

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
 Rick Hill for Congress) MATTERS UNDER REVIEW
 Committee and Gary F. Demaree,) 4568, 4633, 4634 and 4736
 as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On April 6, 1998, Bob Ream, Chairman of the Montana Democratic Party, filed a complaint with the Federal Election Commission ("Commission"). The complaint alleged, *inter alia*, that the Rick Hill for Congress Committee coordinated television advertising and phone bank services with Triad Management Services, Inc., Citizens for Reform and others to defeat Democratic congressional candidate Bill Yellowtail in the 1996 federal election for the Montana at-large seat. The complaint further alleged that the Rick Hill for Congress Committee failed to report related in-kind contributions, which exceeded the contribution limits of the Federal Election Campaign Act of 1971, as amended (the "Act"). This complaint was designated as MUR 4736. The Rick Hill for Congress Committee and Gary F. Demaree, as treasurer (the "Committee" or "respondents"), were internally generated in MURs 4568, 4633 and 4736 on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.¹ Because each of these four MURs relate to different

¹ MUR 4568 was generated from a complaint filed on October 31, 1996 by Charmaine D. Murphy, who was the campaign manager for the Rick Hill for Congress Committee. This complaint alleged that an attached script for a television advertisement expressly advocated the defeat of Bill Yellowtail, and resulted from an independent expenditure. According to the complaint, the communication was not authorized by "Rick Hill, his authorized Political Committee or its agents," and did not contain the required disclaimer language. The complaint further stated that Citizens for Reform had been notified that the ad was not authorized and been told to "cease and desist in making these communications."

activities of Triad Management Services, Inc. ("Triad"), the Commission decided that MURs 4568, 4633, 4634 and 4736 would be investigated together.²

On June 2, 1998, in connection with MURs 4568, 4633 and 4634, the Commission found reason to believe that, during the 1996 election cycle, the Committee violated 2 U.S.C. §§ 434b, 441a(f) and 441b by failing to report in-kind contributions, and accepting excessive in-kind contributions or, in the alternative, prohibited corporate contributions, from Triad and Citizens for Reform ("CR"), a non-profit corporation managed by Triad. On February 23 and July 20, 1999, the Commission made the same reason-to-believe findings against the respondents herein in connection with MUR 4736.

Based on its investigation, this Office is prepared to recommend that the Commission find probable cause to believe that the Rick Hill for Congress Committee and Gary F. Demaree, as treasurer, violated 2 U.S.C. §§ 434b and 441a(f) by accepting in-kind contributions that exceeded the Act's limitations, and failing to report them, and alternatively, that these respondents violated 2 U.S.C. §§ 434(b) and 441b by accepting prohibited corporate contributions, and failing to report them.

II. FACTUAL AND LEGAL ANALYSIS

A. APPLICABLE LAW

The Federal Election Campaign Act of 1971, as amended ("the Act"), defines a "contribution" 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

² Beginning in approximately January 1995, and continuing up to, and shortly after, the incorporation of Triad in May 1996, Triad President Carolyn Malenick operated a sole proprietorship called Triad Management Services ("Triad"). This brief will use the term "Triad" to refer to both entities.

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1 office.” 2 U.S.C. § 431(8)(A)(i). An “expenditure” is defined as “any purchase,
2 payment, distribution, loan, advance, deposit, or gift of money or anything of value made
3 by any person for the purpose of influencing any election for Federal office.” 2 U.S.C.
4 § 431(9)(A)(i). The Commission has defined “anything of value” to include all in-kind
5 contributions, i.e., “the provision of any goods and services without charge or at a charge
6 which is less than the usual and normal charge for such goods and services”
7 11 C.F.R. §§ 100.7(a)(1)(iii) and 100.8(a)(1)(iv).

8 The Act defines a political committee as any committee, club, association, or
9 other group of persons which receives “contributions” or makes “expenditures”
10 aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A).³ For the
11 purposes of the Act, the term “person” is defined as including “an individual, partnership,
12 committee, association, corporation, labor organization or any other organization or group
13 of persons” 2 U.S.C. § 431(11).

14 In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court, in order to avoid
15 overbreadth, construed the Act’s references to “political committee” so as to prevent their
16 “reach [to] groups engaged purely in issue discussion.” The Court recognized that “[t]o
17 fulfill the purpose of the Act [the designation ‘political committee’] should encompass
18 organizations that are under the control of a candidate or the major purpose of which is
19 the nomination or election of a candidate.” 424 U.S. at 79. *But see FEC v. GOPAC*, 917

³ The Commission has issued an Advance Notice of Proposed Rulemaking, which seeks comment on proposed revisions to the definition of “political committee” currently found in the Regulations. The proposed revisions focus on possible changes to the definition of “contribution” and “expenditure” which trigger political committee status as well as ways in which a “major purpose” test might be incorporated into the rules. See Definition of Political Committee, 66 Fed. Reg. 13681(2001) (to be codified at 11 C.F.R. Part 100) (March 7, 2001).

1 F.Supp. 851, 859-862 (D.D.C. 1996)(the major purpose of a political committee must be
 2 to support a particular candidate or candidates for federal office). The “major purpose” of
 3 an organization may be shown by public statements of its purpose or by other means
 4 “such as its expenditures in cash or in kind to or for the benefit of a particular candidate
 5 or candidates for federal office.” *Id.* at 859-60.⁴

6 Under the Act, no person, including a political committee, may contribute more
 7 than \$1,000 per election to any candidate for federal office or his authorized committee.
 8 The Act further provides that a candidate or political committee shall not knowingly
 9 accept a contribution in violation of section 441a(a)(1). 2 U.S.C. § 441a(f).

10 An “independent expenditure” is defined in the Act as “an expenditure by a
 11 person expressly advocating the election or defeat of a clearly identified candidate which
 12 is made without cooperation or consultation with any candidate, or any authorized
 13 committee or agent of such candidate, and which is not made in concert with, or at the
 14 request or suggestion of, any candidate or agent of such candidate.” 2 U.S.C. § 431(17).⁵
 15 Conversely, expenditures made by any person “in cooperation, consultation or concert,
 16 with, or at the request or suggestion of, a candidate, his authorized political committees,

⁴ In *Akins v. FEC*, 101 F.3d 731 (D.C. Cir. 1996) (*en banc*), the court held that the Commission’s application of the “major purpose” test to find political committee status was inappropriate. The court held that the statutory language defining “political committee” is not ambiguous, 101 F.3d at 740, but further noted that the Supreme Court’s discussion of “major purpose” in *Buckley* and *MCFL* applied only to independent expenditures, not to coordinated expenditures and direct contributions. *Id.* at 741-42. The Supreme Court subsequently vacated this decision for other reasons, *see FEC v. Akins, et al.*, 524 U.S. 11 (1998), without ruling on the criteria for an organization to be deemed a “political committee.”

⁵ On November 30, 2000, the Commission approved a final rule concerning Coordinated General Public Political Communications. 65 *Fed. Reg.* 76,138 (Dec. 6, 2000). The new regulation, codified at 11 C.F.R. § 100.23, became effective on May 9, 2001. *See* 66 *Fed. Reg.* 23,537 (May 9, 2001).

1 or their agents, shall be considered to be a contribution to such candidate.” 2 U.S.C.

2 § 441a(7)(B)(i).

3 In the context of expenditures by outside groups which are not political party
4 committees, the Commission has considered potential coordination that took place prior
5 to the effective date of 11 C.F.R. § 100.23 (see footnote 4) under the standards set forth in
6 *FEC v. Christian Coalition*, 52 F. Supp.2d 45 (D.D.C. 1999). In addressing the issue of
7 what constitutes “coordination” with a candidate, the *Christian Coalition* court discussed
8 two general ways in which coordination could occur: first, that “expressive coordinated
9 expenditures made at the request or the suggestion of the candidate or an authorized
10 agent” would be considered coordinated; and second, “absent a request or suggestion, an
11 expressive expenditure becomes ‘coordinated’ where the candidate or her agents can
12 exercise control over, or where there has been substantial discussion or negotiation
13 between the campaign and the spender over, a communication’s: (1) contents; (2) timing;
14 (3) location, mode or intended audience (e.g., choice between newspaper or radio
15 advertisement); or (4) ‘volume’ (e.g., number of copies of printed materials or frequency
16 of media spots).” *Id.* at 92.

17 With certain narrow exceptions, the Act prohibits corporations from making
18 contributions or expenditures in connection with any election. 2 U.S.C. § 441b(a).
19 Corporations are prohibited from making “any direct or indirect payment, distribution,
20 loan advance, deposit, or gift of money or any services, or anything of value (except a
21 loan of money by a bank in accordance with applicable laws and regulations and in the
22 ordinary course of business) to any candidate, campaign committee, or political party or
23 organization, in connection with any federal election.” 2 U.S.C. § 441b(b)(2). The Act

1 further provides that a candidate or political committee shall not knowingly accept
2 corporate contributions. 2 U.S.C. § 441b(a).

3 The Act requires each treasurer of a political committee to file reports of receipts
4 and disbursements with the Commission. 2 U.S.C. § 434(a). Each report must disclose
5 the identification of each political committee which has made a contribution to the
6 reporting committee, together with the date and amount of any such contribution.
7 2 U.S.C. § 434(b)(3)(B).

8 **B. FACTS**

9 **1. Background on Relevant Persons and Entities**

10 Rick Hill is a businessman who has lived and worked in Montana since he was a
11 few years out of college. Mr. Hill announced his intent to run as a Republican candidate
12 for the Montana at-large seat in June of 1995. Hill dep. at pge 23. He faced three
13 primary opponents on June 4, 1996. On the Democratic side, there were four challengers,
14 including Bill Yellowtail. During the primary, certain incidents in Mr. Yellowtail's past
15 became the subject of public discussion and media attention, including a record of
16 spousal abuse, unpaid child support and two burglary convictions during college. Mr.
17 Yellowtail's past history regarding his failure to pay child support and his criminal record
18 came up during at least one Republican forum at which each of the three Republican
19 candidates promised not to "revisit" Mr. Yellowtail's personal problems should they
20 become the nominee. Mr. Hill was quoted as saying that, "I don't think that it will be
21 appropriate for these issues to be rehashed in the fall campaign." Sherry Devlin, *GOP*
22 *Rivals Vow to Avoid the Negative*, the Missoulian, May 31, 1996. Mr. Hill went on to

1 win the Republican primary with 43.77% of the vote. Mr. Yellowtail won his primary
2 with 56.10% of the vote. Mr. Hill won the general election with 50% of the vote.

3 Triad was established and controlled by Carolyn Malenick, who serves as
4 president of the incorporated entity. One of Triad's stated goals was to expand the
5 Republican majority in Congress during the 1996 election cycle. Triad claims to have
6 contacted approximately two hundred and fifty (250) Republican congressional
7 campaigns during the 1996 election cycle, including the Rick Hill for Congress
8 Committee, in order to conduct "political audits" on the viability of these campaigns.
9 The audits involved multiple contacts with the campaigns, and were conducted through
10 telephone contacts, the exchange of written materials, and in many cases, face-to-face
11 meetings. Triad's political audits were overseen and conducted by Carlos Rodriguez, an
12 experienced political consultant, with assistance from, among others, his employee Jason
13 Oliver. As part of its political audits, Triad obtained detailed information regarding the
14 candidate's and the campaign's prospects in the upcoming election. Triad has stipulated
15 that the topics that Triad discussed with each campaign staff typically included
16 information regarding the campaign's fundraising goals and performance, the campaign's
17 operating budget and staffing plans, the identity of the campaign's professional
18 consultants, the campaign's advertising plans, recent public polling results, key issues
19 being advanced by the candidate or his/her opponent, the campaign's self-assessment of
20 its specific needs, the strengths and weaknesses of the campaign, the strengths and
21 weaknesses of the opponent, and the campaign's prospects for victory.

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1 During the latter half of 1996, Triad managed the activities engaged in by CR, a
2 Virginia non-profit corporation with no offices or employees of its own.⁶ CR was
3 incorporated by Peter Flaherty, who became its president in May 1996. Prior to
4 September 1996, CR received no funds, sponsored no activities, and made no
5 expenditures of any kind. Beginning no later than September 5, 1996, Triad began to
6 solicit and accept funds for the purpose of funding a series of advertisements by CR. On
7 or about September 26, 1996, Triad entered into a consulting agreement with CR, which
8 confirmed earlier understandings between Peter Flaherty and Ms. Malenick, Triad's
9 president. The agreement called for Triad to provide services in connection with the
10 placement and production of advertisements, and gave Triad discretion in deciding "the
11 means by which it will provide the Services" for CR. Triad Stips. at ¶ 1.24. CR was to
12 pay Triad Inc. a commission on all funds raised and all direct expenses incurred for the
13 advertising efforts.

14 Acting on CR's behalf, Triad raised funds for, and managed the production and
15 distribution of, approximately \$1.4 million in television, radio, direct mail and telephone
16 bank advertising prior to the 1996 congressional elections. Agents of Triad, particularly
17 Ms. Malenick and Mr. Rodriguez, were responsible for selecting the media markets,
18 approving the scripts, and authorizing expenditures for the production and placement of

⁶ Aside from a single advertising campaign in California and some fundraising activities engaged in by Peter Flaherty, Triad managed all of CR's 1996 activities.

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1 the advertising campaigns sponsored by CR during 1996. Although Mr. Flaherty testified
2 that he was kept informed of Triad's activities on behalf of CR so that he could provide
3 oversight, he did not recall providing Triad with any detailed directions on how to carry
4 out the advertising campaigns. Flaherty dep. at pges 192-193. Mr. Flaherty testified that
5 it was CR's conscious intent to avoid engaging in express advocacy in its public
6 advertising, so as to avoid any requirement that it report to the FEC. *Id.* at 252-53.

7 CR sponsored nineteen Triad-managed advertising campaigns in the weeks
8 immediately prior to the 1996 congressional elections. CR expended \$1,412,313.55 to
9 pay for the planning, production, broadcast or dissemination of television, radio, direct
10 mail and telephone bank advertising programs, all of which featured clearly identified
11 candidates for federal office. CR only ran ads in congressional districts where Triad had
12 audited and recommended support for the Republican candidates. Each advertisement
13 referenced and commented, either positively or negatively, on clearly identified
14 candidates in the congressional district in which it was broadcast and distributed. CR
15 President Peter Flaherty testified that that the media markets for CR's advertisements
16 were selected on the basis of the public officials (all of whom were candidates) featured
17 in the ads. Flaherty dep. at pge 251. Mr. Rodriguez's assistant, Jason Oliver, testified,
18 however, that Triad selected the congressional districts based in part on the results of its
19 political audits. Oliver depo at pge 40. Mr. Oliver stated that Triad would look for a race
20 where there was a clear contrast between the candidates, and where the "seats were
21 considered top-targeted for the purpose of a takeover" or were part of Triad's "top tier" as
22 a result of a political audit. *Id.* at pges 40-41 and 104. Mr. Rodriguez testified that while

1 he generally could not remember how the specific media markets for CR and CREF⁷
2 advertising were selected, he thought that media markets were often chosen so as to
3 respond to AFL-CIO advertising in states or districts that were "in play" with regard to
4 the upcoming elections. Rodriguez dep. at pges 289-293.⁸

5 Jason Oliver testified that, in the late summer or early fall of 1996, Ms. Malenick
6 and Mr. Rodriguez instructed him to contact the Republican candidates' campaigns in the
7 congressional districts Triad was considering for "education ads" to find out what issues
8 the campaigns would like to see addressed. Oliver dep. at pges 116-117. Mr. Oliver
9 testified that he called the Republican congressional campaign in each of the districts for
10 races in the House of Representatives where advertising was being considered, to pose
11 the question "[i]f an organization were going to do issue education in your district, what
12 would the top three or four issues be that you think need to be brought up." *Id.* at 116,
13 122-129.⁹ Mr. Oliver testified that he did not mention CR in any of these telephone
14 inquiries, and when asked, told the campaigns that he did not know what groups might be
15 running the ads. *Id.* at 119.

⁷ "CREF," which stands for Citizens Republic Education Fund, was a second non-profit corporation whose activities Triad managed during the 1996 election cycle.

⁸ In its response to written questions from the Commission, Triad Inc. stated that it selected media markets (which it referred to by congressional district designations) for ads based on "a clear dichotomy between those individuals [congressional candidates] supporting traditional family values, conservative economic and social policies, and those [congressional candidates] arguing for the general expansion of governmental authority, increased taxes and positions contrary to traditional values. Those media markets where such advertisements would likely be overwhelmingly rejected by viewers as unpersuasive or wrong were not picked. Markets were chosen where the debate would be timely and significant, where the debate was 'hot'."

⁹ Mr. Oliver testified that he contacted each campaign involved in races for seats in the House of Representatives. Oliver dep. at pge 128. Mr. Rodriguez testified that he did not recall ever asking Mr. Oliver to contact any campaigns to discuss the advertising efforts, and that he had no recollection of ever being aware of any such contacts. Rodriguez dep. at pges 303-306.

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1 Mr. Oliver prepared a chart of the issues suggested by the campaigns which he
2 then provided to Ms. Malenick and Mr. Rodriguez. *Id.* at 120-121 and 124-125.
3 Although the original chart prepared by Mr. Oliver was not produced by Triad or any of
4 its employees, Mr. Oliver identified a document produced by one of the advertising
5 vendors as a subsequent version of the chart on which he recorded the different
6 campaigns' advertising preferences. In many instances, the topics listed on this chart
7 reflect the focus of subsequent CR advertising in that media market or congressional
8 district.

9 **2. Contacts Between Triad and the Hill Committee**

10 The Hill Committee's response to the Commission's subpoena and order placed
11 the first contact with Triad around September 1996, "when a Triad representative
12 apparently set up an appointment to meet with the candidate."¹⁰ Larry Akey, who
13 characterized himself as an unpaid general consultant to the campaign at the time,
14 testified that he returned a call to Triad and spoke to Carlos Rodriguez.¹¹ Akey dep. at
15 pgs 40, 123-125.

¹⁰ According to the Committee's response, the contacts with Triad were limited to: arranging the September 12, 1996 Washington, D. C. meeting and Mr. Hill's attendance at that meeting; the September audit visit by Carlos Rodriguez; a possible October 1996 phone contact between the Hill campaign manager, Charmaine Murphy, and Julie, from Rodriguez & Company; and the receipt of a letter signed by Meredith O'Rourke containing contribution checks.

¹¹ The first direct contact was actually in January or February of 1996. Jason Oliver testified that during that time, Mr. Rodriguez and Ms. Malenick instructed him to call each Republican candidate in each of the districts to ask a series of questions, including ones concerning the candidate's background, issue positions, campaign personnel and consultants, and the top three issues the candidate and his opponent would be running on. Oliver dep. at pgs 28-30. A report written by Jason Oliver in February 1996 to update Ms. Malenick on the status of the project, see Oliver dep. at pge 191, indicated that the Rick Hill campaign had responded to the questions, but did not contain the content of these responses.

1 On September 12, 1996, Rick Hill visited the Triad headquarters while in
2 Washington, D.C. on campaign business. Mr. Hill testified that he was by himself when
3 he met with Triad's President, Carolyn Malenick, and that they discussed the possibility
4 of Triad's network of wealthy donors contributing to his campaign.¹² Hill dep. at pge
5 109.¹³ Mr. Hill also testified that he did not discuss either Bill Yellowtail or the issue of
6 spousal abuse during the meeting. Hill dep. at pges 112-113. However, the testimony of
7 Meredith O'Rourke, Triad's finance director, conflicts with that of Mr. Hill. She testified
8 that she was also present at this meeting. Although equivocal on whether Mr. Hill was
9 providing a description of his democratic opponent, Bill Yellowtail, or reporting on the
10 hot issues in the campaign, Ms. O'Rourke testified that Mr. Hill voluntarily brought up
11 Mr. Yellowtail's history of spousal abuse. Ms. O'Rourke stated that both she and Ms.
12 Malenick were "upset" by this information and that it was a topic of conversation
13 between them once the meeting was concluded. O'Rourke dep. at Vol. 2, pges 487-489.

14 Thereafter, phone records show short calls between the Hill Committee and
15 Rodriguez and Company on September 16, September 17, and September 19, 1996. On
16 September 20, 1996, Rodriguez and Company and the Committee had two telephone
17 contacts, the longer of which lasted over 12 minutes. At 4:51 p.m. on that same day, the
18 Committee sent a fax to Rodriguez of two minutes duration. Mr. Oliver testified that he
19 spoke to the Hill campaign on a couple of occasions and that, as instructed, he had called
20 the Hill campaign to inquire about what issues it would like to see in third-party ads; he

¹² Mr. Hill's schedule, as produced in the Committee's response, indicates that the meeting was with "Meredith and CSM [Carolyn S. Malenick] would attend if possible."

¹³ Mr. Hill, who was at the time still a Member of Congress, voluntarily made himself available for this deposition.

1 could not recall the name of the individual to whom he spoke. Oliver dep. at pges 130-
2 131.

3 The entry on Jason Oliver's chart, discussed above, for the congressional race in
4 which Republican Rick Hill was facing Democrat Bill Yellowtail states: "Yellowtail:
5 Felon, Wife Beater, Dead Beat Dad. Opp going after Dead-beat Dads." According to
6 Mr. Oliver, some of the information contained in the entry for the Hill-Yellowtail race on
7 his chart was obtained by Carlos Rodriguez when he did his on-site political audit of the
8 Hill campaign. *Id.* at 130, 146. Mr. Rodriguez testified that while he had no specific
9 recollection, it was very likely that he discussed the issues as outlined on the chart created
10 by Mr. Oliver with the candidate. Rodriguez dep. at pge 311.

11 Carlos Rodriguez visited Hill campaign headquarters on September 23rd and 24th
12 to perform a Triad "political audit." Mr. Rodriguez spent a day and a half conducting the
13 audit, speaking with staff and briefly with the candidate. According to the Hill
14 Committee response, Mr. Rodriguez questioned Mr. Hill about his public commitment
15 not to attack Bill Yellowtail's personal reputation, and Mr. Hill reasserted that he would
16 honor this commitment. The Hill response states that Betti Hill, the candidate's wife, and
17 Charmaine Murphy, the campaign manager, also spoke to Mr. Rodriguez, but that it could
18 not be said with assurance who, if anybody else, met with Mr. Rodriguez. The response
19 also asserts that the possibility of running ads by any organization was not discussed. Mr.
20 Rodriguez testified that he could not recall specific conversations with the Hill
21 Committee, including: "I cannot tell you specifically what was or was not said with
22 regards to Bill Yellowtail's wife beating." Rodriguez dep. at pge 326. Mr. Hill testified
23 that he had no specific recollection of his meeting with Mr. Rodriguez and he never

1 learned what others said during the audit. Hill dep. at pges 129, 130-131. Mr. Rodriguez
2 testified that he did not think that he met with Larry Akey during the audit. *Id.* at pges
3 310, 317 and 320. However, Mr. Akey testified that he met privately with Mr. Rodriguez
4 at his business office, which was on the same floor as Hill headquarters.¹⁴ Apart from
5 remembering that they were introduced, Mr. Akey testified that he was unable to recall
6 anything else that was said during this meeting. Akey dep. at pges 133-136.

7 Following Mr. Rodriguez's visit, his audit report on the Hill campaign was
8 transcribed.¹⁵ The Hill audit report, dated September 24, 1996, states that the key "anti-
9 Yellowtail" issues were "1) wife beating; 2) robbery of camera store in College; 3) Dead-
10 beat dad [and] 4) Voting against elderly and families." TR15 001143-00145. The first
11 three of these issues were the same as listed in Jason Oliver's chart reflecting the issues
12 requested by the campaign for the Hill campaign. Mr. Rodriguez testified that he would
13 have obtained items listed under "key issues" from the campaign or from Jason's
14 background research. He stated that while he had no specific recollection of the
15 discussion, "key issues" were something that he typically discussed with a campaign
16 during the audit. According to Mr. Rodriguez, "[b]y and large we got a lot of the
17 information on what the key issues were from meeting with the campaign, whether the
18 candidate or the campaign staff." Rodriguez dep. at pges. 314, 315-318.

¹⁴ The Hill Committee sublet office space from Target Communications, Mr. Akey's public relations and governmental affairs business, during the 1996 primary. During the general election, the Committee acquired other space on the same floor of the building, but continued to have use of Target Communication's front office and conference room.

¹⁵ Mr. Rodriguez testified that it was his usual practice to dictate his audit report immediately upon leaving a Committee's headquarters while the interview was still fresh in his mind. Rodriguez dep. at pges 314, 319 and 320. After transcription, the notes or tape were destroyed. Oliver dep. at pge 196.

1 The audit report also stated that the Hill campaign “needs” a “3rd party to ‘expose’
2 Yellowtail.” Under the same category, “needs,” it is also noted that the campaign needed
3 “direct mail” and “\$15K for phone banks.” TR15 001143-00145. While both Mr. Hill
4 and Mr. Akey denied that they discussed the issue of third party expenditures during the
5 audit, Mr. Akey testified that phones and direct mail “were probably the two items that as
6 we talked to people about committing resources to the campaign we were saying if we
7 can get the money, we will spend it on this.” Akey dep. at pge 142. For his part, Mr.
8 Rodriguez gave a variety of answers to whether he discussed the “needs” of the campaign
9 with those he interviewed during the audit. At one point in the deposition, he stated that
10 it was “not likely” that he discussed the campaign’s “needs” during the audit. Rodriguez
11 dep. at pge 314. However, later in the deposition, he testified he “may have discussed
12 them,” and that it would be unusual for him not to have gotten involved in the mechanics
13 of the campaign in Montana. Rodriguez dep. at pges 314-316. Jason Oliver, who
14 reviewed and possibly typed Mr. Rodriguez’s notes of his visit to the Committee, testified
15 that “it was in Carlos’ notes and in that report that Yellowtail [sic] said they wanted – or
16 his campaign said – who I don’t know—in notes asked that that issue be raised.” Oliver
17 dep. at pges 195-96. ¹⁶

18 Mr. Rodriguez recalled practically no specifics of his audit of the Hill campaign,
19 or the conversations he had during the audit. However, he claimed to remember what he
20 meant by his reference to the “3rd party” in the audit report. According to Mr. Rodriguez,
21 he was thinking that the issue of Mr. Yellowtail’s spousal abuse might be appropriate for

¹⁶ In context, it is obvious that Mr. Oliver misspoke when he said Yellowtail, rather than Hill.

1 some women's group like the National Organization for Women, "standing up for wife
2 beaters or for women abused by their husbands." He said because he could not recall
3 specifics of conversations, it was "impossible to answer whether he shared this idea" with
4 the campaign. He testified that he recalled this one detail out of the report because he
5 found the issue of spousal abuse so outrageous. Rodriguez dep. at pges 322, 323.

6 The Hill audit report also notes that while the "weakest link" in the campaign was
7 the on-site manager, "[t]his should not be of great concern since Larry Akey...is actually
8 running the campaign on a day today basis behind the scenes."¹⁷ Additionally, the report
9 states that "[t]he survey work just done by Bob Moore has identified the specific points of
10 contrast between Hill and Yellowtail and should be effective in its delivery."¹⁸ The
11 "survey work" is a reference to a poll conducted on 8/24/96-8/26/96 for the American
12 Medical Association Political Action Committee by Moore Information, Inc. and shared
13 with to the Hill Committee.¹⁹ A memorandum to the Hill Committee from the pollster
14 stated that this poll showed that on an initial ballot, Mr. Hill trailed Mr. Yellowtail by
15 35% to 44%, but that Hill moved into a 22 point lead (49%-27%) in a second ballot near
16 the end of the survey after voters had heard statements about both candidate's

¹⁷ Mr. Akey testified that he "provided overall strategic advice to the campaign." Akey dep. at pge 34. Mr. Hill testified that "[a]t that point I think Akey was pretty much involved. I don't know about day-to-day, but he was pretty involved. Hill dep. at pge 151.

¹⁸ In its response, Moore Information, Inc. stated that it did not share any polling data with Triad. When asked about this section of the audit report, Mr. Hill stated that he came away from the polling data feeling confident that the campaign could draw a contrast with Mr. Yellowtail by emphasizing Mr. Hill's being a single parent and his business experience. Mr. Hill also stated that it showed Mr. Yellowtail as being "vulnerable" due to his "liberal voting record..." Hill dep. at pge 150. Mr. Rodriguez did not recall this part of the audit or what the reference to the points of contrast meant. Rodriguez dep. at pge 318.

¹⁹ This in-kind contribution was reported to the FEC by the Hill Committee.

1 backgrounds and views on the issues. Mr. Akey testified that he did not recall any
2 specific discussions about the results of these two polls. Akey dep. at pges 109-10.

3 Both Mr. Akey and Mr. Rodriguez testified that they may have had contact after
4 the audit, but neither was able to provide any details. Akey dep. at pges 169, 170;
5 Rodriguez dep. at pges 317-320. Larry Herzog, a volunteer co-chairman for the Hill
6 Committee in Yellowstone County for the 1996 campaign, told staff of this Office that
7 the Hill press aide, Bowen Greenwood, conducted opposition research on Bill Yellowtail,
8 including research concerning Mr. Yellowtail's divorce and criminal record, and that
9 Larry Akey sent this material directly to Triad. Mr. Akey testified that the campaign did
10 provide outsiders with background material on Yellowtail, including press articles on his
11 past personal problems. Mr. Akey stated that he provided the information on Mr.
12 Yellowtail's past "[b]ecause it was a way to shorten the contacts of having to explain to
13 those folks calling in, I have heard this, I have heard that. It was all items in the public
14 record." According to Mr. Akey, "I didn't see any harm in passing that information along
15 in order to not burn up campaign time in trying to explain it every time somebody called."
16 Akey dep. at pge 146. He recalled asking the press aide, Bowen Greenwood, to assemble
17 such a packet in September or October 1996. Mr. Akey further testified that Carlos
18 Rodriguez may have received such a package. Akey dep. at pges 144-149.

19 Phone records show that there were at least three additional telephone contacts
20 between Rodriguez and Company and the Committee up to the end of October 1996, and
21 that there was a short call from Triad to Mr. Hill's home on October 29, 1996.²⁰ On

²⁰ Mr. Hill testified that he did not recall receiving any such telephone call or a message at his home. Hill dep. at pges 121, 122.

1 October 3, 1996, Rodriguez and Company called Larry Akey's business, Target
2 Communications, and spoke for 7.20 minutes. According to Bob Moore, the President of
3 Moore Information, Inc. he received a telephone call from Carlos Rodriguez in the late
4 summer or early fall of 1996. Mr. Rodriguez requested information on what percentage
5 of the state's voters lived in each media market and asked questions relating to general
6 issues in Montana. According to Mr. Moore, Mr. Rodriguez began to ask questions
7 specifically related to the Hill campaign, but Mr. Moore refused to respond because such
8 information was proprietary. Triad also contacted the Committee's pollster by telephone
9 from Washington on three occasions, twice on October 28, 1996 and once on October 29,
10 1996. Mr. Moore recalled one telephone conversation with Ms. Malenick in late October
11 1996 in which she inquired what the Hill Committee thought of their ads. As Mr. Moore
12 was unable to provide this information, Ms. Malenick asked where she might find this
13 information. Mr. Moore provided her with the telephone numbers for two other Hill
14 vendors who provided the Committee with strategic, media and phone bank services.
15 There is no indication from the telephone records provided by Triad that calls were in fact
16 placed to either, Cottington Marti, Inc. or Strategic Telecommunications.²¹

17 **3. Committee Communications Concerning Anti-Yellowtail Ads**

18 Despite the campaign pledge made by Mr. Hill in the Spring of 1996 that his
19 campaign was going to refrain from exploiting Bill Yellowtail's personal history,
20 including spousal abuse, non-payment of child support, and burglary convictions, the
21 evidence shows that his campaign continued to debate the desirability of using these as

²¹ In its subpoena response, Strategic Communications denied any contact with Triad or CR. Scott Cottington denied any communications with Triad in an interview with this Office.

1 campaign issues. Mr. Hill acknowledged in his deposition that "probably all" of his
2 campaign staff and advisors felt that "going negative" on Mr. Yellowtail should not be
3 excluded as an option. Hill dep. at pge 70. According to the candidate, these
4 individuals included Larry Akey²² and Scott Cottington, the media vendor. Hill dep. at
5 pges 72, 73.

6 Although Larry Akey testified that "Mr. Yellowtail's travails were off-limits for
7 the Hill campaign," Committee documents show that the idea of using Mr. Yellowtail's
8 past had continuing viability. For instance, voter surveys commissioned by the
9 Committee and one provided to the Committee from a political action committee tracked
10 voter response to Mr. Yellowtail's past personal problems during the general election
11 campaign. When asked why the polls contained questions on Bill Yellowtail's past if the
12 campaign did not intend to use it, Mr. Hill testified that it "Could very well have been
13 that my advisors were going to press me to change my mind and thought they could do it
14 from polling data." Hill dep. at pge 99. In addition, the Committee's pollster, Moore
15 Information, Inc., produced notes with the date 7/31 and the name Larry Akey and the
16 telephone number for Target Communications written across the top of the page. The
17 notes indicate that among the topics of conversation were the legitimacy of the public
18 record and "Yellowtail personal stuff."²³

²² Mr. Akey testified that he worked on the campaign from January or February 1996 through the primary in June. After a campaign manager was hired in early July he left, only to return in late August, early September 1996. Akey dep. at pge 37. His duties included serving as overall strategist and being the point of contact between the Committee and its consultants, including its media vendors. Mr. Akey served as Congressman Hill's Chief of Staff from January 1999 until April 2000.

²³ When presented with the notes, Mr. Akey testified that he could not recall such a conversation with Mr. Moore. Akey dep. at pge 75-78.

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1 In a memorandum dated August 12, 1996, addressed to Rick and Betti Hill and
2 "the Hill gang," Committee media vendor Scott Cottington proffered various ideas for
3 ads, including what the media strategist termed a "Bill Yellowtail hard jamming spot."²⁴
4 The proposed ad would highlight Mr. Yellowtail's "checkered past, including the
5 burglary, spousal abuse, child support." Mr. Cottington also stated in his memo that "Mr.
6 Yellowtail is, at the bottom line, a pretty sorry excuse for a public servant and he has a
7 very checkered past, to say the least. Self admitted burglary, wife abuse, seven years of
8 disregarded child-support payments, and who knows what else do not inspire trust in an
9 elected official. Period." The vendor noted that "[o]f course the moral pedestal is a high
10 one from which to fall, so we would have to handle this ad deftly, but it does sit there and
11 beg to be considered." Additionally, as mentioned previously, the Hill campaign's press
12 aide did research on Yellowtail's personal problems, and, according to Larry Herzog,
13 Larry Akey sent a packet of information containing press articles on this topic to Carlos
14 Rodriquez, as well as other outside organizations.²⁵ Mr. Akey did not dispute this
15 statement.

16 The Hill campaign has consistently maintained that it did not tell Triad to "expose
17 Yellowtail" and did not know that Triad or CR were planning to run the anti-Yellowtail
18 ads. *See, e.g.*, the Hill campaign responses, Hill dep. at pge 148; Akey dep. at pge 201.

²⁴ Mr. Hill testified that he did not see this memorandum. Hill dep. at pge 92.

²⁵ Mr. Akey testified that during the general election period, Mr. Hill's "former wife made allegations of marital infidelity which found their way to the front pages of most Montana newspapers." According to Mr. Akey, he was concerned that the Yellowtail campaign might choose to run ads "speaking to Rick's trustworthiness," but he did not link this concern to his decision to release negative personal articles concerning Mr. Yellowtail's past. *See* Akey dep. at pges 112-113.

1 Mr. Hill testified that he did not believe that anyone on his staff violated his pledge not to
2 exploit Mr. Yellowtail's past in the campaign. Hill dep. at pge 75.

3 **4. CR Anti-Yellowtail Communications**

4 In late October 1996, CR spent \$141,416 on two television ads and a phone bank
5 operation in Montana. One ad, called "Gold,"²⁶ asserted that the Democratic candidate,
6 Bill Yellowtail, had voted on several occasions in favor of higher taxes. The second
7 television ad, entitled "Responsible" focused on certain negative events in Mr.
8 Yellowtail's personal life. The phone bank script addressed both issues.

9 The text of the CR-sponsored advertisement "Responsible," was as follows:

10 *Who is Bill Yellowtail ?*

11 *He preaches family values, but he took a swing at his wife.*

12 *Yellowtail's explanation? He only slapped her, but her nose was not*
13 *broken.*

14 *He talks law and order, but is himself a convicted criminal.*

15
16 *And though he talks about protecting children, Yellowtail failed to make*
17 *his own child support payments, and then voted against child support*
18 *enforcement.*

19 *Tell Bill Yellowtail you don't approve of his wrongful behavior.*²⁷

²⁶ During development, both of the television ads sponsored by CR in Montana underwent title changes. "Gold" was at some point in the creative process called "Taxes." "Responsible" was entitled "Who's Bill" in an earlier version. See, CR Stips ¶¶ 11.6, and 11.13/14 There are also subtle textual differences between "Responsible" and "Who's Bill."

²⁷ Jason Oliver testified that he played a role in drafting an early version of the ad that was ultimately called "Responsible." Oliver dep. at pgs 102-03. In a Triad response, Triad stated that Ms. Malenick believed that she recommended to the vendor that the Montana ad contain the topic of personal violence based on a strong interest in this issue, and a concern that the issue was not being discussed in the fall in Montana. However, Carlos Rodriguez testified that he did not recall the Montana campaign holding any special interest for her. Rodriguez dep. at pge 309. In its response, the Farwell Group, who produced the ad, stated that another vendor passed along instructions and paid for the work, but that Triad and CR acting through Carlos Rodriguez and counsel "determined and controlled the content of the ads."

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1 The text of the CR phone bank script, provided by Triad, was:

2 *MONTANA AT LARGE*

3 *GOOD EVENING MY NAME IS _____ AND I AM CALLING ON*

4 *BEHALF OF THE CITIZENS FOR REFORM COMMITTEE. WE ARE CALLING*

5 *VOTERS TODAY BECAUSE WE BELIEVE THAT YOU SHOULD KNOW THE*

6 *FACTS ABOUT THE CANDIDATES. BILL YELLOWTAIL IS RUNNING FOR*

7 *CONGRESS. HE TELLS EVERYONE HE IS IN FAVOR OF FAMILY VALUES*

8 *BUT HE SLAPPED HIS WIFE AROUND AND SHE HAD TO BE*

9 *HOSPITALIZED. HE TELLS US HE WANTS TO PROTECT CHILDREN BUT*

10 *HE FAILED TO MAKE HIS OWN CHILD SUPPORT PAYMENTS. HE TALKS*

11 *ABOUT LAW AND ORDER BUT HE IS A CONVICTED FELON. HE HAS*

12 *OPPOSED LOWERING PERSONAL PROPERTY TAXES, HE HAS VOTED TO*

13 *RAISE TAXES ON INCOME, ON NEW CARS AND EVEN ON TELEPHONES.*

14 *IF YOU[RE] UPSET GIVE BILL YELLOWTAIL A CALL AT 406-443-3620 AND*

15 *TELL HIM HOW YOU FEEL.*

16 The text of these CR communications exposing Mr. Yellowtail's past legal and

17 domestic problems contain the same "issues" as those on Jason Oliver's chart and in the

18 Hill audit report prepared by Carlos Rodriguez. Mr. Yellowtail reportedly was leading

19 Mr. Hill in the polls prior to the CR advertising campaign, but eventually lost the

20 election. Mr. Hill won with 50% of the vote, as opposed to 46% for Mr. Yellowtail and

21 4% for a third party candidate.

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1 **5. Ms. Malenick's Fifth Amendment Assertion**

2 Carolyn Malenick asserted her Fifth Amendment privilege against self-
3 incrimination rather than submit to a deposition in this investigation. Therefore, this
4 Office was not able to question her concerning her version of communications she had
5 with Mr. Hill, the Hill campaign, CR or others.

6 **C. ANALYSIS**

7 The evidence gathered in the investigation shows that the Hill campaign's
8 participation in the CR anti-Yellowtail communications rose to the level of coordination.
9 Despite the denials of Mr. Hill, his wife, campaign staff and advisors, there is probable
10 cause to believe that the campaign requested or suggested to Triad that it needed a 3rd
11 party to expose Mr. Yellowtail, in view of Mr. Hill's public stance that he would not do
12 so, and that there was substantial discussion about the content of such an exposure piece.

13 Although Mr. Akey testified that the possibility of personal attacks on Mr.
14 Yellowtail were "off limits" for the Hill campaign, the evidence shows that this was not
15 the case. According to Meredith O'Rourke, Mr. Hill himself voluntarily brought up the
16 issue of spousal abuse at a meeting with Triad in Washington, DC. In addition, in August
17 1996, the Committee's pollster conducted a poll for another organization which it
18 provided to the Committee, showing the substantial beneficial effect on the race for Mr.
19 Hill when voters heard information about the candidates' respective backgrounds.

20 Although Mr. Akey testified that he did not recall any discussion within the campaign
21 concerning this poll, that is not credible given its potential impact on the race. The
22 polling firm also produced a set of notes with Larry Akey's name and number on the top,
23 containing references to "Yellowtail personal stuff."

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1 Further, the campaign's media vendor wrote a memorandum during the general
2 election campaign proposing an ad highlighting Mr. Yellowtail's "checkered past,
3 including the burglary, spousal abuse, child support," that he contended "beg[ged] to be
4 considered." The addressees of this memorandum included the candidate, his wife, and
5 "the Hill gang," suggesting a wide dissemination, but the candidate testified he never saw
6 it. Nevertheless, the candidate was aware that "probably all" of his staff and advisors
7 disagreed with his statements not to use Yellowtail's personal problems as a campaign
8 tactic. His awareness points to his discussions with others concerning the pros and cons
9 of such a tactic. He testified that the polling involving the candidates' past "could very
10 well" have been done because his advisors "were going to press me to change my mind."

11 In addition, Larry Herzog stated that the Hill campaign's press aide researched
12 Mr. Yellowtail's past legal and domestic problems, and that Mr. Akey sent a packet of
13 materials containing press articles on that topic to Carlos Rodriquez. Mr. Akey
14 confirmed that the campaign researched and passed out such packets of information to
15 outsiders, and that one may have been sent to Mr. Rodriquez. By implicitly condoning
16 and encouraging the spread of that information, instead of refusing to disseminate it, the
17 campaign showed its receptivity to having outsiders exploit it to Mr. Hill's benefit.
18 Moreover, given the evident dissatisfaction and possible frustration on the part of Mr.
19 Hill's campaign staff and advisors, it is credible that one or more of them would
20 specifically request or suggest that outsiders, including Triad, run personal attack ads on
21 Yellowtail.

22 The evidence is consistent with a probable cause finding that that is precisely what
23 happened. Jason Oliver's chart reflecting his calls to campaigns asking for their issue ad

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1 preferences shows that the Hill campaign's preference was for personal attacks on
2 Yellowtail. Mr. Oliver said that some of the information may have come from the audit;
3 Mr. Rodriguez said that the same "key issues" in his audit report either came from the
4 campaign during the audit or from Mr. Oliver's "background research," which in context,
5 referred to Mr. Oliver's calls to the campaigns. The Hill campaign acknowledges that
6 during Triad's political audit in Montana, the candidate and Mr. Rodriguez discussed Mr.
7 Yellowtail's troubled past and the candidate's pledge that his campaign would not exploit
8 it during the general election campaign. Mr. Hill testified that he could not specifically
9 recall what was discussed during the audit, and he testified that he never learned what
10 others said. Mr. Rodriguez testified he recalled no specifics of conversations and
11 couldn't say what was or was not discussed about Mr. Yellowtail's spousal abuse. And
12 while Mr. Rodriguez testified that he could not recall speaking with Mr. Akey, Mr. Akey
13 testified that they did meet privately during the audit, though he testified he could not
14 recall what was said.

15 The most objective evidence of what was said during the audit is Mr. Rodriguez's
16 transcribed audit report, based on notes dictated right after his visit. That report states
17 that the key "anti-Yellowtail" issues were wife beating, robbery of a camera store in
18 college, deadbeat dad and voting against elderly and families, and that among the
19 campaign's "needs" were "3rd party to expose Yellowtail." Jason Oliver testified that Mr.
20 Rodriguez's notes of the Hill campaign audit indicated that someone on the campaign
21 wanted the anti-Yellowtail issues raised, and Mr. Rodriguez testified that by and large,
22 such issues came from discussions with campaigns. As noted, Triad has stipulated that
23 its political audits typically included the campaign's self-assessment of its specific needs.

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1 Mr. Akey acknowledged that the other two topics in the "needs" category, direct mail and
2 phone banks, were freely discussed with outsiders by the campaign, and Mr. Rodriquez
3 testified that all three of them may have been discussed during the audit. Since two most
4 certainly were, it is logical to conclude that all three were topics of conversation.
5 Moreover, telephone records show subsequent contacts between the Hill campaign and
6 Triad.

7 Mr. Rodriquez's testimony of his only clear memory from the audit - that he
8 claims he meant by the campaign needs "3rd party to expose Yellowtail" - is self-serving,
9 and should not be credited. There is no evidence that he shared his purported idea with
10 the campaign or Triad. Indeed, the only evidence on that score is that Triad, through CR,
11 itself disseminated the communications exposing Yellowtail, and Carlos Rodriquez
12 played a significant role in CR's activities. The content of the CR communications were
13 strikingly similar to those reflected on Mr. Oliver's chart and in the transcription of
14 Carlos Rodriquez's audit report.

15 Finally, given the candidate's public stance, it would not be surprising if
16 discussions with Triad were had secretly, or that members of the campaign would not
17 want to admit undercutting Mr. Hill's pledge. Triad agents also have a motive for
18 denying coordination with the Hill Committee. In these circumstances, the physical and
19 circumstantial evidence of coordination set forth above should be given strong weight.

20 In sum, the evidence shows that there is probable cause to believe that the Hill
21 campaign suggested or requested that Triad "expose" Mr. Yellowtail's personal travails,
22 and that there were discussions regarding the content of such communications. *See*
23 *Christian Coalition*, 52 F. Supp.2d at 92. Therefore, the ads were coordinated.

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1 Triad's efforts to coordinate the CR advertisements with numerous campaigns,
2 including the Hill campaign, demonstrate that the purpose of the advertisements was to
3 influence federal elections.²⁸ Triad's interaction with the Hill campaign ensured that the
4 CR communications would have the maximum effectiveness in garnering support against
5 Rick Hill's opponent. "The fact that the candidate has requested or suggested that a
6 spender engage in certain speech indicates that the speech is valuable to the candidate,
7 giving [expressive] expenditures sufficient contribution-like qualities to fall within the
8 Act" 52 F. Supp.2d at 92. Based on the *Christian Coalition* court's reasoning,
9 Triad's use of the Hill campaign's requested or suggested advertising topics in
10 the CR advertisement, and discussions concerning same, resulted in a coordinated
11 expenditure of \$141,416 and represented an in-kind contribution of the same amount to
12 the Hill Committee.

13 CR's expenditures for communications on behalf of the Hill campaign alone far
14 exceeded the \$1,000 threshold for political committee status under the Act. See 2 U.S.C.
15 § 431(4)(A). Moreover, a, if not the, major purpose of CR was to influence federal
16 elections, based on the evidence that a substantial portion of its advertising during the
17 1996 election cycle was coordinated with federal campaigns. Accordingly, all but the
18 first \$1,000 of the \$141,416 in coordinated expenditures would constitute an excessive

²⁸ In the *Christian Coalition* decision, the court rejected the assertion that "express advocacy" was required for expenditures to be considered coordinated. *Christian Coalition*, 52 F. Supp.2d at 87-89. The district court stated that "importing the 'express advocacy' standard into § 441b's contribution prohibition would misread *Buckley* and collapse the distinction between contributions and independent expenditures in such a way as to give short shrift to the government's compelling interest in preventing real and perceived corruption that can flow from large campaign contributions." *Christian Coalition*, 52 F. Supp.2d at 88. The Office does not contend that CR's communications concerning Mr. Yellowtail contained express advocacy.

1 in-kind contribution to the Hill Committee. *See* 2 U.S.C. § 441a(a)(1)(A). Therefore,
2 this Office is prepared to recommend that the Commission find probable cause to believe
3 that Rick Hill for Congress Committee and Gary F. Demaree, as treasurer, violated
4 2 U.S.C. § 441a(f) by knowingly accepting an excessive in-kind contribution of \$140,416
5 from CR, and that Rick Hill for Congress Committee and Gary F. Demaree, as treasurer,
6 violated 2 U.S.C. § 434 by failing to report the contribution.

7 Alternatively, if CR is not a political committee, then the expenditures constituted
8 prohibited corporate contributions under the Act. Accordingly, this Office is prepared to
9 recommend that the Commission find probable cause to believe that Rick Hill for
10 Congress Committee and Gary F. Demaree, as treasurer, violated 2 U.S.C. § 441b by
11 knowingly accepting corporate contributions of \$141,416 from CR, and that Rick Hill for
12 Congress Committee and Gary F. Demaree, as treasurer, violated 2 U.S.C. § 434 by
13 failing to report the contributions.

14 III. RECOMMENDATIONS

- 15 1. Find probable cause to believe that Rick Hill for Congress Committee and
16 Gary F. Demaree, as treasurer, violated 2 U.S.C. §§ 434 and 441a(f).
17
- 18 2. Find probable cause to believe that Rick Hill for Congress Committee and
19 Gary F. Demaree, as treasurer, violated 2 U.S.C. §§ 434 and 441b.
20
21

22 8/10/01
23
24 Date

25 Lois G. Lerner by AAF
26 Lois G. Lerner
Acting General Counsel