FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4182

DATE FILMED 7-1-97 CAMERA NO. 2

CAMERAMAN JMW

97043821545

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: June 11, 1993

ANALYST: PAT SHEPPARD

I. COMMITTEE: Taxpayers for Phillips
(C00259390)
Elizabeth A. Lants, Treasurer
9520 Bent Creek Lane
Vienna, VA 22182

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)

III. BACKGROUND:

Receipt of Excessive Contributions

The Taxpayers for Phillips committee ("the Committee") has accepted excessive contributions totalling $41,475, during 1992. These contributions were made by six (6) individuals. The Committee indicates that $2,125 has been refunded, redesignated or reattributed.

Presented below is a summary of the excessive contributions received, the notices sent and the responses received. For specific details, please refer to the attached chart and its supporting documents. The chart is an alphabetical listing of all the excessive contributions received by the Committee.

A. 1992 June Monthly Report

Schedule A-P of the Committee's report discloses the receipt of an excessive contribution from one (1) individual of $10,000. On August 25, 1992, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 2). The RFAI notes the receipt of the excessive amount and requests that the Committee refund the excessive amount.

On September 10, 1992, the Committee responded by letter (Attachment 3). The assistant treasurer stated that since the individual was the vice presidential candidate and had designated the Committee as his Principal Campaign Committee ("PCC"), he could contribute unlimited amounts to the campaign.

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Upon receipt of the letter, a Reports Analysis Division analyst called the assistant treasurer (Attachment 4). The analyst explained that the vice presidential candidate could not designate the presidential candidate's PCC as his own. She also explained that the vice presidential candidate could only contribute $1,000 per election to the presidential candidate's campaign.

On September 17, 1992, the Committee responded by letter to matters discussed in the phone conversation (Attachment 5). The Committee referenced Sections 11 CFR 103.4 and 110.10 of the Commission Regulations as a basis for the receipt of the contribution. On September 17, 1992, a Second Notice was sent to the Committee for inadequately responding (Attachment 6). On October 1, 1992, the Committee called to ask for extra time to respond (Attachment 7).

On October 6, 1992, the Committee responded by letter (Attachment 8). The Committee referenced other sections of the Commission Regulations that they felt supported their case. The Committee stated that absent an express provision in a statute or regulation they would consider the contribution permissible.

B. 1992 August Monthly Report

Schedule A-P of the Committee's report discloses the receipt of an excessive contribution of $5,000 made by one (1) individual.[1/] On November 17, 1992, an RFAI was sent to the Committee (Attachment 9). The RFAI notes the receipt of the excessive amount and requests that the Committee refund the excessive amount.

C. 1992 October Monthly Report

Schedule A-P of the Committee's report discloses the receipt of an excessive contribution of $24,000 from one (1) individual. On November 17, 1992, an RFAI was sent to the Committee (Attachment 10). The RFAI notes the receipt of the excessive amount and requests that the Committee refund the excessive amount.

On December 2, 1992, the Committee responded to both RFAIs by letter (Attachment 11). The Committee proposed that the vice presidential candidate set up a committee, contribute the same amount to the committee and then transfer these funds from that committee to the presidential candidate's PCC.

1/ An additional apparent excessive contribution totalling $150 from one individual was found during the preparation of this referral. This contribution is noted on the chart with an asterisk.

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On December 10, 1992, a Second Notice for both reports was mailed to the Committee for inadequately responding (Attachment 12). On December 29, 1992, the Committee responded by letter (Attachment 13). The Committee stated that its aforementioned proposal would be in a manner consistent with the federal election laws.

D. 1992 30 Day Post-General Report

Schedule A-P of the Committee's report discloses the receipt of excessive contributions totalling $875. These contributions were made by three (3) individuals. On March 31, 1993, an RFAI was sent to the Committee (Attachment 14). The RFAI notes on an informational basis the receipt of the excessive amounts and requests that the Committee refund the excessive amounts.

E. 1992 Year End Report

Schedule A-P of the Committee's report discloses the receipt of excessive contributions totalling $1,450. These contributions were made by two (2) individuals. On March 31, 1993, an RFAI was sent to the Committee (Attachment 15). The RFAI notes the receipt of the excessive amounts and requests that the Committee refund the excessive amounts.

On April 15, 1993, the Committee responded to both the 30 Day Post-General and Year End Reports by letter (Attachment 16). The response stated that the contributions have been either refunded or reallocated and redesignated. The Committee failed to provide the Commission with the dates or copies of the documentation authorizing reattribution or redesignation. The Committee failed to address one (1) contributor. On April 22, 1993, a Second Notice was sent to the Committee for inadequately responding (Attachment 17).

On April 29, 1993, the Committee responded by letter (Attachment 18). The acting treasurer stated that the Committee did not consider the contributions given by the individual to be excessive since the individual was the vice presidential running mate. The Committee enclosed a copy of the Statement of Candidacy for the individual designating Taxpayers for Phillips as his PCC. The treasurer stated that since the individual had designated Taxpayers for Phillips as his PCC in accordance to a Supreme Court ruling "there is no limit on the amount of contributions which may be expended by candidates through and in behalf of their own campaign committees."

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FEDERAL ELECTION COMMISSION
1991-1992
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 9JUN93

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
								TYPE OF FILER	
PHILLIPS, HOWARD	PRESIDENT	TAXPAYERS					1992 ELECTION	ID# P20001434	
1. STATEMENT OF CANDIDATE									
1992 STATEMENT OF CANDIDATE							31JAN92	2	92FEC/731/1872
2. PRINCIPAL CAMPAIGN COMMITTEE									
TAXPAYERS FOR PHILLIPS							ID #C00259390	PRESIDENTIAL	
1992 STATEMENT OF ORGANIZATION							31JAN92	2	92FEC/731/1974
STATEMENT OF ORGANIZATION - AMENDMENT							19JUN92	1	92FEC/760/0726
MISCELLANEOUS REPORT TO FEC							24SEP92	2	92FEC/781/3456
MISCELLANEOUS REPORT TO FEC							6OCT92	3	92FEC/781/3924
48 HOUR CONTRIBUTION NOTICE							16OCT92	3	92FEC/781/4224
48 HOUR CONTRIBUTION NOTICE							22OCT92	1	92FEC/796/4402
PRE-PRIMARY			25,195		21,546		2JAN92 -19FEB92	9	92FEC/739/2697
PRE-PRIMARY		- AMENDMENT	24,997		24,438		2JAN92 -19FEB92	16	92FEC/760/3273
REQUEST FOR ADDITIONAL INFORMATION							2JAN92 -19FEB92	2	92FEC/752/3406
REQUEST FOR ADDITIONAL INFORMATION 2ND							2JAN92 -19FEB92	3	92FEC/758/3506
APRIL QUARTERLY			34,275		31,584		20FEB92 -31MAR92	12	92FEC/744/1065
APRIL QUARTERLY		- AMENDMENT	33,489		33,876		20FEB92 -31MAR92	24	92FEC/760/3289
APRIL QUARTERLY		- AMENDMENT	33,489		33,876		20FEB92 -31MAR92	3	92FEC/781/4247
REQUEST FOR ADDITIONAL INFORMATION							20FEB92 -31MAR92	2	92FEC/752/3397
REQUEST FOR ADDITIONAL INFORMATION 2ND							20FEB92 -31MAR92	3	92FEC/758/3503
MAY MONTHLY			28,426		28,280		1APR92 -30APR92	14	92FEC/752/3382
MAY MONTHLY		- AMENDMENT	36,925		36,946		1APR92 -30APR92	20	92FEC/781/4227
MAY MONTHLY		- AMENDMENT	-		-		1APR92 -30APR92	13	92FEC/801/3866
REQUEST FOR ADDITIONAL INFORMATION							1APR92 -30APR92	2	92FEC/777/5211
REQUEST FOR ADDITIONAL INFORMATION 2ND							1APR92 -30APR92	3	92FEC/781/3642
REQUEST FOR ADDITIONAL INFORMATION							1APR92 -30APR92	1	92FEC/801/4865
JUNE MONTHLY			41,052		31,668		1MAY92 -31MAY92	16	92FEC/760/0728
JUNE MONTHLY		- AMENDMENT	41,052		31,668		1MAY92 -31MAY92	4	92FEC/775/3455
JUNE MONTHLY		- AMENDMENT	-		-		1MAY92 -31MAY92	3	92FEC/778/4530
JUNE MONTHLY		- AMENDMENT	39,518		47,117		1MAY92 -31MAY92	22	92FEC/801/3880
REQUEST FOR ADDITIONAL INFORMATION							1MAY92 -31MAY92	4	92FEC/775/2923
REQUEST FOR ADDITIONAL INFORMATION 2ND							1MAY92 -31MAY92	2	92FEC/781/2615
REQUEST FOR ADDITIONAL INFORMATION							1MAY92 -31MAY92	2	92FEC/801/0777
JULY MONTHLY			33,955		28,599		1JUN92 -30JUN92	22	92FEC/769/3228
JULY MONTHLY		- AMENDMENT	-		-		1JUN92 -30JUN92	4	92FEC/775/3563
1'ST LETTER INFORMATIONAL NOTICE							1JUN92 -30JUN92	1	92FEC/777/0671
AUGUST MONTHLY			58,388		53,485		1JUL92 -31JUL92	24	92FEC/775/2361
AUGUST MONTHLY		- AMENDMENT	-		-		1JUL92 -31JUL92	5	92FEC/775/2342
AUGUST MONTHLY		- AMENDMENT	-		-		1JUL92 -31JUL92	3	92FEC/801/1240
REQUEST FOR ADDITIONAL INFORMATION							1JUL92 -31JUL92	11	92FEC/801/0765
REQUEST FOR ADDITIONAL INFORMATION 2ND							1JUL92 -31JUL92	2	92FEC/801/5307
SEPTEMBER MONTHLY			51,184		57,243		1AUG92 -31AUG92	27	92FEC/781/2229
SEPTEMBER MONTHLY		- AMENDMENT	47,667		55,349		1AUG92 -31AUG92	26	92FEC/801/3903
REQUEST FOR ADDITIONAL INFORMATION							1AUG92 -31AUG92	2	92FEC/801/0762
OCTOBER MONTHLY				74,238		67,859	1SEP92 -30SEP92	34	92FEC/796/4176

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FEDERAL ELECTION COMMISSION DATE 9JUN93
1991-1992
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E) PAGE 2

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
							TYPE OF FILER		
OCTOBER MONTHLY		- AMENDMENT		-		-	1SEP92 -30SEP92	1	92FEC/815/0310
OCTOBER MONTHLY		- AMENDMENT		-		-	1SEP92 -30SEP92	1	93FEC/831/4666
OCTOBER MONTHLY		- AMENDMENT		-		-	1SEP92 -30SEP92	2	92FEC/818/2768
REQUEST FOR ADDITIONAL INFORMATION							1SEP92 -30SEP92	7	92FEC/801/0754
REQUEST FOR ADDITIONAL INFORMATION 2ND							1SEP92 -30SEP92	2	92FEC/801/5305
PRE-GENERAL				22,362		19,456	10CT92 -14OCT92	19	92FEC/796/4403
PRE-GENERAL		- AMENDMENT		22,362		22,527	10CT92 -14OCT92	9	93FEC/834/3565
NOTICE OF FAILURE TO FILE							10CT92 -14OCT92	1	92FEC/796/5227
POST-GENERAL				47,346		49,148	15OCT92 -23NOV92	37	92FEC/801/4896
POST-GENERAL		- AMENDMENT		47,346		49,148	15OCT92 -23NOV92	2	93FEC/834/3595
REQUEST FOR ADDITIONAL INFORMATION							15OCT92 -23NOV92	13	93FEC/833/1212
REQUEST FOR ADDITIONAL INFORMATION 2ND							15OCT92 -23NOV92	1	93FEC/836/4428
YEAR-END				33,741		33,332	24NOV92 -31DEC92	31	93FEC/817/1584
YEAR-END		- AMENDMENT		33,741		33,332	24NOV92 -31DEC92	1	93FEC/834/3594
REQUEST FOR ADDITIONAL INFORMATION							24NOV92 -31DEC92	9	93FEC/833/1202
TOTAL			274,939	177,687	279,810	172,866		489	TOTAL PAGES

3. AUTHORIZED COMMITTEES

UNITED STATES TAXPAYERS PARTY OF FLORIDA INC							ID #C00279240	PARTY NON-QUALIFIED	
1992 STATEMENT OF ORGANIZATION - AMENDMENT							28DEC92	2	92FEC/818/0637
YEAR-END				-		-	12MAR92 -31DEC92	67	93FEC/827/2046
								69	TOTAL PAGES
								69	AUTH TOT PAGES

4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

ALL REPORTS HAVE BEEN REVIEWED.
CASH-ON-HAND AS OF 12/31/92: $506.39.
OUTSTANDING DEBTS AND OBLIGATIONS: $77,311.76.

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

RQ-2

AUG 25 1992

Elisabeth A. Lewis, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: June Monthly Report (5/1/92-5/31/92)

Dear Ms. Lewis:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A-P of your report (pertinent portion attached) discloses a contribution which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (c) and (k))

Please note that contributions designated in writing by the contributor for a particular election must be attributed to that election. Contributions not designated in writing by the contributor will be considered made for the next election for that Federal Office (11 CFR §110.1(b)(2)(i) and (ii)).

Any contribution drawn on a joint checking account will be considered made by both individuals only if the check is signed by both or is accompanied by a written document noting the amount attributable to each individual and is signed by each individual. (11 CFR §110.1(k)(1) and (2))

If the contribution in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If the contribution you received exceeds the limits, you should

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refund to the donor the amount in excess of $1,000. All refunds must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. (11 CFR §104.8(d)(2))

Although the Commission may take further legal steps, prompt action by you to refund the excessive amount will be taken into consideration.

-Your report discloses a reimbursement to a committee staff member or other individual. Advances are not loans and should not be included in your total receipts. Advances are considered contributions until they are repaid and are subject to the contribution limits for individuals. The advance should be itemized as a contribution on Schedule A-P and listed as a memo entry. Staff advances, until they are repaid, are subject to the regulations governing the reporting of debts. See 11 CFR §104.11(b). If this individual or candidate was advancing funds to the committee for the purchase of campaign materials or services the transaction should be reported in the aforementioned manner. When the repayment is made the transaction should be itemized on a Schedule B-P supporting Line 23. If the ultimate payee (vendor) requires itemization, it should be listed on Schedule B-P as a memo entry directly below the entry itemizing the repayment of the advance. See 11 CFR §116.5 Advances by committee staff and other individuals.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Failure to provide an adequate response may result in legal action taken by the Commission. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

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ATTACHMENT # 3

SEP 10 9 53 AM '92

TAXPAYERS FOR PHILLIPS

1-800-2-VETO-IRS

September 9, 1992

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Sheppard:

In your letter of August 25, 1992, you question the size of the contribution from Steven C. Graves to Taxpayers for Phillips.

Dr. Graves has informed the Federal Election Commission that he is the Vice-Presidential running mate of Presidential candidate Howard Phillips in the states of Wyoming and Louisiana. He has designated Taxpayers for Phillips as his principal campaign committee, as permitted by the Federal Election Commission's regulations. The regulations provide that an individual may contribute unlimited amounts to his principal campaign committee. For this reason we believe that the $10,000 contribution reported on the FEC report in question is wholly appropriate.

It is also our understanding that the Supreme Court, in *Buckley v. Valeo*, confirmed that individuals should be free to spend their own funds on their own campaigns without limitation and that this is the constitutional principle upon which the statutory exception to the general rule limiting contributions to $1,000 per election is based. In light of the constitutional principle involved, the clarity of the statute, and your own regulations, we believe that you should accept the report as filed.

I have also enclosed amendments to the May 1-31 report reflecting our discussion on the reporting of unpaid staff advances.

Sincerely,

Mark Weaver,
Assistant Treasurer

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ATTACHMENT# 4

MEMORANDUM TO FILES: DATE: September 10, 1992
XX Telecon
Visit

NAME OF THE COMMITTEE: Taxpayers for Phillips (Presidential)

SUBJECT: June Monthly (5/1/-5/31/92) response dated 9/10/92

FEC REP: Pat Sheppard

COMMITTEE REP: Mark Weaver (703) 281-9426
281-5517

Upon receipt of the response to the May report I called Mr. Weaver to explain to him that the vice-presidential candidate could not designate the candidate's principal campaign committee "(PCC") as his own. I explained that the PCC is for one candidate only. I told him that the vice-presidential candidate is basically a tag along. The vice-presidential candidate is not running for an office; therefore, the limit of an individual applies to him. Mr. Weaver stated that he would check into the matter and respond later.

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LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

Sep 17 11 50 A.. '92

September 14, 1992

Ms. Pat Sheppard
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Sheppard:

Mark Weaver, Assistant Treasurer of Taxpayers for Phillips, has recounted to me your conversation of September 10, in which he says you indicated to him that a vice presidential candidate could not utilize as his campaign committee the authorized committee of the presidential candidate upon whose ticket he runs. The question arose out of the designation by Steven Graves of Taxpayers for Phillips as his principal campaign committee and his contribution to that committee of $10,000, an amount exceeding the general limitation imposed by the Federal Election Campaign Act of 1971, as amended.

Howard Phillips is the presidential candidate of the U.S. Taxpayers Party. He is qualified to be on the ballot in 20 states. Steven Graves has qualified as Mr. Phillips' vice presidential candidate in Louisiana and will run as his vice presidential candidate in Wyoming as well. Taxpayers for Phillips is Howard Phillips' principal campaign committee.

Federal Election Commission regulation §103.4, applying to vice presidential candidate campaign depositories, provides as follows:

> Any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President.

Taxpayers for Phillips has been designated a campaign depository of Howard Phillips. Therefore under this regulation it is also an appropriate campaign depository for Steven Graves. Regulation §110.10 states that: "... candidates for federal office may make unlimited expenditures from personal funds." Thus, a

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contribution by Steven Graves to any of his authorized committees is appropriate in any amount.

Additional support for this position is provided by Internal Revenue Service regulation §9002.1, which provides, in part, as follows:

> "If a party has nominated a presidential and a vice presidential candidate, all political committees authorized by that party's presidential candidate shall also be authorized committees of the vice presidential candidate and all political committees authorized by the vice presidential candidate shall also be authorized committees of the presidential candidate."

Though this regulation is a treasury regulation and not a Federal Election Commission regulation, it supports the proposition that Mr. Graves' actions were appropriate.

Very truly yours,

Alan P. Dye

APD/ddb

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

BQ-3

September 17, 1992

Elizabeth A. Lewis, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: June Monthly Report (5/1/92-5/31/92)

Dear Ms. Lewis:

On August 25, 1992, you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your response, dated September 9, 1992, is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-In your response you state that the contributor of the apparent excessive contribution (Dr. Graves) has designated the Taxpayers for Phillips as his principal campaign committee for the Office of the Vice Presidency and therefore the contribution is not excessive because a candidate may contribute unlimited amounts to his principal campaign committee.

Please note that the Taxpayers for Phillips has already been designated as the principal campaign committee for Howard Phillips, who is a candidate for the Office of the Presidency. Therefore, Dr. Graves may not designate the Taxpayers for Phillips as his principal campaign committee (2 U.S.C. §432(e)(1)) and 11 CFR §102.12(a) and (b) clearly state that "[no] political committee may be designated as the principal campaign committee of more than one candidate." Therefore the contribution from Dr. Graves would be subject to the $1,000 per election contribution limitation as defined in 2.U.S.C. 441a(a)(1)(A), 11 CFR 110.1(b)(1) and 11 CFR 110.1(j)(1)).

Since the contribution in question appears to exceed the limits, the Commission recommends that you refund to the donor the amount in excess of $1,000.

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If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Pat Sheppard on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

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ATTACHMENT# 7

MEMORANDUM TO FILES: DATE: October 1, 1992
XX Telecon
Visit

NAME OF THE COMMITTEE: Taxpayers for Phillips (Presidential)

SUBJECT: Outstanding RFAIs

FEC REP: Pat Sheppard

COMMITTEE REP: Hugh Webster (202) 785-9500

Mr. Webster called to ask for an extension to respond to the second notices. I explained that the second notice was the extension of the first letters and that he should respond as soon as possible.

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FEDERAL ELECTION
RECEIVED

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

97 OCT -6 PM 3:42

October 6, 1992

Mr. John D. Gibson
Assistant Staff Director
Reports Analysis Division
Federal Election Commission
999 E St., N.W.
Washington, DC 20463

Re: Taxpayers For Phillips

Dear Mr. Gibson:

This is in response to your letter of September 17, 1992, regarding the $10,000 contribution by Vice Presidential candidate Dr. Steven C. Graves to Taxpayers For Phillips, the principal campaign committee of Presidential Candidate Howard Phillips.

The FEC regulations make clear that the campaigns of the Presidential candidate and the Vice Presidential candidate of the same party are inextricably linked. For example, 11 C.F.R. §110.8(f)(1) states as follows:

> Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States.

Similarly, 11 C.F.R. §9002.1(a) provides:

> . . . all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate and all political committees authorized by the Vice Presidential candidate shall also be authorized committees for the Presidential candidate.

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FEDERAL ELECTION COMMISSION
REPORTS ANALYSIS DIV.
92 OCT -6 PM 3:42

It is illogical, therefore, to maintain that a contribution by a Vice Presidential candidate to an authorized committee of the Presidential candidate is improper where that same contribution, if made by the Presidential candidate, would be proper, since the contributions and committees of each candidate are considered essentially one in the same by the FEC's own regulations.

In sum, absent an express provision in a statute or regulation prohibiting the conduct of Mr. Graves, in our view acceptance of his contribution by Taxpayers For Phillips was not contrary to law.

Very truly yours,

Alan P. Dye

APD:dlh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

NOV 17 1992

Elizabeth A. Lants, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: August Monthly Report (7/1/92-7/31/92)

Dear Ms. Lants:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A-P of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

Please note that contributions designated in writing by the contributor for a particular election must be attributed to that election. Contributions not designated in writing by the contributor will be considered made for the next election for that Federal Office (11 CFR §110.1(b)(2)(i) and (ii)).

Any contribution drawn on a joint checking account will be considered made by both individuals only if the check is signed by both or is accompanied by a written document noting the amount attributable to each individual and is signed by each individual. (11 CFR §110.1(k)(1) and (2))

The Commission notes your responses. In your September 9, 1992 response you state that Dr. Graves has designated the Taxpayers for Phillips as his Principal campaign committee for the Office of Vice President. 2

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U.S.C. §432(e)(i) and 11 CFR. §102.12(a) and (b) clearly state that "each candidate for Federal office (other than a nominee of a political party to the Office of the Vice President) shall designate in writing a political committee to serve as his or her principal campaign committee" and "[no] political committee which supports or has supported more than one candidate may be designated as a principal campaign committee.

In your September 14, 1992 response, you state that 11 CFR §103.4 allows any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the Office of the Vice President. Please note that a depository is a National or State Bank or any federal chartered depository institution. The principal campaign committee is not a depository.

In your last response you quote portions of 11 CFR §110.8(f)(1) and 11 CFR §9002.1. You are reminded that these regulations govern entitlement to and use of funds certified from the Presidential Election Campaign Fund, (see 26 U.S.C.). Since your party's candidate has not been certified to received federal matching funds, these regulations do not apply. Therefore the contribution from Dr. Graves would be subject to the $1,000 per election contribution limitation as defined in 2 U.S.C. §441a(f), 11 CFR. §110.1(b) and §110.1(j)(1).

Since the contribution in question exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of the $1,000 limit. All refunds must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. (11 CFR §104.8(d)(2), (3) and (4))

Although the Commission may take further legal steps, prompt action by you to refund the excessive amount will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Failure to provide an adequate response may result in legal action taken by the Commission. If you need assistance,

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please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Elizabeth A. Lants, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

NOV 17 1992

Identification Number: C00259390

Reference: October Monthly Report (9/1/92-9/30/92)

Dear Ms. Lants:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A-P of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

Please note that contributions designated in writing by the contributor for a particular election must be attributed to that election. Contributions not designated in writing by the contributor will be considered made for the next election for that Federal Office (11 CFR §110.1(b)(2)(i) and (ii)).

Any contribution drawn on a joint checking account will be considered made by both individuals only if the check is signed by both or is accompanied by a written document noting the amount attributable to each individual and is signed by each individual. (11 CFR §110.1(k)(1) and (2))

The Commission notes your responses. In your September 9, 1992 response you state that Dr. Graves has designated the Taxpayers for Phillips as his Principal campaign committee for the Office of Vice President. 2 U.S.C. §432(e)(i) and 11 C.F.R. §102.12(a) and (b)

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clearly state that "each candidate for Federal office (other than a nominee of a political party to the Office of the Vice President) shall designate in writing a political committee to serve as his or her principal campaign committee" and "[no] political committee which supports or has supported more than one candidate may be designate as a principal campaign committee.

In your September 14, 1992 response, you state that 11 C.F.R. §103.4 allows any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the Office of the Vice President. Please note that a depository is a National or State Bank or any federal chartered depository institution. The principal campaign committee is not a depository.

In your last response you quote portions of 11 C.F.R. §110.8(f)(1) and 11 C.F.R. §9002.1. You are reminded that these regulations governs entitlement to and use of funds certified from the Presidential Election Campaign Fund, (see 26 U.S.C.). Since your party's candidate has not been certified to received federal matching funds, these regulations do not apply. Therefore the contribution from Dr. Graves would be subject to the $1,000 per election contribution limitation as defined in 2 U.S.C. §441a(f), 11 C.F.R. §110.1(b) and §110.1(j)(1).

Since the contribution in question exceeds the limits, the Commission recommends that you refund to the donor the amount in excess of the $1,000 limit. All refunds must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. (11 CFR §104.8(d)(2), (3) and (4))

Although the Commission may take further legal steps, prompt action by you to refund the excessive amount will be taken into consideration.

-The beginning cash balance of this report does not equal the ending balance of your September Monthly Report. Please clarify this discrepancy and amend any subsequent report(s) which may be affected by this correction.

-Your report discloses debts with outstanding beginning balances that do not equal the corresponding closing balances of your previous report (See chart). These

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amounts should be the same. Please explain these discrepancies and amend your report(s).

CREDITOR	CLOSING BALANCE PREVIOUS REPORT	BEGINNING BALANCE THIS REPORT
Howard Phillips	$27,643.04	$34,906.87
Conservative Caucus	$427.29	$1,296.31
Conservative Caucus Research	$15,331.75	$36,465.31

-You must provide the occupation and name of employer for each contributor required to be itemized on Schedule A-P. Please amend your report by supplying the omitted information.

With respect to the occupation and name of employer of the contributor, your committee may demonstrate "best efforts" to obtain the required information. This demonstration must describe your committee's procedures for requesting the information. You may also supply a copy of the solicitation. Under 11 CFR §104.7(b), the solicitation shall consist of a clear request for the required information (i.e., name, mailing address, occupation, and name of employer). The request should also inform the contributor that the reporting of such information is required by law. See 11 CFR §104.3(a)(4)(i) and 11 CFR §104.7.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Failure to provide an adequate response may result in legal action taken by the Commission. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIN COPY ROOM
Dec 2 10 24 AM '92

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

December 2, 1992

VIA HAND DELIVERY

Ms. Pat Sheppard
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Taxpayers For Phillips

Dear Ms. Sheppard:

This is in response to your letter of November 17, 1992.

We have previously set forth the many legal reasons why the contributions by Dr. Stephen Graves to Taxpayers For Phillips were permissible under the Federal Election Campaign Act and the FEC regulations. We will not repeat those except to state that they are hereby reaffirmed.

Your letter requests that Taxpayers For Phillips file an amended report showing the Graves contributions to be a debt owed to Dr. Graves to the extent that they exceed $1,000. While Taxpayers For Phillips is amenable to this, assuming doing so would not prejudice the position of Taxpayers For Phillips on this issue, we frankly fail to see how this would resolve anything since Taxpayers For Phillips has no funds presently and is not likely to have sufficient funds to repay the contributions in the near future, if ever.

Frankly, this entire issue is really an extremely technical one. Even under the FEC's interpretation of the law, Dr. Graves could have authorized a committee separate from Taxpayers For Phillips, contributed the same funds, and had them spent for the exact same purposes. In other words, the contribution was not impermissible per se; Dr. Graves simply did not jump through all the hoops that the FEC now says he should have.

We propose the following solution. Dr. Graves sets up an authorized committee (which he could have done previously), gives

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WEBSTER, CHAMBERLAIN & BEAN

Ms. Pat Sheppard
December 2, 1992
Page 2

to this committee an amount equal to his previous contributions to Taxpayers For Phillips, and then this committee transfers the same amount to Taxpayers For Phillips, which would be reimbursement for the funds expended (or, in effect, advanced) by Taxpayers For Phillips for activities the Graves committee would have done anyway.

There may be other similar solutions to this technical, bookkeeping issue. We look forward to the FEC's response to this proposal, as well as any other thoughts on this matter.

Very truly yours,

Alan P. Dye

Alan P. Dye

APD:hw

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

December 10, 1992

Elizabeth A. Lants, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: August Monthly (7/1/92-7/31/92) and October Monthly (9/1/92-9/30/92) Reports

Dear Ms. Lants:

On November 17, 1992, you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your December 2, 1992 response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-Your response proposes to have Dr. Graves set up an authorized committee, contribute an amount equal to his previous contributions, and then transfer that amount to the Taxpayers For Phillips. Please note that this action will not negate the excessive contribution violation, and a refund should be made to Mr. Graves as soon as possible. In the event the committee is unable to refund the excessive amount, the committee should disclose that amount as a debt owed to Dr. Graves on Schedule D-P.

Additionally, your committee discloses apparent excessive contributions from Abe Siemens and David Swain, Jr. If the contributions in question exceed the limits, the Commission recommends that you refund to the donor the amount in excess of the $1,000 limit. All refunds must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. (11 CFR §104.8(d)(2), (3) and (4)) Also, if the committee can not make refunds, these excessive contribution amounts should be disclosed on Schedule D-P as a debt owed to these individuals.

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Although the Commission may take further legal steps, prompt action by you to refund the excessive amount will be taken into consideration.

-Your October Monthly report discloses debts with outstanding beginning balances that do not equal the corresponding closing balances of your September Monthly report (See chart). These amounts should be the same. Please explain these discrepancies and amend your report(s).

CREDITOR	CLOSING BALANCE PREVIOUS REPORT	BEGINNING BALANCE THIS REPORT
Howard Phillips	$27,643.04	$34,906.87
Conservative Caucus	$427.29	$1,296.31
Conservative Caucus Research	$15,331.75	$36,465.31

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Pat Sheppard on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

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ATTACHMENT# 13

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

92 DEC 29 PM 2:20

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

December 29, 1992

VIA HAND DELIVERY

Mr. John D. Gibson
Assistant Staff Director
Reports Analysis Division
Federal Election Commission
999 E St., N.W.
Washington, DC 20463

Re: Taxpayers For Phillips; ID No. 600259390

Dear Mr. Gibson:

This is in response to your letter of December 10, 1992.

Your description of our proposed resolution of this matter under review omits a very significant fact. The funds which Dr. Graves would contribute to his newly-created principal campaign committee, and which would then be paid by that committee to Taxpayers For Phillips, would be to pay *bona fide* expenses incurred by Taxpayers For Phillips on behalf of Dr. Graves' campaign. This would not be a case of an "excess contribution," since either committee may expend funds on the campaign of either candidate. There is no question Dr. Graves could have expended funds on his own campaign; it is simply a question of how this was to be done. Our proposal would resolve this question in a manner consistent with the federal election laws.

Very truly yours,

Alan P. Dye

Alan P. Dye

APD:dla

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Elizabeth A. Lants, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

MAR 31 1993

Identification Number: C00259390

Reference: 30 Day Post-General Report (10/15/92-11/23/92)

Dear Ms. Lants:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-The beginning cash balance of this report does not equal the ending balance of your 12 Day Pre-General report. Please clarify this discrepancy and amend any subsequent report(s) which may be affected by this correction.

-Your calculations for the Cash Summary (Lines 5-10 of the Summary Page) appear to be incorrect. Our calculations disclose a discrepancy of $10. ($1,898.65 + $47,346.25 - $49,244.90 - $49,148.12 - $96.78) Please provide the correct total for Line 10 of the Summary Page.

-Column B figures for the Detailed Summary Page should equal the sum of the Column B figures on your previous report and the Column A figures on this report. Please amend your report to correct the Column B discrepancies for Line(s) 23, 30 and any subsequent report(s) which may be affected by this correction. Note that Column B should reflect only the year-to-date totals for calendar year 1992.

-Schedule A-P of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or

anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

Please note that contributions designated in writing by the contributor for a particular election must be attributed to that election. Contributions not designated in writing by the contributor will be considered made for the next election for that Federal Office (1992 General) (11 CFR §110.1(b)(2)(i) and (ii)).

Any contribution drawn on a joint checking account will be considered made by both individuals only if the check is signed by both or is accompanied by a written document noting the amount attributable to each individual and is signed by each individual. (11 CFR §110.1(k)(1) and (2))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If the contribution(s) you received exceeds the limits, you should refund to the donor the amount in excess of $1,000. All refunds must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. (11 CFR §104.8(d)(4))

Although the Commission may take further legal steps, prompt action by you to refund the excessive amount will be taken into consideration.

-Schedule A-P of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-General report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of $1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of $1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. Although the Commission may take legal action, any response you wish to make concerning this matter will be taken into consideration. (11 CFR §104.5(f))

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal

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Election Commission within fifteen (15) days of the date of this letter. Failure to provide an adequate response may result in legal action taken by the Commission. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON D( )

RQ-2

MAR 31 1993

Elizabeth A. Lants, Treasurer
Taxpayers for Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: Year End Report (11/24/92-12/31/92)

Dear Ms. Lants:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A-P of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

Please note that contributions designated in writing by the contributor for a particular election must be attributed to that election. Contributions not designated in writing by the contributor will be considered made for the next election for that Federal Office (1992 General) (11 CFR §110.1(b)(2)(i) and (ii)).

Any contribution drawn on a joint checking account will be considered made by both individuals only if the check is signed by both or is accompanied by a written document noting the amount attributable to each individual and is signed by each individual. (11 CFR §110.1(k)(1) and (2))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If the contribution(s) you received exceeds the limits, you should either refund to the donor the amount in excess

of $1,000 or get the donor to redesignate and/or reattribute the contribution in writing. All refunds, redesignations, and reattributions must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks and copies of letters reattributing or redesignating the contributions in question may be used to respond to this letter. Refunds are reported on Line 28 of the Detailed Summary Page and on Schedule B-P of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A-P of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR §104.8(d)(2), (3) and (4))

Although the Commission may take further legal steps, prompt action by you to refund or seek redesignation and/or reattribution of the excessive amount will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. Failure to provide an adequate response may result in legal action taken by the Commission. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

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TAXPAYERS FOR PHILLIPS

1-800-2-VETO-IRS

ATTACHMENT# 16

93 APR 15 PM 5:06

April 15, 1993

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Ms. Sheppard:

Per your letters of March 31, 1993 concerning our Year-end Report and our 30 Day Post-General Report:

- Our 12-day Pre-General Report has been amended so that all balances carried over to the 30 Day Post-General report are reconciled.
- The cash summary discrepancy of $10 has been resolved and subsequent reports amended as appropriate.
- Regarding the contributions you noted:
  - David Swain—The year-to-date total was improperly recorded in the disbursement column. Mr. Swain contributed $250 on 7/21, bringing his year-to-date total to $750.
  - Abe Siemens—We have thoroughly searched all computer and bank records, and can find no evidence of a $500 contribution from Mr. Siemens on 7/22. His only contributions through the dates in question are $500 on 4/20 (primary), $500 on 6/2/92 (primary), $500 on 9/21/92 (general), and $300 on 11/30/92 (general). The contribution should never have been recorded because it does not exist.
  - Daniel Elsaesser has redesignated his $1,000 10/5 contribution to the 1992 primary.
  - Verla Maxfield—The $200 contribution received 9/1 and the $200 contribution received 9/14 have been reallocated by Mr. & Mrs. Maxfield to Clifford Maxfield, and redesignated to the 1992 primary. Both checks were drawn on a joint account.
  - Judy Bragdon—The $250 contribution received 11/13 and the $50 contribution received 10/8 have been reallocated by Dr. & Mrs. Bragdon to Randy Bragdon and redesignated to the 1992 primary. Both checks were drawn on a joint account.
  - Ellen Van Buskirk—Mrs. Van Buskirk has requested that $250 be redesignated to the 1992 primary and that she be refunded the remaining excessive portion of $200.

Please let us know if these amended reports satisfy the requirements of the Commission.

Sincerely,

Mark Weaver
Assistant Treasurer

9520 Bent Creek Lane, Vienna, Virginia 22182 ★ Paid for by TAXPAYERS for Phillips, Elizabeth A. Lants, Treasurer

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ATTACHMENT# 17

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

April 22, 1993

Elizabeth A. Lants, Treasurer
Taxpayers For Phillips
9520 Bent Creek Lane
Vienna, VA 22182

Identification Number: C00259390

Reference: 30 Day Post-General Report (10/15/92-11/23/92)

Dear Ms. Lants:

On March 31, 1993, you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your April 15, 1993 response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-Your response does not address the apparent excessive contributions from Stephen C. Graves. Please provide clarifying information of any corrective action your Committee may have taken in the event the contribution was excessive.

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Pat Sheppard on our toll-free number (800) 424-9530 or our local number (202) 219-3580.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

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TAXPAYERS FOR PHILLIPS

1-800-2-VETO-IRS

ATTACHMENT# 18

APR 29 8 25 AM '93

April 23, 1993

Mr. John D. Gibson
Assistant Staff Director
Reports Analysis Division
Federal Election Commission
Washington, D.C. 20463

Dear Mr. Gibson:

This is in response to your letter dated April 22 in which you made reference to "the apparent excessive contributions from Stephen C. Graves."

Contributions from Dr. Graves are not excessive, by reason of the fact that Taxpayers for Phillips is and has been the principal campaign committee for Dr. Graves in his capacity as a vice presidential running mate with presidential candidate Howard Phillips during the 1992 campaign.

A copy of Dr. Graves' filing, designating Taxpayers for Phillips as his principal campaign committee, is enclosed.

As the Supreme Court has ruled, there is no limit on the amount of contributions which may be expended by candidates through and in behalf of their own campaign committees.

Sincerely,

Mark Weaver
Acting Treasurer

Enclosure

9704382158O

9520 Bent Creek Lane, Vienna, Virginia 22182 ★ Paid for by TAXPAYERS for Phillips, Elizabeth A. Lants, Treasurer

06/12/1993

APPARENT EXCESSIVE CONTRIBUTIONS RECEIVED BY
TAXPAYERS FOR PHILLIPS

NAME	PRIMARY RECEIPTS	EXCESS AMOUNT	RECEIPT DATE	*	AMOUNT REFUNDED	REFUND DATE	GENERAL RECEIPTS	EXCESS AMOUNT	RECEIPT DATE	AMOUNT REFUNDED/ REDESIGNATED/ REATTRIBUTED	REFUND DATE	ATTACH-MENT
BRAGDON, JUDITH	1000.00		09/29/1992									1A
							75.00		09/21/1992			1A
							500.00		09/30/1992			1A
							50.00		10/08/1992			1B
							400.00	25.00	10/21/1992			1C
							250.00	250.00	11/13/1992			1C
										275.00	UNKNOWN	16
ELSAESSER, DANIEL W							1000.00		10/05/1992			2A
							1000.00	1000.00	12/08/1992			2B
										1000.00	UNKNOWN	16
GRAVES, STEPHEN C	1000.00		04/06/1992									3A
	10000.00	10000.00	05/18/1992									3B
	5000.00	5000.00	07/22/1992									3C
	5000.00	5000.00	09/02/1992									3D
							20000.00	19000.00	09/11/1992			3D
							200.00	200.00	10/28/1992			3E
MAXFIELD, VERLA B.	250.00		02/20/1992									4A
(MRS. CLIFFORD)	50.00		04/20/1992									4B
	75.00		06/19/1992									4C
							200.00		09/01/1992			4D
							200.00		09/14/1992			4D
							250.00		10/12/1992			4E
							150.00		10/28/1992			4F
							100.00		11/02/1992			4F
							100.00		11/03/1992			4F
							300.00	300.00	11/05/1992			4F
							100.00	100.00	11/18/1992			4F
										400.00	UNKNOWN	16
SORENSEN, ANN M.	1000.00		04/07/1992									5A
	150.00	150.00	07/07/1992	*								5B
VAN BUSKIRK, ELLEN J.	250.00		04/06/1992									6A
(MRS. WALTER)	200.00		07/07/1992									6B
	200.00		07/10/1992									6B
							500.00		08/12/1992			6C
							500.00		10/07/1992			6D
							450.00	450.00	12/01/1992			6E
										450.00	UNKNOWN	16

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1992 OCTOBER MONTHLY REPORT
ATTACHMENT 1A

SCHEDULE A-P
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 8

LINE NUMBER 17(a)

NAME OF COMMITTEE (in Full)
Taxpayers for Phillips C00259390

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE	RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Randon Braydon 30 Judson Boulevard Bangor, ME 04401	self-employed Dentist 950.00	Primary ☒ General ☐	9-8-92	500.00
Judith Braydon 30 Judson Boulevard Bangor, ME 04401	none home maker 1000.00	Primary ☐ General ☒	9-29-92	1000.00
Judith Braydon 30 Judson Boulevard Bangor, ME 04401	none homemaker 1575.00	Primary ☒ General ☐	9-21-92 9-30-92	75.00 500.00
Darrell L. Castle 1651 Estate Drive Memphis, TN 38119	self-employed attorney 200.00	Primary ☐ General ☒	9-29-92	100.00
L.I. Chapman 328 Frese Road Pasadena, TX 77502	none retired 695.00	Primary ☐ General ☐	9-14-92	100.00
Velma L Cicero 532 Harding Avenue San Fernando, CA 91340	none retired 440.00	Primary ☒ General ☐	9-1-92	440.00
James N. Clymer 301 Letort Road Millersville, PA 17551	self-employed attorney 1300.00	Primary ☒ General ☐	9-17-92	300.00
Jan Conner 7901 Westfield Boulevard Indianapolis, IN 46240	none homemaker 1000.00	Primary ☐ General ☐	9-8-92	500.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)				3515.00
TOTAL THIS PERIOD (last page this line number only)				

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1992 12 DAY PRE-GENERAL REPORT
ATTACHMENT 1B

SCHEDULE A-P
Federal Election Commission
999 E Street, N.W.
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ITEMIZED RECEIPTS

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PAGE 1 OF 6

LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
George Albright 14276 Spruce Avenue Mason City, IA 50401	Handicap Village maintainance tech. 322.00 Primary [X] General [ ]	10-13-92	322.00
William Ball 5225 Knob Lane Indianapolis, IN 46226	mfg. requested 550.00 Primary [ ] General [X]	10-9-92	50.00
James B. Borders 9104 Ensley Lane Leawood, KS 66206	none retired 650.00 Primary [ ] General [ ]	10-13-92	100.00
Mark Braddock 4128 Inca, NE. Albuquerque, NM 87111	self-employed industrial textiles 250.00 Primary [ ] General [ ]	10-6-92	250.00
July Braydon 30 Judson Boulevard Bangor, ME 04401	none homemaker 1000.00 Primary [X] General [ ]	10-8-92	50.00
Chester L. Brisley Route 1, Box 146B Cumberland Gap, TN 37724	Lincoln Memorial Univ. professor 300.00 Primary [ ] General [ ]	10-9-92	100.00
Robert E. Brunner 749 West Avon Street Freeport, IL 61034	none student 225.00 Primary [ ] General [X]	10-13-92	225.00
Roger A. Cloft P.O. Box 51 Temecula, CA 92593	Ingram Paper sales rep. 350.00 Primary [ ] General [X]	10-9-92	50.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			
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1992 3 DAY POST-GENERAL REPORT
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Federal Election Commission
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ITEMIZED RECEIPTS

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LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME ADDRESS CITY STATE ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Judith Brayton 30 Judson Boulevard Bangor, ME 04401	Randy Brayton, DDS office manager $1650.00 Primary ☒ General ☐	10-21-92 11-13-92	400.00 250.00
Chester Brisley Route 1, Box 146B Cumberland, TN 37724	professor Lincoln Mem. Univ. $400.00 Primary ☒ General ☐	10-30-92	$100.00
Ron Brown P.O. Box 35733 Albuquerque, NM 87176	self-employed investments $350.00 Primary ☐ General ☐	10-28-92 11-05-92	$125.00 $225.00
Velma L Cicero 532 Harding Avenue San Fernando, CA 91340	none retired $840.00 Primary ☐ General ☐	10-21-92 11-3-92	$200.00 $200.00
Joan Collins 801 Lake Shore Drive Lake Park, FL 33403	UCAC, Inc. executive ass't $600.00 Primary ☐ General ☐	11-9-92	$400.00
Jan Conner 7401 Westfield Boulevard Indianapolis, IN 46240	none homemaker $1100.00 Primary ☐ General ☐	10-22-92	$100.00
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: Primary ☐ General ☐		
Earl W. Cunningham R.R. 4, Box 75C Sleepy Eye, MN 56085	none retired $300.00 Primary ☐ General ☐	10-22-92 10-24-92	$50.00 $25.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			
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1992 12 DAY PRE-GENERAL REPORT
ATTACHMENT 2A

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Federal Election Commission
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LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Christopher P. Condon 2301 South Millbend, #109 The Woodlands, TX 77380	none / none / 1000.00 / Primary	10-8-92	1000.00
Pat Conway 7507 Roseland Des Moines, IA	none / homemaker / 550.00 / Primary none / homemaker / 550.00 / General	10-13-92 10-13-92	275.00 275.00
John A. Diaz 138 Paradise Drive Voorhees, NJ 08043	none / retired / 350.00 / Primary	10-5-92	50.00
Bettina F. Dobbs HC 68, Box 24 Cushing, ME 04563	none / retired / 425.00 / Primary	10-1-92	425.00
Becky Elder R.R. 1, Box 113 Valley Center, KS 67147	none / homemaker / 800.00 / Primary	10-9-92	800.00
Daniel W. Elsaesser 215 Anderson Ferry Road Cincinnati, OH 45238	self-employed / restaurant owner / 1000.00 / Primary	10-5-92	1000.00
F.H. Ernst, Jr. P.O. Box 3004 Vallejo, CA 94590	self-employed / architect / 925.00 / Primary	10-5-92 10-9-92	30.00 45.00
Michael B. Foyle 35915 Harbert Northville, MI 48167	none / retired / 250.00 / Primary	10-9-92	50.00
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1992 YEAR END REPORT
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LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE	RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Doris Elliott 415 Lake Superior Drive Sulberry, FL 33860	none retired 1,310.00	Primary: X General:	12-15-92	30.00
Daniel Elsaesser 215 Anderson Ferry Road Cincinnati, OH 45238	self-employed restauranteur 2,000.00	Primary: X General:	12-08-92	1,000.00
F.H. Ernst P.O. Box 3009 Vallejo, CA 94590	none retired 1,050.00	Primary: X General:	12-01-92	20.00
Gerald W. Foy 6928 Atlanta Circle Stockton, CA 95219	Kaiser doctor 230.00	Primary: X General:	12-21-92	30.00
John T. Gardner, Jr. 3571 Cedar Drive Zachary, LA 70791	5th Generation Systems Dev. Manager 350.00	Primary: X General:	12-22-92	100.00
Ted Grob, Jr. 1541 East Cedar Creek Grafton, WI 53024	self-employed sales 570.00	Primary: X General:	12-11-92	50.00
Gerald N. Haas, Jr. 600 - 21st Street, #S3A Racine, WI 53403	self-employed manufat. rep. 500.00	Primary: X General:	12-14-92	250.00
Kenneth I. Hamilton 536 Meadow Lane El Dorado, AR 71730	Murphy Oil accountant 415.00	Primary: X General:	12-15-92	100.00
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199 MAY MONTHLY REPORT
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PAGE 1 | 4

LINE NUMBER 17

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
J. Alan Dickson Box 118 Hamilton, VA 22068	information requested AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-2-92	250.00
W.H. Woods 8055 Cinnabar Drive La Mesa, CA 91941	retired AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-3-92	250.00
L.R. Fortier 1529 E. Bay Shore Drive Virginia Beach, VA 23451	Teren Co., Inc. OCCUPATION: consultant AGGREGATE YEAR TO DATE: 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Robert L. Carpenter P.O. Box 375 Coffeeville, KS 67337	self-employed AGGREGATE YEAR TO DATE: 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Stephen C. Graves 11006 Rye Hill Road, South Fort Smith, AR 72901	self-employed OCCUPATION: M.D. AGGREGATE YEAR TO DATE: 1000.00 RECEIPT FOR: Primary	4-6-92	1000.00
Robert F. Talbott 7911 South Hosmer, #S-112 Tacoma, WA 98408	retired AGGREGATE YEAR TO DATE: 300.00 RECEIPT FOR: Primary	4-6-92	100.00
Mrs. Walter H. Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	retired AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-6-92	250.00
Anne M. Sorensen 1720 Adams Avenue Costa Mesa, CA 92626	self-employed AGGREGATE YEAR TO DATE: 1000.00 RECEIPT FOR: Primary	4-7-92	1000.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			3350.00
TOTAL THIS PERIOD (last page this line number only)			

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1992 JUNE MONTHLY REPORT
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LINE NUMBER 17(c)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Steven C. Graves 11006 Rye Hill Road South Fort Smith, AR 72901 (Vice Presidential candidate)	NAME OF EMPLOYER: self-employed OCCUPATION: M.D. AGGREGATE YEAR-TO-DATE: $11,000 RECEIPT FOR: [X] Primary [ ] General	5-18-92	$10,000
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		
	NAME OF EMPLOYER OCCUPATION AGGREGATE YEAR-TO-DATE RECEIPT FOR: [ ] Primary [ ] General		

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1992 AUGUST MONTHLY REPORT
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LINE NUMBER 17(8)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Dr. Stephen C. Graves 11006 Rye Hill Road, South Fort Smith, AR 72901	self-employed physician 17,000.00 ☐ Primary ☐ General	7-22-92	5000.00
	☐ Primary ☐ General		
	☐ Primary ☐ General		
	☐ Primary ☐ General		
	☐ Primary ☐ General		
	☐ Primary ☐ General		
	☐ Primary ☐ General		
	☐ Primary ☐ General		

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1992 OCTOBER MONTHLY REPORT
ATTACHMENT 3D

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Federal Election Commission
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ITEMIZED RECEIPTS

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PAGE 1 OF 1

LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Stephen C. Graves 11006 Rye Hill Road South Fort Smith, AR 72901	self-employed physician 21,000.00 ☒ Primary ☐ General	9-2-92	5000.00
Stephen C. Graves 11006 Rye Hill Road South Fort Smith, AR 72901	self-employed physician 41,000.00 ☒ Primary ☐ General	9-11-92	20,000.00
	☐ Primary ☐ General		
	☐ Primary ☐ General		
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	☐ Primary ☐ General		

SUBTOTAL OF RECEIPTS THIS PAGE (optional) 25,000.00

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199[illegible]30 POST-GENERAL REPORT
ATTACHMENT 3E

SCHEDULE A-P
Federal Election Commission
999 E Street N.W.
Washington D.C. 20463

ITEMIZED RECEIPTS
contributions from candidates

Use separate schedule(s) for each category of the detailed summary page

PAGE 1 OF [illegible] 1

LINE NUMBER 17(b)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME ADDRESS CITY STATE ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE	RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Stephen C. Graves 11006 Rye Hill Road South Fort Smith, AR 72901	self-employed physician $41,200.00	X Primary General	10-28-92	$200.00
Allen W. Knight, Jr. 7115 Redmar Road Bethesda, MD 20817	none retired $300.00	X Primary General	10-21-92	$100.00
		Primary General		
		Primary General		
		Primary General		
		Primary General		
		Primary General		
		Primary General		

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LINE NUMBER: 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
George Atkinson, Jr. 16401 South Paramount Blvd Paramount, CA 90723	self-employed lawyer 1000.00 ☒ Primary ☐ General	2/20/92	1000.00
Dwight Dill, M.D. [illegible]-7651 Abercrombie Drive Richmond, B.C. Canada V6Y 3N3	self-employed medical doctor 250.00 ☒ Primary ☐ General	2/21/92	250.00
W.T. Hackett 12814 Ballad Drive Sun City, AZ 85375	none retired 250.00 ☒ Primary ☐ General	3/2/92	250.00
Roland S. Hinz 10600 Sepulveda Blvd Mission Hills, CA 91345	Hi-Torque Publications publisher 1000.00 ☒ Primary ☐ General	3/16/92	1000.00
Ben D. Robinson, Jr. 6240 CR 214 St. Augustine, FL 32092	none retired 1000.00 ☒ Primary ☐ General	2/20/92	1000.00
Frank See P.O. Box 35 Goulds, FL 33170	State of Florida supervisor 250.00 ☐ Primary ☐ General	3/16/92	250.00
Richard Westerman 4830 Fallcrest Circle Sarasota, FL 34233	none retired 250.00 ☒ Primary ☐ General	3/2/92	250.00
Verla Maxfield 301 McIlrath Laurel, IA 50141	none homemaker 250.00 ☒ Primary ☐ General	2/20/92	250.00

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PAGE 3 OF (total pages) 4

LINE NUMBER 17

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
D.C. Logan, Sr. 4103 Highway 155 Fisherville, KY 40023	retired AGGREGATE YEAR TO DATE: 500.00 RECEIPT FOR: [X] Primary [ ] General	4-20-92	500.00
Mrs. Clifford Maxfield 301 McIlrath Laurel, IA 50141	homemaker AGGREGATE YEAR TO DATE: 300.00 RECEIPT FOR: [X] Primary [ ] General	4-20-92	50.00
Abe Siemens 47 Princeton Drive Rancho Mirage, CA 92270	self-employed AGGREGATE YEAR TO DATE: 500.00 RECEIPT FOR: [X] Primary [ ] General	4-20-92	500.00
Diana Denman 200 Patterson Ave, #1002 San Antonio, TX 78209	information requested AGGREGATE YEAR TO DATE: 500.00 RECEIPT FOR: [X] Primary [ ] General	4-21-92	500.00
Joe Lutz 9368 S.W. Umiat Court Tualatin, OR 97062	information requested AGGREGATE YEAR TO DATE: 400.00 RECEIPT FOR: [X] Primary [ ] General	4-23-92	400.00
Mark C. Stuntzner 609 Bridgewood Circle, #6H Fort Worth, TX 76112	Bell Helicopter - Textron engineer AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: [ ] Primary [ ] General	4-23-92	250.00
Margaret J. Cies 1460 Park Place San Marino, CA 91108	self-employed interiors AGGREGATE YEAR TO DATE: 940.00 RECEIPT FOR: [X] Primary [ ] General	4-27-92	940.00
William H. Cies 2540 Huntington Drive San Marino, CA 91108	self-employed real estate AGGREGATE YEAR TO DATE: 980.00 RECEIPT FOR: [X] Primary [ ] General	4-27-92	980.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			4120.00
TOTAL THIS PERIOD (last page this line number only)			

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199 JULY MONTHLY REPORT
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NAME OF COMMITTEE (In Full) Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
James H. Ware, Jr. 1512 South Wardlaw Dr. Baton Rouge, LA 70815	self-employed OCCUPATION: [illegible] AGGREGATE YEAR TO DATE: $525.00 RECEIPT FOR: Primary ☐ General ☐	6/12/92	$500.00
Verla B. Mansfield 301 McIlrath Laurel, IA 50141	none OCCUPATION: homemaker AGGREGATE YEAR TO DATE: $375.00 RECEIPT FOR: Primary ☐ General ☐	6/19/92	$75.00
Richard P. Bott 3405 Shady Bend Independence, MO 64052	self-employed OCCUPATION: n.a. - broadcasting AGGREGATE YEAR TO DATE: $500.00 RECEIPT FOR: Primary ☐ General ☐	6/23/92	$500.00
James N. Clymer 301 Letort Road Millersville, PA 17551	self employed OCCUPATION: attorney AGGREGATE YEAR TO DATE: $1000.00 RECEIPT FOR: Primary ☐ General ☐	6/26/92	$900.00
Martha A. Pafford 10116 West Park Drive Midland, MI 48640	info. requested OCCUPATION: AGGREGATE YEAR TO DATE: $400.00 RECEIPT FOR: Primary ☐ General ☐	6/26/92	$400.00
Craig Hayward 9129 Placer Street Cucamonga, CA 91730	self-employed OCCUPATION: waste disposal AGGREGATE YEAR TO DATE: $500.00 RECEIPT FOR: Primary ☐ General ☐	6/29/92	$250.00
	NAME OF EMPLOYER: OCCUPATION: AGGREGATE YEAR TO DATE: RECEIPT FOR: Primary ☐ General ☐		
	NAME OF EMPLOYER: OCCUPATION: AGGREGATE YEAR TO DATE: RECEIPT FOR: Primary ☐ General ☐		
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			$2625
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1992 OCTOBER MONTHLY REPORT
ATTACHMENT 4D

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LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Daniel S Kauffman 501 Hathaway Road Greenwood, SC 29649	self-employed AGGREGATE YEAR-TO-DATE 550.00 RECEIPT FOR: Primary ☒ General ☐	9-8-92	500.00
David H. Kellogg 1234 Eton Court, N.W. Washington, DC 20007	Decision Science Application engineer AGGREGATE YEAR-TO-DATE 500.00 RECEIPT FOR: Primary ☒ General ☐	9-1-92	250.00
Lon L Layman 1084 West Marshall Road San Bernardino, CA 92405	owner Layman Cattle AGGREGATE YEAR-TO-DATE 1050.00 RECEIPT FOR: Primary ☒ General ☐	9-8-92	1000.00
Daniel Hansen 715 West Wright Way Sparks, NV 89431	Hansen Enterprises President AGGREGATE YEAR-TO-DATE 350.00 RECEIPT FOR: Primary ☒ General ☐	9-5-92	100.00
Oliver Hansen 739 - Sixteenth Street Sparks, NV 89431	none retired AGGREGATE YEAR-TO-DATE 1150 RECEIPT FOR: Primary ☒ General ☐	9-14-92	500.00
Ronald G. Linder P.O. Box 2011 Milwaukee, WI 53201	Advance Transportation Co. Executive AGGREGATE YEAR-TO-DATE 450.00 RECEIPT FOR: Primary ☒ General ☐	9-17-92	100.00
Lucille Lusk 6624 Celeste Las Vegas, NV 89107	Vegas Coalition of Concealed Executive AGGREGATE YEAR-TO-DATE 260.00 RECEIPT FOR: Primary ☒ General ☐	9-1-92	10.00
Verla Mayfield 301 McIlrath Laurel, IA 50141	none Homemaker AGGREGATE YEAR-TO-DATE 905.00 RECEIPT FOR: Primary ☒ General ☐	9-1-92 9-14-92	200.00 200.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			2860.00
TOTAL THIS PERIOD (last page this line number only)			

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19 12 PRE-GENERAL REPORT
ATTACHMENT 4E

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

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PAGE 5 OF 6

LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Verla Maxfield 301 McIlrath Laurel, IA 50141	none Homemaker 1155.00 Primary ☒ General ☐	10-12-92	250.00
Andrew Moehlenbrock 121 Mustang Circle Simpsonville, SC 29681	info requested 250.00 Primary ☒ General ☐	10-13-92	100.00
James D Mosby 300 Country Way Drive North Cordova, TN 38018	Federal Express Corporation 300.00 Primary ☒ General ☐	10-5-92	100.00
John M. Pafford 1016 West Park Drive Midland, MI 48640	Northwood Institute professor 1200.00 Primary ☒ General ☐	10-9-92	100.00
Lowell T. Patterson 1408 Highland Avenue Cinnaminson, NJ 08077	ABBA Pregnancy Center director 350.00 Primary ☒ General ☐	10-9-92	250.00
Mary C. Rohe P.O. Box 109 Hunt, TX 78024	none Homemaker 1100.00 Primary ☒ General ☐	10-8-92	150.00
Ralph Russi 3709 East Cleveland Blvd Caldwell, ID 83605	none retired 1050.00 Primary ☒ General ☐	10-9-92	50.00
Rollin Stevens Route 1, Box 1122 Brewer, ME 04412	self-employed attorney 250.00 Primary ☒ General ☐	10-5-92	250.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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1992 [illegible] DAILY POST-GENERAL REPORT
ATTACHMENT 4F

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ITEMIZED RECEIPTS

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PAGE 6 OF [illegible] 10
LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME ADDRESS CITY STATE ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Fred T. Lanaus 7775 Leaington Lane, #72 St Paul, MN 55118	none retired $700.00 Primary ☒ General ☐	11-5-92 11-9-92	500 500 00
Julie Lauer Leonard 7631 Park Lane Dallas, TX 75225	none retired $600.00 Primary ☒ General ☐	10-21-92 11-5-92	500.00 100 00
Robert M. Lay 5323 Valerie Bellaire, TX 77401	none retired $275.00 Primary ☒ General ☐	10-30-92	25.00
Lucille Lisk 6624 Celeste Avenue Las Vegas, NV 89107	L.V.C.C.C. executive $270.00 Primary ☒ General ☐	10-21-92	$10.00
Stephen Martin 56 Depot Street Livermore Falls, ME 04254	P Clayton & Sons sales $325.00 Primary ☒ General ☐	11-3-92	$25.00
Verla Mayfield 301 McIlrath Lawel, IA 50141	none retired $1905 Primary ☒ General ☐	10-28-92 11-2-92 11-3-92 11-5-92 11-19-92	$150 00 $100 00 $100 00 $300 00 $100 00
Jack McLain P.O. Box 450 Mahwah, NJ 07430	self-employed Lift Gate Publish $350.00 Primary ☒ General ☐	11-5-92	$350 00
J.F. McLamb P.O. Box 107 Collins, MS 39428	self-employed printer $2250 Primary ☒ General ☐	11-3-92	$100 00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page this line number only)			

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PAGE 1 OF (total pages) 4

LINE NUMBER 17

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
J. Alan Dickson Box 118 Hamilton, VA 22068	information requested OCCUPATION AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-2-92	250.00
W.H. Woods 8055 Cinnabar Drive La Mesa, CA 91941	retired OCCUPATION AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-3-92	250.00
L.R. Fortier 1529 E. Bay Shore Drive Virginia Beach, VA 23451	Teren Co, Inc. OCCUPATION: consultant AGGREGATE YEAR TO DATE: 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Robert L. Carpenter P.O. Box 375 Coffeeville, KS 67337	self-employed OCCUPATION AGGREGATE YEAR TO DATE: 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Stephen C. Grimes 11006 Rye Hill Road, Sa[illegible] Fort Smith, AR 72901	self-employed OCCUPATION: M.D. AGGREGATE YEAR TO DATE: 1000.00 RECEIPT FOR: Primary	4-6-92	1000.00
Robert F. Talbott 7911 South Hosmer, #S-112 Tacoma, WA 98408	retired OCCUPATION AGGREGATE YEAR TO DATE: 300.00 RECEIPT FOR: Primary	4-6-92	100.00
Mrs. Walter H. Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	retired OCCUPATION AGGREGATE YEAR TO DATE: 250.00 RECEIPT FOR: Primary	4-6-92	250.00
Anne M. Sorensen 1720 Adams Avenue Costa Mesa, CA 926260	self-employed OCCUPATION AGGREGATE YEAR TO DATE: 1000.00 RECEIPT FOR: Primary	4-7-92	1000.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			3350.00
TOTAL THIS PERIOD (last page this line number only)			

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SCHEDULE A-P
Federal Election Commission
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ITEMIZED RECEIPTS

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PAGE 2 OF (total pages) 16

LINE NUMBER 17(a)

NAME OF COMMITTEE (in Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE: MONTH, DAY, YEAR	AMOUNT OF EACH RECEIPT THIS PERIOD
Dorothy B. Robinson 6240 CR 214 St. Augustine, FL 32092	none Homemaker 1000.00 ☒ Primary ☐ General	7-7-92	1000.00
Anne Sorensen 1220 Adams Ave Costa Mesa, CA 92626	self-employed 1150.00 ☒ Primary ☐ General	7-7-92	150.00
Ellen J. Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	info. requested $50.00 ☒ Primary ☐ General	7-7-92	200.00
W.H Woods 8055 Cinnabar Drive La Mesa, CA 91941	none retired 300.00 ☒ Primary ☐ General	7-7-92	50.00
Robert F. Talbott 7911 South Hosmer, #0-732 Tacoma, WA 98408	none retired 500.00 ☒ Primary ☐ General	7-8-92	100.00
Teresa F. Courtney 1434 Bartram Road Jacksonville, FL 32207	n/a retired 300.00 ☒ Primary ☐ General	7-10-92	50.00
Ellen Van Buskirk 430 Adelaide Santa Monica, CA 90402	none retired 750.00 ☒ Primary ☐ General	7-10-92	200.00
Carolyn Gay Howell Route 2, Box 27 Hertford, NC 27944	Perquimans Bd of Edu teacher 390.00 ☒ Primary ☐ General	7-13-92	10.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			1760.00
TOTAL THIS PERIOD (last page this line number only)			

19 MAY MONTHLY REPORT
ATTACHMENT 6A

SCHEDULE A-P

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PAGE NUMBER 1 | 4

LINE NUMBER 17

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR TO DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
J. Allan Dickson Box 118 Hamilton, VA 22068	information requested AGGREGATE YEAR TO DATE 250.00 RECEIPT FOR: Primary	4-2-92	250.00
W.H. Woods 8055 Cinnabar Drive La Mesa, CA 91941	retired AGGREGATE YEAR TO DATE 250.00 RECEIPT FOR: Primary	4-3-92	250.00
L.R. Fortier 1529 E. Bay Shore Drive Virginia Beach, VA 23451	Teren Co, Inc. consultant AGGREGATE YEAR TO DATE 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Robert L. Carpenter P.O. Box 375 Coffeeville, KS 67337	self-employed AGGREGATE YEAR TO DATE 350.00 RECEIPT FOR: Primary	4-6-92	250.00
Stephen C. Graves 11006 Rye Hill Road, Sant Fort Smith, AR 72901	self-employed M.D. AGGREGATE YEAR TO DATE 1000.00 RECEIPT FOR: Primary	4-6-92	1000.00
Robert F. Talbott 7911 South Hosmer, #S-112 Tacoma, WA 98408	retired AGGREGATE YEAR TO DATE 300.00 RECEIPT FOR: Primary	4-6-92	100.00
Mrs. Walter H. Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	retired AGGREGATE YEAR TO DATE 250.00 RECEIPT FOR: Primary	4-6-92	250.00
Anne M. Sorensen 1720 Adams Avenue Costa Mesa, CA 92626	self-employed AGGREGATE YEAR TO DATE 1000.00 RECEIPT FOR: Primary	4-7-92	1000.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			3350.00
TOTAL THIS PERIOD (last page this line number only)			

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PAGE 2 OF (total pages) 16

LINE NUMBER 17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Dorothy B. Robinson 6240 CR 214 St. Augustine, FL 32092	none / homemaker / 1000.00 / Primary	7-7-92	1000.00
Anne Sorensen 1220 Adams Avenue Costa Mesa, CA 92626	self-employed / — / 1150.00 / Primary	7-7-92	150.00
Ellen J. Van Bokirk 430 Adelaide Drive Santa Monica, CA 90402	info. requested / — / $50.00 / Primary	7-7-92	200.00
W.H. Woods 8055 Cinnabar Drive La Mesa, CA 91941	none / retired / 300.00 / Primary	7-7-92	50.00
Robert F. Talbott 7911 South Hosmer, #D-132 Tacoma, WA 98408	none / retired / 500.00 / Primary	7-8-92	100.00
Teresa F. Courtney 1939 Bartram Road Jacksonville, FL 32207	none / retired / 300.00 / Primary	7-10-92	50.00
Ellen Van Bustirk 430 Adelaide Santa Monica, CA 90402	none / retired / 750.00 / Primary	7-10-92	200.00
Carolyn Gay Howell Route 2, Box 27 Hertford, NC 27944	Perquimans Bd of Edn / teacher / 390.00 / Primary	7-13-92	10.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			1760.00
TOTAL THIS PERIOD (last page this line number only)			

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ITEMIZED RECEIPTS

12 SEPTEMBER MONTHLY REPORT
ATTACHMENT 6C

of the Detailed Summary Page	LINE NUMBER
	17(a)

NAME OF COMMITTEE (In Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Mrs. N.A. Toalson P.O. Box 0014 Centralia, MO 65240	info. requested AGGREGATE YEAR-TO-DATE: 300.00	8-26-92	100.00
Ellen Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	none retired AGGREGATE YEAR-TO-DATE: 1050.00	8-12-92	500.00
Dan W. Wess 222 West Roosevelt West Memphis, AR 72301	info requested AGGREGATE YEAR-TO-DATE: 450.00	8-26-92	250.00
Harvey Weeks P.O. Box 1026 Long Beach, WA 98631	info. requested AGGREGATE YEAR-TO-DATE: 235.00	8-28-92	50.00
Richard Westerman 4830 Fullcrest Drive Sarasota, FL 34233	none retired AGGREGATE YEAR-TO-DATE: 625.00	8-26-92	125.00
David B. Westrate 6101 Northshore Drive Eau Claire, WI 54703	info. requested AGGREGATE YEAR-TO-DATE: 225.00	8-5-92	100.00
Francis C. Wilson 328 Maple Avenue, #3 Waukesha, WI 53186	info. requested AGGREGATE YEAR-TO-DATE: 280.00	8-25-92	100.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			1225.00
TOTAL THIS PERIOD (last page this line number only)			13,530

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SCHEDULE A-P
Federal Election Commission
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Washington, D.C. 20463

ITEMIZED RECEIPTS

1992 12 DAY PRE-GENERAL REPORT
ATTACHMENT 6D

Page number of the detailed summary page | LINE NUMBER: 17(a)

NAME OF COMMITTEE (In Full): Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE / RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Kay Stroh 502 East First Street Indianola, IA 50125	Heather Manor nurse 620.00 X Primary	10-13-92	200.00
David F. Swan, Jr. 531 Desoto Avenue Camarillo, CA 93010	self-employed 850.00 X Primary	10-9-92	100.00
Bethany Tan 1200 Ridgate Avenue, #1A Norfolk, VA 23507	none student 250.00 X Primary	10-5-92	250.00
Gerald E. Thibodeau 913 Essex Street Bangor, ME 04401	self-employed C.P.A. 250.00 X Primary	10-5-92	250.00
Ellen Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	none retired 1750.00 X Primary	10-7-92	500.00
James H. Ware, Jr. 1512 South Woodhaven Drive Baton Rouge, LA 70815	self-employed manufacturers rep. 585.00 X Primary	10-8-92	20.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)			
TOTAL THIS PERIOD (last page only)			11,887.00

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1992 YEAR END REPORT
ATTACHMENT 6E

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LINE NUMBER 17(a)

NAME OF COMMITTEE (in Full)
Taxpayers for Phillips C00259390

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NAME, ADDRESS, CITY, STATE, ZIP CODE	NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE	RECEIPT FOR	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH RECEIPT THIS PERIOD
Richard R. Swenson 841 Foster Road Napa, CA 94558	none / retired / 314.00	Primary / General	12-01-92 12-15-92	100.00 100.00
Robert F. Talbott 7911 South Hosmer, #D-132 Tacoma, WA 98408	none / retired / 1,000.00	Primary [X] / General	12-07-92	100.00
Val L. Tennent 700 Front Street, #2005 San Diego, CA 92101	none / retired / 205.00	Primary / General [X]	12-03-92 12-29-92	25.00 25.00
Richard J. Titus R.R. 2, Box 328A Hardy, AR 72542	none / retired / 235.00	Primary / General [X]	12-15-92	35.00
Mrs. Nathan A. Toalson P.O. Box 0014 Centralia, MO 65240	none / homemaker / 430.00	Primary [X] / General	12-15-92	30.00
Ellen J. Van Buskirk 430 Adelaide Drive Santa Monica, CA 90402	none / retired / 1,700.00	Primary / General [X]	12-01-92	450.00
Lawrence Van Someren 9646 West 196th Street Mokena, IL 60448	none / retired / 2,000.00	Primary / General [X]	12-15-92	1,000.00
Delbert E. Wagner 4654 Calle De Retiro Oceanside, CA 92057	none / retired / 230.00	Primary [X] / General	11-30-92 12-15-92	30.00 50.00
SUBTOTAL OF RECEIPTS THIS PAGE (optional)				
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COMMISSION
SECRETARIAT

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral: #93L-42
STAFF MEMBER: Tamara Kapper

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

RESPONDENTS: Taxpayers for Phillips and Elizabeth A. Lants, as treasurer
Stephen C. Graves

RELEVANT STATUTES:
2 U.S.C. § 432(e)(1)
2 U.S.C. § 432(e)(3)(A)
2 U.S.C. § 434(b)(5)(E)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(3)
2 U.S.C. § 441a(a)(7)(C)
2 U.S.C. § 441a(f)
11 C.F.R. § 101.1(a)
11 C.F.R. § 103.3(b)(3)
11 C.F.R. § 103.4
11 C.F.R. § 110.1(b)
11 C.F.R. § 110.8(f)(1)
11 C.F.R. § 9002.1

INTERNAL REPORTS CHECKED: Referral Material
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Office of the General Counsel received a referral from the Reports Analysis Division ("RAD") on June 14, 1993. Attachment 1. The basis for the referral is the receipt of excessive contributions totaling $41,475 by the Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, ("Phillips Committee"). Specifically, the Phillips Committee received apparent excessive contributions totaling $20,150 in connection

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with the 1992 primary election and totaling $21,325 in connection with the 1992 general election.

The Phillips Committee was the principal campaign committee for Howard Phillips' 1992 presidential campaign. According to documents on file with the Commission, Vice Presidential nominees, Stephen C. Graves and Alexander B. Magnus Jr., each filed statements of candidacy indicating his party affiliation with the U.S. Taxpayers Party and designating the Phillips Committee as his principal campaign committee. Dr. Graves was the Vice Presidential nominee in Louisiana and Wyoming[1] and Mr. Magnus was the Vice Presidential nominee in Illinois. Attachments 2 and 3.

The central issue in this referral concerns the amount of contributions a Vice Presidential nominee of a political party may make from his personal funds to the principal campaign committee of his Presidential nominee for the same political party. Of the $41,475 in apparent excessive contributions received by the Phillips Committee, $39,200 was contributed by Vice Presidential nominee, Dr. Graves. The Phillips Committee asserts that Dr. Graves' contributions do not require correction because money contributed by a candidate to his or her principal campaign committee is not subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

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1. The Statement of Candidacy submitted by Dr. Graves indicates that he was the Vice Presidential nominee in Arkansas; however, counsel for Respondents states that Dr. Graves was the Vice Presidential nominee in Louisiana and Wyoming. See Attachment 1, page 9.

Of the remaining $2,275 in excessive contributions received by the Phillips Committee, $200 has been refunded, $1,925 has been reattributed or redesignated, and $150 has not been remedied. It does not appear that the refunds, reattributions and/or redesignations took place within sixty (60) days of the Phillips Committee's receipt.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), states that no person may make a contribution to a candidate for federal office or his or her authorized campaign committee in excess of $1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Individuals are also prohibited from making contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate. 2 U.S.C. § 431(5). The term "authorized committee" is defined as the principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(6). The Act defines the term "national committee" as the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such

9704382160 7

political party at the national level, as determined by the Commission. 2 U.S.C. § 431(14). The term "political party" is defined by the Act as an association, committee or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee or organization. 2 U.S.C. § 431(16).

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A).

"[C]ontributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States." 2 U.S.C. § 441a(a)(7)(C). Further, expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made

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by or on behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1). For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

Pursuant to 2 U.S.C. § 441a(f), candidates and political committees are prohibited from knowingly accepting any contribution from an individual in excess of $1,000 per election. The treasurer of a political committee has the responsibility for determining the legality of all contributions received by the committee. In the case of excessive contributions, the treasurer has sixty (60) days from the date of receipt to refund the contribution or, if possible, to obtain a reattribution or redesignation of the contribution to cure the illegality. 11 C.F.R. §§ 103.3(b)(3) and 110.1(b). Excessive contributions not reattributed or redesignated must be refunded to the contributor within sixty days. 11 C.F.R. § 103.3(b)(3). When a contribution is refunded to the donor, the reporting committee shall disclose on its report the person receiving the refund along with the date and amount of such disbursement. 2 U.S.C. § 434(b)(5)(E).

B. The Facts

RAD's review of the Phillips Committee's reports and responses to inquiries identified excessive contributions

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totaling $41,475 from six (6) individuals.[2] The Phillips Committee reported the receipt of apparent excessive contributions between May 15 and December 8, 1992, and the respective refunds, reattributions or redesignations occurred beyond the sixty day limit, approximately from April through June of 1993.[3]

On August 25, 1992, RAD notified the Phillips Committee about its 1992 June Monthly Report and an apparent excessive contribution totaling $10,000 from Stephen C. Graves. The notification letter pointed out that the committee should refund to the donor the amount of the contribution in excess of $1,000. Id., pages 7 and 8. The Phillips Committee responded to RAD's letter on September 9, 1992, and asserted that Dr. Graves' $10,000 contribution is permissible.

> Dr. Graves has informed the Federal Election Commission that he is the Vice-Presidential running mate of Presidential candidate Howard Phillips in the states of Wyoming and Louisiana. He has designated Taxpayers for Phillips as his principal campaign committee, as permitted by the Federal Election Commission's regulations. The regulations provide that an individual may contribute unlimited amounts to his principal campaign committee. For this

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2. A chart of the contributions and the Phillips Committee's remedial action with regard to the contributions was prepared by RAD and is attached. See Attachment 1 at page 37.

3. In the attached chart prepared by RAD, the date of reattribution and/or redesignation for four (4) of the contributions is listed as "unknown". On April 15, 1993, the Phillips Committee submitted a letter detailing the remedial action taken for each of the contributions, but no dates were provided as to when the remedial action took place. Attachment 1, page 34.

> reason we believe that the $10,000 contribution reported on the FEC report in question is wholly appropriate.
>
> It is also our understanding that the Supreme Court, in Buckley v. Valeo, confirmed that individuals should be free to spend their own funds on their own campaigns without limitation and that this is the constitutional principle upon which the statutory exception to the general rule limiting contributions to $1,000 per election is based....

Id., page 9.

Further, following a telephone conversation with RAD on September 10, 1992, the Phillips Committee submitted an additional response which argued that the Vice Presidential nominee's $10,000 contribution was permissible pursuant to 11 C.F.R. § 103.4. Id., page 11. This regulation provides that "[a]ny campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President." Because Taxpayers for Phillips was the designated campaign depository of Howard Phillips, the Phillips Committee contended that "under this regulation it is also an appropriate campaign depository for Ste[ph]en Graves." Id.

The Phillips Committee further argued that because "'...candidates for federal office may make unlimited expenditures from personal funds,'" under 11 C.F.R. § 110.10, it follows that "...a contribution by Ste[ph]en Graves to any of his authorized committees is appropriate in any amount." Id., pages 11 and 12. As additional support, they cited 11 C.F.R.

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§ 9002.1, which provides in pertinent part that if a political party has nominated a Presidential and Vice Presidential candidate, all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate. Id., page 12.

On November 17, 1992, RAD sent the Phillips Committee two (2) letters regarding its 1992 August and October Monthly Reports. Id., pages 18-23. The letters note that the Phillips Committee received two excessive contributions from Dr. Graves and instructed the Phillips Committee to refund the contributions. In response to the letters from RAD, the Phillips Committee reaffirmed its legal position and proposed a solution:

> We propose the following solution. Dr. Graves sets up an authorized committee (which he could have done previously), gives to this committee an amount equal to his previous contributions to Taxpayers for Phillips, and then this committee transfers the same amount to Taxpayers for Phillips, which would be reimbursement for the funds expended (or, in effect, advanced) by Taxpayers for Phillips for activities the Graves committee would have done anyway.

Id., pages 24 and 25.

On December 10, 1992, RAD sent the Phillips Committee a letter rejecting the Phillips Committee's proposal because such action "[would] not negate the excessive contribution violation." The letter also noted the receipt of additional excessive contributions from two (2) other individuals.

On March 31, 1993, RAD sent the Phillips Committee two letters regarding its 1992 30 Day Post-General and Year End

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Reports. Id., pages 29-33. The letters noted the receipt of excessive contributions from individuals and instructed the Phillips Committee either to refund the excessive portions or request that the donor redesignate and/or reattribute the contributions in writing. On April 15, 1993, the Phillips Committee submitted a response outlining the disposition of the six apparent excessive contributions contained in those reports. It did not address the contributions received from Dr. Graves. Id., page 34.

Finally, on April 22, 1993, RAD sent the Phillips Committee a letter inquiring about the contributions from Dr. Graves. Id., page 35. In response to the letter from RAD, on April 23, 1993, the Phillips Committee stated:

> Contributions from Dr. Graves are not excessive, by reason of the fact that Taxpayers For Phillips is and has been the principal campaign committee for Dr. Graves in his capacity as a vice presidential running mate with presidential candidate Howard Phillips during the 1992 campaign.
>
> A copy of Dr. Graves' filing, designating Taxpayers for Phillips as his principal campaign committee, is enclosed.
>
> As the Supreme Court has ruled, there is no limit on the amount of contributions which may be expended by candidates through and [on] behalf of their own campaign committees.

Id., page 36.

C. The Analysis

The Phillips Committee contends that, as a candidate for Federal office, Dr. Graves was permitted to make unlimited contributions to his designated principal campaign committee.

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Therefore, the Phillips Committee argues that the $39,200 in contributions Dr. Graves gave to his principal campaign committee, the Phillips Committee, were permissible. As discussed above, in support of its position, the Phillips Committee cites Buckley v. Valeo, 424 U.S. 1 (1976), and various statutory and regulatory provisions.

This Office believes the Phillips Committee's position regarding Dr. Graves' contributions is colorable, but based upon a misguided interpretation of the Act and the Commission's Regulations. The Phillips Committee's contention that their actions were permissible relies heavily on their interpretation of 11 C.F.R. § 110.10(a) in conjunction with 11 C.F.R. § 9002.1.

As a preliminary matter, the Commission deemed the Phillips Committee ineligible to receive public funding; therefore, their reliance on 11 C.F.R. § 9002.1 is inappropriate. Further, while it is true that under 11 C.F.R. § 110.10(a) candidates for Federal office are permitted to make unlimited expenditures from their personal funds to their own campaigns, 2 U.S.C. § 441a(a)(7)(C) overrides this provision in the case of a candidate for the office of Vice President because his or her campaign is not separate from the presidential candidate's campaign. In other words, unlike all other candidates for Federal office, the Vice Presidential nominee does not have his or her own campaign.

As, in fact, 2 U.S.C. § 441a(a)(7)(C) provides, contributions made to the Vice Presidential nominee are deemed

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to be contributions made to the Presidential nominee.[4] This is why the Act specifically excludes the Vice Presidential nominee of a political party from the requirement of designating a principal campaign committee because the election to the office of Vice President is not separate, but subsumed by the election to the office of President. 2 U.S.C. § 432(e)(1) and 11 C.F.R. § 101.1(a).[5] The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. Consequently, because the Vice Presidential nominee is not contributing to his or her own campaign but, in actuality, to the Presidential candidate's campaign, the Vice Presidential nominee is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A). Accordingly, a Vice Presidential nominee can only contribute $1,000 per election to the Presidential candidate's campaign.

Further, even if a Vice Presidential candidate designated his or her own principal campaign committee, it would still be

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4. Similarly, expenditures made by or on behalf of any candidate for the office of the Vice President shall be considered to be expenditures made by or on behalf of the candidate of such party to the office of the President. 2 U.S.C. § 441a(b)(2)(A).

5. In addition, 2 U.S.C. § 432(e)(3)(A)(i) clearly states that no political committee which supports more than one candidate may be designated as an authorized committee except that the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee.

identified with the Presidential candidate's campaign.[6] For example, in Advisory Opinion ("AO") 1992-31, the Commission advised the LaRouche for Economic Recovery that because the Vice Presidential candidate was not a political party's nominee, he would be required under the Act to file a statement of candidacy and designate a principal campaign committee, separate from the Presidential candidate. See AO 1992-31 at page 11,840. The Commission advised, however, that because the Presidential and Vice Presidential candidates -- although independent -- were running a unified campaign, their respective principal campaign committees (as well as any other authorized committees of either candidate) should be considered as affiliated committees for purposes of the contribution limitations. Id. at page 11,841.

In the present case, unlike the Vice Presidential candidate in AO 1992-31, Dr. Graves was a political party's nominee. In AO 1992-44, the Commission acknowledged the U.S. Taxpayers Party ("USTP") as a political party for purposes of the Act. The specific focus in AO 1992-44 was whether the National Committee of U.S. Taxpayers Party qualified as a "national committee" of a political party. The Commission concluded that the USTP qualified as a political party, but did not qualify for national committee status because its activity was "not sufficiently

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6. While the Act does not require a Vice Presidential candidate to designate his or her own principal campaign committee, the Act does not preclude a Vice Presidential candidate from designating his or her own campaign committee either.

national" yet.[7] Id. at page 11,879. Consequently, because Dr. Graves was a Vice Presidential nominee of a recognized political party, he did not have to designate a principal campaign committee separate from the Presidential candidate. 2 U.S.C. § 432(e)(1); AO 1992-31.

As previously mentioned, in response to a RAD inquiry the Phillips Committee proposed to remedy the violation by having Dr. Graves form an authorized committee separate from the Phillips Committee. The Phillips Committee further proposed that Dr. Graves contribute the same amount to his authorized committee and transfer the funds to its affiliate, the Phillips Committee. See Attachment 1, pages 24 and 25. This approach, however, would still have been in violation of 2 U.S.C. § 441a(a)(1)(A). In AO 1992-31, the Commission addressed the issue of the Presidential and Vice Presidential candidates running separate committees and determined that although the two committees were separate, they were considered to be affiliated. Thus, they would share the contribution limitations of 2 U.S.C. § 441a, and Dr. Graves would still have been limited to contributing $1,000 to his authorized committee.

In light of the above, it appears that Dr. Graves was able to designate the the Phillips Committee as his principal campaign committee because he was nominated by USTP, a political

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7. Thus, the USTP and U.S. Taxpayers Party could not, inter alia, accept contributions for its Federal account in amount greater than $5,000 per year, per donor. Id. at page 11,879.

party, as a Vice Presidential candidate.[8] However, his contribution limitation to the Phillips Committee was, like any other individual, limited to $1,000 per election. Because Dr. Graves made contributions totaling $41,200 to the Phillips Committee -- exceeding his contribution limit by $39,200, -- this Office recommends the Commission find reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(1)(A). Further, Dr. Graves' $41,200 in contributions to the Phillips Committee also exceeded his annual $25,000 contribution limit for the 1992 calendar year by $16,200, in violation of 2 U.S.C. § 441a(a)(3). Therefore, this Office also recommends that the Commission find reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(3).

In addition to the $39,200 in excessive contributions from Dr. Graves, the Phillips Committee also received apparent

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8. A troublesome issue, but not one which requires resolution in this case, is the nomination of multiple Vice Presidential nominees. Currently, there are no regulations that prohibit political parties from nominating more than one Vice Presidential nominee. As previously noted, Alexander B. Magnus, Jr. also filed a statement of candidacy with the Commission designating the Phillips Committee as his principal campaign committee in seeking the office of the Vice President in the state of Illinois. AO 1992-44 noted in a footnote that the USTP nominated Robert Tisch as its Vice Presidential candidate for the state of Michigan. Dr. Graves was nominated as USTP's Vice Presidential candidate in either the states of Louisiana and Wyoming or Arkansas, and Albion W. Knight was nominated to serve as USTP's Vice Presidential candidate in the remaining states. Thus, there were a total of four (4) Vice Presidential candidates, at least three (3) of whom were nominated by the USTP and could potentially use the Phillips Committee as their principal campaign committee. According to Commission records, Dr. Graves was the only Vice Presidential nominee who contributed his personal funds to the Phillips Committee.

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excessive contributions from five (5) other individuals totaling $2,275. See Attachment 1, page 37. The Phillips Committee refunded, reattributed and/or redesignated $2,125 of the contributions, although not within sixty (60) days of their receipt. Consequently, there is a total balance of $39,350 in excessive contributions that requires remedy. Therefore, this Office recommends that the Commission find reason to believe the Phillips Committee violated 2 U.S.C. § 441a(f).

III. DISCUSSION OF CONCILIATION PROVISIONS

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III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that Stephen C. Graves violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).

3. Find reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. § 441a(f).

4. Approve the attached Factual and Legal analyses, proposed conciliation agreements and the appropriate letters. Attachments 5 and 6.

7/29/94
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Referral Materials
2. Graves' Statement of Candidacy dated 5/20/92
3. Magnus' Statement of Candidacy dated 5/22/92
4. Schedule A Disclosing Refund
5. Proposed Factual and Legal Analyses (2)
6. Proposed Conciliation Agreements (2)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: AUGUST 4, 1994

SUBJECT: RAD REFERRAL #93L-42 - FIRST GENERAL COUNSEL'S REPORT DATED JULY 29, 1994.

The above-captioned document was circulated to the Commission on Monday, August 1, 1994 at 4:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, August 9, 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	)	
	)	RAD Referral
Taxpayers for Phillips and	)	#93L-42
Elizabeth A. Lants, as treasurer;	)	
Stephen C. Graves	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on August 9, 1994, do hereby certify that the Commission decided by a vote of 6-0 to refer the July 29, 1994 report on RAD Referral #93L-42 back to the Office of General Counsel to redraft the proposed Factual and Legal Analyses to address the pre-nominating convention contributions according to the meeting discussion of August 9, 1994.

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

Attest:

8-11-94
Date

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

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COMMISSION
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	RAD Referral 93L-42
Taxpayers for Phillips and	)	
Elizabeth A. Lants, as treasurer	)	
Stephen C. Graves	)	**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

The Office of the General Counsel received a referral from the Reports Analysis Division ("RAD") on June 14, 1993. Attachment 1. The basis for the referral is the receipt of excessive contributions totaling $41,475 by the Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, ("Phillips Committee"). Specifically, the Phillips Committee received apparent excessive contributions totaling $20,150 in connection with the 1992 Primary election and totaling $21,325 in connection with the 1992 General election.

In its review of the First General Counsel's Report in this matter, the Commission raised certain issues concerning the Primary election contributions. The Commission then referred this matter back to the Office of the General Counsel "to address the pre-nominating convention contributions" in accordance with the Commission's discussion at the executive session. This report addresses the issues raised concerning the Primary election contributions and includes the original recommendations concerning the General election contributions.

The Phillips Committee was the principal campaign committee for Howard Phillips' 1992 Presidential campaign. According to

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documents on file with the Commission, Vice Presidential candidates, Stephen C. Graves and Alexander B. Magnus Jr., each filed statements of candidacy indicating his party affiliation with the U.S. Taxpayers Party ("USTP") and designating the Phillips Committee as his principal campaign committee. Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming[1] and Mr. Magnus was the Vice Presidential candidate in Illinois. Attachments 2 and 3. Both candidates designated the Phillips Committee as their principal campaign committee before either had been nominated for the office of Vice President.

The central issues in this referral concern: (1) whether a candidate for Vice President, prior to being nominated for the office of Vice President, can designate his party's Presidential candidate's committee as his or her principal campaign committee; and (2) the amount of contributions a Vice Presidential nominee of a political party may make from his or her personal funds to the principal campaign committee of the Presidential nominee for the same political party. Of the $41,475 in apparent excessive contributions received by the Phillips Committee, $39,200 was contributed by Vice Presidential candidate, and later nominee, Dr. Graves.[2] The Phillips Committee asserts that Dr. Graves'

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1. The Statement of Candidacy submitted by Dr. Graves indicates that he was the Vice Presidential candidate in Arkansas; however, counsel for Respondents states that Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming. See Attachment 1, page 9.

2. According to Commission records, Dr. Graves was the only Vice Presidential nominee who contributed his personal funds to the Phillips Committee.

contributions do not require correction because money contributed by a candidate to his or her principal campaign committee is not subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

Of the remaining $2,275 in excessive contributions received by the Phillips Committee, $200 has been refunded, Attachment 4, $1,925 has been reattributed or redesignated, and $150 has not been remedied. It does not appear that the refunds, reattributions and/or redesignations took place within sixty (60) days of the Phillips Committee's receipt.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), states that no person may make a contribution to a candidate for Federal office or his or her authorized campaign committee in excess of $1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Individuals are also prohibited from making contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate. 2 U.S.C. § 431(5). The term "authorized committee" is defined as the principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(6). The Act defines the term "national committee" as the organization

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which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission. 2 U.S.C. § 431(14). The term "political party" is defined by the Act as an association, committee or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee or organization. 2 U.S.C. § 431(16).

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A). The name of each authorized committee shall include the name of the candidate who authorized such committee. 2 U.S.C. § 432(e)(4).

"[C]ontributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States." 2 U.S.C. § 441a(a)(7)(C). Further, expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States

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shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1). For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

Pursuant to 2 U.S.C. § 441a(f), candidates and political committees are prohibited from knowingly accepting any contribution from an individual in excess of $1,000 per election. The treasurer of a political committee has the responsibility for determining the legality of all contributions received by the committee. In the case of excessive contributions, the treasurer has sixty (60) days from the date of receipt to refund the contribution or, if possible, to obtain a reattribution or redesignation of the contribution to cure the illegality. 11 C.F.R. §§ 103.3(b)(3) and 110.1(b). Excessive contributions not reattributed or redesignated must be refunded to the contributor within sixty days. 11 C.F.R. § 103.3(b)(3). When a contribution is refunded to the donor, the reporting committee shall disclose on its report the person receiving the refund along with the date and amount of such disbursement. 2 U.S.C. § 434(b)(5)(E).

B. The Facts

RAD's review of the Phillips Committee's reports and responses to inquiries identified excessive contributions totaling

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$41,475 from six (6) individuals.[3] The Phillips Committee reported the receipt of apparent excessive contributions between May 15 and December 8, 1992, and the respective refunds, reattributions or redesignations occurred approximately from April through June of 1993.[4]

On August 25, 1992, RAD notified the Phillips Committee about its 1992 June Monthly Report and an apparent excessive contribution totaling $10,000 from Stephen C. Graves. The notification letter pointed out that the committee should refund to the donor the amount of the contribution in excess of $1,000. Id., pages 7 and 8. The Phillips Committee responded to RAD's letter on September 9, 1992, and asserted that Dr. Graves' $10,000 contribution was permissible.

> Dr. Graves has informed the Federal Election Commission that he is the Vice-Presidential running mate of Presidential candidate Howard Phillips in the states of Wyoming and Louisiana. He has designated Taxpayers for Phillips as his principal campaign committee, as permitted by the Federal Election Commission's regulations. The regulations provide that an individual may contribute unlimited amounts to his principal campaign committee. For this reason we believe that the $10,000 contribution reported on the FEC report in question is wholly appropriate.

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3. A chart of the contributions and the Phillips Committee's remedial action with regard to the contributions was prepared by RAD and is attached. See Attachment 1 at page 37.

4. In the attached chart prepared by RAD, the date of reattribution and/or redesignation for four (4) of the contributions is listed as "unknown". On April 15, 1993, the Phillips Committee submitted a letter detailing the remedial action taken for each of the contributions, but no dates were provided as to when the remedial action took place. Attachment 1, page 34.

> It is also our understanding that the Supreme Court, in Buckley v. Valeo, confirmed that individuals should be free to spend their own funds on their own campaigns without limitation and that this is the constitutional principle upon which the statutory exception to the general rule limiting contributions to $1,000 per election is based....

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Further, following a telephone conversation with RAD on September 10, 1992, the Phillips Committee submitted an additional response which argued that the Vice Presidential nominee's $10,000 contribution was permissible pursuant to 11 C.F.R. § 103.4. Id., page 11. This regulation provides that "[a]ny campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President." Because Taxpayers for Phillips was the designated campaign depository of Howard Phillips, the Phillips Committee contended that "under this regulation it is also an appropriate campaign depository for Ste[ph]en Graves." Id.

The Phillips Committee further argued that because "'...candidates for federal office may make unlimited expenditures from personal funds,'" under 11 C.F.R. § 110.10, it follows that "...a contribution by Ste[ph]en Graves to any of his authorized committees is appropriate in any amount." Id., pages 11 and 12. As additional support, they cited 11 C.F.R. § 9002.1, which provides in pertinent part that if a political party has nominated

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a Presidential and Vice Presidential candidate, all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate. Id., page 12.

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> We propose the following solution. Dr. Graves sets up an authorized committee (which he could have done previously), gives to this committee an amount equal to his previous contributions to Taxpayers for Phillips, and then this committee transfers the same amount to Taxpayers for Phillips, which would be reimbursement for the funds expended (or, in effect, advanced) by Taxpayers for Phillips for activities the Graves committee would have done anyway.

Id., pages 24 and 25.

On December 10, 1992, RAD sent the Phillips Committee a letter rejecting the Phillips Committee's proposal because such action "[would] not negate the excessive contribution violation." The letter also noted the receipt of additional excessive contributions from two (2) other individuals. Id., page 26.

On March 31, 1993, RAD sent the Phillips Committee two letters regarding its 1992 30 Day Post-General and Year End

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Reports. Id., pages 29-33. The letters noted the receipt of excessive contributions from individuals and instructed the Phillips Committee either to refund the excessive portions or request that the donor redesignate and/or reattribute the contributions in writing. On April 15, 1993, the Phillips Committee submitted a response outlining the disposition of the six apparent excessive contributions contained in those reports. It did not address the contributions received from Dr. Graves. Id., page 34.

Finally, on April 22, 1993, RAD sent the Phillips Committee a letter inquiring about the contributions from Dr. Graves. Id., page 35. In response to the letter from RAD, on April 23, 1993, the Phillips Committee stated:

> Contributions from Dr. Graves are not excessive, by reason of the fact that Taxpayers For Phillips is and has been the principal campaign committee for Dr. Graves in his capacity as a vice presidential running mate with presidential candidate Howard Phillips during the 1992 campaign.
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> A copy of Dr. Graves' filing, designating Taxpayers for Phillips as his principal campaign committee, is enclosed.
>
> As the Supreme Court has ruled, there is no limit on the amount of contributions which may be expended by candidates through and [on] behalf of their own campaign committees.

Id., page 36.

C. **The Analysis**

Prior to being nominated as the party's candidate for the office of Vice President, a candidate may wage his or her own campaign in order to win the nomination of his or her political

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party. If so, the candidate is required to designate his or her own principal campaign committee to which he or she may contribute unlimited personal funds. At this juncture, the campaign for the nomination for Vice President is independent of the Presidential campaign committee.

Once a candidate wins a party's nomination for the office of Vice President, a nominee to the office of Vice President is no longer waging an independent campaign. The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. In other words, unlike all other candidates for Federal office, the Vice Presidential nominee does not have his or her own campaign. As a result, the Act views nominees for the office of Vice President differently. For example, the Act specifically exempts the Vice Presidential nominee from the requirement -- prescribed for every other Federal candidate -- of designating a principal campaign committee. 2 U.S.C. § 432(e)(1). Correspondingly, because the election to the office of Vice President is not separate, but subsumed by the election to the office of President, the Act deems contributions made to the Vice Presidential nominee to be contributions made to the Presidential nominee.[5] 2 U.S.C. § 441a(a)(7)(C). As a result, when a Vice Presidential nominee contributes personal funds to the campaign,

5. Similarly, expenditures made to or on behalf of the Vice Presidential nominee are deemed to be expenditures made to or on behalf of the Presidential nominee. 11 C.F.R. § 110.8(f)(1).

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the nominee is not contributing to his or her own campaign but, in actuality, to the Presidential candidate's campaign. Consequently, a Vice Presidential nominee is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A) and, accordingly, can only contribute $1,000 per election to the Presidential candidate's campaign. In contrast to a candidate's campaign for the nomination for Vice President, a political party's nominee cannot contribute unlimited personal funds to the Presidential campaign committee.

The Phillips Committee contends that, as a candidate for Federal office, Dr. Graves was permitted to make unlimited contributions to his designated principal campaign committee during both the Primary and General elections. Therefore, the Phillips Committee argues that all of the contributions Dr. Graves gave to his principal campaign committee, the Phillips Committee, were permissible. As discussed above, in support of its position, the Phillips Committee cites Buckley v. Valeo, 424 U.S. 1 (1976), and various statutory and regulatory provisions.

This Office believes the Phillips Committee's position regarding Dr. Graves' contributions is based upon a misguided interpretation of the Act and the Commission's Regulations. The Phillips Committee's contention that their actions were permissible relies heavily on their interpretation of 11 C.F.R. § 110.10(a) in conjunction with 11 C.F.R. § 9002.1. As a preliminary matter, the Commission deemed the Phillips Committee ineligible to receive public funding; therefore, their reliance on 11 C.F.R. § 9002.1 is inappropriate. More importantly though, the

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Phillips Committee's response does not differentiate between a candidate for the nomination for Vice President and a political party's nominee for the office of Vice President. While it is true that under 11 C.F.R. § 110.10(a) candidates for Federal office are permitted to make unlimited expenditures from their personal funds to their own campaigns, as discussed above, 2 U.S.C. § 441a(a)(7)(C) overrides this provision in the case of a Vice Presidential nominee because his or her campaign is not a separate campaign, independent of the presidential candidate's campaign.

With regard to Dr. Graves' own campaign for the nomination, although he should have established his own principal campaign committee while seeking the party nomination for the Vice Presidential position, he did not.[6] 2 U.S.C. § 432(e)(1). Instead, he designated the Phillips Committee as his principal campaign committee which he would not have been permitted to do until he received the political party's nomination for Vice President.

According to records on file with the Commission, Dr. Graves filed his statement of candidacy and designated the Phillips Committee as his principal campaign committee on May 26, 1992. See Attachment 2. However, Dr. Graves was not nominated for the office of Vice President by the USTP until its 1992 national

6. For example, former Vice President Dan Quayle and former Senator Lloyd Bentsen each ran for the Vice Presidential nomination of their respective political parties against other challengers. Accordingly, both candidates formed their own principal campaign committees which included their names in the names of their authorized committees.

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convention which took place on September 4 and 5, 1992. Thus, Dr. Graves was not a nominee for Vice President at the time he designated the Phillips Committee as his principal campaign committee. Since he was not a nominee, he could not designate the Phillips Committee as his principal campaign committee because 2 U.S.C. § 432(e)(1) exempts only Vice Presidential nominees from designating a separate committee.[7] Further, the Act prohibits political committees that support more than one candidate from being designated as an authorized committee, unless it is a national committee being designated by its Presidential nominee as a principal campaign committee.[8] 2 U.S.C. § 432(e)(3)(A)(i).

After being nominated by the USTP, Dr. Graves was then able to designate the Phillips Committee as his principal campaign committee. He was prohibited, however, from making unlimited contributions from his personal funds to the Phillips Committee. As discussed above, as a Vice Presidential nominee, Dr. Graves was not contributing to his own campaign, but to the Presidential

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7. Similarly, Mr. Magnus filed his statement of candidacy and designated the Phillips Committee as his authorized committee on June 1, 1992. See Attachment 3. However, Mr. Magnus was never nominated for the office of Vice President by the USTP; therefore, he could not designate the Phillips Committee as his principal campaign committee. Unlike Dr. Graves, Mr. Magnus made no contributions from his personal funds to the Phillips Committee. This Office makes no recommendations regarding Mr. Magnus.

8. Of note, the Commission concluded that the USTP qualified as a political party, but did not qualify for national committee status because its activity was "not sufficiently national" yet. See Advisory Opinion 1992-44, at page 11,879.

candidate's campaign and, like any other individual, he cannot contribute unlimited personal funds to the Presidential campaign committee. 2 U.S.C. §§ 441a(a)(7)(C) and 441a(a)(1)(A).

As previously mentioned, in response to RAD, the Phillips Committee proposed to remedy the violation by having Dr. Graves form an authorized committee separate from the Phillips Committee. The Phillips Committee further proposed that Dr. Graves contribute the same amount to his authorized committee and transfer the funds to its affiliate, the Phillips Committee. See Attachment 1, pages 24 and 25. This approach, however, would still have been in violation of 2 U.S.C. § 441a(a)(1)(A) after Dr. Graves received the nomination for Vice President because both committees would have been affiliated and thus, would have shared the same contribution and expenditure limitations. See 2 U.S.C. § 441a(a)(5) and 11 C.F.R. § 110.3(a)(1).

Finally, the Act requires the name of each authorized committee to include the name of the candidate who authorized such committee. 2 U.S.C. § 432(e)(4). After receiving the nomination for the office of Vice President, Dr. Graves was able to designate the Phillips Committee as his own authorized committee. However, the Phillips Committee did not include Dr. Graves' name in the name of the committee, as required by 2 U.S.C. § 432(e)(4).

Based on the foregoing, it appears that Dr. Graves failed to designate his own principal campaign committee in his campaign for the nomination to the office of Vice President, in violation of 2 U.S.C. § 432(e)(1). Therefore, this Office recommends that the Commission find reason to believe the Stephen C. Graves violated

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2 U.S.C. § 432(e)(1). Because Dr. Graves' contributions were to the Phillips Committee and not to his own separate campaign committee during the Primary election and because, after he became a Vice Presidential nominee, his contributions to the Presidential campaign were limited to $1,000 per election, he gave excessive contributions to the Phillips Committee in both the Primary and General elections. Dr. Graves made contributions totaling $41,200 to the Phillips Committee, which exceeded his contribution limit by $39,200. Accordingly, this Office recommends the Commission find reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(1)(A). Further, Dr. Graves' $41,200 in contributions to the Phillips Committee also exceeded his annual $25,000 contribution limit for the 1992 calendar year by $16,200, in violation of 2 U.S.C. § 441a(a)(3). Therefore, this Office also recommends that the Commission find reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(3).

In addition to the $39,200 in excessive contributions from Dr. Graves, the Phillips Committee also received apparent excessive contributions from five (5) other individuals totaling $2,275. See Attachment 1, page 37. The Phillips Committee refunded, reattributed and/or redesignated $2,125 of the contributions, although not within sixty (60) days of their receipt. Consequently, there is a total balance of $39,350 in excessive contributions that requires remedy. Therefore, this

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Office recommends that the Commission find reason to believe the Phillips Committee violated 2 U.S.C. § 441a(f).

Finally, after Dr. Graves was nominated by the USTP, he was able to designate the Phillips Committee as his principal campaign committee, as he did. The Phillips Committee, however, failed to include his name in the name of the committee, as required by 2 U.S.C. § 432(e)(4). Therefore, this Office recommends that the Commission find reason to believe that the Phillips Committee violated 2 U.S.C. § 432(e)(4).

III. DISCUSSION OF CONCILIATION PROVISIONS

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III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that Stephen C. Graves violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3).

3. Find reason to believe that Taxpayers for Phillips and Elizabeth A. Lantz, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f).

4. Approve the attached Factual and Legal Analyses, proposed conciliation agreements and the appropriate letters. Attachments 5 and 6.

1/12/95
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Referral Materials
2. Graves' Statement of Candidacy dated 5/20/92
3. Magnus' Statement of Candidacy dated 5/22/92
4. Schedule A Disclosing Refund
5. Proposed Factual and Legal Analyses (2)
6. Proposed Conciliation Agreements (2)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Danny McDonald
Chairman

FROM: Trevor Potter
Commissioner

DATE: January 18, 1995

RE: Request to Holdover RAD Ref. #93L-42

Due to my absence, I hereby request that the January 12, 1995 General Counsel's Report in RAD Ref. #93L-42 be placed on the January 31, 1995 Executive Session Agenda.

TP/slr

cc: Commissioners
Lawrence M. Noble
Marjorie W. Emmons
Delores R. Hardy

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: JANUARY 18, 1995

SUBJECT: RAD REFERRAL #93L-42 - GENERAL COUNSEL'S REPORT DATED 1/12/94.

The above-captioned document was circulated to the Commission on Thursday, January 12, 1995 at 4:00 p.m.

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

Commissioner Aikens		
Commissioner Elliott	XXX	FOR THE RECORD ONLY
Commissioner McDonald		
Commissioner McGarry	XXX	
Commissioner Potter		
Commissioner Thomas		

This matter will be placed on the meeting agenda for Tuesday, January 31, 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	)	
	)	RAD Referral
Taxpayers for Phillips and	)	#93L-42
Elizabeth A. Lants, as treasurer;	)	
Stephen C. Graves	)	MUR 4182

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 31, 1995, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions with respect to RAD Referral #93L-42:

1. Open a MUR.
2. Find reason to believe that Stephen C. Graves violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3).
3. Find reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f).
4. Approve the Factual and Legal Analyses, proposed conciliation agreements and the appropriate letters as recommended in the General Counsel's report dated January 12, 1995.

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

Attest:

1-31-95
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 3, 1995

Dr. Stephen C. Graves
11006 Rye Hill Road, South
Fort Smith, AZ 72901

RE: MUR 4182
Stephen C. Graves

Dear Dr. Graves:

On January 31, 1995, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3), 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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.

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

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

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

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Stephen C. Graves MUR: 4182

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).

A. The Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), states that no person may make a contribution to a candidate for Federal office or his or her authorized campaign committee in excess of $1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Individuals are also prohibited from making contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate. 2 U.S.C. § 431(5). The term "authorized committee" is defined as a principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(6). The Act defines the term "national committee" as the organization which, by virtue of the bylaws of a political

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party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission. 2 U.S.C. § 431(14). The term "political party" is defined by the Act as an association, committee or organization which nominates a candidate for election to any Federal office whose names appears on the election ballot as the candidate of such association, committee or organization. 2 U.S.C. § 431(16).

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A).

Contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States. 2 U.S.C. § 441a(a)(7)(C). Further, expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on

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behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1). For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

B. The Facts

The Reports Analysis Division's ("RAD") review of the Taxpayers for Phillips' ("Phillips Committee") reports and responses to inquiries identified excessive contributions totaling $39,200 from an individual, Dr. Stephen C. Graves, during calendar year 1992. The Phillips Committee reported the receipt of excessive contributions from Dr. Graves totaling $20,000 in connection with the 1992 Primary election. In connection with 1992 General election, the Phillips Committee reported the receipt of excessive contributions totaling $19,200 from Dr. Graves. To date, none of the contributions has been refunded.

The Phillips Committee was the principal campaign committee for Howard Phillips' 1992 Presidential campaign. According to documents on file with the Commission, Vice Presidential candidate, Dr. Graves filed a statement of candidacy indicating his party affiliation with the U.S. Taxpayers Party ("USTP") and designating the Phillips Committee as his principal campaign committee. Dr. Graves was the Vice Presidential candidate in

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Louisiana and Wyoming.[1] Dr. Graves designated the Phillips Committee as his principal campaign committee before he had been nominated for the office of Vice President.

The central issues in this matter concern: (1) whether a candidate for Vice President, prior to being nominated for the office of Vice President, can designate his party's Presidential candidate's committee as his or her principal campaign committee; and (2) the amount of contributions a Vice Presidential nominee of a political party may make from his or her personal funds to the principal campaign committee of the Presidential nominee for the same political party. The Phillips Committee asserts that Dr. Graves' contributions do not require correction because money contributed by a candidate to his or her principal campaign committee is not subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

During the course of reviewing the Phillips Committee's calendar year 1992 disclosure reports, RAD identified the receipt of the following contributions from Dr. Graves:

DATE	AMOUNT	PRIMARY/GENERAL
4/6/92	$ 1,000	P
5/18/92	$10,000	P
7/22/92	$ 5,000	P
9/2/92	$ 5,000	P
9/11/92	$20,000	G
10/28/92	$ 200	G
TOTAL	$41,200	

1. The Statement of Candidacy submitted by Dr. Graves indicates that he was the Vice Presidential candidate in Arkansas; however, counsel for Respondents states that Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming.

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On August 25, 1992, RAD notified the Phillips Committee about its 1992 June Monthly Report and an excessive contribution totaling $10,000 from Dr. Graves. The notification letter pointed out that the committee should refund to the donor the amount of the contribution in excess of $1,000. The Phillips Committee responded to RAD's letter on September 9, 1992, and asserted that Dr. Graves' $10,000 contribution was permissible.

> Dr. Graves has informed the Federal Election Commission that he is the Vice-Presidential running mate of Presidential candidate Howard Phillips in the states of Wyoming and Louisiana. He has designated Taxpayers for Phillips as his principal campaign committee, as permitted by the Federal Election Commission's regulations. The regulations provide that an individual may contribute unlimited amounts to his principal campaign committee. For this reason we believe that the $10,000 contribution reported on the FEC report in question is wholly appropriate.
>
> It is also our understanding that the Supreme Court, in Buckley v. Valeo, confirmed that individuals should be free to spend their own funds on their own campaigns without limitation and that this is the constitutional principle upon which the statutory exception to the general rule limiting contributions to $1,000 per election is based....

Further, following a telephone conversation with RAD on September 10, 1992, the Phillips Committee submitted an additional response which argued that the Vice Presidential nominee's $10,000 contribution was permissible pursuant to 11 C.F.R. § 103.4. This regulation provides that "[a]ny campaign depository designated by the principal campaign committee of a political party's candidate for President shall

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be the campaign depository for that political party's candidate for the office of Vice President." Because Taxpayers for Phillips was the designated campaign depository of Howard Phillips, the Phillips Committee contended that "under this regulation it is also an appropriate campaign depository for Ste[ph]en Graves."

The Phillips Committee further argued that because "'...candidates for federal office may make unlimited expenditures from personal funds,'" under 11 C.F.R. § 110.10, it follows that "...a contribution by Ste[ph]en Graves to any of his authorized committees is appropriate in any amount." As additional support, they cited 11 C.F.R. § 9002.1, which provides in pertinent part, that if a political party has nominated a Presidential and Vice Presidential candidate, all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate.

On November 17, 1992, RAD sent the Phillips Committee two (2) letters regarding its 1992 August and October Monthly Reports. The letters note that the Phillips Committee received two excessive contributions from Dr. Graves and instructed the Phillips Committee to refund the contributions. In response to the letters from RAD, the Phillips Committee reaffirmed its legal position and proposed a solution:

> We propose the following solution. Dr. Graves sets up an authorized committee (which he could have done previously), gives to this committee an amount equal to his previous contributions to Taxpayers for Phillips, and then this committee transfers

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> the same amount to Taxpayers for Phillips, which would be reimbursement for the funds expended (or, in effect, advanced) by Taxpayers for Phillips for activities the Graves committee would have done anyway.

On December 10, 1992, RAD sent the Phillips Committee a letter rejecting the Phillips Committee's proposal because such action "[would] not negate the excessive contribution violation."

On March 31, 1993, RAD sent the Phillips Committee two letters regarding its 1992 30 Day Post-General and Year End Reports. The letters noted the receipt of excessive contributions from individuals and instructed the Phillips Committee either to refund the excessive portions or request that the donor redesignate and/or reattribute the contributions in writing. On April 15, 1993, the Phillips Committee submitted a response outlining the disposition of the excessive contributions contained in those reports. It did not address the contributions received from Dr. Graves. In response to another inquiry from RAD, on April 23, 1993, the Phillips Committee submitted another letter reiterating its position concerning Dr. Graves' contributions.

C. The Analysis

Prior to being nominated as the party's candidate for the office of Vice President, a candidate may wage his or her own campaign in order to win the nomination of his or her political party. If so, the candidate is required to designate his or her own principal campaign committee to which he or she may

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contribute unlimited personal funds. At this juncture, the campaign for the nomination for Vice President is independent of the Presidential campaign committee.

Once a candidate wins a party's nomination for the office of Vice President, a nominee to the office of Vice President is no longer waging an independent campaign. The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. In other words, unlike all other candidates for Federal office, the Vice Presidential nominee does not have his or her own campaign. As a result, the Act views nominees for the office of Vice President differently. For example, the Act specifically exempts the Vice Presidential nominee from the requirement -- prescribed for every other Federal candidate -- of designating a principal campaign committee. 2 U.S.C. § 432(e)(1). Correspondingly, because the election to the office of Vice President is not separate, but subsumed by the election to the office of President, the Act deems contributions made to the Vice Presidential nominee to be contributions made to the Presidential nominee.[2] 2 U.S.C. § 441a(a)(7)(C). As a result, when a Vice Presidential nominee contributes personal funds to the campaign, the nominee is not contributing to his or her own campaign but, in actuality, to the Presidential candidate's campaign. Consequently, a Vice Presidential nominee

2. Similarly, expenditures made to or on behalf of the Vice Presidential nominee are deemed to be expenditures made to or on behalf of the Presidential nominee. 11 C.F.R. § 110.8(f)(1).

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is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A) and, accordingly, can only contribute $1,000 per election to the Presidential candidate's campaign. In contrast to a candidate's campaign for the nomination for Vice President, a political party's nominee cannot contribute unlimited personal funds to the Presidential campaign committee.

The Phillips Committee contends that, as a candidate for Federal office, Dr. Graves was permitted to make unlimited contributions to his designated principal campaign committee during both the Primary and General elections. Therefore, the Phillips Committee argues that all of the contributions Dr. Graves gave to his principal campaign committee, the Phillips Committee, were permissible. In support of its position, the Phillips Committee cites Buckley v. Valeo, 424 U.S. 1 (1976), and various statutory and regulatory provisions.

The Phillips Committee's contention that their actions were permissible relies heavily on their interpretation of 11 C.F.R. § 110.10(a) in conjunction with 11 C.F.R. § 9002.1. As a preliminary matter, the Commission deemed the Phillips Committee ineligible to receive public funding; therefore, their reliance on 11 C.F.R. § 9002.1 is inappropriate. More importantly though, the Phillips Committee's response does not differentiate between a candidate for the nomination for Vice President and a political party's nominee for the office of Vice President. While it is true that under 11 C.F.R. § 110.10(a) candidates for Federal office are permitted to make unlimited expenditures from

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their personal funds to their own campaigns, as discussed above, 2 U.S.C. § 441a(a)(7)(C) overrides this provision in the case of a Vice Presidential nominee because his or her campaign is not a separate campaign, independent of the presidential candidate's campaign.

With regard to Dr. Graves' own campaign for the nomination, although he should have established his own principal campaign committee while seeking the party nomination for the Vice Presidential position, he did not.[3] 2 U.S.C. § 432(e)(1). Instead, he designated the Phillips Committee as his principal campaign committee which he would not have been permitted to do until he received the political party's nomination for Vice President.

According to records on file with the Commission, Dr. Graves filed his statement of candidacy and designated the Phillips Committee as his principal campaign committee on May 26, 1992. However, the USTP did not nominate Dr. Graves for the office of Vice President until its 1992 national convention which convened on September 4 and 5, 1992. Thus, Dr. Graves was not a nominee for Vice President at the time he designated the Phillips Committee as his principal campaign committee. Since he was not a nominee, he could not designate the Phillips Committee as his principal campaign committee because 2 U.S.C.

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3. For example, former Vice President Dan Quayle and former Senator Lloyd Bentsen each ran for the Vice Presidential nomination of their respective political parties against other challengers. Accordingly, both candidates formed their own principal campaign committees which included their names in the names of their authorized committees.

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§ 432(e)(1) exempts only Vice Presidential nominees from designating a separate committee. Further, the Act prohibits political committees that support more than one candidate from being designated as an authorized committee, unless it is a national committee being designated by its Presidential nominee as a principal campaign committee.[4] 2 U.S.C. § 432(e)(3)(A)(i).

After being nominated by the USTP, Dr. Graves was then able to designate the Phillips Committee as his principal campaign committee. He was prohibited, however, from making unlimited contributions from his personal funds to the Phillips Committee. As discussed above, as a Vice Presidential nominee, Dr. Graves was not contributing to his own campaign, but to the Presidential candidate's campaign and, like any other individual, he cannot contribute unlimited personal funds to the Presidential campaign committee. See 2 U.S.C. §§ 441a(a)(7)(C) and 441a(a)(1)(A).

As previously mentioned, in response to RAD, the Phillips Committee proposed to remedy the violation by having Dr. Graves form an authorized committee separate from the Phillips Committee. The Phillips Committee further proposed that Dr. Graves contribute the same amount to his authorized committee and transfer the funds to its affiliate, the Phillips Committee. This approach, however, would still have been in violation of 2 U.S.C. § 441a(a)(1)(A) after Dr. Graves received

4. Of note, the Commission concluded that the USTP qualified as a political party, but did not qualify for national committee status because its activity was "not sufficiently national" yet. See Advisory Opinion 1992-44, at page 11,879.

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the nomination for Vice President because both committees would have been affiliated and thus, would have shared the same contribution and expenditure limitations. See 2 U.S.C. § 441a(a)(5) and 11 C.F.R. § 110.3(a)(1).

Based on the foregoing, it appears that Dr. Graves failed to designate his own principal campaign committee in his campaign for the nomination to the office of Vice President, in violation of 2 U.S.C. § 432(e)(1). Therefore, there is reason to believe that Stephen C. Graves violated 2 U.S.C. § 432(e)(1). Because Dr. Graves' contributions were to the Phillips Committee and not to his own separate campaign committee during the Primary election and because, after he became a Vice Presidential nominee, his contributions to the Presidential campaign were limited to $1,000 per election, he gave excessive contributions to the Phillips Committee in both the Primary and General elections. Dr. Graves made contributions totaling $41,200 to the Phillips Committee, which exceeded his contribution limit by $39,200. Accordingly, there is reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(1)(A). Further, Dr. Graves' $41,200 in contributions to the Phillips Committee also exceeded his annual $25,000 contribution limit for the 1992 calendar year by $16,200, in violation of 2 U.S.C. § 441a(a)(3). Therefore, there is reason to believe that Stephen C. Graves violated 2 U.S.C. § 441a(a)(3).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1995

Elizabeth A. Lants, Treasurer
Taxpayers for Phillips
9520 Bent Creek Lane
Vienna, VA 22182

RE: MUR 4182
Taxpayers for Phillips and
Elizabeth A. Lants, as
treasurer

Dear Ms. Lants:

On January 31, 1995, the Federal Election Commission found that there is reason to believe that Taxpayers for Phillips ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f), 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation

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negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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

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

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

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

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

cc: Howard Phillips

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Taxpayers for Phillips and Elizabeth A. Lants, as treasurer

MUR: 4182

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).

A. The Law

The Federal Election Campaign Act of 1971, as amended (the "Act"), states that no person may make a contribution to a candidate for Federal office or his or her authorized campaign committee in excess of $1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Individuals are also prohibited from making contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate. 2 U.S.C. § 431(5). The term "authorized committee" is defined as the principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C.

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§ 431(6). The Act defines the term "national committee" as the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission. 2 U.S.C. § 431(14). The term "political party" is defined by the Act as an association, committee or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee or organization. 2 U.S.C. § 431(16).

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A). The name of each authorized committee shall include the name of the candidate who authorized such committee. 2 U.S.C. § 432(e)(4).

Contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United

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States. 2 U.S.C. § 441a(a)(7)(C). Further, expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1). For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

Pursuant to 2 U.S.C. § 441a(f), candidates and political committees are prohibited from knowingly accepting any contribution from an individual in excess of $1,000 per election. The treasurer of a political committee has the responsibility for determining the legality of all contributions received by the committee. In the case of excessive contributions, the treasurer has sixty (60) days from the date of receipt to refund the contribution or, if possible, to obtain a reattribution or redesignation of the contribution to cure the illegality. 11 C.F.R. §§ 103.3(b)(3) and 110.1(b). Excessive contributions not reattributed or redesignated must be refunded to the contributor within sixty days. 11 C.F.R. § 103.3(b)(3). When a contribution is refunded to the donor, the reporting committee shall disclose on its report the person receiving the refund along with the date and amount of such disbursement. 2 U.S.C. § 434(b)(5)(E).

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B. The Facts

The Reports Analysis Division's ("RAD") review of the Taxpayers for Phillips' ("Phillips Committee") reports and responses to inquiries identified excessive contributions totaling $41,475 from six (6) individuals. The Phillips Committee reported the receipt of excessive contributions between May 15 and December 8, 1992, and the respective refunds, reattributions or redesignations occurred approximately from April through June of 1993.

The Phillips Committee was the principal campaign committee for Howard Phillips' 1992 Presidential campaign. According to documents on file with the Commission, Vice Presidential candidates, Stephen C. Graves and Alexander B. Magnus Jr., each filed statements of candidacy indicating his party affiliation with the U.S. Taxpayers Party ("USTP") and designating the Phillips Committee as his principal campaign committee. Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming[1] and Mr. Magnus was the Vice Presidential candidate in Illinois. Both candidates designated the Phillips Committee as their principal campaign committee before either had been nominated for the office of Vice President.

The central issues in this matter concern: (1) whether a candidate for Vice President, prior to being nominated for the

1. The Statement of Candidacy submitted by Dr. Graves indicates that he was the Vice Presidential candidate in Arkansas; however, counsel for Respondents states that Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming.

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office of Vice President, can designate his party's Presidential candidate's committee as his or her principal campaign committee; and (2) the amount of contributions a Vice Presidential nominee of a political party may make from his or her personal funds to the principal campaign committee of the Presidential nominee for the same political party. Of the $41,475 in excessive contributions received by the Phillips Committee, $39,200 was contributed by Vice Presidential candidate, and later nominee, Dr. Graves. The Phillips Committee asserts that Dr. Graves' contributions do not require correction because money contributed by a candidate to his or her principal campaign committee is not subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

On August 25, 1992, RAD notified the Phillips Committee about its 1992 June Monthly Report and an excessive contribution totaling $10,000 from Stephen C. Graves. The notification letter pointed out that the committee should refund to the donor the amount of the contribution in excess of $1,000. The Phillips Committee responded to RAD's letter on September 9, 1992, and asserted that Dr. Graves' $10,000 contribution was permissible.

> Dr. Graves has informed the Federal Election Commission that he is the Vice-Presidential running mate of Presidential candidate Howard Phillips in the states of Wyoming and Louisiana. He has designated Taxpayers for Phillips as his principal campaign committee, as permitted by the Federal Election Commission's

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> regulations. The regulations provide that an individual may contribute unlimited amounts to his principal campaign committee. For this reason we believe that the $10,000 contribution reported on the FEC report in question is wholly appropriate.
>
> It is also our understanding that the Supreme Court, in Buckley v. Valeo, confirmed that individuals should be free to spend their own funds on their own campaigns without limitation and that this is the constitutional principle upon which the statutory exception to the general rule limiting contributions to $1,000 per election is based....

Further, following a telephone conversation with RAD on September 10, 1992, the Phillips Committee submitted an additional response which argued that the Vice Presidential nominee's $10,000 contribution was permissible pursuant to 11 C.F.R. § 103.4. This regulation provides that "[a]ny campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President." Because Taxpayers for Phillips was the designated campaign depository of Howard Phillips, the Phillips Committee contended that "under this regulation it is also an appropriate campaign depository for Ste[ph]en Graves."

The Phillips Committee further argued that because "'...candidates for federal office may make unlimited expenditures from personal funds,'" under 11 C.F.R. § 110.10, it follows that "...a contribution by Ste[ph]en Graves to any of his authorized committees is appropriate in any amount." As

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additional support, they cited 11 C.F.R. § 9002.1, which provides in pertinent part, that if a political party has nominated a Presidential and Vice Presidential candidate, all political committees authorized by that party's Presidential candidate shall also be authorized committees of the Vice Presidential candidate.

On November 17, 1992, RAD sent the Phillips Committee two (2) letters regarding its 1992 August and October Monthly Reports. The letters note that the Phillips Committee received two excessive contributions from Dr. Graves and instructed the Phillips Committee to refund the contributions. In response to the letters from RAD, the Phillips Committee reaffirmed its legal position and proposed a solution:

> We propose the following solution. Dr. Graves sets up an authorized committee (which he could have done previously), gives to this committee an amount equal to his previous contributions to Taxpayers for Phillips, and then this committee transfers the same amount to Taxpayers for Phillips, which would be reimbursement for the funds expended (or, in effect, advanced) by Taxpayers for Phillips for activities the Graves committee would have done anyway.

On December 10, 1992, RAD sent the Phillips Committee a letter rejecting the Phillips Committee's proposal because such action "[would] not negate the excessive contribution violation." The letter also noted the receipt of additional excessive contributions from two (2) other individuals.

On March 31, 1993, RAD sent the Phillips Committee two letters regarding its 1992 30 Day Post-General and Year End Reports. The letters noted the receipt of excessive

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contributions from individuals and instructed the Phillips Committee either to refund the excessive portions or request that the donor redesignate and/or reattribute the contributions in writing. On April 15, 1993, the Phillips Committee submitted a response outlining the disposition of the excessive contributions contained in those reports. The letter detailed the remedial action the Phillips Committee took concerning four (4) of the contributions, but provided no dates as to when the actions took place. It did not address the contributions received from Dr. Graves. In response to another inquiry from RAD, on April 23, 1993, the Phillips Committee submitted another letter reiterating its position concerning Dr. Graves' contributions.

The Phillips Committee has refunded or reattributed and/or redesignated $2,125 of the contributions, but failed to do so within sixty days of their receipt. The remaining $39,350 in excessive contributions has not been refunded to the donors.

C. The Analysis

Prior to being nominated as the party's candidate for the office of Vice President, a candidate may wage his or her own campaign in order to win the nomination of his or her political party. If so, the candidate is required to designate his or her own principal campaign committee to which he or she may contribute unlimited personal funds. At this juncture, the campaign for the nomination for Vice President is independent of the Presidential campaign committee.

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Once a candidate wins a party's nomination for the office of Vice President, a nominee to the office of Vice President is no longer waging an independent campaign. The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. In other words, unlike all other candidates for Federal office, the Vice Presidential nominee does not have his or her own campaign. As a result, the Act views nominees for the office of Vice President differently. For example, the Act specifically exempts the Vice Presidential nominee from the requirement -- prescribed for every other Federal candidate -- of designating a principal campaign committee. 2 U.S.C. § 432(e)(1). Correspondingly, because the election to the office of Vice President is not separate, but subsumed by the election to the office of President, the Act deems contributions made to the Vice Presidential nominee to be contributions made to the Presidential nominee.[2] 2 U.S.C. § 441a(a)(7)(C). As a result, when a Vice Presidential nominee contributes personal funds to the campaign, the nominee is not contributing to his or her own campaign but, in actuality, to the Presidential candidate's campaign. Consequently, a Vice Presidential nominee is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A) and, accordingly, can only contribute $1,000 per election to the Presidential candidate's campaign. In contrast

2. Similarly, expenditures made to or on behalf of the Vice Presidential nominee are deemed to be expenditures made to or on behalf of the Presidential nominee. 11 C.F.R. § 110.8(f)(1).

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to a candidate's campaign for the nomination for Vice President, a political party's nominee cannot contribute unlimited personal funds to the Presidential campaign committee.

The Phillips Committee contends that, as a candidate for Federal office, Dr. Graves was permitted to make unlimited contributions to his designated principal campaign committee during both the Primary and General elections. Therefore, the Phillips Committee argues that all of the contributions Dr. Graves gave to his principal campaign committee, the Phillips Committee, were permissible. As discussed above, in support of its position, the Phillips Committee cites Buckley v. Valeo, 424 U.S. 1 (1976), and various statutory and regulatory provisions.

The Phillips Committee's contention that their actions were permissible relies heavily on their interpretation of 11 C.F.R. § 110.10(a) in conjunction with 11 C.F.R. § 9002.1. As a preliminary matter, the Commission deemed the Phillips Committee ineligible to receive public funding; therefore, their reliance on 11 C.F.R. § 9002.1 is inappropriate. More importantly though, the Phillips Committee's response does not differentiate between a candidate for the nomination for Vice President and a political party's nominee for the office of Vice President. While it is true that under 11 C.F.R. § 110.10(a) candidates for Federal office are permitted to make unlimited expenditures from their personal funds to their own campaigns, as discussed above, 2 U.S.C. § 441a(a)(7)(C) overrides this provision in the case of

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a Vice Presidential nominee because his or her campaign is not a separate campaign, independent of the Presidential candidate's campaign.

With regard to Dr. Graves' own campaign for the nomination, although he should have established his own principal campaign committee while seeking the party nomination for the Vice Presidential position, he did not.[3] 2 U.S.C. § 432(e)(1). Instead, he designated the Phillips Committee as his principal campaign committee which he would not have been permitted to do until he received the political party's nomination for Vice President.

According to records on file with the Commission, Dr. Graves filed his statement of candidacy and designated the Phillips Committee as his principal campaign committee on May 26, 1992. However, Dr. Graves was not nominated for the office of Vice President by the USTP until its 1992 national convention which convened on September 4 and 5, 1992. Thus, Dr. Graves was not a nominee for Vice President at the time he designated the Phillips Committee as his principal campaign committee. Since he was not a nominee, he could not designate the Phillips Committee as his principal campaign committee because 2 U.S.C. § 432(e)(1) exempts only Vice Presidential nominees from designating a separate committee. Further, the

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3. For example, former Vice President Dan Quayle and former Senator Lloyd Bentsen each ran for the Vice Presidential nomination of their respective political parties against other challengers. Accordingly, both candidates formed their own principal campaign committees which included their names in the names of their authorized committees.

Act prohibits political committees that support more than one candidate from being designated as an authorized committee, unless it is a national committee being designated by its Presidential nominee as a principal campaign committee.[4] 2 U.S.C. § 432(e)(3)(A)(i).

After being nominated by the USTP, Dr. Graves was then able to designate the Phillips Committee as his principal campaign committee. He was prohibited, however, from making unlimited contributions from his personal funds to the Phillips Committee. As discussed above, as a Vice Presidential nominee, Dr. Graves was not contributing to his own campaign, but to the Presidential candidate's campaign and, like any other individual, he cannot contribute unlimited personal funds to the Presidential campaign committee. 2 U.S.C. §§ 441a(a)(7)(C) and 441a(a)(1)(A).

In response to RAD, the Phillips Committee proposed to remedy the violation by having Dr. Graves form an authorized committee separate from the Phillips Committee. The Phillips Committee further proposed that Dr. Graves contribute the same amount to his authorized committee and transfer the funds to its affiliate, the Phillips Committee. This approach, however, would still have been in violation of 2 U.S.C. § 441a(a)(1)(A) after Dr. Graves received the nomination for Vice President because both committees would have been affiliated and thus,

4. Of note, the Commission concluded that the USTP qualified as a political party, but did not qualify for national committee status because its activity was "not sufficiently national" yet. See Advisory Opinion 1992-44, at page 11,879.

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would have shared the same contribution and expenditure limitations. See 2 U.S.C. § 441a(a)(5) and 11 C.F.R. § 110.3(a)(1).

Because Dr. Graves' contributions were to the Phillips Committee and not to his own separate campaign committee during the Primary election and because, after he became a Vice Presidential nominee, his contributions to the Presidential campaign were limited to $1,000 per election, Respondents accepted excessive contributions from Dr. Graves in both the Primary and General elections. In addition to the $39,200 in excessive contributions from Dr. Graves, the Phillips Committee also received excessive contributions from five (5) other individuals totaling $2,275. The Phillips Committee refunded, reattributed and/or redesignated $2,125 of the contributions, although not within sixty (60) days of their receipt. Consequently, there is a total balance of $39,350 in excessive contributions that requires remedy. Therefore, there is reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. § 441a(f).

Finally, the Act requires the name of each authorized committee to include in its name the name of the candidate who authorized such committee. After Dr. Graves was nominated by the USTP, he was able to designate the Phillips Committee as his principal campaign committee, as he did. The Phillips Committee, however, failed to include his name in the name of

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the committee, as required by 2 U.S.C. § 432(e)(4). Therefore, there is reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. § 432(e)(4).

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CHARLES E. CHAMBERLAIN

ASSOCIATES ADVISOR
JOHN HAGARTY

February 23, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
FEB 23 12 25 PM '95

VIA FACSIMILE

Ms. Tamara Kapper
Federal Election Commission
Washington, D.C. 20463

Re: MUR 4182

Dear Ms. Kapper:

Pursuant to our conversation of earlier this morning, Webster, Chamberlain & Bean, on behalf of Taxpayers for Phillips, requests an extension to respond to MUR 4182 until March 6, 1995. In your deliberation of our request, please consider the fact that I personally have only recently received the file and have just begun working on it. Further, it has been difficult to coordinate between the parties involved to have meaningful discussion regarding the allegations. An additional sudden development, which I was unaware of earlier, should also be considered. Dr. Graves, a party subject to the MUR, was recently injured in a serious hunting accident and, we are informed, will be in the hospital for weeks. In fact, we have been told we will not be able to speak with him on this matter until tomorrow at the earliest. Currently, Dr. Graves has not submitted a statement of designation of counsel identifying our firm, however, we have previously been in contact with him about this matter. Since as we discussed earlier, the original deadline for our response is tomorrow, I would appreciate hearing from you as soon as possible concerning your decision so that we can schedule accordingly.

For your information, I have spoken with the respondent this morning and they are preparing a new statement of designation of counsel including my name which will be sent to you today. Enclosed is a fax copy of the statement.

Thank you for your consideration in this matter. I look forward to hearing from you.

Sincerely,

David P. Goch

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STATEMENT OF DESIGNATION OF COUNSEL

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COMMISSION
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COMMISSION
OFFICE OF GENERAL
COUNSEL
FEB 14 3 18 PM '95

MUR 4182

NAME OF COUNSEL: Alan P. Dye, Frank M. Northam

ADDRESS: Webster, Chamberlain & Bean
1747 Penn. Avenue, N.W. Suite 1000
Washington, DC 20006

TELEPHONE: (202) 785-9500

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.

February 10, 1995
Date

Signature Assistant Treasurer

RESPONDENT'S NAME: Taxpayers for Phillips

ADDRESS: 9520 Bent Creek Lane
Vienna, Virginia 22182

HOME PHONE: none

BUSINESS PHONE: (703) 893-2777

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 27, 1995

David P. Goch, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington D.C. 20006

RE: MUR 4182
Taxpayers for Phillips and
Elizabeth A. Lants, as
treasurer

Dear Mr. Goch:

This is in response to your letter dated February 23, 1995, which we received on the same day, requesting an extension of ten (10) days to respond to the Commission's reason to believe finding against your clients, Taxpayers for Phillips and Elizabeth A. Lants, as treasurer. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on March 6, 1995.

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

Sincerely,

Tamara Kapper

Tamara Kapper
Paralegal

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BRENLEY J. LOCKE*
*NOT ADMITTED IN D.C.

OF COUNSEL
CHARLES E. CHAMBERLAIN
ASSOCIATION ADVISOR
HUGH McCAHEY

March 6, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
MAR 6 4 54 PM '95

Mr. Danny L. McDonald
Chairman, Federal Election Commission
c/o Ms. Tamara Kapper
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4182; Taxpayers For Phillips and Elizabeth A. Lants as Treasurer

Dear Mr. McDonald:

On behalf of Taxpayers for Phillips ("TFP"), and Elizabeth A. Lants ("Lants"), we are filing this response to your letter of February 3, 1995, MUR 4182, a copy of which is enclosed. (A designation of counsel form has been filed with your office).

The primary question presented in MUR 4182 is whether or not elections for the offices of president and vice-president are separate and, as a result, whether candidates for these federal offices may each make unlimited personal contributions to their own campaigns.

In its letter, the FEC claims that Dr. Stephen Graves, the 1992 vice-presidential candidate for the U.S. Taxpayers Party, made excessive contributions and that TFP, the principal campaign committee for Howard Phillips' 1992 presidential campaign, accepted excessive contributions, violating the limitations of 2 U.S.C. §441a(a)(1)(A); which restricts contributions to a candidate's principal campaign committee to $1,000 per person. For the reasons discussed below, it is apparent that the FEC's analysis, drawing a distinction between an individual's campaign for the vice-presidential nomination of his or her party and the subsequent campaigns for election to the office of president and vice-president, is flawed, since at all times an individual's campaign for the office of vice-president is independent of the presidential campaign being conducted by his or her running mate.

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It is a well settled, undisputed fact that in an individual's attempt to win an election for federal office, he or she may contribute unlimited personal funds to wage such a campaign.[1] Therefore, if the vice-presidential election is an independent campaign from the presidential election, then candidates should be allowed to support the efforts for their own election.

The FEC incorrectly distinguishes between an attempt by an individual to campaign for the nomination for vice-president and the individual's subsequent campaigning once he or she has won a party's nomination for the office. Specifically, the FEC states:

> "at this juncture, [when seeking a party's nomination] the campaign for the nomination for Vice-President is independent of the Presidential campaign committee. Once a candidate wins a party's nomination for the office of Vice-President, a nominee to the office of Vice-President is no longer waging an independent campaign."

Article XII of the Constitution of the United States reads in pertinent part:

> "The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States . . . The person having the greatest number of votes for President, shall be the President, . . . The person having the greatest number of votes as Vice-President, shall be Vice-President . . . "

This clear, unambiguous statement from the supreme document governing the United States does not differentiate between an individual's campaigning for the nomination and campaigning for the office. In fact, the quoted passage makes it clear that the vice-presidential race is one that

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[1]/ See Buckley v. Valeo, 424 U.S. 1 (1976). See also, Letter from Danny L. McDonald to Elizabeth A. Lants, treasurer, Taxpayers for Phillips, February 3, 1995, "Factual and Legal Analysis" attachment, pg. 10.

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is to be independently voted upon and decided.[2] Although the vice-presidential race of the vice-presidential nominee of a major political party has customarily been tied to the presidential race,[3] Constitutionally they are not linked. Furthermore, with the advent of credible third-party and independent candidates, it may not remain that way for long. In fact, a situation has arisen in the past two elections for president, where candidates ran for the office without vice-presidential running mates, which would have resulted in the need for an independent selection for the office of vice-president.[4] Consequently, if a candidate without a vice-presidential running mate was elected president, under the mandates of the Twelfth Amendment the individual running for vice-president receiving the highest number of votes from the electorial college would then be vice-president, despite that individual being on a ticket with someone else who was running for the

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[2]/ The separateness of the election for the offices of president and vice-president mirrors the separateness of the job duties and obligations of the individuals elected to the offices. For example, the president is not the "boss" of a vice-president and cannot fire him or remove him from his position. Under Article II, Section 4, of the Constitution, the president, vice-president and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Consequently, if the president was impeached, as was nearly the case with Andrew Johnson, the vice-president would assume his duties and would not himself be forced out of office.

[3]/ Prior to the Twelfth Amendment to the Constitution, under Article II, Section 1, of the Constitution, the individual receiving the greatest number of votes from the electorial college was designated the president. After the choice for president was made, the person having the next greatest number of votes of the electors was designated the vice-president. This law establishes the need for a candidate to separately campaign for the office of vice-president, since the individual needed to receive the second greatest total number of votes in order to obtain the office. Although superseded by the Twelfth Amendment, the intent of the Constitution, that the offices of vice-president and president are to be separately sought and obtained by qualified candidates, continues to exist, and is actually strengthened by the new language. No longer is there one race from which the president and vice-president will be selected. Under the Twelfth Amendment, the presidential and vice-presidential elections are two separately voted upon elections.

[4]/ In 1988, Louis Youngkeit, ran for office of President as an independent without a Vice-Presidential candidate. Most recently in 1992, Drew Bradford, also an independent, ran for the Office of President without a Vice-Presidential candidate.

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office of president. Therefore, in 1992, if Drew Bradford had won the electorial college vote, Dan Quayle, Al Gore, or Admiral Stockdale may have been vice-president.

An even more dramatic example of the separate nature of the vice-presidential election, and the autonomous behavior of the electoral college, occurred in 1836. In that election the Democratic-Republican candidate for president, Martin Van Buren, won an absolute majority of the electors. His vice-presidential running mate, Richard Johnson, was considered so objectionable by some of the electors that he failed to obtain the necessary majority of electoral votes to become vice-president. In accordance with the Twelfth Amendment, the decision devolved upon the Senate. (Possibly if Mr. Johnson had taken advantage of his right concerning unlimited self-funding, and he had spent a little more money on his campaign to improve his image, he could have avoided this historical low point.)

Returning to the fact that people can and have run for the office of president individually without a running mate, such campaign practice is a *prima facie* showing that individuals may also separately run for the office of vice-president without a presidential running mate. In fact, a number of the state's laws governing ballot access draw a distinction between the office of president and vice-president and set forth procedures for independent access for the offices of president *or* vice-president. For example, states such as Arizona, Florida, Minnesota, Mississippi, Montana and North Carolina, to name a few, provide a means for unaffiliated or independent candidates to run for the offices of president or vice-president. Merely by way of example, in Arizona, Title 16 of Arizona revised statutes annotated, section 16-341, sets forth a method for qualification as an independent candidate for all federal offices, including the office of vice-president. The section's generic language merely states that the intended candidate obtain a designated number of individual signatures on a petition and indicate what federal office to which the individual is attempting to obtain ballot access.

Clearly the discussion above establishes that the election to the office of vice-president is separate, and not, as asserted by the FEC, "subsumed by the election to the office of president, and, hence, should be able to be independently financed by the candidate."[5]

Addressing your other concerns, Dr. Graves' actions prior to his actually receiving the nomination for the office of vice-president by the U.S. Taxpayers Party ("USTP") designating the Phillips Committee as his principal campaign committee is at best an inconsequential technical violation of the statutes and regulations, but is most likely not a violation. In 1992, Howard Phillips ran for the office of president in the majority of states in which he qualified for ballot access, including, Louisiana, as an independent candidate. Dr. Graves was Mr. Phillips' running mate in Louisiana and Wyoming. Consequently, even if Mr. Graves was not nominated

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[5]/ 2 U.S.C. §431-2 defines the term candidate as "an individual who seeks nomination for election, or election, to federal office . . . "

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by the USTP at its 1992 National Convention, he would have continued as Mr. Phillips' running mate in those states where registered as independents (his selection as Mr. Phillips' independent running mate occurred prior to his making and contributions). Consequently, Mr. Graves was in fact the vice-presidential running mate of Howard Phillips in those states in early 1992 and the subsequent nomination by USTP was a mere formality.

Nevertheless, with regard to USTP's nomination, Mr. Graves' "jumping the gun" had no impact on the election or the fundraising efforts as a result of his receiving the USTP nomination a little over three months later. In and of itself, such a technical violation should not result in the imposition of such harsh penalties or the formality of a conciliation agreement.

Concerning the FEC's final allegation, that the Phillips Committee failed to include Dr. Graves' name in the name of the committee, such assertion on the part of the FEC clearly shows its intentions to have it both ways regarding the separateness of the elections for president and vice-president. If the presidential/vice-presidential election is, as the FEC claims, an election where the race for the vice-president is "subsumed" by the race for the election of the office of president, then arguably there is only one candidate, the individual running for president, with the individual running for vice-president occupying some lesser position of "pseudo-candidate." In other words, according to the FEC, only the president is running, all the money is for the president's election, therefore only the president's name should be in the committee, and the Phillips Committee is not in violation of 2 U.S.C. §432(e)(4) for failing to identify Mr. Graves.[6] On the other hand, if the FEC is conceding that the individual running for the office of vice-president is in fact a "candidate," as is the individual running for president, individually seeking a federal office, then that individual should also be eligible to expend unlimited amounts of his or her own personal funds on a successful campaign.

We hope that this letter is responsive to your inquiry and that this matter can be resolved amicably. Please feel free to contact us should you have any questions regarding this matter or should you be in need of additional information.

Sincerely,

David P. Goch

DPG/atc
Enclosures

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[6]/ In the 1992 Presidential Election, Ross Perot's committee did not identify Admiral Stockdale as his running mate.

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STATEMENT OF DESIGNATION OF COUNSEL

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COMMISSION
OFFICE OF GENERAL
COUNSEL
FEB 23 3 29 PM '95

MUR 4182

NAME OF COUNSEL: Alan P. Dye, Frank M. Northam, David P. Goch

ADDRESS: Webster, Chamberlain & Bean
1747 Penn. Avenue, N.W. Suite 1000
Washington, DC 20006

TELEPHONE: (202) 785-9500

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.

February 23, 1995
Date

Signature Assistant Treasurer

RESPONDENT'S NAME: Taxpayers for Phillips

ADDRESS: 9520 Bent Creek Lane
Vienna, Virginia 22182

HOME PHONE: none

BUSINESS PHONE: (703) 893-2777

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4182
Stephen C. Graves)

GENERAL COUNSEL'S REPORT **SENSITIVE**

I. BACKGROUND

On January 31, 1995, the Federal Election Commission ("Commission") found reason to believe that Stephen C. Graves violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3) of the Federal Election Campaign Act of 1971, as amended. On that same date, the Commission offered to enter into conciliation negotiations with the Respondent prior to a finding of probable cause to believe and approved a proposed conciliation agreement

This Office recommends that the Commission accept the attached conciliation agreement submitted by Dr. Graves and close the file as it pertains to this Respondent. The Commission has not received the payment for the civil penalty.

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II. RECOMMENDATIONS

1. Accept the attached proposed conciliation agreement submitted by Stephen C. Graves.

2. Close the file as it pertains to Stephen C. Graves.

3. Approve the appropriate letter.

3/15/95
Date

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Stephen C. Graves.	)	MUR 4182

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 20, 1995, the Commission decided by a vote of 6-0 to take the following actions in MUR 4182:

1. Accept the proposed conciliation agreement submitted by Stephen C. Graves, as recommended in the General Counsel's Report dated March 15, 1995.

2. Close the file as it pertains to Stephen C. Graves.

(continued)

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3. Approve the appropriate letter, as recommended in the General Counsel's Report dated March 15, 1995.

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

Attest:

3-20-95
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Mar. 15, 1995 3:26 p.m.
Circulated to the Commission: Wed., Mar. 15, 1995 4:00 p.m.
Deadline for vote: Mon., Mar. 20, 1995 4:00 p.m.

lrd

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 22, 1995

Stephen C. Graves
11006 Rye Hill Road, South
Fort Smith, AR 72916

RE: MUR 4182
Stephen G. Graves

Dear Dr. Graves:

On March 20, 1995, the Federal Election Commission accepted the signed conciliation agreement that you submitted in settlement of a violation of 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to you.

This matter will become public within 30 days after it has been closed with respect to all other respondents involved. 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. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

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,

Tamara Kapper

Tamara Kapper
Paralegal

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4182
Stephen C. Graves)

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 Stephen C. Graves ("Respondent") violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding 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:

1. Howard Phillips was the Presidential nominee for the U.S. Taxpayers Party ("USTP"), and Taxpayers for Phillips is the

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principal campaign committee of Mr. Phillips' 1992 election campaign.

2. Elizabeth A. Lants is the treasurer of Taxpayers for Phillips.

3. The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(5).

4. The term "authorized committee" is defined as the principal campaign committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(6).

5. Respondent, Stephen C. Graves was a candidate for the nomination of Vice President for the USTP in the 1992 Primary election.

6. Dr. Graves was a Vice Presidential nominee of the USTP in the 1992 General election.

7. Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee.

8. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A).

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9. Prior to being nominated to the office of Vice President by the USTP, Dr. Graves designated Taxpayers for Phillips to serve as his principal campaign committee.

10. Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person can make contributions to any Federal candidate and his or her authorized political committee which, in the aggregate, exceed $1,000 per election.

11. Pursuant to 2 U.S.C. § 441a(a)(3), a person is limited to making an annual total of $25,000 in contributions in any calendar year.

12. The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

13. Pursuant to 2 U.S.C. § 431(8)(a), the term "contribution" is defined as any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

14. Respondent is an individual contributor.

15. Contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of the President. 2 U.S.C. § 441a(a)(7)(C).

16. Expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice

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President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1).

17. For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

18. Prior to being nominated as the party's candidate for the office of the Vice President, a candidate may wage his or her own campaign in order to win the nomination of his or her political party. If so, the candidate is required to designate his or her own principal campaign committee to which he or she may contribute unlimited personal funds.

19. Once a candidate wins a party's nomination for the office of Vice President, a nominee to the office of Vice President is no longer waging an independent campaign. The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. Because the election to the office of Vice President is not separate, but subsumed by the election to the office of President, the Act deems contributions made to the Vice Presidential nominee to be contributions made to the Presidential nominee. 2 U.S.C. § 441a(a)(7)(C).

20. When a Vice Presidential nominee contributes personal funds to the campaign, the nominee is not contributing to

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his or her own campaign but, in actuality, to the Presidential candidate's campaign. Consequently, a Vice Presidential nominee is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A) and, accordingly, can only contribute $1,000 per election to the Presidential candidate's campaign.

21. Prior to being nominated by the USTP to the office of Vice President, Respondent failed to designate his own separate principal campaign committee in violation of 2 U.S.C. § 432(e)(1). Instead, Respondent designated the Phillips Committee as his principal campaign committee, which he was not permitted to do until he received the USTP's nomination for Vice President. Since he was not a nominee, he could not designate Taxpayers for Phillips as his principal campaign committee because 2 U.S.C. § 432(e)(1) exempts only Vice Presidential nominees from designating a separate committee.

22. Because Respondent's contributions were to the Phillips Committee and not to his own separate campaign committee during the Primary election and because, after he became a Vice Presidential nominee, his contributions to the Presidential campaign were limited to $1,000 per election, he gave excessive contributions to Taxpayers for Phillips in both the Primary and General elections.

23. In connection with the 1992 Primary election, Respondent made excessive contributions to a Federal candidate committee which exceeded, by $20,000, the limit established by 2 U.S.C. § 441a(a)(1)(A).

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24. In connection with the 1992 General election, Respondent made excessive contributions to a Federal candidate committee which exceeded, by $19,200, the limit established by 2 U.S.C. § 441a(a)(1)(A).

25. In calendar year 1992, Respondent made contributions to a Federal candidate committee totaling $41,200 which exceeded, by $16,200, the annual limit for individuals established by 2 U.S.C. § 441a(a)(3).

V. 1. Respondent made excessive contributions totaling $39,200 to Taxpayers for Phillips, in violation of 2 U.S.C. § 441a(a)(1)(A).

2. Respondent made contributions totaling $41,200 in calendar year 1992, to Taxpayers for Phillips, which exceeded the annual aggregate limit by $16,200, in violation of 2 U.S.C. § 441a(a)(3).

3. Respondent failed to designate his own separate principal campaign committee in his campaign for the nomination to the office of Vice President, in violation of 2 U.S.C. § 432(e)(1).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of ten thousand dollars ($10,000), 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.

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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.

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

3/22/95
Date

FOR THE RESPONDENT:

J C Oravs MD
(Name)
(Position)

3-7-95
Date

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4-14-95

Tamara,

Here's the check to close the portion of MUR 4182 in regards to me. Thank you for your kind attitude during our conversations and correspondence

Best wishes.

F. C. Crews

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STEPHEN C. GRAVES, M.D.

[redacted]

5357

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PAY TO THE ORDER OF Federal Election Commission $ 10,000.00

Ten Thousand and no/100 DOLLARS

City National Bank OF FORT SMITH

P.O. Box 47, 1222 Rogers Avenue, Fort Smith, AR 72902

MEMO To Close MUR 4182

S. C. Graves MD

[redacted]

SAFETY PAPER

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

4/18/95

TWO WAY MEMORANDUM

TO: OGC, Docket

FROM: Rosa E. Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Stephens C. Graves, M.D., check number 5357, dated 4/14/95, and in the amount of $10,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

==========

TO: Rosa E. Swinton
Accounting Technician

FROM: OGC, Docket By QA

In reference to the above check in the amount of $10,000.00, the MUR number is 4182 and in the name of Stephens C. Graves, MD. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

√ Civil Penalties Account, 95-1099.160

__ Other: _____

Anita Alexander
Signature

4-19-95
Date

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips and Elizabeth A. Lants, as treasurer	)	

GENERAL COUNSEL'S REPORT

On January 31, 1995, the Federal Election Commission ("the Commission") found reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer ("Phillips Committee") violated 2 U.S.C. §§ 432(e)(4) and 441a(a)(1)(A). On that same date, the Commission determined to offer to enter into preprobable cause conciliation with Respondents and approved a proposed agreement.

On March 6, 1995, counsel for the Phillips Committee submitted a response that maintains their position that Vice Presidential candidates may contribute unlimited funds to their own campaigns because an individual's campaign for Vice President, both before and after the nomination, is independent of the presidential campaign of his or her running mate. Respondents did not address issues relative to the Federal Election Campaign Act of 1971, as amended, and did not contain a counteroffer or a request for no further action in this matter. After reviewing their response, on March 28, 1995, staff from this Office contacted counsel for Respondents to inquire whether

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they planned to conciliate this matter. Respondents indicated that they were not interested in settling this matter through preprobable cause conciliation.[1] Staff from this Office informed Respondents that this Office would recommend to the Commission that it move onto the next stage of the enforcement process in this matter.

In light of the fact that Respondents are not interested in resolving this matter through preprobable conciliation, this Office intends to proceed to the next stage of the enforcement process.

Lawrence M. Noble
General Counsel

4/24/95
Date

BY: _____
Lois G. Lerner
Associate General Counsel

Staff Assigned: Tamara Kapper

1. The Vice Presidential nominee, Dr. Stephen Graves, settled with the Commission and paid a $10,000 civil penalty.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 20, 1995

David P. Goch, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Suite 1000
Washington D.C. 20006

RE: MUR 4182
Taxpayers for Phillips and
Elizabeth A. Lants, as
treasurer

Dear Mr. Goch:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 31, 1995, the Federal Election Commission found reason to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer ("Committee"), violated 2 U.S.C. § 432(e)(4) and 441a(f), 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 probable cause to believe that the 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 Tamara Kapper, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips and	)	
Elizabeth A. Lants, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On January 31, 1995, the Federal Election Commission ("the Commission") found reason to believe that the Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, ("Phillips Committee") violated 2 U.S.C. § 432(e)(4) and 441a(f), for the failure to include the name of the Vice Presidential nominee in the name of the committee and for the receipt of excessive contributions. The Phillips Committee received excessive contributions totaling $20,150 in connection with the 1992 Primary election and totaling $21,325 in connection with the 1992 General election. On March 6, 1995, counsel for Respondents submitted a response to the Commission's findings.

The Phillips Committee was the principal campaign committee for Howard Phillips' 1992 Presidential campaign. According to documents on file with the Commission, Vice Presidential candidates, Stephen C. Graves and Alexander B. Magnus Jr., each filed statements of candidacy indicating his party affiliation with the U.S. Taxpayers Party ("USTP") and designating the Phillips Committee as his principal campaign committee. Dr. Graves was the Vice Presidential candidate in Louisiana and

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Wyoming[1] and Mr. Magnus was the Vice Presidential candidate in Illinois. Both candidates designated the Phillips Committee as their principal campaign committee before either had been nominated for the office of Vice President.

The central issues in this case concern: (1) whether a candidate for Vice President, prior to being nominated for the office of Vice President, can designate his party's Presidential candidate's committee as his or her principal campaign committee; and (2) the amount of contributions a Vice Presidential nominee of a political party may make from his or her personal funds to the principal campaign committee of the Presidential nominee for the same political party. Of the $41,475 in excessive contributions received by the Phillips Committee, $39,200 was contributed by Vice Presidential candidate, and later nominee, Dr. Graves.[2] In general, the Phillips Committee's position in this matter is that neither Dr. Graves' Primary contributions nor his General election contributions are excessive because money contributed by a candidate to his or her principal campaign committee is not subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

Of the remaining $2,275 in excessive contributions received by the Phillips Committee, $200 has been refunded, $1,925 has been

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1. The Statement of Candidacy submitted by Dr. Graves indicates that he was the Vice Presidential candidate in Arkansas; however, counsel for Respondents states that Dr. Graves was the Vice Presidential candidate in Louisiana and Wyoming.

2. According to Commission records, Dr. Graves was the only Vice Presidential nominee who contributed his personal funds to the Phillips Committee.

reattributed or redesignated, and $150 has not been remedied. The refunds, reattributions and/or redesignations did not take place within sixty (60) days of the Phillips Committee's receipt.

II. ANALYSIS

A. EXCESSIVE CONTRIBUTIONS

The Federal Election Campaign Act of 1971, as amended (the "Act"), states that no person may make a contribution to a candidate for Federal office or his or her authorized campaign committee in excess of $1,000 per election. 2 U.S.C. § 441a(a)(1)(A). Individuals are also prohibited from making contributions aggregating more than $25,000 in any calendar year. 2 U.S.C. § 441a(a)(3). The term "person" is defined to include any individual, partnership, committee, association, corporation, labor organization or group of persons. 2 U.S.C. § 431(11).

The term "principal campaign committee" is defined as a political committee designated and authorized by a candidate. 2 U.S.C. § 431(5). The term "authorized committee" is defined as the principal campaign committee or any other political committee authorized by a candidate to receive contributions or make expenditures on behalf of such candidate. 2 U.S.C. § 431(6). The Act defines the term "national committee" as the organization which, by the virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission. 2 U.S.C. § 431(14). The term "political party" is defined by the Act as an association, committee or organization which nominates a candidate for election to any Federal office whose name appears on the

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election ballot as the candidate of such association, committee or organization. 2 U.S.C. § 431(16).

Pursuant to 2 U.S.C. § 432(e)(1), each candidate for Federal office -- other than the nominee for the office of the Vice President -- shall designate in writing a political committee to serve as his or her principal campaign committee. No political committee which supports more than one candidate may be designated as an authorized committee, except that the candidate for the office of the President nominated by a political party may designate the national committee of such political party as a principal campaign committee. 2 U.S.C. § 432(e)(3)(A). The name of each authorized committee shall include the name of the candidate who authorized such committee. 2 U.S.C. § 432(e)(4).

"[C]ontributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States." 2 U.S.C. § 441a(a)(7)(C). Further, expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States. 11 C.F.R. § 110.8(f)(1). For Vice Presidential nominees, the campaign depositories designated by the principal campaign committee of a political party's candidate for

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President shall be the depository for that party's candidate for the office of Vice President. 11 C.F.R. § 103.4.

Pursuant to 2 U.S.C. § 441a(f), candidates and political committees are prohibited from knowingly accepting any contribution from an individual in excess of $1,000 per election. The treasurer of a political committee has the responsibility for determining the legality of all contributions received by the committee. In the case of excessive contributions, the treasurer has sixty (60) days from the date of receipt to refund the contribution or, if possible, to obtain a reattribution or redesignation of the contribution to cure the illegality. 11 C.F.R. §§ 103.3(b)(3) and 110.1(b). Excessive contributions not reattributed or redesignated must be refunded to the contributor within sixty days. 11 C.F.R. § 103.3(b)(3). When a contribution is refunded to the donor, the reporting committee shall disclose on its report the person receiving the refund along with the date and amount of such disbursement. 2 U.S.C. § 434(b)(5)(E).

Prior to being nominated as the party's candidate for the office of Vice President, a candidate may wage his or her own campaign in order to win the nomination of his or her political party. If so, the candidate is required to designate his or her own principal campaign committee to which he or she may contribute unlimited personal funds. Under the Act, a candidate's campaign committee for the nomination for Vice President is independent of the Presidential campaign committee.

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Once a candidate wins a party's nomination for the office of Vice President, a nominee to the office of Vice President is no longer waging an independent campaign. The Presidential and Vice Presidential nominees are actually waging one campaign, one in which the Vice Presidential nominee cannot win on his or her own. In other words, unlike all other candidates for Federal office, the Vice Presidential nominee does not have his or her own campaign. As a result, the Act views nominees for the office of Vice President differently. For example, the Act specifically exempts the Vice Presidential nominee from the requirement -- prescribed for every other Federal candidate -- of designating a principal campaign committee. 2 U.S.C. § 432(e)(1).

Correspondingly, because the election to the office of Vice President is not separate, but subsumed by the election to the office of President, the Act deems contributions made to the Vice Presidential nominee to be contributions made to the Presidential nominee.[3] 2 U.S.C. § 441a(a)(7)(C). Consequently, for purposes of the Act, when a Vice Presidential nominee contributes personal funds to the campaign, the nominee is not contributing to his or her own campaign but, in actuality, to the Presidential candidate's campaign. As a result, a Vice Presidential nominee is subject to the individual contribution limits of 2 U.S.C. § 441a(a)(1)(A) and, accordingly, can only contribute $1,000 per election to the Presidential candidate's campaign. In contrast to

3. Similarly, expenditures made to or on behalf of the Vice Presidential nominee are deemed to be expenditures made to or on behalf of the Presidential nominee. 11 C.F.R. § 110.8(f)(1).

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a candidate's campaign for the nomination for Vice President, a Vice Presidential nominee cannot contribute unlimited personal funds to the Presidential campaign committee.

The Phillips Committee contends that, as a candidate for Federal office, Dr. Graves was permitted to make unlimited contributions to his designated principal campaign committee during both the Primary and General elections. Therefore, the Phillips Committees argues that all of the contributions Dr. Graves gave to his principal campaign committee, the Phillips Committee, were permissible. In support of its position, the Phillips Committee makes essentially three arguments - none of which pertain to the Act.

First, Respondents argue that Article XII of the Constitution "does not differentiate between an individual's campaigning for the nomination and campaigning for the office." (Response at 2.) Second, Respondents argue "that people can and have run for the office of president individually without a running mate...."[4] (Id. at 4.) Finally, Respondents argue that "a number of the state's laws governing ballot access draw a distinction between the office of president and vice-president...." (Id.) None of these arguments, however, is relevant to the Federal Election Campaign Act, which differentiates between a candidate for the nomination for Vice President and a political party's nominee for the office of Vice President. While it is true that under

4. Of note, this argument actually supports this Office's position more than Respondents' because the reverse is not true -- that a Vice Presidential nominee has run independently without a running mate.

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11 C.F.R. § 110.10(a) candidates for Federal office are permitted to make unlimited expenditures from their personal funds to their own campaigns, as discussed above, 2 U.S.C. § 441a(a)(7)(C) overrides this provision in the case of a Vice Presidential nominee because his or her campaign is not a separate campaign, independent of the Presidential candidate's campaign. As a Vice Presidential nominee, Dr. Graves was not contributing to his own campaign, but to the Presidential candidate's campaign and, like any other individual, he cannot contribute unlimited personal funds to the Presidential campaign committee. 2 U.S.C. §§ 441a(a)(7)(C) and 441a(a)(1)(A).

Turning to Dr. Graves' campaign for the nomination, his Primary contributions to the Phillips Committee are problematic for a different reason: he should have established his own principal campaign committee while seeking the party nomination for the Vice Presidential position and he did not. 2 U.S.C. § 432(e)(1). Had Dr. Graves established his own committee, he would have been able to make unlimited expenditures from his personal funds. For example, former Vice President Dan Quayle and former Senator Lloyd Bentsen each ran for the Vice Presidential nomination of their respective political parties against other challengers. Accordingly, both candidates formed their own principal campaign committees (which included their names in the names of their authorized committees). Instead, Dr. Graves designated the Phillips Committee as his principal campaign

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committee, which he was not permitted to do until he received the political party's nomination for Vice President.[5]

According to records on file with the Commission, Dr. Graves filed his statement of candidacy and designated the Phillips Committee as his principal campaign committee on May 26, 1992. However, Dr. Graves was not nominated for the office of Vice President by the USTP until its national convention which took place on September 4 and 5, 1992. Thus, Dr. Graves was not a nominee for Vice President at the time he designated the Phillips Committee as his principal campaign committee. Since he was not a nominee, he could not designate the Phillips Committee as his principal campaign committee because 2 U.S.C. § 432(e)(1) exempts only Vice Presidential nominees from designating a separate committee. Further, the Act prohibits political committees that support more than one candidate from being designated as an authorized committee, unless it is a national committee being designated by its Presidential nominee as a principal campaign committee.[6] 2 U.S.C. § 432(e)(3)(A)(1). Because Dr. Graves'

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5. Respondents argue that designating the Phillips Committee as his principal campaign committee before Dr. Graves received the nomination is "at best an inconsequential technical violation" because "the subsequent nomination by USTP was a mere formality." (Response at 4-5.) This argument ignores the fact that: (1) apparent candidates fail to run in the General election for any number of reasons; and (2) Dr. Graves' Primary contributions were to Howard Phillips' committee, not his own, and therefore subject to the limitations of 2 U.S.C. § 441a(a)(1)(A).

6. Of note, the Commission concluded that the USTP qualified as a political party, but did not qualify for national committee status because its activity was "not sufficiently national" yet. See Advisory Opinion 1992-44, at page 11,879.

Primary contributions were not to his own separate campaign committee, which would have permitted unlimited contributions from his personal funds, but to the Phillips Committee, his contributions were limited to $1,000 for the Primary election. 2 U.S.C. § 441a(a)(1)(A).

In sum, Dr. Graves failed to designate his own principal campaign committee in his campaign for the nomination to the office of Vice President, in violation of 2 U.S.C. § 432(e)(1). Because Dr. Graves' contributions were to the Phillips Committee and not to his own separate campaign committee during the Primary election and because, after he became a Vice Presidential nominee, his contributions to the Presidential campaign were limited to $1,000 per election, he gave excessive contributions to the Phillips Committee in both the Primary and General elections. Dr. Graves made contributions totaling $41,200 to the Phillips Committee, which exceeded his contribution limit by $39,200.

In addition, to the $39,200 in excessive contributions from Dr. Graves, the Phillips Committee also received excessive contributions from five (5) other individuals totaling $2,275. The Phillips Committee refunded, reattributed and/or redesignated $2,125 of their contributions, although not within sixty (60) days of their receipt. Consequently, there is a total balance of $39,350 in excessive contributions that requires remedy. Based upon the foregoing, the Office of the General Counsel recommends that the Commission find probable cause to believe that Taxpayers for Phillips and Elizabeth A, Lants, as treasurer, violated 2 U.S.C. § 441a(f).

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B. Nominee's Name Not In Name Of The Committee

The Act specifically requires the name of each authorized committee to include the name of the candidate who authorized such committee. 2 U.S.C. § 432(e)(4). After Dr. Graves was nominated for the office of Vice President by the USTP, he was able to designate the Phillips Committee as his principal campaign committee, as he did. The Phillips Committee, however, failed to include his name in the name of the committee, as required by 2 U.S.C. § 432(e)(4). Respondents argue that requiring Dr. Graves' name in the name of the Phillips Committee amounts to having "it both ways regarding the separateness of the elections for president and vice-president." (Response at 5.)

After receiving the nomination, Dr. Graves was not required to designate a separate campaign committee because 2 U.S.C. § 432(e)(1) exempts Vice Presidential nominees from that requirement. However, when Dr. Graves designated the Phillips Committee as his authorized committee, 2 U.S.C. § 432(e)(4) requires that the name of the authorized committee include the name of the candidate who authorized such committee. The Phillips Committee failed to include Dr. Graves' name in the name of the committee. Accordingly, the Office of the General Counsel recommends that the Commission find probable cause to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. § 432(e)(4).

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III. GENERAL COUNSEL'S RECOMMENDATIONS

Find probable cause to believe that Taxpayers for Phillips and Elizabeth A. Lants, as treasurer, violated 2 U.S.C. §§ 441a(f) and 432(e)(4).

7/19/95
Date

Lawrence M. Noble
General Counsel

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LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
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JOHN W. HAZARD, JR.
CHARLES M. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENLEY LOCKE ELIAS

OF COUNSEL
CHARLES E. CHAMBERLAIN
J. COLEMAN BEAN

July 27, 1995

RECEIVED
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OFFICE OF GENERAL
COUNSEL
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Ms. Tamara Kapper
Office of General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

MUR 4182

Dear Ms. Kapper:

Pursuant to the July 20, 1995 letter from Lawrence M. Noble that I received on July 24, 1995, I am writing you to request a thirty day extension in which to file a responsive brief on behalf of Tax Payers for Phillips and Elizabeth A. Lants, as treasurer. Such extension will extend our filing date from August 8th to September 8, 1995.

The reason for our needing the extension is that, as is the case with most of Washington, parties necessary to prepare and file the brief will be out of town for intermitent periods and we will need the extra time to finalize our response.

I appreciate your consideration in this matter. I look forward to hearing from you.

Sincerely,

David P. Goch

DPG/jc

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1995

Mr. David P. Goch, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

RE: MUR 4182
Taxpayers for Phillips and
Elizabeth A. Lants, as
treasurer

Dear Mr. Goch:

This is in response to your letter dated July 27, 1995, which we received on July 31, 1995, requesting an extension of 30 days to respond to the General Counsel's Brief regarding your clients, Taxpayers for Phillips and Elizabeth A. Lants, as treasurer. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 8, 1995.

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

Sincerely,

Tamara K. Kapper

Tamara K. Kapper
Paralegal

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LAW OFFICES
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OF COUNSEL
CHARLES E. CHAMBERLAIN
J. COLEMAN BEAN

September 8, 1995

RECEIVED
FEDERAL ELECTION
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OFFICE OF GENERAL
COUNSEL
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Lawrence M. Noble, Esquire
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Noble:

Per your letter of July 20, 1995, and a subsequent letter from Tamara K. Kapper dated August 2, 1995, enclosed please fine Taxpayers for Phillips Reply Brief in MUR 4182.

If you have any questions regarding this, please feel free to contact me.

Sincerely,

David P. Goch

DPG/jc
Encl.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips and Elizabeth A. Lants, as Treasurer	)	

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COUNSEL

BRIEF ON BEHALF OF TAXPAYERS FOR PHILLIPS AND ELIZABETH A. LANTS, AS TREASURER

I. QUESTION PRESENTED

The primary question presented in MUR 4182 is whether candidates for President and Vice President may each make unlimited personal contributions to their own campaigns.

II. SUMMARY OF FACTS

The FEC General Counsel claims that Dr. Stephen Graves, one of the two 1992 Vice-Presidential candidates for the U.S. Taxpayers Party, made excessive contributions and that Taxpayers for Phillips (TFP), the principal campaign committee for Howard Phillips' 1992 presidential campaign, accepted excessive contributions, violating 2 U.S.C. § 441a(f), which restricts contributions to a candidate's principal campaign committee to $1,000 per person.

The FEC also claims that TFP violated 2 U.S.C. § 432(e)(4) by failing to identify Dr. Graves as a candidate who had authorized TFP as his principal campaign committee.

III. DISCUSSION

The FEC's analysis, drawing a distinction between an individual's campaign for the Vice-Presidential nomination of his party and the subsequent campaigns for election to the office of president and Vice-President, is flawed, since <u>at all times</u> an individual's campaign for the office of Vice-President is

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independent of the Presidential campaign being conducted by his running mate. Consequently, the FEC's interpretation of the Federal Election Campaign Act and FEC regulations would violate the United States Constitution.

It is well settled that an individual may contribute unlimited personal funds to wage a campaign for federal office. This privilege is afforded to "candidates"[1] as a protected form of First Amendment expression. In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court stated:

> The ceiling on personal expenditures by candidates on their own behalf, like the limitations on independent expenditures contained in § 608(e)(1), imposes a substantial restraint on the ability of persons to engage in protected First Amendment expression. The candidate, no less than any other person, has a First Amendment right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election and the election of other candidates. Indeed, it is of particular importance that candidates have the unfettered

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[1] 2 U.S.C. § 431-2 defines the term candidate as "an individual who seeks nomination for election, or election, to federal office ... ". Since the statute, regulations, and case law contain no qualifier such as "except the Vice-Presidential race", all individuals running for Vice-President are candidates. Further, even when running in the same election, 26 U.S.C. § 9002(2) identifies the President's running mate as a candidate:

> "The term 'candidate" means with respect to any presidential election, an individual who -
>
> (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or
>
> (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States ... "

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> opportunity to make their views known so that the electorate may intelligently evaluate the candidates personal qualities and their positions on vital public issues before choosing among them on election day. Id., at 52-53.

Since the Vice-Presidential candidate is a "candidate" he must be allowed to support his or her own election.

The General Counsel incorrectly focuses on nuances contained in the Federal Election Campaign Act of 1971, and its interpretive regulations, to support its argument that Vice-Presidential candidates are "no longer waging an independent campaign",[2] and that a "Vice-Presidential nominee cannot win [the election] on his or her own".[3]

On Pages 7-8 of his brief, in his rebuttal to a letter previously submitted on behalf of TFP, the General Counsel states:

> "While it is true that under 11 C.F.R. § 110.10(a) candidates for Federal Office are permitted to make unlimited expenditures from their personal funds to their own campaigns, as discussed above, 2 U.S.C. § 441(a)(7)(C) overrides this provision in the case of a Vice Presidential nominee because his or her campaign is not a separate campaign, independent of the Presidential candidate's campaign."

While it is true that in the hierarchy of Federal law, statutory language take precedence over ambiguous or inconsistent language contained in its interpretive regulations, federal statutes bow to the will of the Constitution.

Article II of the Constitution of the United States reads in pertinent part:

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[2] FEC General Counsel brief, MUR 4182, at 6.

[3] Id.

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> "The electors shall meet in their respective states and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States ... The person having the greatest number of votes for President, shall be the President, ... The person having the greatest number of votes as Vice-President, shall be Vice-President ... "

This unambiguous statement does not differentiate between an individual's campaigning for the nomination and campaigning for the office of Vice-President. In fact, the quoted passage makes it clear that the Vice-Presidential race is *one* that is to be independently voted upon and decided.[4] Consequently, any inconsistencies which may be contained in the statute and regulations, which result in "the Act viewing nominees for the office of Vice-President differently," Gen. Counsel Brief, at 6, do not erase the facts that the United States Constitution recognizes the Vice-Presidential race as a candidacy and that the Supreme Court of the United States protects the right of every candidate to free speech, including the spending of unlimited personal funds.

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[4] The separateness of the election for the offices of president and vice-president mirrors the separateness of the job duties and obligations of the individuals elected to the offices. For example, the President is not the "boss" of a Vice-President and cannot fire him or remove him from his position. Under Article II, Section 4, of the Constitution, the president, Vice-President and all civil officers of the Untied States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Consequently, if the President was impeached, as was nearly the case with Andrew Johnson, the Vice-President would assume his duties and would not himself be forced out of office.

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Although the Vice-Presidential race has customarily been tied to the presidential race,[5] as discussed above, constitutionally they are not linked. Furthermore, with the advent of credible third-party and independent candidates, future results may not reflect past trends. In fact, in the past two elections for President, candidates ran for the office without Vice-Presidential running mates. Either of their elections would have resulted in the need for an independent election for the office of Vice-President. Consequently, if a candidate without a Vice-Presidential running mate was elected President, under the mandates of the Twelfth Amendment the individual running for Vice-President receiving the highest number of votes from the electoral college would then be Vice-President, despite that individual being on a ticket wit someone else who was running for the office of President. Therefore, in 1992, if Drew Bradford had won the electoral college vote, either Dan Quayle, Al Gore, or Admiral Stockdale would have been Vice-President.

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[5] Prior to the Twelfth Amendment to the Constitution, under Article II, Section 1, of the Constitution, the individual receiving the greatest number of votes from the electoral college was designated the president. After the choice for President was made, the person having the next greatest number of votes of the electors was designated the Vice-President. This law establishes the need for a candidate to separately campaign for the office for Vice-President, since the individual needs to receive the second greatest total number of votes in order to obtain the office. Although superseded by the Twelfth Amendment, the intent of the Constitution, that the offices of Vice-President and president are to be separately sought and obtained by qualified candidates, continues to exist and is actually strengthened by the new language. No longer is there one race from which the President and Vice-President will be selected. Under the Twelfth Amendment, the Presidential and Vice-Presidential elections are two separately voted upon elections.

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An even more dramatic illustration of the separate nature of the Vice-President election and the autonomous behavior of the electoral college occurred in 1836. In that election the Democratic-Republican candidate for President, Martin Van Buren, won an absolute majority of the electors, but his Vice-Presidential running mate, Richard Johnson, was considered too objectionable by the electors to become Vice-President. In accordance with the Twelfth Amendment, the decision devolved upon the Senate. (Possibly if Mr. Johnson had taken advantage of his right to unlimited self-funding, and had spent a little more money on his campaign, he could have avoided this historical low point.)

A more recent incident in the electoral vote, supporting the separateness of the Presidential and Vice-Presidential races, occurred in 1988. In the 1988 Presidential/Vice-Presidential election, a democrat elector in the State of West Virginia cast his votes for Lloyd Bensen (the Democratic nominee for Vice-President), for President, and for Michael Dukakis (the Democrat nominee for President), for Vice-President, instead of the other way around. Clearly, the races for President and Vice-President are not so intertwined that, as the FEC contends, "the Presidential and Vice Presidential nominees are actually waging one campaign"[6] and even if they were, the Constitution, as interpreted in Buckley gives the Vice Presidential candidate the right to spend personal funds on his own campaign.

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[6] Gen. Counsel Brief, at 8.

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Returning to the fact that people can and have run for the office of president individually without a running mate, such campaign practice is a *prima facie* showing that individuals may also separately run for the office of Vice-President without a Presidential running mate. A number of state laws governing ballot access draw a distinction between the office of President and Vice-President and set forth procedures for independent access for the offices of President and Vice-President. For example, states such as Arizona, Florida, Minnesota, Mississippi, Montana and North Carolina provide a means for unaffiliated or independent candidates to run for the offices of President or Vice-President with or without a running mate. By way of example, Title 16 of Arizona revised statutes annotated, section 16-341, sets forth a method for qualification as an independent candidate for all federal offices, including the office of Vice-President. The section's generic language merely states that the intended candidate obtain a designated number of individual signatures on a petition and indicate the federal office to which the individual is attempting to obtain ballot access.

Whether the races for President and Vice President are separate or so intertwined as to be undistinguishable, to deny either candidate the right to campaign on his individual behalf or on behalf of the ticket would deny both candidates the rights identified by the Supreme Court in Buckley v. Valeo.[7]

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[7] The identified justification of FECA, to limit the appearance of corruption and to identify contributors, see generally Buckley v. Valeo, is eliminated in the case of the

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If the General Counsel's view is correct, it is even more important, from a Constitutional point of view, that Vice Presidential candidate be permitted to speak on behalf of the ticket. It is undeniable that under Article II of the Constitution, the President and Vice-President are to be elected from the vote of the electoral college and not the popular vote of the general public. The popular statewide vote by the general public is used to select the electors who then vote for the President and Vice-President.[a]

Consequently, if the popular election by the general public is to choose one set of electors in a state, electors who have pledged their vote to a party's candidates, then the election of the President and Vice-President by this one set of individuals becomes so intertwined as to create one inseparable election for both the President and Vice-President where their success, or failure, is tied together. In such a case, where the President's election is contingent on the Vice-President's, and vice versa, the principles of Buckley aptly apply, since both the Presidential and Vice-Presidential candidates need to speak out on their own behalf, and their running mate's, in order to secure election. To deprive the the Vice-Presidential candidate of his right to free speech

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Presidential and Vice-Presidential candidates since their spending money on their own election does not raise the specter of actual or apparent corruption or influence by outside parties. Hence, the spirit of FECA is not satisfied by the General Counsel's interpretation of the law.

[a] Except for Maine and Nebraska which use a combination of statewide popular vote and popular vote in each Congressional district to select electors.

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violates his Constitutional rights, infringes his running mates' Constitutional rights, and adversely impacts the electoral college. The General Counsel's arguments place in question the electoral college and the current system used to elect a President and Vice-President.

In addition to the aforementioned Constitutional arguments, it is clear that on statutory grounds the FEC's allegations are unsupportable. The statutes the General Counsel cites do not require the interpretation that the Vice-Presidential candidate is limited in the amount of contributions he may make to his campaign committee. Concededly, the President and Vice-Presidential candidates share the same committee, 2 U.S.C. § 441a(a)(7)(C), the Vice-Presidential candidate need not have his own committee, 2 U.S.C. § 432(e)(1), and the Vice Presidential candidate must use the Presidential candidate's campaign depository as his own, 11 C.F.R. § 103.4. However, none of the FEC referenced statutes place a contribution limit upon the Vice-Presidential candidate. It is a basic axiom of statutory construction that when faced with two possible interpretations of a statute, the Constitutional interpretation takes precedence over the unconstitutional one.

Addressing the FEC's second concern, Dr. Graves' action prior to actually receiving the nomination for the office of Vice-President by the U.S. Taxpayers Party ("USTP"), designating the Phillips Committee as his principal campaign committee, is not a violation. In 1992, Howard Phillips ran for the office of president in the majority of states in which he qualified for

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ballot access, including Louisiana, as an independent candidate. Dr. Graves was Mr. Phillips' running mate in Louisiana and Wyoming. Consequently, even if Dr. Graves had not been nominated by the USTP at its 1992 National Convention, he would have continued as Mr. Phillips' running mate in those states where Phillips was registered as an independent. (His selection as Mr. Phillips' independent running mate occurred prior to his making any contribution). Consequently, Dr. Graves was in fact the Vice-Presidential running mate of Howard Phillips in those states in early 1992 and the subsequent nomination by USTP was a formality.[9]

Finally, the distinction between when a candidate is nominated, formally or informally, is not clear cut, particularly in light of the FEC's own admission that at no point in previous advisory opinions has the Commission undertaken to specify any procedure which a political party must follow in order to satisfy the requirement of "nominating" or "selecting" a candidate.[10]

Concerning the FEC's final allegation, that the Phillips Committee failed to include Dr. Graves' name in the name of the committee, such assertion on the part of the FEC shows its intention to have it both ways regarding the separateness of the elections for President and Vice-President. If the

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[9] As a matter of fact, at the time Dr. Graves designated the Phillips Committee as his principal campaign committee USTP did not formally exist. USTP emerged after Dr. Graves and Mr. Phillips became running mates and ratified their actions at the party's New Orleans National Convention.

[10] FEC AO 1980-96.

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Presidential/Vice-Presidential election is, as the FEC claims, an election where the race for the Vice-President is "subsumed" by the race for the election of the office of President, then there is only one candidate, the individual running for President, with the individual running for Vice-President occupying some lesser position of "pseudo-candidate". According to the FEC the Vice-Presidential candidate is tantamount to being just another contributor limited to a $1,000 contribution to the President's committee. Obviously, the President's committee does not name every other contributor. Why this one? In other words, according to the FEC, only the President is running, and all the money is for the President's election. Therefore, only the President's name should be in the committee, and the Phillips Committee is not in violation of 2 U.S.C. § 432(e)(4) for failing to identify Dr. Graves.[11] On the other hand, if the FEC is conceding that the individual running for the office of Vice-President is in fact a "candidate", as is the individual running for President, individually seeking a federal office, that individual should also be eligible to expend unlimited amounts of his or her own personal funds on a successful campaign.

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IV. CONCLUSION

Whether the Presidential and Vice-Presidential elections are separate or are as inextricably intertwined as asserted by the General Counsel, the General Counsel's arguments fail. Section

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[11] In the 1992 Presidential Election, Ross Perot's committee did not identify Admiral Stockdale as his running mate.

103.4 of the regulations not only permits, but requires, the Vice-Presidential candidate of a political party to utilize the campaign depository of the Presidential candidate of that party as his or her campaign depository. The Constitution, as interpreted in Buckley, equates personal expenditure with speech, and demands that each and every candidate be permitted to expend personal funds in unlimited amounts to promote his or her election. The office of Vice-President is a federal office. A candidate for Vice-President is a candidate for federal office. Under Buckley, such a candidate is permitted to spend unlimited amounts on his own election. Whether the office of Vice-President is separate from that of President, or inextricably intertwined with that candidacy, a Vice-Presidential candidate must be permitted to spend his or her own funds. This being the case, the Vice-Presidential candidate has no choice but to designate the Presidential campaign committee as his campaign committee, and to donate his personal funds to that committee as permitted by Buckley. This is what Steven Graves did. It is difficult to find in his actions any violation of law.

Based on the foregoing Brief on Behalf of Taxpayers for Phillips and Elizabeth A. Lants, as Treasurer, the Federal Election Commission should make a finding of no probable cause that the Defendants violated 2 U.S.C. §§ 441a(f) and 432(e)(4).

09/08/95
Date

David P. Goch

USTP.BRF

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 18, 1996

Mark Weaver, Treasurer
Taxpayers for Phillips
9520 Bent Creek Lane
Vienna, Virginia 22182

RE: MUR 4182
Taxpayers for Phillips
Mark Weaver, as treasurer

Dear Mr. Weaver:

On February 3, 1995 this Office informed Taxpayers for Phillips ("the Committee") and Elizabeth A. Lants, as treasurer, of the Commission's findings of reason to believe that they had violated 2 U.S.C. §§ 432(e)(4) and 441a(f). Later, on July 20, 1995, a General Counsel's Brief was forwarded to counsel for the Committee and Ms. Lants, setting out the positions of the General Counsel on the legal and factual issues in this matter and informing them of the intention of the Office of General Counsel to recommend that the Commission find probable cause to believe that the Committee and Ms. Lants, as treasurer, had violated the same provisions of the Federal Election Campaign Act ("the Act"). On September 8, 1995, counsel submitted a Reply Brief on behalf of the Committee and Ms. Lants.

On October 18, 1995, the Committee filed an amendment to its Statement of Organization naming you as treasurer. It is the intention of the Office of General Counsel to substitute you for Ms. Lants in any future recommendations that the Commission find probable cause to believe that the Committee and its treasurer have violated the Act.

Enclosed is a copy of the General Counsel's Brief mailed to the Committee in September, 1995 which will provide you with this Office's positions on the issues in this matter. If you wish to reply to this Brief, you should do so within fifteen days of the

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receipt of this letter. Or you may ask that the Reply Brief submitted earlier on behalf of the Committee be deemed to have been submitted on your behalf.

If you have any questions, please contact Anne A. Weissenborn, the senior attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
General Counsel's Brief

cc: David P. Goch, Esquire

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips	)	
Mark Weaver, as treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. STATEMENT OF THE CASE

Taxpayers for Phillips was the principal campaign committee of Howard Phillips, a candidate for President of the United States in 1992, who was nominated for this office by the U.S. Taxpayers Party ("USTP") on September 4-5, 1992.[1] Dr. Stephen C. Graves was the candidate for vice president nominated by the USTP to be on the ballot with Mr. Phillips in Louisiana and Wyoming. Dr. Graves had filed a statement of candidacy with the Federal Election Commission ("the Commission") on May 26, 1992, stating that his party affiliation was the USTP[2] and that his designated principal campaign committee was Taxpayers for Phillips.

On January 31, 1995, the Commission found reason to believe that Taxpayers for Phillips and its treasurer (" the Committee" or "Respondents") had violated 2 U.S.C. §§ 432(e)(4) and 441a(f) in 1992 by failing to include the name of the Committee's vice presidential candidate in the name of the Committee and by accepting excessive contributions. The excessive

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[1] Taxpayers for Phillips registered with the Commission on January 31, 1992 as a principal campaign committee but without providing candidate information. On June 18, 1992 the Statement of Organization was amended to name Howard Phillips as the candidate and "Taxpayers" as his party affiliation.

[2] In Advisory Opinion 1992-44 and Advisory Opinion 1995-16 the Commission concluded that the USTP "would be a political party for purposes of the [Federal Election Campaign] Act."

contributions at issue included $20,000 received from Dr. Graves prior to his nomination by the USTP on September 4-5, 1992, and $19,200 received from Dr. Graves after his nomination, plus an additional $2,275 received from five other individuals. On the same date, the Commission found reason to believe that Stephen C. Graves had violated 2 U.S.C. §§ 432(e)(1), 441a(a)(1)(A) and 441a(a)(3). Dr. Graves accepted the Commission's offer to enter into conciliation prior to a finding of probable cause to believe, and on March 20, 1995, the Commission accepted the agreement which he had signed and closed the file as it pertained to that respondent. The Committee did not accept the Commission's offer to enter into conciliation at that time.

On July 2, 1995, the Office of the General Counsel forwarded to counsel for the Committee a brief stating its position on the issues in this matter. Counsel submitted a reply brief on September 8, 1995. Because there was a change in the Committee's treasurer after this exchange of briefs, on April 18, 1996, this Office wrote to the new treasurer, Mark Weaver, with a copy to counsel for the Committee, informing Mr. Weaver of this Office's intention to include him in any future recommendations that the Commission find probable cause to believe that violations of the Federal Election Campaign Act have occurred. Enclosed with this letter was a copy of the General Counsel's Brief sent previously to counsel. Mr. Weaver was informed that he could submit a reply brief or ask that the reply brief received from counsel in September, 1995, be deemed to have been submitted on his behalf. No response to this letter has been received.

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II. ANALYSIS (The General Counsel's Brief is incorporated by reference into this Report.)

A. Excessive Contributions

1. Commission Determinations

The Commission's findings of reason to believe with regard to the Committee, and the analyses in the General Counsel's Brief, were based upon the following premises:

a) If a candidate for the Office of Vice President of the United States wishes to make expenditures on behalf of his or her campaign prior to nomination, that candidate must establish his or her own principal campaign committee and make any contribution of personal funds to that committee. This is necessary because he or she may not designate the principal campaign committee of a presidential candidate as his or her own principal campaign committee until after being nominated. 2 U.S.C. § 432(e)(1) and (3)(A).

b) Prior to nomination, a candidate for the Office of Vice President may make unlimited personal contributions to his or her own campaign committee. 11 C.F.R. § 110.10.

c) Once nominated to the Office of Vice President, the candidate, unlike other candidates for Federal office, no longer wages a campaign separate from the candidate for president nominated by the same party. This analysis is based upon language in the Federal Election Campaign Act which specifically exempts the vice presidential nominee from the requirement to designate a principal campaign committee, and which deems contributions to the vice presidential nominee to be contributions made to the presidential nominee. U.S.C. §§ 432(e)(1) and 441a(7)(C). Thus, if a vice presidential nominee makes a contribution of personal funds to his or her own campaign, such a contribution is made to the presidential campaign and is subject to the statutory limitations on contributions per election at 2 U.S.C. § 441a.

2. Respondents' Brief

Counsel argues, as he did following the Commission's findings of reason to believe, that a candidate for the Office of Vice President "at all times" wages a campaign independent of the campaign of the candidate for President. The asserted basis for this argument is that Article II and the Twelfth Amendment to the U.S. Constitution "recognize" the vice presidential race as a

9704382173 4

"candidacy," thereby giving the vice presidential candidate the right to make unlimited expenditures of personal funds as per Buckley v. Valeo, 424 U.S. 1 (1976). Counsel also gives examples of state laws governing ballot access in which there is a "distinction between the office of President and Vice-President" and/or in which procedures are provided for independent ballot access with regard to the two offices. Counsel further argues that, whether or not the races for president and vice president are distinguishable, the election of the Electoral College by the general public, the pledges by the electors to their party's presidential and vice presidential candidates, and the election of the president and vice president as a "set of individuals," require that both candidates be able to speak on their own behalfs and that of their running mates. Finally, counsel argues that the provisions in the Act and regulations upon which the Commission has relied in this matter, namely 2 U.S.C. §§ 441a(a)(7)(C) and 432(e)(1), and 11 C.F.R. § 103.4, do not place contribution or expenditure limitations upon vice presidential candidates. For all of these reasons, counsel asserts that Dr. Graves' contributions in 1992 did not violate the law.

With regard to Dr. Graves' pre-nomination campaign for the Vice Presidency, counsel argues that Dr. Graves had been selected as a running mate of Howard Phillips prior to Dr. Graves' having made a contribution to the Committee and prior to the formation of the U. S. Taxpayers Party. Counsel asserts that Mr. Phillips began his campaign as an independent, and that it was in this capacity that he qualified for ballot access in a majority of the states, including Louisiana, where he was on the ballot. Counsel states, "Consequently, even if Dr. Graves had not been nominated by the USTP at its 1992 National Convention, he would have continued as Mr. Phillips' running mate in those states where Phillips was registered as an independent . . . .

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Dr. Graves was in fact the Vice-Presidental running mate of Howard Phillips in those states in early 1992 and the subsequent nomination by USTP was a formality." (Reply Brief at 10).

3. General Counsel's Response

The arguments presented by counsel in his reply brief are virtually the same as those raised earlier in response to the Commission's reason to believe determinations. Counsel continues to emphasize the asserted unconstitutionality of limiting a vice presidential candidate's right to speak on his own behalf and on behalf of the presidential candidate. The issue in this case involves, however, not the right to make unlimited expenditures, but rather the amounts which a vice presidential candidate may contribute directly to the authorized committee of the presidential nominee during the primary and election campaign periods. Counsel also attempts to minimize the separation between the primary election period and the general election period, relying instead upon the "running mate" relationship between Dr. Graves and Mr. Phillips. However, the distinction between the two elections and the related time periods during which Dr. Graves was involved in each are important in this matter because the analysis regarding excessive contributions differs as to each election.

Dr. Graves' 1992 contributions to Taxpayers for Phillips were as follows:

April 6, 1992	-	$ 1,000
May 18, 1992	-	10,000
July 22, 1992	-	5,000
September 2, 1992	-	5,000
September 11 1992	-	20,000
October 28, 1992	-	200
		$ 41,200

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a. Primary Election Contributions

11 C.F.R. § 100.2(c) defines "primary election" for "individuals seeking federal office as independent candidates or without nomination by a major party" as taking place on one of three dates at the choice of the candidate. According to 11 C.F.R. § 100.2(c)(4), these possible dates include:

i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot . . . ;

ii) The date of the last major party primary election, caucus or convention in that State . . . ;

iii) In the case of non-major parties, the date of the nomination by that party.

Pursuant to 11 C.F.R. §110.10, which is in turn based upon the Supreme Court's decision in Buckley v. Valeo, "candidates for Federal office may make unlimited expenditures from personal funds."[3] A candidate seeking nomination to the Office of Vice President would come within the general definition of "candidate" at 2 U.S.C. § 431(2) whereby candidacy is triggered when the person seeking nomination either receives in excess of $5,000 in contributions or makes expenditures in excess of $5,000 for purposes of influencing his or her nomination. As a candidate, such an individual can make unlimited expenditures on behalf of his or her own campaign.

It is not known whether Dr. Graves had received contributions which would have triggered his own candidacy prior to May 26, 1995, the date on which he filed his Statement of Candidacy with the Commission. It is known that the Phillips Committee received its first

[3] Exceptions to this general rule are the limitations placed upon presidential candidates who accept public financing pursuant to 26 U.S.C. § 9001, et seq. and 26 U.S.C. § 9035, et seq.

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contribution of $1,000 from Dr. Graves on April 6, 1992 and a second of $10,000 on May 18, 1992. Thus, it appears that May 18, 1992, was the date on which Dr. Graves became a candidate under the Act by having made expenditures in excess of $5,000 for purposes of influencing his own campaign, expenditures which took the form of contributions to the Phillips Committee.

Neither prior to his nomination by the USTP on September 4-5, 1992, nor prior to his obtaining ballot status in Louisiana on August 28 of that year did Dr. Graves establish an authorized campaign committee of his own. Rather, on May 26, 1992, he designated the principal campaign committee of Howard Phillips as his authorized committee, a step which was not permissible in light of the prohibition at 2 U.S.C. § 432(e)(3)(A) against a committee being designated the authorized committee of a candidate if it supports more than one candidate.

Louisiana law provides that "a candidate of other than a recognized political party must qualify for the ballot under the procedures for an independent candidate." In 1992 the U.S. Taxpayers Party was not "a recognized political party" for purposes of the presidential ballot in Louisiana. Thus, Dr. Graves became a general election candidate in that state as a result of qualifying for the ballot as an independent. This fact in turn brought him within the provisions of 11 C.F.R. § 100.2(c)(4) which provide three possible dates for his "primary election" - (1) the last date upon which he could have qualified for the Louisiana ballot; (2) the date of the last major party primary election, caucus or convention in that state; and (3) the date of his nomination by USTP, a non-major party. The date upon which he in fact qualified for the ballot in Louisiana is not one of the options provided in the regulation.

The Election Code of the State of Louisiana, Title 18, Section 1254, designates the first Tuesday in September as the last date on which slates of independent candidates for presidential

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electors may qualify for ballot access; in 1992 that day fell on September 1. In 1992 the major party Presidential primary elections in Louisiana were held on March 10, and thus before Dr. Graves became a candidate under the Act. Dr. Graves was nominated by the USTP, a non-major party, on September 4-5. Thus, Dr. Graves' choices of primary election date pursuant to the regulation would be either September 1 or September 4-5, 1992.[4] In the absence of direct knowledge as to Dr. Graves' preferences on this issue, and because Dr. Graves became a nominee of the Party by means of a formal nomination process, for purposes of this report this Office deems September 4-5, 1992, to have been the date of his primary election.[5]

Dr. Graves made $21,000 in contributions to Taxpayers for Phillips prior to September 4-5, 1992: $1,000 on April 6, $10,000 on May 18, $5,000 on July 22, and $5,000 on September 2, 1992. On May 26, 1992, Dr. Graves registered with the Commission as a candidate for nomination to the Office of Vice President; however, he apparently became a primary election candidate under the Act earlier, on May 18, 1992, when he exceeded the $5,000 contribution threshold. He could have continued to make expenditures on behalf of his own campaign for nomination in unlimited amounts until September 4-5, 1992, but he, instead, directed personal funds totaling $21,000 to a committee other than his own authorized committee, thereby making contributions to that committee. Whether or not he intended those monies to be used for his campaign for the Vice Presidency, they in fact became contributions to

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[4] Dr. Graves was nominated by the USTP for purposes of ballot access in both Louisiana and Wyoming. Ultimately the USTP was not on the ballot in Wyoming.

[5] The conciliation agreement entered into with Dr. Graves assumes the September 4-5, 1992, date for purposes of dividing his contributions between the primary and general elections.

Taxpayers for Phillips. Because these contributions to Respondents exceeded the statutory limitation of $1,000, their receipt placed Respondents in violation of 2 U.S.C. § 441a(f).

b. General Election Contributions

2 U.S.C. § 441a(a)(7)(C) states that "[c]ontributions made to or for the benefit of any candidate nominated by the political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States."[6] Therefore, even if Dr. Graves intended his general election-related contributions of personal funds to Taxpayers for Phillips to be contributions to his own campaign, under the Act they became contributions "made to or for the benefit of" the presidential candidacy of Howard Phillips.

As stated above, this Report cites September 4-5, 1992, as the date of Dr. Graves' primary election, pursuant to 11 C.F.R. § 100.2(c)(4), and thus the date upon which he became a candidate for the general election. His contributions to Respondents after that date totaled $20,200. Thus, he exceeded the statutory limitation by $19,200. By accepting these excessive contributions Respondents again violated 2 U.S.C. § 441a(f).

4. Additional Excessive Contributions

Respondents also accepted a total of $2,275 in excessive contributions from another five individuals, all but $150 of which was refunded, redesignated or reattributed, but not within sixty

[6] This provision pre-dated the Federal Election Campaign Act as 18 U.S.C. § 608(b)(4)(B). As cited in the General Counsel's Brief, other examples of the unique position of vice presidential candidates vis a vis the Act are the rule that the campaign depository designated by the principal campaign committee of a party's candidate for president is to become the depository for that party's candidate for the Office of Vice President, 11 C.F.R. § 103.4, and the statutory exemption of vice presidential candidates, once nominated, from having to designate principal campaign committees of their own. 2 U.S.C. § 432(e)(1).

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days of receipt. Counsel does not address these additional excessive contributions in his reply brief.

The Office of the General Counsel recommends that the Commission find probable cause to believe that Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. § 441a(f) by accepting a total of $41,475 in excessive contributions.

B. Use of Vice Presidential Candidate's Name in Name of Committee

The Commission also found reason to believe that Respondents violated 2 U.S.C. § 432(e)(4) by failing, after Dr. Graves' nomination, to include his name in the name of the committee authorized by both the presidential and vice presidential nominees. Counsel argues that, if the vice presidential candidate is "just another contributor limited to a $1000 contribution to the President's committee," the committee should not have to include his name in its name.

2 U.S.C. § 432(e)(4) requires that each committee authorized by a candidate include such candidate's name in its own. Dr. Graves was a candidate under the Act who appropriately authorized Taxpayers for Phillips to be his authorized committee for the general election. Therefore, his name should have been included in the name of the authorized committee during the period following his nomination/primary election.

Accordingly, this Office recommends that the Commission find probable cause to believe that Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. § 432(e)(4).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Find probable cause to believe that Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f).

2. Approve the attached proposed conciliation agreement and the appropriate letter.

5/21/96
Date

Lawrence M. Noble
General Counsel

Attachment
Proposed Conciliation Agreement

Staff Member: Anne A. Weissenborn

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

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

DATE: MAY 24, 1996

SUBJECT: MUR 4182 - GENERAL COUNSEL'S REPORT DATED MAY 21, 1996.

The above-captioned document was circulated to the Commission on: Tuesday, May 21, 1996 at 4:00

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for: First Meeting in June, 1996.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips;	)	
Mark Weaver, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 6, 1996, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 4182:

1. Find probable cause to believe that Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f).

2. Approve the proposed conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated May 21, 1996

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

Attest:

6-7-96
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1996

David P. Goch, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, NW
Washington, DC 20006

RE: MUR 4182
Taxpayers for Phillips
Mark Weaver, as treasurer

Dear Mr. Goch:

On June 6, 1996, the Federal Election Commission found that there is probable cause to believe your clients, Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Anne A. Weissenborn, the senior attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

LAW OFFICES
WEBSTER, CHAMBERLAIN & BEAN
1747 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 785-9500
FAX: (202) 835-0243

Jul 12 9 09 AM '96

GEORGE D. WEBSTER
ARTHUR L. HEROLD
ALAN P. DYE
EDWARD D. COLEMAN
BURKETT VAN KIRK
FRANK M. NORTHAM
GERARD P. PANARO
JOHN W. HAZARD, JR.
CHARLES N. WATKINS
HUGH K. WEBSTER
DAVID P. GOCH
BRENLEY LOCKE ELIAS

OF COUNSEL
J. COLEMAN BEAN
KENT MASTERSON BROWN
CHARLES E. CHAMBERLAIN

July 12, 1996

Anne A. Weissenborn, Esquire
Senior Attorney
Office of General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 4182 Taxpayers for Phillips Mark Weaver as Treasurer

Dear Ms. Weissenborn:

As a follow-up to our conversation of Monday, July 8th, I am writing to request additional time in order to prepare an appropriate response to the Commission's conciliation agreement. As a result of varying schedules, the respondent, which operates through its officers and directors, has not reached consensus with regard to all of the points contained in the conciliation agreement.

I appreciate your patience in this matter. I will be in touch with you as soon as we have prepared our response.

In the meantime, please feel free to contact me should you have any questions regarding this.

Sincerely,

David P. Goch

DPG/jc

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 20, 1996

David P. Goch, Esquire
Webster. Chamberlain & Bean
1747 Pennsylvania Avenue, NW
Washington, DC 20006

RE: MUR 4182
Taxpayers for Phillips
Mark Weaver, as treasurer

Dear Mr. Goch:

On June 12, 1996, you were notified that the Federal Election Commission, on June 6, 1996, found probable cause to believe that your clients, Taxpayers for Phillips and Mark Weaver, as treasurer, violated 2 U.S.C. §§ 432(e)(4) and 441a(f). On June 12, 1996, you were also sent a conciliation agreement offered by the Commission in settlement of this matter. On July 12, 1996, you wrote to request additional time to respond, and, more recently, we discussed by telephone the need for your clients to respond to the Commission's offer.

Please note that, pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter was limited to 90 days. More than that 90 day period has elapsed since the Commission's probable cause finding and notification of your clients. Therefore, unless this Office receives a signed agreement within ten days of your receipt of this letter, a recommendation concerning the filing of a civil suit will be made to the Commission.

If you would like to discuss this further, please contact me at (202) 219-3400.

Sincerely,

Anne A. Weissenborn

Anne A. Weissenborn
Senior Attorney

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FEDERAL ELECTION
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips	)	
Mark Weaver, as treasurer	)	

SENSITIVE

OCT 2 2 1996

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 6, 1996, the Commission found probable cause to believe that Taxpayers for Phillips and Mark Weaver, as treasurer, ("the Committee" or "Respondents"), violated 2 U.S.C. §§ 432(e)(4) and 441a(f) in 1992 by accepting excessive contributions totaling $39,200 from Dr. Stephen C. Graves, a vice-presidential candidate nominated by the U.S. Taxpayers Party, by accepting $2,275 in excessive contributions from five other individuals, and by failing to include Dr. Graves' name in the name of the Committee. The Commission also approved a proposed conciliation agreement to be sent to Respondents. The agreement was mailed on June 12, 1996.

On July 12, 1996, counsel for Respondents wrote to this Office requesting an extension of time within which to respond to the Commission's proposed conciliation agreement. Two weeks after a telephone call to counsel concerning Respondents' continuing lack of response, this Office on September 19, 1996, wrote to counsel advising him that, if a response were not received within ten days of his receipt of the letter, a recommendation would be made to the Commission regarding the filing of a civil suit. On September 26, 1996, counsel telephoned this Office; during this conversation it became clear through counsel's statements that the candidate, Howard Phillips, and hence

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the Committee, have provided him with no direction and that they have no intention of responding to the Commission's actions.

Given this apparently complete lack of interest in responding to the Commission's probable cause determinations or to the proposed conciliation agreement, this Office recommends that the Commission authorize the filing of a civil suit against Taxpayers for Phillips and Mark Weaver, as treasurer.

I. RECOMMENDATIONS

1. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Taxpayers for Phillips and Mark Weaver, as treasurer.

2. Approve the appropriate letter.

10/9/96
Date

Lawrence M. Noble
General Counsel

Staff Assigned: Anne A. Weissenborn

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 4182
Taxpayers for Phillips;	)	
Mark Weaver, as treasurer	)	

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 4182:

1. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Taxpayers for Phillips and Mark Weaver, as treasurer.

2. Approve the appropriate letter as recommended in the General Counsel's October 9, 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

October 24, 1996

David P. Goch, Esquire
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, NW
Washington, DC 20006

RE: MUR 4182
Taxpayers for Phillips
Mark Weaver, as treasurer

Dear Mr. Goch:

You were previously notified that, on June 6, 1996, the Federal Election Commission found probable cause to believe your clients, Taxpayers for Phillips and Mark Weaver, as treasurer, violated U.S.C. §§ 432(e)(4) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the captioned matter.

As a result of our inability to settle this matter through conciliation within the allowable time period, the Commission has authorized the General Counsel to institute a civil action for relief in the United States District Court.

Should you have any questions, or should you wish to settle this matter prior to suit, please contact Stephen Hershkowitz, Assistant General Counsel, at (202) 219-3400, within five days of your receipt of this letter.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

MAY 7 2 40 PM '97

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

Richard B. Bader
Associate General Counsel

Stephen E. Hershkowitz
Assistant General Counsel

Holly J. Baker
Attorney

DATE: May 7, 1997

RE: Recommendation to Close the File in MUR 4182 (Taxpayers for Phillips)

On October 9, 1996, the Commission authorized civil suit in the above-referenced matter, and we began negotiating a possible settlement before the filing of a complaint in federal district court. On December 20, 1996, after discussions with counsel, we sent a proposed conciliation agreement to counsel who indicated that he would discuss it with his clients.

In light of the discussion during the March 5, 1997 Executive Session and the continuing heavy demands on the litigation staff at this time, we now recommend that the Commission close this case. Because counsel has indicated that respondents may engage in the same or similar actions in the next presidential election, we also recommend that respondents be sent the

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the attached admonishment letter apprising them that the Commission has found probable cause to believe certain of respondents' actions violated the Act and the possible consequences of repeating them.

RECOMMENDATIONS:

1. Take no further action against the Taxpayers for Phillips and Mark Weaver, as treasurer.

2. Send the appropriate admonishment letter.

3. Close the file.

Attachment:
Admonishment letter

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE ROSS
COMMISSION SECRETARY

DATE: MAY 12, 1997

SUBJECT: MUR 4182

The above-captioned document was circulated to the Commission on **Wednesday, May 07, 1997**.

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

Commissioner Aikens	_
Commissioner Elliott	_
Commissioner McDonald	XXX
Commissioner McGarry	_
Commissioner Thomas	_

This matter will be placed on the meeting agenda for **Tuesday, May 20, 1997**.

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 4182
Taxpayers for Phillips and Mark Weaver, as treasurer.	)	

CERTIFICATION

I, Mary W. Dove, recording secretary for the Federal Election Commission executive session on May 20, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 4182:

1. Take no further action against the Taxpayers for Phillips and Mark Weaver, as treasurer.

2. Send the appropriate admonishment letter, as recommended in the General Counsel's Memorandum dated May 7, 1997.

3. Close the file.

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

Attest:

May 20, 1997
Date

Mary W. Dove
Mary W. Dove
Administrative Assistant

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 22, 1997

Alan P. Dye, Esq.
David P. Goch, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Ave., N.W.
Washington, D.C. 20006

RE: MUR 4182
Taxpayers for Phillips, and
Mark Weaver, as treasurer

Dear Mr. Dye and Mr. Goch:

On May 20, 1997, after considering all the circumstances, the Commission voted to take no further action against your clients in the above-referenced matter and to close the file.

The Commission previously found probable cause to believe that your clients violated 2 U.S.C. §§ 432(e)(4) and 441a(f), provisions the Federal Election Campaign Act of 1971, as amended (the "Act"), for failing to include the name of the vice presidential candidate in the name of Taxpayers for Phillips and for accepting excessive contributions, including those from Dr. Graves before his nomination as the vice presidential candidate of the U.S. Taxpayers Party. The Commission advises your clients that their repetition or continuation of such actions in the future may result in substantial penalties. See 2 U.S.C. §§ 437g(a)(5)(B) and 437g(a)(6)(C).

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this mater 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.

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If you have any questions, please contact Holly Baker, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 18, 1997

Dr. Stephen C. Graves
11006 Rye Hill Road, South
Fort Smith, AZ 72901

RE: MUR 4182
Stephen G. Graves

Dear Dr. Graves:

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 the toll free number 800 424-9530 or my local number (202) 219-3690.

Sincerely,

Tamara K. Kapper

Tamara K. Kapper
Paralegal Specialist

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4182

DATE FILMED 7-1-97 CAMERA NO. 2

CAMERAMAN JMH

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 7/2/97

✓ Microfilm

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4182

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 2 12 50 PM '97

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*NOT ADMITTED IN D.C.

GEORGE D. WEBSTER (1921-1996)
OF COUNSEL
J. COLEMAN BEAN
CHARLES E. CHAMBERLAIN

July 1, 1997

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

CLOSED

Re: MUR ~~4183~~ 4182; Taxpayers for Phillips and Mark Weaver as Treasurer

Dear Mr. Noble:

In behalf of Taxpayers for Phillips (TFP) and Mark Weaver, we are filing this response to the FEC's letter of May 22, 1997, in which you notified TFP that the Commission intends to take no further action against TFP in the above-referenced MUR.

In your letter, you state "The Commission previously found probable cause to believe TFP violated the Federal Election Campaign Act by accepting excessive contributions from Dr. Stephen Graves, a Vice Presidential candidate running on the same ticket with Howard Phillips in 1992", and you warned that repeating or continuing such action in the future "may result in substantial penalties".

In accordance with the First Amendment to the Constitution of the United States, the Supreme Court has ruled that no restrictions may be placed on the amount of funds which a candidate for Federal office may expend in his own behalf. Dr. Stephen Graves was a candidate for the office of Vice President on the ticket of Presidential candidate Howard Phillips.

Dr. Graves conducted his candidacy through Taxpayers for Phillips, the principal campaign committee of the 1992 Phillips for President campaign.

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Contrary to the factually inaccurate presupposition of the FEC, the U.S. Taxpayers party (USTP) did not exist at the time Dr. Graves became a candidate. Indeed, at its founding convention in New Orleans in September, 1992, the USTP did endorse the Phillips-Graves ticket in the states of Arkansas, Louisiana, and Wyoming, but that candidacy existed from the time Dr. Graves determined to become a candidate, well in advance of the USTP founding convention.

Inasmuch as the Constitution of the United States stipulates that electors who shall choose the President and Vice President of the United States shall be chosen in each state in a manner to be determined by the legislature of that state, it is a matter of fact that the election of a President entails not one single national election, but rather fifty-one separate elections, in which electors are chosen in each of the fifty states plus the District of Columbia.

Accordingly, it is Constitutionally permissible for a candidate for President to have a separate and distinct running mate for the office of Vice President in each of the fifty states plus the District of Columbia. Moreover, each of those fifty-one potential Vice Presidential candidates may operate through the principal campaign committee of a single Presidential candidate, contributing unlimited sums of their own money to advance the fortunes of that Presidential candidate.

It is this Constitutional principle which Taxpayers for Phillips has been unwilling to concede in response to allegations by the Federal Election Commission which were, in some cases, factually deficient and, in all cases, Constitutionally off-base.

Sincerely,

David P. Goch

DPG/kah

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