBank of Georgia, N.A.  
ATTN: Nancy Tuck, Senior Vice President  
6000 Feldwood Road  
College Park, GA 30349

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas the documents listed on the attachment to this subpoena.

Notice is given that these documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

9704373408

WHEREFORE, the Vice Chairman of the Federal Election  
Commission has hereunto set her hand in Washington, D.C., on  
this *9<sup>th</sup>* day of *August*, 1995.

For the Commission,

*Lee Ann Elliott*  
\_\_\_\_\_  
Lee Ann Elliott  
Vice Chairman

ATTEST:

*Marjorie W. Emmons*  
\_\_\_\_\_  
Marjorie W. Emmons  
Secretary to the Commission

Attachment  
Instructions and Document Requests

97043773409

INSTRUCTIONS

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

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

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

DOCUMENT REQUESTS

1. For Firearms Training Systems, Inc. account provide copies of:

Operating Account check #

Negotiated Between

November 22, 1991 -  
December 22, 1991

September 11, 1992 -  
October 11, 1992

October 23, 1992 -  
November 22, 1992

Manual Checking Account check #

April 13, 1992 -  
May 13, 1992

9704377341C

RECEIVED

AUG 14 1995



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 10, 1995

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Nancy Tuck, Senior Vice President  
NationsBank of Georgia, N.A.  
6000 Feldwood Road  
College Park, GA 30349

RE: MUR 4090

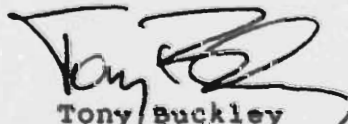
Dear Ms. Tuck:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached subpoena which requires NationsBank of Georgia, N.A. to provide certain information in connection with an investigation it is conducting. The Commission does not consider NationsBank of Georgia, N.A. a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You are required to submit the information within 30 days of your receipt of this subpoena. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

  
Tony Buckley  
Attorney

Enclosure  
Subpoena

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

9704373411





09/11/92 509230

**fols**

CHECK NO. 007377

**FIREARMS TRAINING SYSTEMS, INC.**  
OPERATING ACCOUNT  
110 TECHNOLOGY PARKWAY 48-7316  
MORRISVILLE, NC 27555

21-3278  
077

FOR DEPOSIT ONLY  
FEDERAL RESERVE NOTE  
\$500.00

\*\*\*\*\*500.00

CHECKER, JOEY

*[Signature]*  
AUTHORIZED SIGNATURE

0000050000



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PAID  
SEP 17 1992

920911

97043773415

M-3  
AUG 27 1992

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			<i>C. J. [Signature]</i>
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151 406 58

1 23 406 58  
WACHOVIA BANK  
ATLANTA, GA  
10041 406 58



Trust Company Bank

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
SEP 25 9 45 AM '95

14 September 1995

Tony Buckley  
FEDERAL ELECTION COMMISSION  
999 E. Street NW  
Washington DC 20463

MUR 4090

RE: Firearms Training Systems

Dear Mr. Buckley:

As required by the SUBPOENA TO PRODUCE DOCUMENTS served on Trust Company Bank, please find enclosed a true and correct photocopy of the following document:

Cancelled check number 108364, drawn on checking account in the name of Firearms Training Systems, made payable to Jody Scheckter in the amount of \$1,000.

As agreed, this is all the documents being produced at this time. If you have any questions, please telephone me at the number listed below.

Sincerely,

Geneva A. Puras  
Records Custodian 5098  
404-230-5120

Enclosure

97043773416

97043773417

CREDITED TO THE ACCOUNT OF  
THE WITHIN NAMED PAYEE  
THE FIRST NATIONAL BANK  
OF ATLANTA, GEORGIA

004  
4100-01-00  
01 DA PV

CHECK NO.	108864	CHECK DATE	4-10-90	VENDOR NO.	
<b>First Georgia Bank</b> 222 W. Peachtree Street Atlanta, Georgia 30308					
TO THE ORDER OF Jody Scheckter			<b>FIREARMS TRAINING SYSTEMS, INC.</b> 110 TECHNOLOGY PARKWAY NORCROSS, GA 30092		
\$1,000.00 One Thousand And 00/100 Dollars			CHECK AMOUNT <b>**\$1,000.00</b>		
[Signature] <small>Print name in full</small>			54-10 818		
⑆0000100000⑆					



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

Jun 20 10 59 AM '96

June 20, 1996

**SENSITIVE**

F. Joseph Warin, Esq.  
Gibson, Dunn & Crutcher  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

RE: MUR 4090  
Robert F. McCreedy

Dear Mr. Warin:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on October 18, 1994, the Federal Election Commission found reason to believe that your client, Robert McCreedy, violated 2 U.S.C. § 441e, and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find no probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

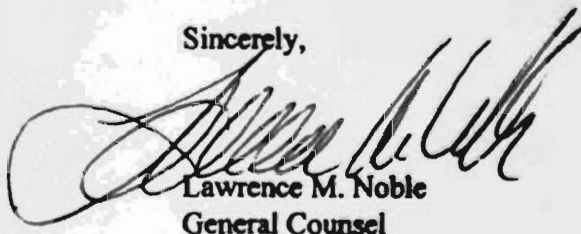
If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Noble  
General Counsel

Enclosure  
Brief

97043773419

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 4090  
Robert Mecredy )

**GENERAL COUNSEL'S BRIEF**

**I. STATEMENT OF THE CASE**

On October 18, 1994, the Federal Election Commission found reason to believe that Robert Mecredy violated 2 U.S.C. § 441e, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission's findings were based on information provided sua sponte by Firearms Training Systems, Inc., which suggested that Robert Mecredy has solicited two political contributions from Jody Scheckter, Chief Executive Officer of Firearms Systems, at a time before when Mr. Scheckter, a foreign national, had been granted permanent resident status.

**II. ANALYSIS**

Robert Mecredy has denied any involvement in the making of the contributions at issue. Moreover, he has presented evidence which shows that he was not employed by Firearms Systems at the time the when the two contributions in question were made, and that he did not even meet Scheckter until well after the contributions were made.

Specifically, Mr. Mecredy has submitted a copy of his résumé, which shows that he took a position with Raytheon Company in Washington, D.C. in March 1990, shortly after the second contribution in question was made. In addition, Mecredy has submitted an affidavit in which he states that he came to work for Firearms Systems in November of 1990. Mr. Mecredy further states that the first communication he had with Jody Scheckter was in the Fall of 1990, shortly before he was hired by Firearms Systems.

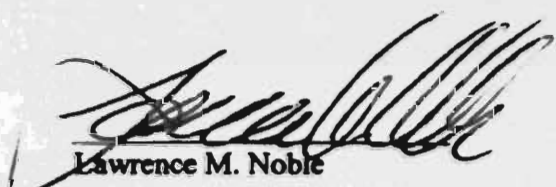
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The contributions which were the basis for the reason to believe findings against Mr. Mecredy were made in October of 1989 and February of 1990. The materials produced by Mecredy demonstrate to the satisfaction of this Office that he had no involvement with those contributions. Therefore, there is no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e.

**III. GENERAL COUNSEL'S RECOMMENDATION**

1. Find no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e.

6/19/96  
Date

  
Lawrence M. Noble  
General Counsel

97043773421

GIBSON, DUNN & CRUTCHER LLP

LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS

1050 CONNECTICUT AVENUE, N.W.  
WASHINGTON, D.C. 20036-5306

(202) 955-8500

TELEX: 197659 GIBTRASK WSH

FACSIMILE: (202) 467-0539

July 3, 1996

JAS. A. GIBSON, 1882-1922  
W. E. DUNN, 1861-1929  
ALBERT CRUTCHER, 1860-1931

NEW YORK  
200 PARK AVENUE  
NEW YORK, NEW YORK 10166-0193

PARIS  
104 AVENUE RAYMOND BONCARE  
75116 PARIS, FRANCE

LONDON  
30/35 FALM MALL  
LONDON SW1Y 5LP

HONG KONG  
10TH FLOOR, TWO PACIFIC PLACE  
88 QUEENSWAY  
HONG KONG

AFFILIATED SAUDI ARABIA OFFICE  
JARIR PLAZA, OLAYA STREET  
P.O. BOX 19970  
RIYADH 11454, SAUDI ARABIA

OUR FILE NUMBER

T 20284-00002

LOS ANGELES  
338 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-3197

CENTURY CITY  
2029 CENTURY PARK EAST  
LOS ANGELES, CALIFORNIA 90067-3026

ORANGE COUNTY  
4 PARK PLAZA  
IRVINE, CALIFORNIA 92714-8557

SAN DIEGO  
750 B STREET  
SAN DIEGO, CALIFORNIA 92101-4805

SAN FRANCISCO  
ONE MONTGOMERY STREET, TELES TOWER  
SAN FRANCISCO, CALIFORNIA 94104-4505

DALLAS  
1717 MAIN STREET  
DALLAS, TEXAS 75201-7390

DENVER  
1801 CALIFORNIA STREET  
DENVER, COLORADO 80202-2641

WRITER'S DIRECT DIAL NUMBER

(202) 887-3681

Ronald M. Harris, FOIA Officer  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re: MUR 4090

Dear Sir or Madame:

Pursuant to 2 U.S.C. § 437g(a)(12)(A) and 11 C.F.R. § 4.5(a), we are requesting on behalf of Robert Mecredy that confidential treatment be accorded to all submissions on his behalf to the Federal Election Commission in connection with the above-referenced investigation. This request includes, but is not limited to, a Brief on Behalf of Robert Mecredy that has been submitted today.

Please inform us promptly of any request under the Freedom of Information Act seeking access to the material described above, so that we may substantiate the grounds for confidential treatment, unless the staff intends to deny access on other grounds.

Very truly yours,

*Lindsey F. Buss*  
Lindsey F. Buss

LFB/sdw

JUL 5 11 58 AM '96  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

9704373422

GIBSON, DUNN & CRUTCHER LLP

FOIA Officer

July 3, 1996

Page 2

cc: Marjorie Emmons,  
Secretary, Federal Election Commission  
Lawrence M. Noble,  
General Counsel, Federal Election Commission  
WL961850.049/2

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

BEFORE THE FEDERAL ELECTION COMMISSION

JUL 4 49 PM '97

In the Matter of  
Robert Mecredy

MUR 4090

**BRIEF ON BEHALF OF ROBERT MECREDY**

On June 19, 1996, the General Counsel of the Federal Election Commission ("General Counsel") filed a brief before the Federal Election Commission in this matter in which he found "no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e" (emphasis added) and recommended that the Commission also find no probable cause. We concur with this finding and support the General Counsel's recommendation to the Commission.

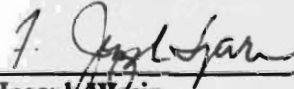
As the General Counsel notes in his brief, Mr. Mecredy did not work for the company in question or know the individual in question at the time of the alleged violations of 2 U.S.C. § 441e. The two alleged violations occurred in October of 1989 and February of 1990 and involved the alleged solicitation of two political contributions from Jody Scheckter, who is a foreign national and Chief Executive Officer of Firearms Systems, prior to Mr. Scheckter being granted permanent residence status in the United States. Mr. Mecredy, however, did not come to work for Firearms Systems until November 1990 and did not have any communication with Jody Scheckter until the fall of 1990, shortly before he was hired by Firearms Systems and in excess of six months after the second and final alleged violation. In other words, the alleged solicitations did not occur.

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Therefore, we agree the General Counsel's position that "there is no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e" and urge the Commission to accept this finding.

Respectfully submitted,

Dated: July 3, 1996



---

F. Joseph Warin  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Suite 900  
Washington, D.C. 20036-5303  
(202) 955-8500

WL961840.037/4+

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MUR 4090

July 8, 1996

Lindsey F. Buss, Esq.  
Gibson, Dunn and Crutcher  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

Dear Mr. Buss:

This responds to your letter of July 3, 1995.

All materials in ongoing enforcement matters are subject to the confidentiality provisions of 2 U.S.C. §437g(a)(12)(A). Absent the written consent referred to in that section, this office would not have access to, and thus could not disclose, any such materials. You should be advised, however, that investigative files are placed on the public record after the Commission has taken final action in an enforcement matter.

Your letter, and its enclosures, have been forwarded to the Office of General Counsel.

Sincerely,

Ronald M. Harris  
FOIA Officer

9704373426

STEVEN W. LUDWICK, P.C.

ATTORNEY AT LAW  
275 LINCOLN PIEDMONT BUILDING  
3405 PIEDMONT ROAD, N.E.  
ATLANTA, GA 30305-1741

(404) 237-7977  
Facsimile (404) 233-9462

December 5, 1994

Aug 7 10 40 AM '96

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Anthony T. Buckley, Esquire  
Federal Election Commission  
Room 657  
999 E Street, N.W.  
Washington, D.C. 20463

RE: MUR 4090 - Janice Dean

Dear Mr. Buckley:

This submission is made in response to Chairman Potter's letter of October 27, 1994, to Thomas J. Kelly, Jr., and its enclosed Factual and Legal Analysis ("Analysis") relating to my client, Janice Dean.

I would first offer my thanks to you and the office of General Counsel for extending me the courtesy of a twenty day extension in which to reply. I appreciate your recognition that this additional period of time was needed in view of my recent entry as Ms. Dean's counsel in the matter under consideration.

The Federal Election Commission ("Commission") has found that there is reason to believe that Ms. Dean, during her employment as a secretary with Firearms Training Systems, Inc. ("FATS"), knowingly and wilfully violated 2 U.S.C. §441(f), which provides in pertinent part:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution ....

(Emphasis added.) Analysis at 1.

The Analysis also states that, "This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another," citing 11 C.F.R. §110.4(b)(1)(iii). Analysis at 1. While a question

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exists as to whether this latter provision is a proper implementation of the Commission's power to prescribe "...any rule, regulation, or form ..." (2 U.S.C. §438), such issue will be left to be resolved at a later time in the event that this case proceeds forward.

The Analysis concluded that, "Mr. Scheckter and Ms. Dean were involved in the making of the following political contributions which are at issue:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	08-13-92	Richard Ray for Congress	\$ 500
2	10-14-92	Friends of Newt Gingrich	\$1,000
3	02-02-93	Darden for Congress	\$1,000
4	06-05-93	Friends of Newt Gingrich	\$1,000
5	07-14-93	Don Johnson for Congress	\$ 500
			total \$4,000"

Analysis at 1.

In order to properly evaluate Ms. Dean's conduct, and to reach a reasonable conclusion as to the action, if any, that it should take, the Commission must have a proper perspective of her background. Ms. Dean is a high-school educated, forty-seven year old grandmother with some twelve years' secretarial experience before beginning employment with FATS on May 18, 1992. At that time, she was thrust into an intense, exhausting job with all of the pressures experienced by members of a dynamic and rapidly growing business.

Ms. Dean was loyal to her boss, Mr. Scheckter, and to FATS, and as a part of those loyalties would never have considered doing anything of a questionable nature or that would have in any way jeopardized Mr. Scheckter, FATS, or herself.

At no time, up until late May, 1994, when FATS retained the law firm of Venable, Baetjer, Howard & Civiletti to conduct an internal investigation, had Ms. Dean ever heard of

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Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 3 -

the Federal Election Campaign Act ("Act") or its restrictions. In attempting to fulfill her many responsibilities, including maintaining Mr. Scheckter's checkbook and obtaining expense reimbursements to which she understood he was entitled, she continued the practice of seeking recoupment for political contributions as had been done for over two years prior to her arrival.

The Commission should also give appropriate weight to the philosophy of FATS' President (to which his secretary, Ms. Dean, was exposed on a daily basis and which became her philosophy), as expressed by employee Robert F. Mecredy who has had a close working relationship with Mr. Scheckter since the fall of 1990, and deals with him on a variety of topics. Mr. Mecredy notes that "Mr. Scheckter is quick to encourage FATS' employees ... to seek legal advice whenever there is a question of whether a possible course of conduct is legal and proper." In the four years that he has known Mr. Scheckter, Mr. Mecredy was "unaware of any instance in which he has suggested that FATS should engage in conduct he knew to be illegal or an instance in which he has pursued a course of conduct after being advised that the course was potentially improper." Mr. Mecredy found it "extremely unlikely that Mr. Scheckter would knowingly violate the Federal election laws ... and does his best to make sure that FATS abides by the law." (Mecredy Declaration.)

That this was the corporate philosophy is further supported by Mr. Mecredy's observation that FATS' Chief Operating Officer ("COO"), Clare Fawkes, "was a stickler about everything being done 'by the book.'" (Mecredy Interview Notes at 5).

As pointed out by Mr. Mecredy, it seems quite unlikely that anyone would invest so much time and effort to build such a successful, profitable company and then jeopardize it over a trivial amount of money. Even more so with Mr. Scheckter's secretary, Ms. Dean. Her respect for her boss and her loyalty to the corporation makes it even less likely that she would jeopardize Mr. Scheckter, FATS, and her job over a small amount of money when she had absolutely nothing to gain. Rather than hazard any or all of the foregoing, Ms. Dean's natural instinct would be to do the very opposite, that is, to make every effort to avoid any impropriety. Had she had any conception that her conduct was improper, at a minimum she

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Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 4 -

would have discussed it with and received guidance from Mr. Scheckter.

THE PRE-ROBERT MOTTER REIMBURSEMENTS

Contributions 1 and 2

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The Commission's finding that requests for reimbursement for contributions 1 and 2 in the above chart were handled the way other business-related expense reimbursement requests were routinely handled within FATS is, of course, accurate. Analysis at 2. Because each such request clearly stated it was reimbursement for a political contribution, there was clearly no knowing or wilful attempt to evade the provisions of the Act. At worst, what existed was an inadvertent violation of the Act by a well-meaning secretary involving, to Mr. Scheckter, a de minimis amount of money, for which Ms. Dean had nothing to gain and for which she received not so much as a "thanks," inasmuch as Mr. Scheckter was unaware that reimbursements were being made. (Dean Interview Notes at 3; Scheckter Interview Notes at 3; Scheckter Declaration.)

It is clear that Ms. Dean acted completely innocently and in total ignorance of the requirements of the Act.

Further, as a result of its own internal investigation which resulted in FATS' voluntarily reporting this matter to the Commission, FATS implemented a strict policy (a copy of which has been previously provided to the Commission) to ensure compliance with the Act. Ms. Dean has both carefully read these broad rules prohibiting all corporate political activity, and has been personally responsible for ensuring distribution of copies of that policy to the head of each corporate department.

Quoting from 2 U.S.C. §437(g)(4)(A)(i), the Commission, at the appropriate time, "...shall attempt ... to correct or prevent such violation by informal methods of conference, conciliation, and persuasion...." If there was ever an instance where correction has already occurred, and where, by virtue of Ms. Dean having gone through this ordeal, prevention of future similar conduct is assured, this is that case.

Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 5 -

Accordingly, the Commission can and should, at this juncture of the proceedings, decline to expend further resources in investigating Ms. Dean, concerning whom no benefit will be gained by proceeding further in this matter.

#### THE POST-ROBERT MOTTER REIMBURSEMENTS

##### Contributions 3, 4 and 5

It must first be pointed out that there is no evidence sufficient to support a reason to believe that reimbursement for contribution number 5 in the above chart (07-14-93) was ever made. The Analysis itself states that this contribution was only "possibly" reimbursed. Analysis at 3. A thorough search of FATS' corporate records has disclosed that of these three contributions, only numbers 3 (02-02-93) and 4 (06-05-93) were reimbursed.

Mr. Robert R. Motter's ("Motter") recollection that he was involved in reimbursing three contributions is simply wrong. The corporate records, which entail all reimbursement checks issued, and which fail to reflect issuance of reimbursement check number 5, are accurate. A "mere possibility" that reimbursement number 5 was made, particularly in light of the indisputable evidence to the contrary, is insufficient to raise this speculative allegation to a level of "reason to believe" that a violation of the Act has occurred.

Contributions 3 and 4 in the above chart were made after Motter, FATS' former Chief Financial Officer ("CFO"), was hired in November, 1992. The Analysis concludes that in February, 1993, Ms. Dean sought reimbursement from Motter for the first of those two contributions, and at that time, "Motter informed her that it was illegal for corporations to reimburse individuals for political contributions ... [and] ... he insisted that no paper trail should be created which tied reimbursements ... to ... Scheckter's political contributions." Analysis at 3. This finding is contrary to the true facts and to the information before the Commission.

Accurately stated, the information available to the Commission is that Motter told Ms. Dean that corporations could not make reimbursements for political contributions

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Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 6 -

through the normal corporate expense reimbursement method, but that another method, the appropriateness of which he was uncertain and about which he had to give some consideration, could possibly be used. That other method involved paying Mr. Scheckter back in the form of a taxable bonus.

Further, it is inaccurate to state that Motter insisted that no "paper trail" should be created. These words were neither used nor implied by Motter, and erroneously suggest that Motter and Ms. Dean reached some sort of sub rosa agreement. What in fact happened was that Motter told Ms. Dean that the submission of a formal request was unnecessary, that he, not she, would handle all documentation, and that all she had to do was periodically provide him with a note summarizing Mr. Scheckter's contributions. This seemed logical to Ms. Dean, inasmuch as there was no other procedure of which she was aware for her to submit a request for a special bonus. She followed Motter's instructions, gave him a note with the amount of the first "Motter" reimbursement, and it was not until some time later that Motter caused the first bonus check to be prepared.

Ms. Dean believed political contributions were legitimate, reimbursable expenses, and she was unaware of anything prohibiting FATS from reimbursing, in some form, those expenditures. (Dean Interview Notes at 2 - 3.)

Prior to Motter being hired by FATS as its CEO, Ms. Dean had received and reviewed his impressive application and resume'. Motter's educational history reflected undergraduate degrees in both accounting and political science. His employment history included ownership of his own business; fifteen years as a member of the adjunct teaching faculty at York College of Pennsylvania; and employment with various large corporations in management positions of ever-increasing responsibility over a period of eighteen years, rising to the level of Vice President, Finance and Administration of an international corporation, where, according to his claims, one of his responsibilities was to ensure financial compliance with U.S. Government requirements.

Motter began at a salary of \$85,000, a \$5,000 relocation allowance, and an anticipated 20% bonus. At the same time, Ms. Dean's salary was in the mid-20's.

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Anthony T. Buckley  
December 5, 1994  
Page - 7 -

Ms. Dean held Motter "... in high regard and believed he was a man of integrity. She trusted ... [him] ... and his judgment because of his integrity and because he seemed to know what he was doing and was very knowledgeable about his job." (Dean Interview Notes at 3.)

The general respect in which Motter was held is also reflected in the interview of Mary Miles, with whom Motter worked closely. (Miles Interview Notes at 3.)

Based upon the high regard in which she held Motter, her opinion that he was a man of honesty and integrity, and the time gap between the contribution (2-2-93) and when the first check under the reign of Motter was issued (4-30-93), Ms. Dean, who had no financial experience and no knowledge of the Act or its limitations, should and did rely upon the CFO's expertise. She reasonably assumed that Motter had given the matter the appropriate consideration during that period and that he had properly concluded that political expenditures could be compensated by means of a taxable bonus.

Ms. Dean considered Motter to be a decent man and relied upon that opinion, as well as upon his expertise acquired through his education and experience, in concluding that he would do what was right, to the extent that she didn't think twice about the propriety of his decision. She believed he had figured out an "appropriate and legitimate method for making the reimbursements." (Dean Interview Notes at 6 - 7.)

Additionally, the Analysis fails to note that Motter claims he did not recall any conversations about this subject with the COO, Ms. Fawkes (Motter Interview Notes at 20), while Ms. Fawkes recalls that:

[Motter] mentioned he was changing how Jody Scheckter would be reimbursed for political contributions; Mr. Motter told Clare [Fawkes] that he would use a manufacturing bonus approach; Clare said it was fine with her if that was the best way to accomplish such reimbursements in Motter's judgment ... Clare fully relied on Mr. Motter to only suggest legitimate and appropriate approaches, and had no

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Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 8 -

basis to suspect that this reimbursement issue involved any problems.

(Fawkes Interview Notes at 2.)

Had Ms. Dean felt that Motter's handling of the reimbursements was questionable, she would surely have consulted Mr. Scheckter, Ms. Fawkes, and even Mr. Mecredy. She has almost daily contact with each of these individuals and would have sought their advice had Motter given her any reason to believe that his proposal was improper.

Additionally, it is noted that Motter signed off as CFO on FATS' management letter for the 1993 Price Waterhouse audit on May 19, 1993, nineteen days after causing the 4-30-93 reimbursement check to be issued, and over two months before causing the 7-30-93 reimbursement check to be issued. In that letter, Motter represented that he was "...not aware of any violations or possible violations of laws or regulations ...."

While the undersigned cannot know what was in Motter's mind at that time, but only what he now claims, it must be observed that Motter, at the time he told Ms. Dean about his approach, may have possibly thought that such a method was proper. This becomes even more likely in view of his later comment to Ms. Fawkes, the COO, that he was changing how Mr. Scheckter would be reimbursed, and the delay between the first request to him and issuance of the 4-30-93 check.

The Analysis also finds that, "With Robert Motter's participation, certain violations become knowing and wilful." Analysis at 3 - 4. In this Circuit it has been held that a knowing and wilful violation of the Act "must necessarily connote 'defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate flaunting of the Act.'" American Federation of Labor v. Federal Election Comm., 628 F.2d 97, 101 (D.C. Cir. 1980), quoting Frank Greg, Jr., Inc. v. OSHA, 519 F.2d 1200 (3rd Cir. 1975).

Ms. Dean, relying on what had been done before she came to work for FATS, had absolutely no reason to question whether Mr. Scheckter should be paid for his contributions. Based upon what she knew, he should be. When Motter arrived on the scene, to Ms. Dean the question simply became one of which

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Anthony T. Buckley, Esquire  
December 5, 1994  
Page - 9 -

procedure to follow: (1) the normal corporate expense reimbursement method, or (2) the issuing of a bonus check. This was not a secretarial decision; rather, it was a function of the financial department, led by its CFO, to decide whether to make, and the appropriate method to use in making, such payments.

Ms. Dean reasonably relied upon what has now proved to be the unsound advice of Motter. She did not possess Motter's background, education or experience, nor was she paid his salary. What was expected of Motter could not be expected of Ms. Dean. It is submitted that her state of mind was innocent and that no reason exists to believe that she acted in a manner which demonstrates a knowing, conscious and deliberate flaunting of the Act.


At worst, it can be argued that Ms. Dean made an honest mistake in reliance upon Motter. That being the case, it is submitted that it would be improper to find that her actions were knowing and wilful. Concomitantly, it would therefore serve no useful purpose to further pursue this matter against Ms. Dean, who, through this unfortunate experience, has already undergone a great deal of suffering and embarrassment and whose conduct in the future will, without any doubt, conform to that which is required by the Act.

Accordingly, and for the foregoing reasons, it is requested that only the reimbursement for checks 1 through 4 on the above chart should be considered; that there is no sufficient basis to conclude that Ms. Dean acted in a knowing and wilful manner with respect to checks 3 and 4; and that the purposes of the Act would be served by declining further action against Ms. Dean.

Finally, pursuant to 2 U.S.C. §437g(a)(12)(A), it is requested that the notification and this investigation not be made public.

I would appreciate the opportunity to explore with you at a mutually convenient time the Commission's inquiry concerning Ms. Dean.

Sincerely,



Steven W. Ludwick

SWL:dsw

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

Oct 9 9 37 AM '96

In the Matter of )  
 )  
Firearms Training Systems, Inc. ) MUR 4090  
Jody D. Scheckter )  
Robert Mecredy )  
Janice Dean )  
Robert Motter )

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

On October 18, 1994, the Commission found reason to believe that Firearms Training Systems, Inc. ("Firearms Systems") violated 2 U.S.C. §§ 441b(a), 441c(a)(1), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f; that Jody D. Scheckter violated 2 U.S.C. §§ 441b(a), 441e and 441f, and knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Motter knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Robert Mecredy violated 2 U.S.C. § 441e; and that Janice Dean violated 2 U.S.C. § 441f, and knowingly and willfully violated 2 U.S.C. § 441f.

The findings in this matter arose out of evidence regarding as many as nine (now eight) political contributions made by checks drawn on the personal bank account of Jody D. Scheckter, the Chief Executive Officer of Firearms Systems.<sup>1</sup> The first and second contributions at issue were made at a time when Jody Scheckter had not yet been granted permanent resident status, and was a foreign national within the meaning of 2 U.S.C. § 441e. For the second and all subsequent contributions, Jody Scheckter was reimbursed by Firearms Systems, a Federal

<sup>1</sup> In the General Counsel's report in this matter dated March 31, 1995, this Office informed the Commission that evidence demonstrated that one contribution by Jody Scheckter which had appeared to have been reimbursed had not in fact been reimbursed.

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contractor. Janice Dean was instrumental in obtaining several of the reimbursements on Mr. Scheckter's behalf. Robert Motter was the Chief Financial Officer of Firearms Systems at the times of the last two contributions. Motter, possibly at the insistence of Jody Scheckter, made affirmative efforts to disguise the fact that contributions were being reimbursed.<sup>2</sup> The Commission had been made aware of the violations through a *sua sponte* submission by Firearms Systems.

At the time it made its reason to believe findings, the Commission approved one joint conciliation agreement which addressed the violations of all of the Respondents.

Subsequently, on April 18, 1995, the Commission approved Subpoenas and Orders to be sent to all Respondents, seeking answers to certain questions and the production of certain documents. On August 8, 1995, the Commission approved additional subpoenas and orders to be sent to the two banks which held accounts on which the reimbursement checks were drawn. The Commission has also approved subpoenas for depositions.

Responses to the bank subpoenas were received on September 15 and 25, 1995. In the normal course of events, the depositions authorized by the Commission would have been scheduled shortly after receipt of the materials obtained from the banks. However, because the staff attorney assigned to the this matter was also working on MUR. 3485, depositions were not conducted, and no activity occurred with respect to this matter for a number of months.

<sup>2</sup> The Commission's findings regarding Robert Motter revolved around the premise that he solicited the first two contributions from Jody Scheckter at time when Scheckter was a foreign national within the meaning of 2 U.S.C. § 441 e.

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II. ANALYSIS

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**No Probable Cause to Believe Recommendation for Robert Mecredy (The General Counsel's Brief is incorporated herein by reference)**

Robert Mecredy has submitted a response to the General Counsel's Brief which agrees with the conclusion of this Office. As noted in both the General Counsel's Brief and Mr. Mecredy's reply brief, the evidence in hand demonstrates that Mr. Mecredy neither knew of Jody Scheckter, or was employed by Firearms Systems, at the time when the violations for which reason to believe findings were made against him occurred. Accordingly, this Office recommends that the Commission find no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e.

**III. DISCUSSION OF PROCEDURAL OPTIONS**

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**IV. RECOMMENDATIONS**

Find no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e.

Proceed to the next stage of the enforcement process regarding the remaining Respondents.

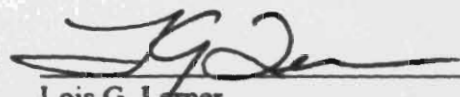
Approve the appropriate letters.

Lawrence M. Noble  
General Counsel

Date

10-8-96

BY:



Lois G. Lerner  
Associate General Counsel

Staff assigned: Tony Buckley


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FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/LISA DAVIS   
COMMISSION SECRETARY

DATE: OCTOBER 15, 1996

SUBJECT: MUR 4090 - General Counsel's Report dated October 8, 1996.

The above-captioned document was circulated to the Commission  
on Wednesday, October 09, 1996.

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

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

This matter will be placed on the meeting agenda for

Tuesday, October 22, 1996.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 4090  
Firearms Training Systems, Inc.; )  
Jody D. Scheckter; )  
Robert Mecredy; )  
Janice Dean; )  
Robert Motter )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 22, 1996, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4090:

Find no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e.

Proceed to the next stage of the enforcement process regarding the remaining Respondents.

(continued)

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Federal Election Commission  
Certification for MUR 4090  
October 22, 1996

Page 2

Approve the appropriate letters as  
recommended in the General Counsel's  
October 8, 1996 report.

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

Attest:

10-23-96  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

Oct 28 10 17 AM '96

October 25, 1996

**SENSITIVE**

**MEMORANDUM**

**TO:** The Commission

**FROM:** Lawrence M. Noble  
General Counsel

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

**SUBJECT:** MUR 4090 -- Follow-up recommendation

On October 22, 1996, the Commission approved several recommendations of this Office contained in the General Counsel's Report in MUR 4090 dated October 8, 1996, including the recommendation to find no probable cause to believe that Robert Mecredy violated 2 U.S.C. § 441e. Because the section 441e activity was the only activity for which Mr. Mecredy was apparently liable, this Office should have also included a recommendation to close the file with respect to Mr. Mecredy. Accordingly, this Office recommends that the Commission close the file with respect to Robert Mecredy in MUR 4090, and approve the appropriate letter.

**RECOMMENDATIONS**

1. Close the file with respect to Robert Mecredy in MUR 4090.
2. Approve the appropriate letter.

Attorney Assigned: Tony Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Robert Mecredy.

)  
)  
)

MUR 4090

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 31, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4090:

1. Close the file with respect to Robert Mecredy in MUR 4090.
2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated October 25, 1996.

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

Attest:

10-31-96

Date

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

Received in the Secretariat:	Mon.,	Oct. 28, 1996	10:17 a.m.
Circulated to the Commission:	Mon.,	Oct. 28, 1996	11:00 a.m.
Deadline for vote:	Thurs.,	Oct. 31, 1996	4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 6, 1996

F. Joseph Warin, Esq.  
Gibson, Dunn & Crutcher  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

RE: MUR 4090  
Robert F. Mecredy

Dear Mr. Warin:

This is to advise you that on October 22, 1996, the Federal Election Commission found that there is no probable cause to believe your client, Robert F. Mecredy, violated 2 U.S.C. § 441e. Accordingly, the file in this matter has been closed as it pertains to your client.

The file will be made part of the public record within 30 days after it has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Should you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble  
General Counsel

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

Dec 13 9 53 AM '96

In the Matter of )

Firearms Training Systems, Inc. )

Jody D. Scheckter )

Janice Dean )

Robert Motter )

) MUR 4090

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

I. **BACKGROUND**

On October 22, 1996,

the

Commission determined to proceed to the next stage of the enforcement process.

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**ANALYSIS**

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**C. Conclusion**

The attached agreements address the three major players in this matter: Firearms Systems, Jody Scheckter and Robert Motter.

Accordingly, this Office recommends that the Commission take no further action against Janice Dean; that it take no further action against Jody D. Scheckter with regard to violations surrounding the October 20, 1989 and February 13, 1990 contributions; that it take no further action against Firearms Training Systems, Inc. with regard to violations surrounding the February 13, 1990 contribution; that it accept the attached proposed joint conciliation agreement with Firearms Training Systems, Inc. and Jody D. Scheckter; that it accept the attached proposed conciliation agreement with Robert Motter; and that it approve the appropriate letters and close the file.

### III. **RECOMMENDATIONS**

1. Take no further action against Janice Dean.
2. Take no further action against Jody D. Scheckter with regard to violations surrounding the October 20, 1989 and February 13, 1990 contributions.
3. Take no further action against Firearms Training Systems, Inc. with regard to violations surrounding the February 13, 1990 contribution.
4. Accept the attached proposed joint conciliation agreement with Firearms Training Systems, Inc. and Jody D. Scheckter.
5. Accept the attached proposed joint conciliation agreement with Robert Motter.

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- 6. Approve the appropriate letters.
- 7. Close the file.

Lawrence M. Noble  
 General Counsel

12/12/96  
 Date

BY: Lois G. Lerner by AAS  
 Lois G. Lerner  
 Associate General Counsel

**Attachments**

- 1. Proposed joint agreement with Firearms Systems and Jody Scheckter
- 2. Proposed agreement with Robert Motter

Staff assigned: Tony Buckley

97043773467

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Firearms Training Systems, Inc.; ) MUR 4090  
Jody D. Scheckter; )  
Janice Dean; )  
Robert Motter. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 18, 1996, the Commission decided by a vote of 4-0 to take the following actions in MUR 4090:

1. Take no further action against Janice Dean.
2. Take no further action against Jody D. Scheckter with regard to violations surrounding the October 20, 1989 and February 13, 1990 contributions.
3. Take no further action against Firearms Training Systems, Inc. with regard to violations surrounding the February 13, 1990 contribution.
4. Accept the proposed joint conciliation agreement with Firearms Training Systems, Inc. and Jody D. Scheckter, as recommended in the General Counsel's Report dated December 12, 1996.
5. Accept the proposed joint conciliation agreement with Robert Motter, as recommended in the General Counsel's Report dated December 12, 1996.

(continued)

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6. Approve the appropriate letters, as recommended in the General Counsel's Report dated December 12, 1996.
  
7. Close the file.

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

Attest:

12-19-96  
Date

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

Received in the Secretariat: Fri., Dec. 13, 1996 9:53 a.m.  
Circulated to the Commission: Fri., Dec. 13, 1996 12:00 p.m.  
Deadline for vote: Wed., Dec. 18, 1996 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 23, 1998

F. Joseph Warin, Esq.  
Gibson, Dunn & Crutcher  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5306

RE: MUR 4090  
Robert F. Mcreedy

Dear Mr. Warin:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. 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.

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

Sincerely,

Tony Buckley  
Attorney

9704377347C



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 23, 1996

Steven W. Ludwick, Esq.  
275 Lincoln Piedmont Building  
3405 Piedmont Road, N.E.  
Atlanta, GA 30505-1741

RE: MUR 4090  
Janice Dean

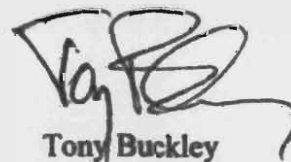
Dear Mr. Ludwick:

On October 27, 1994, your client, Janice Dean, was notified that the Federal Election Commission found reason to believe that she violated 2 U.S.C. § 441f, and knowingly and willfully violated 2 U.S.C. § 441f. On December 5, 1994, you submitted a response to the Commission's reason to believe findings. After considering the circumstances of the matter, the Commission determined on December 18, 1996, to take no further action against Ms. Dean, and closed the file in this matter.

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

If you have any questions, please contact me at (202) 219-3696.

Sincerely,



Tony Buckley  
Attorney

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

97043773471



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 23, 1996

Thomas J. Cooper, Esq.  
Venable, Baetjer, Howard & Civiletti  
1201 New York Avenue, N.W.  
Suite 1000  
Washington, D.C. 20005-3917

RE: MUR 4090  
Firearms Training Systems, Inc.

Dear Mr. Cooper:

On December 18, 1996, the Federal Election Commission accepted the signed conciliation agreement submitted, in part, on your client's behalf, in settlement of violations of 2 U.S.C. §§ 441b(a), 441c(a)(1) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. In addition, the Commission took no further action against your client with regard to violations surrounding a contribution made on February 13, 1990. Accordingly, the file has been closed in this matter.

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

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C.

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

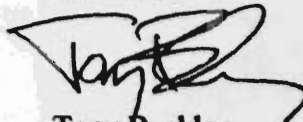
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Thomas J. Cooper, Esq.  
MUR 4090  
Page 2

**§ 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.**

**Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.**

Sincerely,



**Tony Buckley  
Attorney**

**Enclosure  
Conciliation Agreement**

97043773473



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 23, 1996

Gerard Treanor, Esq.  
Cacheris & Treanor  
1100 Connecticut Avenue, N.W.  
Suite 730  
Washington, D.C. 20036

RE: MUR 4090  
Jody D. Scheckter

Dear Mr. Treanor:

On December 18, 1996, the Federal Election Commission accepted the signed conciliation agreement submitted, in part, on your client's behalf, in settlement of violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. In addition, the Commission took no further action against your client with regard to violations surrounding contributions made on October 29, 1989 and February 13, 1990. Accordingly, the file has been closed in this matter.

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

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C.

*Celebrating the Commission's 20th Anniversary*

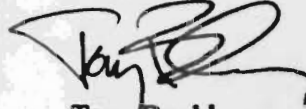
YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

9704373474

§ 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Tony Buckley  
Attorney

Enclosure  
Conciliation Agreement

97043773475

BEFORE THE FEDERAL ELECTION COMMISSION

NOV 25 3 56 PM '96  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

In the Matter of )  
 )  
Firearms Training Systems, Inc. ) MUR 4090  
Jody D. Scheckter )

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. This matter was also initiated by a voluntary disclosure by Firearms Training Systems, Inc. ("Firearms Systems"). The Commission found reason to believe that Firearms Systems violated 2 U.S.C. §§441b(a), 441c(a)(1) and 441f, and knowingly and willfully violated 2 U.S.C. §§441b(a), 441c(a)(1) and 441f; and that Jody D. Scheckter violated 2 U.S.C. §§441b(a) and 441f, and knowingly and willfully violated 2 U.S.C. §§441b(a) and 441f.

"Reason to believe" is only a preliminary finding and is a statutory prerequisite to an investigation to ascertain whether there is probable cause to believe a violation has occurred. In an effort to resolve this matter, the Commission has not completed its investigation. The Commission has neither considered nor made findings as to whether there is probable cause to believe that the violations in this matter were knowing and willful.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to findings of probable cause to believe, do hereby agree as follows:

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I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Actors

1. Firearms Systems is a corporation within the meaning of 2 U.S.C. §441b(a) which has entered into contracts with various departments and agencies of the United States.

2. Jody D. Scheckter was the President of Firearms Systems from 1984 until July, 1996.

3. Robert Motter was the Chief Financial Officer of Firearms Systems from November, 1992 until August, 1994.

Applicable Law

4. Pursuant to 2 U.S.C. §441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election, or for any officer or director of any corporation to consent to any contribution by the corporation.

5. Pursuant to 2 U.S.C. §441c(a)(1), it is unlawful for any person who has entered into a contract with any department or agency of the United States to make any contribution of money to any political party, committee or candidate. The term "person" includes corporations. See 2 U.S.C. §431(11).

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6. Pursuant to 2 U.S.C. §441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution.

Events Regarding Violations

7. The following political contributions were made by checks drawn on Mr. Scheckter's personal bank account:

<u>No.</u>	<u>Date</u>	<u>Donee</u>	<u>Amount</u>
1	10-25-91	Democratic Congressional Campaign Committee	\$2,000
2	04-14-92	John Glenn for Senate Committee	\$2,000
3	08-13-92	Richard Ray for Congress	\$ 500
4	10-14-92	Friends of Newt Gingrich	\$1,000
5	02-02-93	Darden for Congress	\$1,000
6	06-05-93	Friends of Newt Gingrich	<u>\$1,000</u>
		Total	\$7,500

8. The contributions on the chart above involved Mr. Scheckter's role as President of Firearms Systems. After the contribution checks were issued, Mr. Scheckter's secretary, a position filled by different persons at different times, submitted requests to Firearms Systems to reimburse Mr. Scheckter for these political contributions. These requests each indicated that the reimbursement was being sought for a political contribution made by Mr. Scheckter and were handled the way business-related reimbursement requests were routinely handled within Firearms Systems.

9. In February 1993, the secretary sought reimbursement for a political contribution by Mr. Scheckter from Robert Motter. This contribution was the first

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contribution made by Mr. Scheckter since Mr. Motter became the Chief Financial Officer of Firearms Systems.

10. A procedure was established whereby the secretary would, on a quarterly basis, inform Mr. Motter of the contributions that required reimbursement. Mr. Motter would then submit requests for special payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions.

11. The method created the appearance that the checks issued to Mr. Scheckter were bonuses issued in the normal course of business, masking the true purpose of the checks. Contributions numbered 5 and 6 on the chart above were reimbursed in this manner.

12. Respondents assert that the violations at issue here were not committed knowingly and willfully. Moreover, Mr. Scheckter asserts that he was not aware of the reimbursements until some point in May, 1994, more than one year after the last reimbursement.

13. Prior to the voluntary disclosure to the Commission by Firearms Systems, Mr. Scheckter reimbursed Firearms Systems for the contributions for which he was initially reimbursed.

14. Prior to the voluntary disclosure to the Commission by Firearms Systems, Firearms Systems instituted compliance procedures to insure that their obligations under the Act are met in all respects.

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## Violations

V. Through their participation in the reimbursement efforts involved in the contributions in the chart above, Firearms Systems, and its then-President Mr. Scheckter, made six contributions totaling \$7,500, which were in violation of 2 U.S.C. §§441b(a) and 441f. As a result of the above contributions, Firearms Systems also violated 2 U.S.C. §441c(a)(1).

VI. Respondents will pay a joint civil penalty to the Federal Election Commission in the amount of Ninety Thousand (\$90,000), pursuant to 2 U.S.C. §437g(a)(5)(A).

VII. This conciliation agreement, unless violated, is a complete bar to any further action by the Commission with respect to this matter, including the bringing of a court proceeding under 2 U.S.C. §437g(a)(6)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

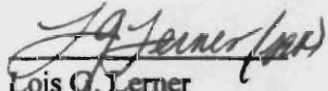
9704377343C

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

FOR THE COMMISSION:

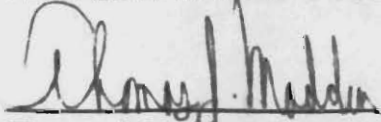
Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

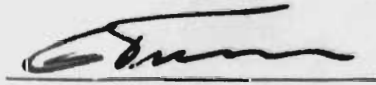
12/23/96  
Date

FOR RESPONDENT  
FIREARMS TRAINING SYSTEMS, INC.:

  
Thomas J. Madden  
Venable, Baetjer, Howard & Civiletti, LLP

11/25/96  
Date

FOR THE RESPONDENT  
JODY D. SCHECKTER:

  
Gerard Treanor  
Cacheris & Treanor

11/21/96  
Date

DC2DOCS1.33341.01

9704373481



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 23, 1996

Robert Motter  
223 Island Drive  
St. Simon's Island, Georgia 31522

RE: MUR 4090

Dear Mr. Motter:

On December 18, 1996, the Federal Election Commission accepted the signed conciliation agreement submitted on your behalf in settlement of knowing and willful violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

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

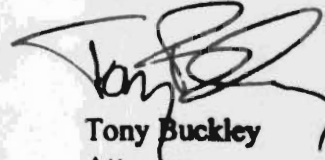
Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C.

9704373482

§ 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Tony Buckley  
Attorney

Enclosure  
Conciliation Agreement

97043773433

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )

Robert Motter )

MUR 4090

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
Nov 30 9 31 AM '96

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Robert Motter ("Respondent") knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to findings of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Actors

1. Firearms Training Systems, Inc. ("Firearms Systems") is a corporation within the meaning of 2 U.S.C. § 441b(a).

2. Jody D. Scheckter was the Chief Executive Officer of Firearms Systems at the time of the events in this matter.

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RRM  
11-26-96

3. Robert Motter was the Chief Financial Officer of Firearms Systems from November 1992 until August 1994.

Applicable Law

4. Pursuant to 2 U.S.C. § 441b(a), it is unlawful for any corporation to make a contribution in connection with any Federal election, or for any officer or director of any corporation to consent to any contribution by the corporation.

5. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution. This section also prohibits any person from knowingly helping or assisting any person in making a contribution in the name of another. See 11 C.F.R. § 110.4(b)(1)(iii).

6. The Commission's standard for determining whether a violation is knowing and willful requires evidence that a respondent acted contrary to the law with an active awareness that he was violating the law. See, e.g., National Right to Work Committee v. Federal Election Commission, 716 F.2d 97, 101 (D.C. Cir. 1983).

Events Regarding Violations

7. The following political contributions were made by checks drawn on Jody Scheckter's personal account.

No.	Date	Donee	Amount
1	02-02-93	Darden for Congress	\$1,000
2	06-05-93	Friends of Newt Gingrich	<del>\$1,000</del> \$2,000

8. In February 1993, Scheckter's secretary sought reimbursement for a political contribution by Jody D. Scheckter from Respondent.

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REM  
11-22-96

9. In response to the secretary's request, and what he understood as general instruction from Jody Scheckter, Respondent submitted two requests for payroll bonus checks for Mr. Scheckter. The requests instructed the payroll office to process these checks in the normal processing of payroll but via a separate check in an amount such that, when taxes were removed, Mr. Scheckter was reimbursed in full for his contributions.

10. The method created the appearance that the checks issued to Jody D. Scheckter were bonuses issued in the normal course of business, masking the true purpose of the checks.

11. Respondent contends that he created the reimbursement method under duress, in that he feared he would have lost his job had he not done so.

12. Respondent has provided relevant information to the Commission and other Federal agencies in connection with investigations under their jurisdictions.

V. Through his involvement in the reimbursement efforts, Robert Motter violated 2 U.S.C. §§ 441b(a) and 441f. Mr. Motter's violations were knowing and willful, within the meaning of the Federal Election Campaign Act of 1971, as amended.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Dollars (\$1,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

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RPM  
11-26-96

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

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY: *Lois G. Lerner* (by her)  
Lois G. Lerner  
Associate General Counsel

12-23-96  
Date

FOR RESPONDENT:  
Robert Motter

*Robert R. Motter*  
Robert Motter

11-26-96  
Date

97043773487

ABLE, BAFTJER, HOWARD & CIVILETTI, LLP  
Including professional corporations

1201 New York Avenue, N.W., Suite 1000  
Washington, D.C. 20005-3917  
(202) 962-4800, Fax (202) 962-8300

FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

OFFICES IN  
WASHINGTON, D.C.  
MARYLAND  
VIRGINIA

JAN 10 5 45 PM '97

**VENABLE**  
ATTORNEYS AT LAW

Thomas J. Madden  
(202) 962-4803

January 10, 1997

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

Re: MUR4090  
Firearms Training Systems, Inc.  
Jody D. Scheckter

JAN 13 11 23 AM '97

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Dear Mr. Noble:

This letter is submitted on behalf of the respondents in MUR4090: Firearms Training Systems, Inc. and Mr. Jody D. Scheckter. Mr. Buckley's letter of December 23, 1996, indicated that we may submit legal or factual materials to appear on the public record. By this letter, and on behalf of the two named respondents, we are providing such information for inclusion in the public record.

***Origin of the Matter***

This matter was instituted on July 1, 1994, by a voluntary disclosure by Firearms Training Systems, Inc. ("the Company") which provided a full record to the Commission. This disclosure was made shortly after the Company became aware that there had been activities which may have violated the Federal Election Campaign Act. Moreover, both respondents have been entirely cooperative throughout the Commission's review of this matter.

***Remedial Actions***

The Company has implemented various remedial measures as a result of this matter and has provided training to its employees involved in seeking, authorizing or processing reimbursements to ensure that they are aware of the requirements of the Act.

***Methods of Reimbursement***

Initially, after a political contribution was made, reimbursement would be typically sought with a check request which would state "donation" or some other similar notation. Early in 1993, a reimbursement of a political contribution was sought from the newly hired Chief

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Lawrence M. Noble, Esq.  
January 10, 1997  
Page 2

Financial Officer of the Company, Robert Motter, who told a secretary, who had sought the reimbursement in a ministerial capacity, that it was not proper for the Company to repay Mr. Scheckter by using the expense reimbursement method. Rather, Mr. Motter informed the secretary, according to her statement, that amounts paid for political contributions should be submitted to him on a quarterly basis and that he would then authorize the issuance of special payroll bonus checks to Mr. Scheckter to cover the amount of the political contribution, as well as all applicable taxes.

We interviewed Mr. Motter with respect to this issue. He had joined the Company in November of 1992, and the discussion referenced in the preceding paragraph concerned the first instance in which he had been presented with a political contribution for reimbursement. He said that he had come up with a quarterly reimbursement method because he assumed that the secretary had been speaking for Mr. Scheckter and claimed that he told the secretary at some point thereafter that he would approve no more such reimbursements. The secretary does not recall this conversation, nor does she recall submitting any additional requests for reimbursements after July 1993.

Regardless of whatever Mr. Motter may have inferred from his conversation with the secretary, it is significant that he did not claim to have been told to reimburse contributions by Mr. Scheckter or by some other identified executive of the Company. Also, we have no information that Mr. Motter ever informed any executive that it was improper nor that he requested legal advice regarding the reimbursements.

*Actions by Jody D. Scheckter*

Mr. Scheckter was aware that he had made personal political contributions to Federal candidates. However, he was not aware that any such contributions had been reimbursed by the Company until checks and additional relevant material were assembled and brought to his attention at some point in May of 1994, nearly one year after the last reimbursement.

It is entirely natural and credible that Mr. Scheckter would be unaware that his contributions had been reimbursed by the Company in that he was totally absorbed in the management and growth of his business. In fact, Mr. Scheckter did not even maintain his own personal check book as was emphasized in various witness statements. Finally, when the reimbursements were brought to his attention, Mr. Scheckter promptly repaid the corporation for the original reimbursements.

As Mr. Scheckter stated in his sworn statement to the Commission:

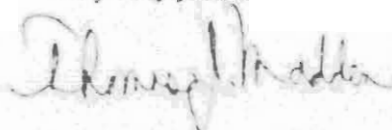
97043773489

Lawrence M. Noble, Esq.  
January 10, 1997  
Page 3

I, along with other FATS employees, relied on Mr. Motter to oversee the propriety of the expenditure of corporate funds, including ensuring that all corporate expenditures complied with applicable laws. I had no reason to expect that Mr. Motter would conduct himself in anything other than a lawful manner. I assumed ... that Mr. Motter would not authorize an action which he clearly knew to be unlawful. The creation of an unlawful reimbursement mechanism was entirely Mr. Motter's doing and represented a complete abdication of his responsibilities as Chief Financial Officer.

Mr. Scheckter also stated under oath that Mr. Motter never suggested a plan of this type to him nor would he have condoned the implementation or execution of any unlawful reimbursement plan. The long and short of the matter is that when the subject of reimbursements of political contributions was initially brought to the attention of the Chief Financial Officer, Mr. Motter had the opportunity to exercise his responsibilities but instead "looked the other way" and aggravated the situation with his reimbursement plan.

Very truly yours,



Thomas J. Madden  
Thomas J. Cooper  
Venable, Baetjer, Howard & Civiletti, L.L.P.  
Counsel for Firearms Training Systems, Inc.



Gerard Treanor  
Cacheris & Treanor  
Counsel for Jody D. Scheckter

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4090

DATE FILMED 1-24-97 CAMERA NO. 1

CAMERAMAN JM4

97043773491



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Date: 2/6/97

Microfilm

Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED NUR 4090

97043774151

VENABLE, BAETJER, HOWARD & CIVILETTI, LLP  
Including professional corporations

1201 New York Avenue, N.W., Suite 1000  
Washington, D.C. 20005-3917  
(202) 962-4800, Fax (202) 962-8300

OFFICES IN

WASHINGTON, D.C.  
MARYLAND  
VIRGINIA

**VENABLE**  
ATTORNEYS AT LAW

Thomas J. Cooper  
(202) 962-4857

January 14, 1997

Tony Buckley, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR4090

Dear Mr. Buckley:

I have enclosed a check for the amount of the civil penalty in MUR4090.

Thank you for your continuing courtesy in this matter.

Very truly yours,

  
Thomas J. Cooper

TJC/ba

Enclosure

DC2DOCS1.35901.01

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JAN 16 2 06 PM '97

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VENDOR: F36633

FIREARMS TRAINING SYSTEMS, INC.

CHECK NO. 0043834

VOUCHER NO	INVOICE NO	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
094867	970106	01/06/97	90,000.00	90,000.00	.00	90,000.00
					Check Total	90,000.00

CHECK NO	CHECK DATE	VENDOR NO
43834	01/09/97	F36633

**fats**

FIREARMS TRAINING SYSTEMS, INC.

A/P ACCOUNT

7340 McGinnis Ferry Road  
Suwanee (Atlanta), GA 30174-1247  
(770) 613-0100

0043834

64-1278  
611

**NationsBank**  
Centennial Olympic Games Partner  
NationsBank of Georgia, N.A.

NINETY THOUSAND AND 00/100 DOLLARS

CHECK AMOUNT  
\*\*\*\*\*90,000.00

PAY  
TO THE  
ORDER OF

FEDERAL ELECTION COMMISSION

20005-3917

*Joseph Mouch*  
*Chel B*  
AUTHORIZED SIGNATURE

⑈043834⑈ ⑆061112788⑆ 000 956 3806⑈

9704374153



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 14, 1997

JAN 16 2 06 PM '97

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

**CLOSED**

**TWO WAY MEMORANDUM**

TO: OGC Docket  
FROM: Rosa E. Swinton Accounting Technician  
Leslie D. Brown Disbursing Technician  
SUBJECT: Account Determination for Funds Received

We recently received a check from **Firearms Training Systems, Inc.**, check number **43834**, dated **January 9, 1997**, for the amount of **\$90,000.00**. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

-----  
TO: Rosa E. Swinton Accounting Technician  
Leslie D. Brown Disbursing Technician  
FROM: OGC Docket  
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$90,000, the MUR/Case number is 4090 and in the name of Firearms Training Systems, Inc.. Place this deposit in the account indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: \_\_\_\_\_

Retha L. Wilson  
Signature

1-17-97  
Date

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