

STRUMWASSER & WOOCHELL LLP

ATTORNEYS AT LAW

FREDRIC D. WOOCHELL  
MICHAEL J. STRUMWASSER  
KEVIN S. REED  
SEAN B. HECHT

100 WILSHIRE BOULEVARD, SUITE 1900  
SANTA MONICA, CALIFORNIA 90401

TELEPHONE: (310) 576-1233  
FACSIMILE: (310) 319-0156

By Facsimile & U.S. Mail

August 20, 1999

Seth H. Row  
Attorney  
Federal Election Commission  
999 "E" Street, N.W.  
Washington, DC 20463

Re: MUR 4742

Dear Seth:

I apologize for the delay in responding to your letter of July 16, 1999. Both Mr. Remer and I have been very busy with some other pressing matters during the past few weeks, so I have only now gotten a chance to put together this response to the follow-up questions raised in your letter. Let me attempt to address each of the questions you asked in turn.

1. First, you asked for any additional information Mr. Remer might have to further substantiate his assertion that his and The Primacy Group's charges to Councilman Vargas' state committee were consistent with the "prevailing fees charged in the industry." In particular, you asked for information regarding Mr. Remer's charges to any other San Diego city council candidates.

As a general matter, it can be very difficult to make comparisons between the consulting fees charged to various clients. Obviously, the fee will depend in large part on the amount of work the consultant is expected to perform and the tasks he or she agrees to handle; the scope of work can vary from merely overseeing the campaign and providing political and strategic advice to serving as an almost full-time campaign manager and provider of such services as campaign Treasurer and fundraising coordinator, media advertising, direct mail, ballot arguments, press interactions, polling supervision, hiring of campaign workers, and supplying campaign office space. Most political clients desire an arrangement that falls somewhere within those extremes, and the details of — and fees for — such services are negotiated individually with each prospective client.

Beyond these differences in the scope of services provided, many other factors enter into the negotiations over a political

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
AUG 31 10 11 AM '99

21-04-403-1826

consultant's fee. This can be a very competitive market, and consultants will often adjust their fees not only to take into account the clients' ability to pay (challengers without substantial personal funds to draw upon, for example, are almost invariably less likely to be able to pay as much as incumbents), but also their likelihood of success and, relatedly, the consultant's prospects for developing an ongoing business relationship with those clients in future campaigns. Sometimes (believe it or not), consultants may even allow their own personal and political views to influence the fees they are prepared to charge a given candidate, being willing to work at a greater financial sacrifice for a candidate whom they genuinely admire and whose views they strongly support.

We include this introduction merely to emphasize that it is very difficult to draw direct comparisons among the fees charged by consultants to different clients, because they are affected by a host of variables, many of which may not be readily apparent to the outside observer without further information.

With that caveat in mind, Mr. Remer and The Primacy Group have only represented one other incumbent San Diego City Councilmember in a bid for re-election during the past two election cycles: Councilmember George Stevens. Unfortunately for present purposes, The Primacy Group's role in Mr. Stevens' campaign, and the circumstances of that election, were markedly different than those involved in Councilman Vargas' 1998 re-election campaign:

- ◆ Primacy Group did not serve as Campaign Treasurer;
- ◆ Primacy Group did not hire or supervise any campaign staff;
- ◆ Primacy Group did not provide the campaign with any office space;
- ◆ Primacy Group did not develop the campaign strategy, identify the campaign themes and media messages, develop the campaign plan, or prepare the campaign budget;
- ◆ Primacy Group did not prepare Councilmember Stevens' ballot statements; and
- ◆ Councilmember Stevens never appeared to face any potentially serious opposition candidate.

In contrast to the full range of campaign services provided to Councilmember Vargas, The Primacy Group's work on behalf of Councilmember Stevens' re-election bid consisted primarily of attending four or five lunch-time campaign meetings to discuss endorsements, organizing volunteers, and precinct walking. In addition, Mr. Remer assisted in the preparation of a single piece of campaign literature that detailed Councilmember Stevens'

Seth Row, Esq.  
August 20, 1999  
Page 3

accomplishments in office. For this work, Primacy Group charged a flat \$2,000 fee.

In an effort to provide you with a more direct basis for comparison of the consulting fees Primacy Group charged for Councilmember Vargas' 1998 re-election campaign with those paid by other San Diego city council candidates, Mr. Remer obtained copies of the campaign expenditure disclosure reports for two other incumbent city councilmembers who were running for re-election in that same election: Valerie Stallings and Byron Wear. Pertinent pages from those campaign reports are attached hereto, and the complete reports may be obtained from the City Clerk's office. Those expenditure reports reveal:

- ◆ Councilmember Stallings retained the consulting firm of Campaign Strategies, whom she paid a \$4,000 fee (presumably monthly) for professional services on four separate occasions between March 18, 1998, and June 30, 1998; and
- ◆ Councilmember Wear retained the consulting firm of Schuman, Hoy & Associates, whom he paid the sum of at least \$34,761 for professional services between March 18, 1998, and June 30, 1998.

Lastly, as a further indication of the prevailing fees charged "in the industry," I asked Mr. Remer to compile for me a summary of the consulting fees he and Primacy Group charged to other clients during the 1998 election cycle. As you can see, the fees charged to Councilmember Vargas are completely in line with, if not at the lower end, of the consulting fees and compensation received by Primacy Group from these other clients, particularly when you compare the different range of services provided:

21-04-403-1828

Seth Row, Esq.  
August 20, 1999  
Page 4

21-04-403-1829

2. Secondly, you asked for further information regarding the debts owed to Primacy Group by other candidates

21.04.403.1830

3. You asked for more information regarding the progress so far in the repayment of the Vargas for Congress '96 debt. As of this date, approximately \$15,000 has been raised by the Committee, and \$12,500 has been paid to Primacy Group to reduce the outstanding debt. Both Councilmember Vargas and Mr. Remer anticipate and are hopeful that the remainder of the Primacy Group debt will be paid in full within the next few months, with a mid-Fall timetable.

4. Finally, you inquired about the circumstances surrounding Mr. Remer's and his wife's contribution to Vargas for Congress '96 in November, 1998. As you may be able to surmise from the information provided above, Mr. Remer and Primacy Group had a very successful year in 1998, both politically (winning almost every race) and financially. Moreover, Mr. Remer and his wife are supporters (and friends) of Councilmember Vargas; they agree with his politics and very much admire his efforts in public office. Finding themselves in the financial position to be able to afford it, Mr. Remer and his wife wanted to make a substantial contribution to Councilmember Vargas' congressional campaign committee — just as they had contributed to other candidates and ballot measures over the years — and wanted to assist the committee in paying down its debt.

The Remers' contribution was not made with the intent simply to move money from "their right pocket to their left pocket," i.e., with the expectation that it would be returned right to them as partial payment for the debt owed to The Primacy Group. Mr. Remer was confident that the Primacy Group debt would be repaid as soon as Councilmember Vargas was in a position to raise funds to do so. Rather, the Remers were aware that the Vargas for Congress '96 committee had other outstanding debts, with money owed to other individuals — most specifically, to Councilmember Vargas himself — who were not in a comparable position of being able to afford to await re-payment.

Seth Row, Esq.  
August 20, 1999  
Page 6

Accordingly, neither Mr. Remer nor Councilmember Vargas — nor, to their knowledge, any other creditor of the committee — saw anything unreasonable or inappropriate in the Remers' contribution being used to repay Councilmember Vargas for a portion of the debt owed to him.

I hope that this additional information proves helpful to you and the Commission. Again, I apologize for the delay in getting this response to you, and I hope that you it will not hinder you in resolving this matter as expeditiously as possible.

Sincerely,



Fredric D. Woocher

Enclosures

21-04-403-1831

**Other Than Loans) Made**

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:

FRIENDS OF VALERIE STALLINGS '98

CODES FOR CLASSIFYING EXPENDITURES: "C" - MONETARY & IN-KIND CONTRIBUTIONS TO OTHER COMMITTEES

- "I" - INDEPENDENT EXPENDITURES
- "L" - LITERATURE
- "B" - BROADCAST ADVERTISING
- "N" - NEWSPAPER AND PERIODICAL ADVERTISING
- "O" - OUTSIDE ADVERTISING
- "S" - SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- "F" - FUNDRAISING EVENTS (MUST BE DESCRIBED.)
- "G" - GENERAL OPERATIONS AND OVERHEAD
- "T" - TRAVEL, ACCOMMODATIONS AND MEALS
- "P" - PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES

NAME & ADDRESS OF PAYEE, CREDITOR OR RECIPIENT OF CONTRIBUTION IMPORTANT: DO NOT ITEMIZE THE PAYMENT OF ACCRUED EXPENSES ON SCHEDULE E.

(IF COMMITTEE, INCLUDE I.D. NUMBER OR,

IF NO I.D. ISSUED, TREASURER'S NAME & ADDRESS)

NAME & ADDRESS OF PAYEE, CREDITOR OR RECIPIENT OF CONTRIBUTION IMPORTANT: DO NOT ITEMIZE THE PAYMENT OF ACCRUED EXPENSES ON SCHEDULE E. (IF COMMITTEE, INCLUDE I.D. NUMBER OR, IF NO I.D. ISSUED, TREASURER'S NAME & ADDRESS)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
WILL, COPY & PRINT 1268 KETTNER BLVD. SAN DIEGO, CA 92101	L			\$182.87
WILL, COPY & PRINT 1268 KETTNER BLVD. SAN DIEGO, CA 92101	L			\$252.08
WILL, COPY & PRINT 1268 KETTNER BLVD. SAN DIEGO, CA 92101	L			\$153.60
WILL, COPY & PRINT 1268 KETTNER BLVD. SAN DIEGO, CA 92101	L			\$712.76
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	P			\$4000.00

SUBTOTAL \$

\$5301.31

Statement covers period  
 from 03/18/98  
 through 05/16/98

CALIFORNIA  
 1990-1991  
 Page 59 of 70  
 I.D. NUMBER 961490

# Schedule E (Continuation Sheet) Payments and Contributions (Other Than Loans) Made

Statement covers period  
from 05/17/98  
through 06/30/98

CALIFORNIA  
1992 FORM 450  
Page 53 of 67  
I.D. NUMBER  
961490

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE:  
FRIENDS OF VALERIE STALLINGS '98

CODES FOR CLASSIFYING EXPENDITURES "C" - MONETARY & IN-KIND CONTRIBUTIONS TO OTHER COMMITTEES

- "I" - INDEPENDENT EXPENDITURES
- "L" - LITERATURE
- "B" - BROADCAST ADVERTISING
- "N" - NEWSPAPER AND PERIODICAL ADVERTISING
- "O" - OUTSIDE ADVERTISING
- "S" - SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- "F" - FUNDRAISING EVENTS (MUST BE DESCRIBED)
- "G" - GENERAL OPERATIONS AND OVERHEAD
- "T" - TRAVEL, ACCOMMODATIONS AND MEALS
- "P" - PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES

NAME & ADDRESS OF PAYEE, CREDITOR OR RECIPIENT OF CONTRIBUTION IMPORTANT: DO NOT ITEMIZE THE PAYMENT OF ACCRUED EXPENSES ON SCHEDULE E.

(IF COMMITTEE, INCLUDE I.D. NUMBER OR,

IF NO I.D. ISSUED, TREASURER'S NAME & ADDRESS)

NAME & ADDRESS OF PAYEE, CREDITOR OR RECIPIENT OF CONTRIBUTION IMPORTANT: DO NOT ITEMIZE THE PAYMENT OF ACCRUED EXPENSES ON SCHEDULE E. (IF COMMITTEE, INCLUDE I.D. NUMBER OR, IF NO I.D. ISSUED, TREASURER'S NAME & ADDRESS)	CODE OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	L		\$1660.00
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	L		\$1146.24
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	P		\$4000.00
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	G		\$680.73
CAMPAIGN STRATEGIES 225 BROADWAY #1800 SAN DIEGO, CA 92101	P		\$4000.00

SUBTOTAL \$

\$11486.97

SEE SCHEDULE E FOR CONTINUED



ME E

# Continuation Sheet) Payments and Contributions (Other Than Loans) Made

Type or print in ink.  
 Amounts may be rounded  
 to whole dollars.

SCHEDULE E (cont.)

SEE INSTRUCTIONS ON REVERSE

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE

BYRON WEAR FOR City Council

Statement covers period  
 from 3/18/98  
 through 5/16/98

Page 75 of 80  
 I.D. NUMBER 97-1978

## CODES FOR CLASSIFYING EXPENDITURES

- \*C - MONETARY AND IN-KIND (NON-MONETARY) CONTRIBUTIONS TO OTHER CANDIDATES AND COMMITTEES
- \*D - INDEPENDENT EXPENDITURES LITERATURE
- \*G - BROADCAST ADVERTISING
- \*N - NEWSPAPER AND PERIODICAL ADVERTISING
- \*O - OUTSIDE ADVERTISING
- \*S - SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- \*F - FUNDRAISING EVENTS
- \*G - GENERAL OPERATIONS AND OVERHEAD
- \*T - TRAVEL, ACCOMMODATIONS AND MEALS (MUST BE DESCRIBED)
- \*P - PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION (IF COMMITTEE, IN ADDITION TO COMMITTEE'S NAME AND ADDRESS, ENTER I.D. NUMBER OR, IF NO I.D. NUMBER HAS BEEN ASSIGNED, ENTER TREASURER'S NAME AND ADDRESS)	CODE	OR	DESCRIPTION OF PAYMENT	AMOUNT PAID
SCHUMAN & Hoy & Associates 777 GERRARD Ave. #206 LA Jolla, CA 92037	P			12327
STAN MILLER Island Drive 2907 SHELTER Drive SAN DIEGO, CA 92106	G			2000
STELLA JESSIE 7206 ROCK CANYON Dr SAN DIEGO, CA 92126	P			675
The Political Scientist	L			1200
TRILLIS GARDEN GRILLE 500 HOTEL CIRCLE No. SAN DIEGO, CA 92108	F			183

SUBTOTAL \$ 16295

1998 FEB 10 12

# **Schedule E** **Continuation Sheet)** **Payments and Contributions** **(Other Than Loans) Made**

Type or print in ink.  
 Amounts may be rounded  
 to whole dollars.

SCHEDULE E (cont.)

Statement covers period  
 from 5/17/98  
 through 6/30/98

Page 45 of 69

490

SEE INSTRUCTIONS ON REVERSE

NAME OF OFFICEHOLDER OR CANDIDATE AND CONTROLLED COMMITTEE

Byron Wear For City Council - 98

## **CODES FOR CLASSIFYING EXPENDITURES**

- "C" - MONETARY AND IN-KIND (NON-MONETARY) CONTRIBUTIONS TO OTHER CANDIDATES AND COMMITTEES
- "B" - BROADCAST ADVERTISING
- "N" - NEWSPAPER AND PERIODICAL ADVERTISING
- "O" - OUTSIDE ADVERTISING
- "S" - SURVEYS, SIGNATURE GATHERING, DOOR-TO-DOOR SOLICITATIONS
- "F" - FUNDRAISING EVENTS
- "G" - GENERAL OPERATIONS AND OVERHEAD
- "T" - TRAVEL, ACCOMMODATIONS AND MEALS (MUST BE DESCRIBED)
- "P" - PROFESSIONAL MANAGEMENT AND CONSULTING SERVICES
- "L" - LITERATURE

NAME AND ADDRESS OF PAYEE, CREDITOR, OR RECIPIENT OF CONTRIBUTION  
 (IF COMMITTEE, IN ADDITION TO COMMITTEE'S NAME AND ADDRESS, ENTER I.D. NUMBER OR, IF NO I.D. NUMBER HAS BEEN ASSIGNED, ENTER TREASURER'S NAME AND ADDRESS)

CODE OR DESCRIPTION OF PAYMENT

AMOUNT PAID

Robert Garincheck  
 1751 UNIVERSITY AVE. # 500  
 SAN DIEGO, CA 92103

Refund of Contribution

100

Robert Wear  
 1004 SPRUCE STREET  
 SAN DIEGO, CA 92103

831

SCHUMAN Hoy & Associates  
 7777 GIRARD AVENUE # 206  
 LA JOLLA, CA 92037

22434

Shelter Island, Inc / Baii Hai  
 2230 SHELTER ISLAND DRIVE  
 SAN DIEGO, CA 92104

768

Stella Jessie  
 7206 ROCK CANYON DR.  
 SAN DIEGO, CA 92126

500

CEBT 204 40 12

CUMULATIVE 2.1.1.1