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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)

Walt Roberts)

MUR 4818

Walt Roberts for Congress)

MUR 4933

Gene Stipe)

The Stipe Law Firm)

Charlene Spears)

Gloria Ervin)

Cynthia Montgomery-Murray)

Deborah Tumer)

Shelley Dusenberry)

Jamie Benson)

Dana Thetford)

Ginger Barnes)

SENSITIVE

GENERAL COUNSEL'S REPORT #10

I. ACTIONS RECOMMENDED

Enter probable cause conciliation with Walt Roberts, Walt Roberts for Congress, Gene

Stipe, the Stipe Law Firm, and Charlene Spears; find reason to believe that James Lane and

Francis Stipe knowingly and willfully violated the statute and enter pre-probable cause

conciliation; find reason to believe that Michael Mass, Larry Morgan, Paul and Edith Beavers,

and Harold Massey, Sr. knowingly and willfully violated the statute and enter pre-probable cause

conciliation; approve admonishment letters and take no further action as to Gloria Ervin, Cynthia

Montgomery-Murray, Deborah Tumer, Shelley Dusenberry, Dana Thetford, and Jamie Benson;

approve admonishment letters to various straw contributors.

1 **II. BACKGROUND**¹

2 MUR 4818 arose from a complaint alleging that Walt Roberts and Walt Roberts for
3 Congress ("Roberts campaign" or "Committee") knowingly and willfully violated
4 2 U.S.C. § 441a(f). Through this Office's investigation, we discovered that Gene Stipe, a
5 longtime Oklahoma state senator, appeared to be at the center of multiple schemes designed to
6 transfer funds from Stipe into the Roberts campaign, and hide Stipe as the true source of the
7 contributions. These schemes included: a phony cattle sale to divert \$67,500 into the Roberts
8 campaign for ads; a fake, hand-written option contract for a one-half interest in Roberts' art
9 work, back-dated to appear legitimate and invented to hide a \$70,000 contribution by Stipe; a
10 \$17,000 payment to Roberts by the Stipe Law Firm (the "Firm") for services never performed
11 and never intended to be performed by Roberts; a \$20,500 payment disguised as the sale of a
12 cargo trailer; and tens of thousands of dollars funneled through straw contributors to appear as
13 legitimate contributions by them.

14 On May 31, 2002, the Commission found probable cause to believe that Walt Roberts,
15 Walt Roberts for Congress, Gene Stipe, the Stipe Law Firm, and Charlene Spears (Stipe's
16 assistant) each knowingly and willfully violated 2 U.S.C. § 441f and referred the violations to the

¹ The activity in this case is governed by the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), and the regulations in effect during the pertinent time period, which precedes amendments to any regulations made by the Bipartisan Campaign Reform Act of 2002 ("BCRA") and is not affected by the decision in *McConnell v. FEC*, 253 F. Supp. 2d 18 (D.D.C. May 2, 2003) (three-judge court).

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1 agreements with the primary respondents.³ Because the schemes were discussed in great detail in
2 GCR #6 and this Office's probable cause briefs, this report only discusses new facts discovered
3 as a result of DOJ's investigation, the plea documents, and the follow-up interviews.⁴

4 The Commission is facing rolling statutes of limitations in this matter. The majority of
5 the acts giving rise to the violations occurred from March, 1998 through October, 1998. The
6 statute of limitations, however, can be tolled when the respondent's fraudulent conduct results in
7 concealing the violation of the Act. This doctrine of equitable tolling for fraudulent concealment
8 "is read into every federal statute of limitations." *Holmberg v. Armbrecht*, 327 U.S. 392, 397
9 (1946). The purpose of this doctrine "is to prevent a defendant from 'concealing a fraud, or ...
10 committing a fraud in a manner that concealed itself until such time as the party committing the
11 fraud could plead the statute of limitations to protect it.'" *State of New York v. Hendrickson*
12 *Bros., Inc.*, 840 F.2d 1065, 1083 (2d Cir.), *cert. denied*, 488 U.S. 848 (1988) (*quoting Bailey v.*
13 *Glover*, 88 U.S. (21 Wall.) 342, 348 (1874)). *See FEC v. Williams*, 104 F.3d 237, 240-41 (9th
14 Cir.1996), *cert. denied*, 522 U.S. 1015 (1997) (fraudulent concealment doctrine applies to
15 Section 2462 but elements not satisfied where purportedly lawful transactions appear on FEC
16 reports). See MUR 4931, GCR #7 at 7, 60-66, for a fuller explanation of this doctrine and
17 discussion of *Williams*. All the respondents that this Office recommends the Commission pursue

³ Although the Commission referred this matter to DOJ for criminal prosecution, civil liability remains unresolved. The attached conciliation agreements concern the respondents' violations of the Act. DOJ pursued Stipe, Spears, Roberts and Lane for felonies and misdemeanors related to their conduct in this investigation (i.e., perjury, conspiracy to obstruct a Commission investigation, and conspiracy to make false statements to the Commission), including conspiracy to violate the Act, but not for their violations of the Act.

⁴ Each respondent's conciliation agreement discusses all of the fact patterns and their respective dates giving rise to the violations of the Act.

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1 United States Department of Justice ("DOJ").² As part of Stipe's plea agreement, he resigned
2 from his state senate seat, which he had held for 47 years, and surrendered his license to practice
3 law in the state of Oklahoma.

4
5
6 The "plea agreement" and "factual basis for the plea" (together, the "plea documents") for
7 Roberts, Lane, Spears, and Stipe confirm the Commission's probable cause findings by
8 establishing, through admissions, that Gene Stipe and others engaged in numerous deceptive
9 schemes to transfer funds from Stipe into the Roberts campaign, and hide Stipe as the true source
10 of the contributions. Attachments 1-12. Nearly all of the Commission's findings were supported
11 in the plea documents and the DOJ confirmed that the straw contributor schemes were broad, as
12 suspected from the Commission's investigation. Following the plea agreements, this Office re-
13 interviewed five secretaries at the Stipe Law Firm in an effort to clarify what information had
14 been withheld from previous interviews as a result of the criminal obstruction of the
15 Commission's investigation. See Attachment 14. As a result of Roberts', Lane's, Spears' and
16 Stipe's admissions, this Office is now in a position to negotiate probable cause conciliation

² Four people recently pleaded guilty to felonies as a result of DOJ's action on this matter. Roberts and Spears were sentenced on July 15, 2003. Roberts was sentenced to two years' probation for each count with a concurrent sentence and 200 hours community service with a downward departure in the sentencing guidelines in recognition of his cooperation with prosecutors. Spears was sentenced to three years probation for both counts with a concurrent sentence, six months home detention with an electronic monitoring bracelet and 200 hours of community service. The Court waived any criminal fine due to Spears' financial situation, however, it determined that she could remain employed by her current employer, Gene Stipe, despite his felony conviction. James Lane was sentenced on July 29, 2003. Lane was sentenced to three years probation, two months home detention with an electronic monitoring bracelet and a \$5,000 criminal fine. Gene Stipe's sentencing is scheduled for October 8, 2003. See GCR #9 at 1 (June 25, 2003).

1 designed transactions either to avoid detection entirely or to conceal the actual source of the
2 funds. Several key respondents, additionally, have pled guilty to obstructing the Commission's
3 investigation of the matter.⁵ *Id.*

4 **III. DISCUSSION**

5 The admissions in the plea documents reveal information about other persons who had
6 key roles in assisting the four principal conspirators in violating the Act. These persons were
7 identified in the plea documents as C-4, C-5, C-6, and C-7. This Office long suspected that
8 additional persons were involved with Stipe's schemes to funnel money to the Committee. As
9 detailed below, each of these additional persons is now identified. This Office recommends that
10 the Commission find reason to believe each knowingly and willfully violated the Act and enter
11 pre-probable cause conciliation with them. The admissions also contain information about 39
12 other persons, identified in the plea documents as SC1 – SC39, who allowed their names to be
13 used by Stipe and others in making contributions to the Roberts campaign. This Office
14 recommends that the Commission admonish these "straw donors," but take no further action as

⁵ The Commission most likely would bring an enforcement action in either the 10th Circuit (Oklahoma) or the D.C. Circuit. The DC Circuit has not directly addressed the doctrine of fraudulent concealment, though it has recognized the doctrine in *dicta*. See *3M v. Browner*, 17 F.3d 1453, 1461 (D.C. Cir. 1994); *FEC v. Christian Coalition*, 965 F. Supp. 66, 68 (D.D.C. 1997). The 10th Circuit, while recognizing the doctrine, has applied it differently in various circumstances. See *Supermarket of Marlinton, Inc. v. Meadow Gold Daries, Inc.*, 71 F.3d 119, 126 (4th Cir. 1995) (discussing the 10th Circuit's application of this doctrine); see also *SEC v. Cochran*, 1999 WL 33292713 at *5 (W.D.Okla. Jan. 28, 1999) (*reversed on other grounds*) (applying this doctrine to 28 U.S.C. § 2462). This Office would argue that the statute of limitations could be tolled pursuant to the doctrine of fraudulent concealment as to each respondent based on the fraudulent nature of the transaction and the respondent's efforts to conceal those transactions. Accordingly, the statute could be tolled approximately 18 months, effectively until May 2004.

to them.⁶

Additional facts developed by DOJ about Stipe, Spears, and Roberts are included in the conciliation agreements. This Office has also obtained redacted copies of FBI 302 documents not restricted by the rule of grand jury secrecy. *See* Fed. R. Crim. P. 6(e); Attachment 13. In light of the criminal pleas and supporting plea documents, this Office believes respondents may be more likely to cooperate with this Office to settle this matter expeditiously.

This Office has also learned additional significant facts from speaking with Stipe Law Firm secretaries. Most if not all of these secretaries were pressured or felt coerced by Charlene Spears and attorneys in the Stipe Law Firm to deceive the Commission during this Office's investigation. In the case of one secretary, the coercion occurred immediately prior to her departure for Washington, D.C. to be interviewed by DOJ. This Office recommends that the Commission admonish these secretaries given the circumstances described later in this report, and take no further action as to them. Likewise, the recommendations for Charlene Spears, Gene Stipe, the Stipe Law Firm, and others also reflect the pressure that they exerted on subordinates to further their scheme to make campaign contributions to Walt Roberts for Congress and then hide the true source of these contributions.

A. Additional Respondents and Violations

As generally discussed above, since the DOJ investigation, this Office has learned additional significant facts about persons already thought to have participated in schemes in violation of the Act, and additional violations of the Act committed by persons not already

⁶ Stipe Law Firm secretaries Gloria Ervin, Cynthia Montgomery-Murray, Shelley Dusenberry, Deborah Turner, and Jamie Benson, while not referred to DOJ, have admitted to this Office that Charlene Spears reimbursed them for their contributions, and in some cases, the contributions of others. This Office is reasonably certain of the identity of all but one of the straw contributors (SC1 – SC39) listed in the plea documents prepared by DOJ, and the Stipe Law Firm secretaries appear to be included in the list of 39 straw contributors.

1 known to this Office. We now discuss these persons and transactions more specifically. The
2 basis for each underlying FECA violation and the language in the proposed conciliation
3 agreements is set out below.

4 **1. James Lane: \$20,500 Contribution Disguised as Trailer Sale;**
5 **\$46,980 in Contributions for Campaign Expenses**

6 The Commission previously included the transactions involving James Lane in its
7 findings of probable cause to believe that Stipe violated the Act. To date, however, Lane has not
8 been generated as a respondent in this matter because the investigation revealed that violations by
9 the primary respondents were so egregious as to warrant prompt referral to DOJ for criminal
10 prosecution. Because the extent of Lane's violations of the Act became clearer after DOJ's
11 investigation, this Office now recommends pursuing Lane as a respondent.

12 In March 1998, Lane agreed to participate in a scheme with Stipe and Roberts to funnel
13 Stipe's money into the Roberts campaign. Lane then took a series of steps that would give the
14 appearance of a legitimate sale of a cargo trailer owned by Roberts, when in fact it was a series of
15 steps to contribute Stipe's money to the Committee. Attachment 2 at 3; Attachment 5 at 2;
16 Attachment 11 at 4-5.

17 On March 29, 1998, Lane wrote a check to Roberts' Auction Company for \$20,500,
18 allegedly for the trailer. Roberts' Auction Company then wrote the Committee a check for that
19 same amount which the Committee then deposited on April 9, 1998, and reported as a candidate
20 loan. Meanwhile, Stipe, through Charlene Spears, had already given a money order to Lane for
21 \$20,000, to cover the bogus sale. Lane deposited the money order on April 6, 1998, but never
22 took possession of the trailer. Attachment 11 at 4-5; GCR #6 at 11-13.

1 In addition, from May to July 1998, Lane received \$46,980 in contributions from Stipe
2 through Spears that he would later use for campaign expenses of Walt Roberts for Congress.
3 Lane often used his personal credit card to pay for Roberts campaign expenses, and then paid the
4 bill with monies he obtained from Spears. Attachment 11 at 2-3. From May to July 1998, Lane
5 used approximately \$24,000 worth of checks to pay for campaign expenses, and in September
6 1998, Spears gave Lane five additional checks payable to Lane or "cash" from Stipe's bank
7 account, this time totaling \$22,980. Walt Roberts for Congress never reported any of these
8 transactions as contributions from either Stipe or Lane. Attachment 11 at 2-3.

9 Accordingly, this Office recommends the Commission find reason to believe that James
10 Lane knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1) and 441f by assisting Stipe in
11 making \$67,480 in contributions in the name of another. This Office also recommends entering
12 pre-probable cause conciliation with Lane, as discussed below.

13 **2. \$50,000 Contribution by Francis Stipe disguised as a Bank Loan**

14 To date, Francis Stipe (Gene Stipe's brother) has not been generated as a respondent in
15 this matter because of the importance of promptly referring the matter to DOJ for criminal
16 prosecution. While DOJ chose not to pursue this matter criminally, we now recommend that the
17 Commission pursue Francis Stipe as a respondent.⁷

18 As described in the GC Brief for Roberts and the Committee, Francis Stipe made a
19 \$50,000 contribution to Roberts and the Committee, disguised as a loan to Roberts from a

⁷ Due to the number of complicated fact patterns in this matter, DOJ chose not to prosecute all violations referred for criminal prosecution.

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1 defunct corporation – McAlester Industrial Credit Corporation.⁸ GC Brief, Walt Roberts and
2 Walt Roberts for Congress at 37-42. Roberts reported this contribution as a candidate loan to the
3 campaign. On September 11, 1998, the same date that this contribution was deposited into the
4 Committee's account and just days prior to the September 15 runoff election, the Roberts
5 campaign made \$34,000 in payments to several television stations for media purchases. *Id.* at 37.
6 Roberts testified that just before the runoff election, the campaign was "desperately needing
7 money" and that the "campaign contributions just were not coming in due to that runoff."
8 Roberts depo. at 238-239; *see* GC Brief for Walt Roberts and Walt Roberts for Congress at 41-
9 42. He added, "we were fighting for our lives." *Id.* Given the facts and circumstances of this
10 contribution, this Office believes that Francis Stipe knew his actions were illegal. *See United*
11 *States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990) (an inference of a knowing and willful
12 violation could be drawn "from the defendants' elaborate scheme for disguising their corporate
13 political contributions" as individual contributions). Additionally, this Office believes that, given
14 Gene Stipe's involvement in funneling other funds to the Committee, he was also involved in
15 this contribution, at the very least requesting his brother Francis to make this contribution if not
16 in providing the funds for it.

17 Thus, we recommend that the Commission find reason to believe that Francis Stipe
18 knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1) and 441f by using a defunct corporation
19 to hide the \$50,000 contribution to Roberts and the Committee and by assisting in the making of

⁸ This \$50,000 loan is the subject of MUR 4933. William Layden, now deceased, owned McAlester Industrial Credit Corporation and admitted to arranging the \$50,000 payment from Francis Stipe. *See* Layden Depo. at 76, 75-131.

1 a \$50,000 contribution in the name of another. This Office also recommends entering pre-
2 probable cause conciliation with Francis Stipe, as discussed below.

3 **3. Violations by the Stipe Law Firm and Employees**

4 Like the primary individual respondents, the Commission previously found probable
5 cause to believe that the Stipe Law Firm violated the Act and referred the violations to DOJ. As
6 previously stated, the Stipe Law Firm violated the Act by making an in-kind contribution to the
7 Committee by allowing it to use the Firm's facilities early in the campaign and later making a
8 \$17,000 contribution to the Committee through Stipe. With the guilty pleas of Stipe and Spears,
9 this Office also knows additional details about the Stipe Law Firm's knowing participation in
10 straw contributor schemes through various attorneys, partners, and employees. *See General*
11 *Counsel's Brief for Gene Stipe at 37.*

12 According to several secretaries at the Stipe Law Firm, the reimbursement schemes were
13 carried out in full view (and consent) of attorneys at the Stipe Law Firm. In one instance,
14 Deborah Tumer, a secretary at the Firm (and one of the straw contributors) stated that Mark
15 Thetford, an associate who supervised her, told her that Spears asked her to make a contribution
16 to the Committee. Ms. Tumer stated that she gave her contribution to Thetford and that a day or
17 two later Thetford handed her a plain white envelope with \$950 in cash in it. Attachment 14 at
18 1-2. In a second instance, another secretary and straw contributor at the Firm, Shelley
19 Dusenberry, said that in the presence of her supervisor, Russell Uselton, a partner in the Firm,
20 Spears pressured her to resist telling this Office about the money that Spears provided her for the
21 contributions because it would subject Ms. Spears to felony prosecution. Attachment 14 at 7-8,
22 11-15. When asked if she discussed this with Uselton after Spears left, Ms. Dusenberry said she

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1 asked him if this would get him in trouble. Uselton replied, "Well, it wouldn't look good for the
2 Firm." *Id.*

3 The actions taken by the Stipe Law Firm, via the Stipes, Uselton, and others at the Firm,
4 were more than isolated violations of the Act. They demonstrate the Stipe Law Firm's pattern
5 of knowingly and willfully violating the Act. Accordingly, this Office recommends entering into
6 probable cause conciliation with the Stipe Law Firm, as discussed below.⁹

7 Moreover, nearly all of the secretaries at the Stipe Law Firm that this Office interviewed
8 claimed credibly that Spears pressured them at various phases of this matter. Some stated they
9 felt coerced to make contributions and cover up Stipe's scheme.¹⁰ As detailed in Spears and the
10 Law Firm's conciliation agreements, Ms. Dusenberry told this Office, for example, that if she
11 had not complied with Spears' request for a contribution, Spears would have caused her trouble
12 at the Stipe Law Firm, turning Stipe and other attorneys at the firm against her. Attachment 14 at

⁹ There were several other instances in which either partners at the Stipe Law Firm or the Stipe Law Firm itself may have violated the Act. In one instance, Clyde Stipe, Bobbye Stipe, Eddie Harper, Gene Stipe, Tony Edwards, Russell Uselton, Francis Stipe, and Billie Stipe each gave \$1,000 on or about 10/22/98 to the Tribal Sovereignty PAC located in Portland, Oregon. The PAC then gave Walt Roberts for Congress \$10,000. In another instance, Spears admitted that she provided money to the Delahunt for Congress Committee in others' names so that contributors to that Committee would send contributions to the Roberts campaign. These included \$1,000 contributions reportedly from Spears, Uselton, Eddie Harper, Clyde Stipe and Jamie Benson. In yet a third instance, an airplane owned by four to five partners at the Stipe Law Firm, through Airplane, Inc., and managed by Uselton, ferried Roberts and other staff around. As Spears admitted, she does not recall the Committee ever paying any bills related to use of the airplane and this Office uncovered no such information in its reports. See Attachment 13. These fact patterns would require additional investigation. To conserve Commission resources and to provide for finality in this matter, therefore, this Office recommends not pursuing these additional fact patterns.

¹⁰ Two secretaries stated that they had also made contributions in the name of another at Spears' direction. Jamie Benson told this Office that Spears approached her and asked her not only to make two contributions herself, but to make two contributions using her boyfriend Gary McClenan's company, Holiday Oaks Driving Range, in his name. Attachment 14 at 24-26. Benson also admitted that Spears gave her a cashier's check from the Stipe Law Firm, payable to Benson's boss and partner, Eddie Harper, which Spears had endorsed to Benson for the purpose of reimbursing Benson and McClenan's contributions. *Id.* Gloria Ervin was likewise approached by Spears and asked to make contributions and to have Jack Russell, now Ervin's husband, make two similar contributions to the Roberts campaign, both of which were reimbursed. Attachment 14 at 11, 17-19.

9. As Ms. Benson added, Spears had clout at the Firm and "basically ran things," stating that she made these contributions because Spears expected her to. Attachment 14 at 21.

Thus, while the six secretaries at the Stipe Law Firm were previously generated as respondents pursuant to reason to believe findings, given the level of coercion, and to focus the conciliation discussions on the primary respondents, this Office recommends the Commission send admonishment letters to Jamie Benson, Gloria Ervin, Cynthia Montgomery-Murray, Deborah Turner, Dana Thetford, and Shelly Dusenberry, and take no further action as to them.

4. \$89,689 in Contributions Transferred through New Intermediaries to 39 Straw Contributors

In Stipe's criminal plea documents, he admitted that 39 persons were reimbursed \$89,689 for 94 contributions made in the names of others through seven intermediaries, described in plea documents as co-conspirators. Attachment 3 at 5-10. Each co-conspirator is identified in Stipe's plea documents as C-1 through C-7.¹¹ See Attachment 3 at 5-10.

C-1 is Charlene Spears, C-2 is Jim Lane, C-3 is Louise Crosslin, C-4 is Michael Mass, C-5 is Larry Morgan, C-6 is Paul and Edith Beavers, and C-7 is Harold Massey, Sr. To date, Crosslin, Mass, Morgan, Paul and Edith Beavers, or Massey, Sr., have not been generated as respondents in this matter because only after DOJ's investigation have their violations of the Act (and identities) become clear.

In addition, the 39 individuals became straw contributors for Stipe in violation of 2 U.S.C. § 441f. Like the intermediaries, most of the 39 straw contributors have not been

¹¹ In the various plea documents, the identifying numbers assigned to each co-conspirator vary. (E.g., C-1 in Stipe's plea is Spears, but in Spears' plea C-1 is Stipe). This report uses the identifying numbers from the Stipe plea documents. See Attachments 1-3.

- 1 generated as respondents in this matter. Each contribution that Stipe admitted he made and
2 reimbursed using the intermediaries is shown in the following chart.

Straw Contributor "SC" – (Identity) ¹²	Intermediary	Amount of Contribution	Date of Contribution	Date Report filed with FEC
SC1 (Jamie Benson)	C-1/C-3 (Spears/Crosslin)	\$1,000	3/28/98	4/15/98
SC1 (Jamie Benson)	C-1/C-3	\$ 990	8/14/98	9/7/98
SC2 (Doyle Carper)	C-1/C-3	\$ 250	5/22/98	9/29/98
SC2 (Doyle Carper)	C-1/C-3	\$1,000	8/28/98	11/17/98
SC2 (Doyle Carper)	C-1/C-3	\$ 550	8/28/98	11/17/98
SC2 (Doyle Carper)	C-1/C-3	\$1,000	10/22/98	12/3/98
SC3 (Joyce Carper)	C-1/C-3	\$1,000	8/28/98	11/17/98
SC3 (Joyce Carper)	C-1/C-3	\$1,000	8/28/98	11/17/98
SC3 (Joyce Carper)	C-1/C-3	\$ 200	8/28/98	11/17/98
SC3 (Joyce Carper)	C-1/C-3	\$ 150	10/17/98	12/3/98
SC3 (Joyce Carper)	C-1/C-3	\$ 150	10/17/98	12/3/98
SC4 (Gary Cunningham)	C-1/C-3	\$ 100	10/17/98	12/3/98
SC4 (Gary Cunningham)	C-1/C-3	\$1,000	10/20/98	12/3/98
SC5 (Letha Cunningham)	C-1/C-3	\$ 100	10/17/98	12/3/98
SC5 (Letha Cunningham)	C-1/C-3	\$1,000	10/21/98	12/3/98
SC6 (Gloria Ervin)	C-1/C-3	\$ 980	8/17/98	9/7/98
SC6 (Gloria Ervin)	C-1/C-3	\$ 990	8/19/98	9/29/98
SC7 (Unknown)	C-1/C-3	\$1,000	9/18/98	10/15/98
SC8 (Marilyn Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC8 (Marilyn Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC8 (Marilyn Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC9 (Terry Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC9 (Terry Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC9 (Terry Kinyon)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC10 (Gary McClennan)	C-1/C-3	\$1,000	3/28/98	4/15/98
SC10 (Gary McClennan)	C-1/C-3	\$ 985	8/14/98	9/7/98
SC11 (Ron McCoy)	C-1/C-3	\$1,000	5/5/98	9/29/98
SC11 (Ron McCoy)	C-1/C-3	\$ 900	8/14/98	9/7/98
SC12 (Cynthia Montgomery)	C-1/C-3	\$1,000	3/31/98	4/15/98
SC12 (Cynthia Montgomery)	C-1/C-3	\$ 970	8/17/98	9/7/98
SC13 (Anne J. Prather)	C-1/C-3	\$ 990	9/2/98	11/17/98
SC13 (Anne J. Prather)	C-1/C-3	\$ 990	9/3/98	11/17/98
SC13 (Anne J. Prather)	C-1/C-3	\$ 100	10/17/98	12/3/98
SC14 (Jack Russell)	C-1/C-3	\$ 980	8/17/98	9/7/98
SC14 (Jack Russell)	C-1/C-3	\$ 990	8/18/98	11/17/98
SC15 (Barbara Thetford)	C-1/C-3	\$ 950	8/14/98	9/7/98
SC15 (Barbara Thetford)	C-1/C-3	\$1,000	8/31/98	2/28/99
SC15 (Barbara Thetford)	C-1/C-3	\$ 998	9/28/98	2/28/99

¹² Based on the best available information, we have identified, in parentheses, the individual we believe corresponds to the identities of persons this Office is reasonably certain of is in each "SC#." This chart probably does not include all of the straw contributors associated with the Roberts campaign or necessarily all of the contributions from an individual. See *infra* note 9 at 11. An asterisk indicates a slight variation from information DOJ reported and that of the Commission's reports.

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SC16 (Dana Thetford)	C-1/C-3	\$ 950	9/3/98	11/17/98
SC16 (Dana Thetford)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC17 (John Thetford)	C-1/C-3	\$ 980	8/14/98	9/7/98
SC17 (John Thetford)	C-1/C-3	\$1,500	8/31/98	2/28/99
SC17 (John Thetford)	C-1/C-3	\$ 596	9/28/98	2/28/99
SC18 (Mark Thetford)	C-1/C-3	\$ 950	8/14/98	9/7/98
SC18 (Mark Thetford)	C-1/C-3	\$ 950	9/3/98	11/17/98
SC18 (Mark Thetford)	C-1/C-3	\$1,000	10/29/98	12/3/98
SC19 (Shelley Dusenberry)	C-1/C-3	\$ 950	8/14/98	9/7/98
SC20 (Brenda Fields)	C-1/C-3	\$1,000	10/12/98	10/21/98
SC21 (Suzanne Mass)	C-4/C-5 (Mass/Morgan)	\$1,000	10/9/98*	10/21/98
SC21 (Suzanne Mass)	C-4/C-5	\$1,000	10/9/98*	10/21/98
SC21 (Suzanne Mass)	C-4/C-5	\$1,000	10/9/98*	10/21/98
SC22 (Mike Mass)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC22 (Mike Mass)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC22 (Mike Mass)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC23 (Larry Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC23 (Larry Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC23 (Larry Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC24 (Atlaclair Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC24 (Atlaclair Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC24 (Atlaclair Morgan)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC25 (Carolyn Trueblood)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC25 (Carolyn Trueblood)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC25 (Carolyn Trueblood)	C-4/C-5	\$1,000	10/9/98	10/21/98
SC26 (Paul Beavers)	C-6 (Beavers)	\$1,250	10/22/98*	12/3/98
SC26 (Paul Beavers)	C-6	\$1,000	10/22/98*	12/3/98
SC27 (Edith Beavers)	C-6	\$ 250	3/11/98*	9/30/98*
SC27 (Edith Beavers)	C-6	\$1,000	10/22/98*	12/3/98
SC27 (Edith Beavers)	C-6	\$1,000	10/22/98*	12/3/98
SC27 (Edith Beavers)	C-6	\$1,000	10/22/98*	12/3/98
SC28 (Jesse North)	C-6	\$1,000	10/26/98*	12/3/98
SC28 (Jesse North)	C-6	\$1,000	10/26/98*	12/3/98
SC28 (Jesse North)	C-6	\$1,000	10/26/98*	12/3/98
SC29 (Brenda Smith)	C-6	\$1,000	10/22/98*	12/3/98
SC29 (Brenda Smith)	C-6	\$1,000	10/22/98*	12/3/98
SC30 (Tina Hurst)	C-6	\$1,000	10/31/98	12/3/98
SC31 (Joey Smith)	C-6	\$1,000	10/22/98	12/3/98
SC31 (Joey Smith)	C-6	\$1,000	10/22/98	12/3/98
SC31 (Joey Smith)	C-6	\$1,000	10/22/98	12/3/98
SC32 (Harold Massey, Sr.)	C-7 (Massey, Sr.)	\$1,000	10/14/98*	10/21/98*
SC32 (Harold Massey, Sr.)	C-7	\$1,000	10/14/98*	10/21/98*
SC33 (Debbie Massey)	C-7	\$1,000	10/14/98*	10/21/98*
SC33 (Debbie Massey)	C-7	\$1,000	10/14/98*	10/21/98*
SC34 (Larry "Mitch" Lowe)	C-7	\$1,000*	10/15/98*	12/3/98
SC34 (Larry "Mitch" Lowe)	C-7	\$1,000*	10/15/98*	12/3/98
SC35 (Cynthia Lowe)	C-7	\$1,000*	10/15/98*	12/3/98
SC35 (Cynthia Lowe)	C-7	\$1,000*	10/15/98*	12/3/98
SC36 (Harold Massey, Jr.)	C-7	\$1,000	10/14/98*	10/21/98
SC36 (Harold Massey, Jr.)	C-7	\$1,000	10/14/98*	10/21/98
SC37 (Jill Massey)	C-7	\$1000	10/14/98*	10/21/98

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SC37 (Jill Massey)	C-7	\$1000	10/14/98*	10/21/98
SC38 (Michael Massey)	C-7	\$1,000	10/14/98	10/21/98
SC38 (Michael Massey)	C-7	\$1,000	10/14/98	10/21/98
SC39 (Dorothy Massey)	C-7	\$1,000	10/14/98	10/21/98
SC39 (Dorothy Massey)	C-7	\$1,000	10/14/98	10/21/98

See Attachment 3 at 5-10; Attachment 2 at 7-12.¹³

As this chart reflects, and as Stipe admits, for as many as 20 contributions, Stipe gave money to Louise Crosslin, who then gave the money to Spears. Through Michael Mass and Larry Morgan, Stipe admitted that he was able to make five contributions in the names of another through five straw contributors totaling \$15,000. Through Paul or Edith Beavers, Stipe admitted that he was able to make six contributions from six straw contributors totaling \$14,000. Through Harold Massey, Sr., Stipe also admitted that a check for \$10,000 from the Stipe Law Firm was given to Massey, in addition to other monies, and that Stipe was able to make eight contributions through eight straw contributors totaling \$15,000. See Attachment 3 at 7-10.

¹³ While this chart reflects contributions by the 39 straw contributors that Stipe admits he reimbursed, it appears from the FBI 302 documents and our own analysis of available information that there were additional contributions the co-conspirators admit they reimbursed that DOJ did not present to Stipe. See Attachment 13. These include a \$950 contribution by Deborah Turner on 8/14/98 and reported to the Commission on 9/7/98 through Spears; and a contribution for \$300 on 10/17/98 by Shelly Dusenberry. Additionally, Spears has admitted reimbursing \$11,680 for nine other persons' contributions: Billy and Kay Semeski, Don and Judy Goad, Thomas and Karen Webb, and Larry Clifton. Spears stated that two other persons, Jim and Sue Kindred, were reimbursed by Roberts, and one other person, Patti Wells, was reimbursed by Crosslin. Also, Tina Hurst is listed in the Roberts Campaign Reports as having made \$2,000 in aggregate contributions, but only \$1,000 is listed, which this Office thinks is inconsistent in the pattern of otherwise reimbursed contributions. Ginger Barnes, already a respondent in this matter, is now not known to have actually made a reimbursed contribution. Therefore, this Office recommends the Commission take no further action as to her.

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6 this Office recommends that the Commission find reason to believe that Michael Mass, Larry
7 Morgan, Paul and Edith Beavers, and Harold Massey, Sr. each knowingly and willfully violated 2
8 U.S.C. § 441f by assisting Stipe in making contributions in the name of another. As Crosslin
9 passed away in December 2002, we make no recommendations as to her.

10 All of these co-conspirators took actions to hide their activities and have admitted that
11 they hid their activities involving these contributions, or that they knew their actions were illegal.
12 Massey admitted to withholding the truth to the FBI the first time he talked to them. Attachment
13 13 at 85-89. Edith Beavers told Jesse North (SC28) to keep telling his false story. Attachment
14 13 at 76-79. Mass described his contribution as an "illegal contribution, flat out." Attachment
15 13 at 47. Morgan described the contributions as "a little beyond the gray area" of the law.
16 Attachment 13 at 52. *See United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990) (an
17 inference of a knowing and willful violation could be drawn "from the defendants' elaborate
18 scheme for disguising their corporate political contributions" as individual contributions). This
19 Office also recommends entering pre-probable cause conciliation with Michael Mass, Larry
20 Morgan, Paul and Edith Beavers, and Harold Massey, Sr., as discussed below.

21 In contrast to the above respondents, this Office does not believe that conciliation is
22 warranted for those the individuals whose involvement was limited to being straw contributors.
23 The straw contributors are the least culpable violators of the Act in this matter and their identities

have come to light late. Accordingly, this Office recommends that an admonishment letter be sent to each straw contributor identified in this report and not previously addressed.

IV. CONCILIATION PROVISIONS AND CIVIL PENALTIES

24-03-10-03

CONCILIATION INFORMATION IS CONTAINED IN PAGES 18-22.
THESE PAGES HAVE BEEN REMOVED FROM THE FILE.

24-04-403-1002

24-04-403-1096

V. RECOMMENDATIONS

1. Find reason to believe that James E. Lane and Francis Stipe knowingly and willfully violated 2 U.S.C. §§ 441a(a)(1)(A) and 441f, and enter into pre-probable cause conciliation.
2. Enter probable cause conciliation with Gene Stipe, Walt Roberts and Walt Roberts for Congress, Charlene Spears, and the Stipe Law Firm.
3. Approve conciliation agreements with Gene Stipe, Walt Roberts and Walt Roberts for Congress, Charlene Spears, the Stipe Law Firm, James E. Lane, and Francis Stipe.
4. Find reason to believe that Michael Mass, Larry Morgan, Paul and Edith Beavers, and Harold Massey, Sr. knowingly and willfully violated 2 U.S.C. § 441f.
5. Enter pre-probable cause conciliation with Michael Mass, Larry Morgan, Paul and Edith Beavers, and Harold Massey, Sr.
6. Approve conciliation agreements with Michael Mass, Larry Morgan, Paul and Edith Beavers, and Harold Massey, Sr.

7. Approve admonishment letters and take no further action as to Gloria Ervin, Cynthia Montgomery-Murray, Deborah Turner, Shelley Dusenberry, Dana Thetford and Jamie Benson.
8. Approve admonishment letters to the following straw contributors, and others as their identities become apparent: John Thetford; Mark Thetford; Brenda Fields; Suzanne Mass; Altaclair Morgan; Carolyn Trueblood; Jesse North; Brenda Smith; Tina Hurst; Joey Smith; Debbie Massey; Larry "Mitch" Lowe; Cynthia Lowe; Harold Massey, Jr.; Jill Massey; Michael Massey; Dorothy Massey; Terry and Marilyn Kinyon; Billy and Kay Semeski; Donald and Judy Goad; Thomas and Karen Webb; Jim and Sue Kindred; Patti Wells; and Larry Clifton.
9. Take no further action as to Ginger Barnes.
10. Approve the attached factual and legal analyses.
11. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

9/26/03
Date

BY:

Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel

Jonathan A. Bernstein
Jonathan A. Bernstein
Assistant General Counsel

Margaret J. Toalson
Margaret J. Toalson
Attorney

Daniel G. Pinegar by MJS
Daniel G. Pinegar
Attorney

4601-403-103

Other Staff Assigned: Wade Sovonick
Mary Beth de Beau

Attachments:

1. Gene Stipe – Information
2. Gene Stipe – Factual Basis for Plea
3. Gene Stipe – Plea Agreement
4. Walt Roberts – Information
5. Walt Roberts – Factual Basis for Plea
6. Walt Roberts – Plea Agreement
7. Charlene Spears – Information
8. Charlene Spears – Factual Basis for Plea
9. Charlene Spears – Plea Agreement
10. James Lane – Information
11. James Lane – Factual Basis for Plea
12. James Lane – Plea Agreement
13. Letter from DOJ regarding FBI 302 documents (06/05/2003)
14. Reports of Investigation (Benson, Ervin, Dusenberry, Tumer)
15. Chart – Contributions by and through Harold Massey, Sr.
16. Conciliation Agreement – Gene Stipe
17. Conciliation Agreement – The Stipe Law Firm
18. Conciliation Agreement – Walt Roberts & the Walt Roberts for Congress
19. Conciliation Agreement – Charlene Spears
20. Conciliation Agreement – James Lane
21. Conciliation Agreement – Francis Stipe
22. Conciliation Agreement – Michael Mass
23. Conciliation Agreement – Larry Morgan
24. Conciliation Agreement – Paul and Edith Beavers
25. Conciliation Agreement – Harold Massey, Sr.
26. Factual & Legal Analysis – James Lane
27. Factual & Legal Analysis – Francis Stipe
28. Factual & Legal Analysis – Michael Mass
29. Factual & Legal Analysis – Larry Morgan
30. Factual & Legal Analysis – Paul and Edith Beavers
31. Factual & Legal Analysis – Harold Massey, Sr.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Criminal Number:

VIOLATIONS:

Count One:

18 U.S.C. § 371

(Conspiracy - Misdemeanor)

Count Two:

18 U.S.C. § 371

(Conspiracy - Felony)

GENE STIPE,

Count Three:

18 U.S.C. § 1621

(Perjury)

Defendant

INFORMATION

The United States of America informs the Court that:

RECEIVED

MAR. 26 2003

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURTCOUNT ONECONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACTIntroduction

At all times material to this Information:

1. Defendant GENE STIPE ("STIPE") was a partner in a law firm located in McAlester, Oklahoma, a state senator representing a portion of Southeastern Oklahoma, and a political mentor and friend to Walter L. Roberts.
2. Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives to represent Oklahoma's Third Congressional District and the owner of an auction company (the "Auction Company") located in McAlester, Oklahoma.
3. C-1 was an employee at defendant STIPE's law firm and defendant STIPE's personal

assistant.

4. C-2 was defendant STIPE's close friend and business associate. C-2 served as Roberts's occasional driver during the campaign.

5. C-3 was defendant STIPE's close friend.

6. C-4, C-5, C-6, and C-7 are defendant STIPE's acquaintances.

7. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

8. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

9. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

10. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

THE CONSPIRACY

11. From in or about March 1998, until in or about February 1999, in the District of Columbia and elsewhere, defendant GENE STIPE and others did unlawfully and knowingly

combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, that is, to violate the following provisions of the FECA:

a. Making Campaign Contributions in the Name of Another, that is, for defendant STIPE and others to knowingly and willfully make contributions, in the name of Roberts, to Walt Roberts for Congress, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441(f), 437g(d)(1)(A) (1998);

b. Making Campaign Contributions in Excess of the Legal Limit, that is, for defendant STIPE and others to knowingly and willfully make contributions to Walt Roberts for Congress totaling in excess of \$1,000 per election, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441a(a)(1) and 437g(d)(1)(A) (1998);

c. Filing a False Report of Campaign Contributions, that is, for defendant STIPE and others to knowingly and willfully cause Walt Roberts for Congress to file, with the FEC, reports that omitted and falsely stated the source of certain contributions which aggregated to \$2,000 or more during calendar year 1998, in violation of Title 2, United States Code, Sections 434 and 437g(d)(1)(A) (1998).

The Goal of the Conspiracy

12. The goal of the conspiracy was for defendant STIPE and others to make contributions, in excess of the legal limit, to Walt Roberts for Congress, and to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or the public.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant STIPE and others employed the

FROM

following manner and means, among others:

13. It was part of the conspiracy that defendant STIPE and others engaged in a number of schemes in which they caused funds to be transferred from defendant STIPE and others to Walt Roberts for Congress. These schemes included:

a) the transfer of \$20,500 from defendant STIPE and C-2 to Roberts and then to Walt Roberts for Congress supposedly for the sale of a trailer when, in fact, no such sale was completed;

b) the transfer of \$17,000 from defendant STIPE's law firm to Roberts and then to Walt Roberts for Congress supposedly as payment for advertising services that had been performed or were to be performed by Roberts when, in fact, no such services were performed or were intended to be performed;

c) the transfer of \$67,500 from defendant STIPE to Roberts and then to Walt Roberts for Congress supposedly for the sale of cattle when, in fact, the supposed sale did not occur, and the subsequent transfer of \$60,900 from defendant STIPE to Roberts to disguise the true source of the \$67,500 contribution.

d) the transfer of \$70,000 from defendant STIPE to Roberts and then, on the same day, the transfer of \$55,000 from Roberts to media companies, for the purchase of campaign media. The transfer from defendant STIPE to Roberts was supposedly pursuant to an option contract between defendant STIPE and Roberts when, in fact, the contract was a sham which neither party ever intended to honor;

e) the transfer of \$42,689 from defendant STIPE and C-2 to defendant SPEARS and then to others who then contributed the money to Walt Roberts for Congress in their own names;

f) the transfer of \$44,000 from defendant STIPE to others who then contributed money to

Walt Roberts for Congress in their own names.

14. It was further part of the conspiracy that the conduct of defendant STIPE and others caused Walt Roberts for Congress to submit to the FEC false reports of campaign receipts and disbursements.

Overt Acts

15. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant STIPE and others committed the following overt acts, among others:

Overt Acts Involving the \$20,500 Contribution

(1) In or about March 1998, defendant STIPE told Roberts that C-2 wished to purchase Roberts's trailer.

(2) On or about March 29, 1998, C-2 wrote a \$20,500 check payable to the Auction Company.

(3) On or about April 6, 1998, C-2 deposited into his own account a \$20,000 money order drawn from defendant STIPE's bank account.

(4) On or about April 9, 1998, Walt Roberts for Congress deposited \$20,500 it had received from the Auction Company's bank account.

(5) On or about April 15, 1998, the conduct of defendant STIPE and others caused Walt Roberts for Congress to file a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely identified and concealed the true sources of the above-described \$20,500 contribution to Walt Roberts for Congress.

Overt Acts Involving the \$17,000 Contribution

(6) On or about August 17, 1998, defendant STIPE caused his law firm to issue a \$17,000 check payable to Roberts.

(7) On or about August 17, 1998, Walt Roberts for Congress deposited \$17,000 it had received from the Auction Company's bank account.

(8) On or about September 7, 1998, the conduct of defendant STIPE and others caused Walt Roberts for Congress to file a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely identified and concealed the true sources of the above-described \$17,000 contribution to Walt Roberts for Congress.

Overt Acts Involving the \$67,500 Contribution

(9) On or about August 6, 1998, defendant STIPE told Roberts that defendant STIPE would provide Roberts's campaign with \$67,500 for a media purchase.

(10) On or about August 6, 1998, defendant STIPE instructed C-1 to pay \$67,500 from defendant STIPE's bank account to defendant ROBERTS.

(11) On or about August 7, 1998, Walt Roberts for Congress deposited a \$67,500 check that it had received from the Auction Company's bank account.

(12) On or about August 7, 1998, Walt Roberts for Congress wired \$67,500 to a media company to purchase campaign advertisements.

(13) On or about August 12, 1998, Walt Roberts for Congress filed a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely stated that Roberts was the true source of the \$67,500 contribution.

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(14) On or about August 27, 1998, defendant STIPE endorsed two cashier's checks drawn from one of his bank accounts and totaling \$60,900, payable to Roberts.

(15) On or about August 27, 1998, C-1 gave these two cashier's checks to Roberts.

Overt Acts Involving the \$55,000 Contribution

(16) In or about August 1998, defendant STIPE and Roberts signed a handwritten document titled "Option Agreement," which purported to give defendant STIPE a one-half interest in Roberts's artwork in exchange for \$35,000 annual payments from defendant STIPE to Roberts.

(17) On or about August 19, 1998, defendant STIPE issued a \$70,000 check payable to Roberts.

(18) On or about August 19, 1998, two campaign media companies were paid a total of \$55,000 from the Auction Company's bank account.

(19) In or about 1998, the conduct of defendant STIPE and others caused Walt Roberts for Congress to fail to report to the FEC, as required, the true source of this \$55,000 contribution.

Overt Acts Involving Straw Contributions Made Through C-1

(20) In or about early 1998, defendant STIPE gave C-1 a large sum of money.

(21) Later in 1998, C-3 provided C-1 with a large sum of money that she received from defendant STIPE.

(22-69) On or about the dates and in the amounts set forth below, C-1 gave money, derived from defendant STIPE and C-3, to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of

the contributions:

<u>Overt Act</u>	<u>Straw Contributor</u> <u>("SC")</u>	<u>Aggregate Amount</u> <u>of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed</u> <u>with the FEC</u>
22	SC1	\$1,000	3/28/98	4/15/98
23	SC1	\$990	8/14/98	9/7/98
24	SC2	\$250	5/22/98	9/29/98
25	SC2	\$1,000	8/28/98	11/17/98
26	SC2	\$550	8/28/98	11/17/98
27	SC2	\$1,000	10/22/98	12/3/98
28	SC3	\$1,000	8/28/98	11/17/98
29	SC3	\$1,000	8/28/98	11/17/98
30	SC3	\$200	8/28/98	11/17/98
31	SC3	\$150	10/17/98	12/3/98
32	SC3	\$150	10/17/98	12/3/98
33	SC4	\$100	10/17/98	12/3/98
34	SC4	\$1,000	10/20/98	12/3/98
35	SC5	\$100	10/17/98	12/3/98
36	SC5	\$1,000	10/21/98	12/3/98
37	SC6	\$980	8/17/98	9/7/98
38	SC6	\$990	8/19/98	9/29/98
39	SC7	\$1,000	9/18/98	10/15/98
40	SC8	\$1,000	10/29/98	12/3/98
41	SC8	\$1,000	10/29/98	12/3/98
42	SC8	\$1,000	10/29/98	12/3/98
43	SC9	\$1,000	10/29/98	12/3/98
44	SC9	\$1,000	10/29/98	12/3/98
45	SC9	\$1,000	10/29/98	12/3/98
46	SC10	\$1,000	3/28/98	4/15/98
47	SC10	\$985	8/14/98	9/7/98
48	SC11	\$1,000	5/5/98	9/29/98

49	SC11	\$900	8/14/98	9/7/98
50	SC12	\$1,000	3/31/98	4/15/98
51	SC12	\$970	8/17/98	9/7/98
52	SC13	\$990	9/2/98	11/17/98
53	SC13	\$990	9/3/98	11/17/98
54	SC13	\$100	10/17/98	12/3/98
55	SC14	\$980	8/17/98	9/7/98
56	SC14	\$990	8/18/98	11/17/98
57	SC15	\$950	8/14/98	9/7/98
58	SC15	\$1,000	8/31/98	2/28/99
59	SC15	\$998	9/28/98	2/28/99
60	SC16	\$950	9/3/98	11/17/98
61	SC16	\$1,000	10/29/98	12/3/98
62	SC17	\$980	8/14/98	9/7/98
63	SC17	\$1500	8/31/98	2/28/99
64	SC17	\$596	9/28/98	2/28/99
65	SC18	\$950	8/14/98	9/7/98
66	SC18	\$950	9/3/98	11/17/98
67	SC18	\$1,000	10/29/98	12/3/98
68	SC19	\$950	8/14/98	9/7/98
69	SC20	\$1,000	10/12/98	10/21/98

Overt Acts Involving Straw Contributions Made Through C-4 and C-5

(70) On or about October 8, 1998, defendant STIPE asked C-4 to use a \$15,000 check from defendant STIPE to reimburse others for their contributions to Walt Roberts for Congress.

(71) On or about October 8, 1998, C-5 retrieved a \$15,000 check, drawn from the account of defendant STIPE's law firm and signed by defendant STIPE, and gave the check to C-4.

(72-76) On or about the dates and in the amounts set forth below, C-4 gave defendant

STIPE's money to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Aggregate Amount of Contributions</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
72	SC21	\$3,000	10/8/98	10/21/98
73	SC22	\$3,000	10/9/98	10/21/98
74	SC23	\$3,000	10/9/98	10/21/98
75	SC24	\$3,000	10/9/98	10/21/98
76	SC25	\$3,000	10/9/98	10/21/98

Overt Acts Involving Straw Contributions Made Through C-6

(77) On or about October 10, 1998, defendant STIPE gave C-6 a \$7,500 check from defendant STIPE's bank account, with instructions for C-6 to use the money to reimburse others for contributions to Walt Roberts for Congress.

(78) On or about October 14, 1998, defendant STIPE gave C-6 a \$7,500 check from defendant STIPE's bank account, with instructions for C-6 to use the money to reimburse others for contributions to Walt Roberts for Congress.

(79-84) On or about the dates and in the amounts set forth below, C-6 gave defendant STIPE's money, sometimes directly and sometimes through intermediaries, to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the

straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor</u> <u>("SC")</u>	<u>Aggregate Amount</u> <u>of Contributions</u>	<u>Date of</u> <u>Contribution</u>	<u>Date Report Filed</u> <u>with the FEC</u>
79	SC26	\$2,250	10/20/98	12/3/98
80	SC27	\$2,750	10/20/98	12/3/98
81	SC28	\$3,000	10/20/98	12/3/98
82	SC29	\$2,000	10/20/98	12/3/98
83	SC30	\$1,000	10/31/98	12/3/98
84	SC31	\$3,000	10/22/98	12/3/98

Overt Acts Involving Straw Contributions Made Through C-7

(85) In or about August 1998, defendant STIPE gave C-7 approximately \$10,000 in cash with instructions for C-7 to use the money to reimburse others for contributions to Walt Roberts for Congress.

(86) On or about October 12, 1998, defendant STIPE gave C-7 a \$9,900 check from defendant STIPE's law firm, signed by defendant STIPE, with instructions for C-7 to use the money to reimburse others for contributions to Walt Roberts for Congress.

(87-94) On or about the dates and in the amounts set forth below, C-7 gave defendant STIPE's money, sometimes directly and sometimes through intermediaries, to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor</u> <u>("SC")</u>	<u>Aggregate Amount</u> <u>of Contributions</u>	<u>Date of</u> <u>Contribution</u>	<u>Date Report Filed</u> <u>with the FEC</u>
87	SC32	\$2,000	10/13/98	12/3/98
88	SC33	\$2,000	10/13/98	12/3/98
89	SC34	\$1,500	10/14/98	12/3/98
90	SC35	\$1,500	10/14/98	12/3/98
91	SC36	\$2,000	10/12/98	10/21/98
92	SC37	\$2,000	10/13/98	10/21/98
93	SC38	\$2,000	10/14/98	10/21/98
94	SC39	\$2,000	10/14/98	10/21/98

(Conspiracy, in misdemeanor violation of Title 18 United States Code, Section 371)

COUNT TWO

CONSPIRACY TO OBSTRUCT A FEDERAL ELECTION COMMISSION INVESTIGATION

1. Paragraphs one through ten and fifteen of Count One of this Information are realleged and incorporated by reference as if set out in full.
2. On or about September 11, 1998, there was an auction in McAlester, Oklahoma where pieces of artwork produced by Roberts were sold and money was raised for the Roberts campaign.
3. At all times material to this Count, the FEC was investigating whether defendant STIPE and others had violated the FECA.
4. The FEC has the authority, under 2 U.S.C. § 437d(a), to require persons to submit, under oath, written reports and answers to questions propounded by the FEC. Pursuant to this authority, on or about October 12, 1999, the FEC sent to defendant STIPE a Subpoena to Produce Documents and Order to Submit Written Answers.
5. The FEC has the authority, under 2 U.S.C. § 437d(a) to conduct depositions under oath.

Pursuant to this authority, the FEC deposed defendant STIPE, under oath, on January 11 and 12, 2001.

6. During the FEC investigation, others, including Roberts, submitted sworn written statements to the FEC and answered questions in sworn oral depositions conducted by the FEC.

THE CONSPIRACY

7. From in or about December 1999 through in or about July 2001, in the District of Columbia and elsewhere, defendant GENE STIPE and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, that is, to corruptly influence, obstruct, and impede, and to endeavor to influence, obstruct, and impede the due and proper administration of the law under which a pending proceeding was being had before the FEC, an agency of the United States, in violation of Title 18, United States Code, Section 1505.

The Goal of the Conspiracy

8. The goal of the conspiracy was for defendant STIPE and others to mislead and lie to the FEC and to otherwise obstruct, impair, and impede an ongoing FEC investigation so that the FEC would not discover that they had violated the FECA.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant STIPE and others employed the following manner and means, among others:

9. It was part of the conspiracy that defendant STIPE and others coordinated false and misleading statements that they agreed to provide to the FEC.

10. It was further part of the conspiracy that, in sworn written and oral statements,

defendant STIPE and others misled and lied, and caused others to mislead and lie, to the FEC about the true source of various contributions to Walt Roberts for Congress.

Overt Acts

11. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant STIPE and others committed the following overt acts, among others:

(1) In response to the FEC's October 12, 1999 Subpoena to Produce Documents and Order to Submit Written Answers, defendant STIPE, on or about December 3, 1999, caused the submission of a written statement to the FEC, in the District of Columbia, that defendant STIPE had signed and "declared under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information, and belief," but in which defendant STIPE falsely stated that:

a. other than three \$1,000 personal contributions, he "provided no funds to the Walt Roberts 1998 congressional campaign." In truth and in fact, as defendant STIPE well knew, he provided the Roberts campaign with over \$200,000, as described in the schemes outlined in Count One.

b. the \$67,500 that he provided to Roberts on August 5, 1998 was to be used to purchase cattle. In truth and in fact, as defendant STIPE well knew, neither he nor Roberts ever intended for the \$67,500 to be used to purchase cattle. Defendant STIPE intended for the \$67,500 to be used to purchase campaign media.

c. he and Roberts signed an option agreement on or about December 12, 1997. In truth and in fact, as defendant STIPE well knew, he and Roberts signed the option agreement in August 1998.

(2) On or about December 8, 1999, Roberts caused the submission of a written statement to the FEC, in the District of Columbia, that Roberts had signed and declared under penalty of perjury

FROM

to be true and correct, but in which Roberts falsely stated that on or about August 1, 1998, defendant STIPE and Roberts agreed that Roberts would sell cattle to defendant STIPE. In truth and in fact, as Roberts well knew, neither Roberts nor defendant STIPE ever intended for the \$67,500 to be used to purchase cattle. They intended for the \$67,500 to be used to purchase campaign media.

(3) In or about January 2001, defendant STIPE, Roberts, and C-1 attended a meeting in which they coordinated false testimony that they intended to give in upcoming FEC depositions.

(4) On or about January 11 and 12, 2001, in a deposition conducted by the FEC in which defendant STIPE had sworn, before a person competent to administer the oath, that he would answer truthfully, defendant STIPE falsely testified:

a. that he did not know that the \$20,000 he had given to C-2 went into Roberts's campaign. In truth and in fact, as defendant STIPE well knew at the time of the transaction, the \$20,000 he gave to C-2 went into Roberts's campaign.

b. that, at the time that he gave Roberts \$67,500, defendant STIPE did not know that the money was to be used by the Roberts campaign for a media purchase. In truth and in fact, as defendant STIPE well knew at the time of the transaction, the \$67,500 was to be used by the Roberts campaign to purchase media.

c. that he signed an option agreement with Roberts in 1997. In truth and in fact, as defendant STIPE well knew, he and Roberts signed the option agreement in August 1998.

d. that a \$45,250 check that he wrote to C-3 on September 11, 1998 was not a reimbursement for purchases that C-3 and others had made at a September 11, 1998 auction of Roberts's sculptures. In truth and in fact, as defendant STIPE well knew, he wrote the \$45,250

FROM

check to C-3 to reimburse C-3 for purchases that she and others had made at the auction.

(Conspiracy, in felony violation of Title 18 United States Code, Section 371)

COUNT THREE - PERJURY

1. Paragraphs one through ten and fifteen of Count One of this Information and Paragraphs one through six and eleven of Count Two of this Information are realleged and incorporated by reference as if set out in full.

2. The nature and scope of all schemes to funnel money into Walt Roberts for Congress and to disguise the true source of these contributions, including those schemes set forth in Count One of the Information, was material to the FEC's investigation into whether defendant STIPE and others had violated the FECA. Defendant STIPE's statements set forth in Paragraphs 11(1) and 11(4) of Count Two of this Information were relevant to such schemes and were, at all times, material to the FEC's investigation.

3. On or about December 3, 1999, defendant GENE STIPE submitted to the FEC a declaration, certificate, verification, and statement under penalty of perjury as permitted under Section 1746 of Title 28, United States Code, and willfully subscribed as true material which he did not believe to be true, as set forth in Paragraph 11(1) of Count Two of this Information.

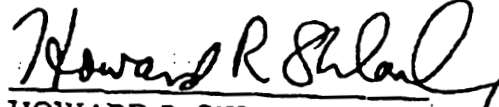
4. On or about January 11 and 12, 2001, having taken an oath before a competent tribunal, officer, and person, that he would testify, declare, depose, and certify truly in a case in which the law of the United States authorized an oath to be administered, defendant STIPE willfully and contrary to that oath, stated and subscribed material matters which he did not believe to be true, as set forth in Paragraph 11(4) of Count Two of this Information.

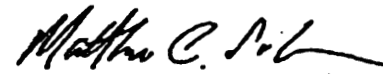
(Perjury, in felony violation of Title 18 United States Code, Section 1621)

Respectfully submitted,

NOEL L. HILLMAN
Chief, Public Integrity Section
U.S. Department of Justice, Criminal Division

By:


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United States House of Representatives
**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

file reports with the FEC, in violation of 28 U.S.C. § 545 and 18 U.S.C. § 2383.

UNITED STATES OF AMERICA : **Criminal Number:** 03-1001
: **VIOLATIONS:**
: **Count One:**
: **18 U.S.C. § 371**
: **(Conspiracy - Misdemeanor)**
: **Count Two:**
: **18 U.S.C. § 371**
: **(Conspiracy - Felony)**
: **Count Three:**
: **18 U.S.C. § 1621**
: **(Perjury)**
GENE STIPE,
Defendant

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2003 APR - 1 P 12:04

FACTUAL BASIS FOR PLEA

The United States of America, through its undersigned attorneys, and the defendant, GENE STIPE ("STIPE"), personally and through his undersigned counsel, hereby stipulate to the following facts pursuant to United States Sentencing Commission Guidelines § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure.

1. STIPE was a partner in a law firm located in McAlester, Oklahoma, a state senator representing a portion of Southeastern Oklahoma, and a political mentor and friend to Walter L. Roberts.

2. Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives to represent Oklahoma's Third Congressional District. Roberts was the owner of an auction company (the "Auction Company"), which was located in McAlester, Oklahoma.

3. C-1 was an employee at STIPE's law firm and STIPE's personal assistant. C-2 was

ATTACHMENT 2
Page 1 of 13 FROM

STIPE's close friend and business associate. C-2 also served as Roberts's occasional driver during the campaign. C-3 was STIPE's close friend. C-4, C-5, C-6, and C-7 are STIPE's acquaintances.

4. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

5. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

6. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting civil enforcement actions with respect to FECA violations.

7. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

CONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT

8. STIPE and others engaged in a number of schemes in which they caused funds to be transferred from STIPE and others to Walt Roberts for Congress. The schemes were designed to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or by the public. STIPE and others also caused Walt Roberts for Congress to submit to the FEC false reports of receipts and disbursements.

21 On or about October 8, 1998, \$20,500 Contribution use a \$15,000 check from STIPE to

9. In or about March 1998, STIPE told Roberts that C-2 would buy Roberts's trailer. On or about March 29, 1998, C-2 wrote a \$20,500 check payable to the Auction Company. On or about April 6, 1998, C-2 deposited into his own account a \$20,000 money order drawn from STIPE's bank account. On or about April 9, 1998, Walt Roberts for Congress deposited \$20,500 it had received from the Auction Company's bank account. Although the \$20,500 that Roberts received from C-2 was supposedly for the sale of a trailer, C-2 never took possession of the trailer.

10. On or about April 15, 1998, the conduct of STIPE and others caused Walt Roberts for Congress to file a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely identified and concealed the true sources of the above-described \$20,500 contribution to Walt Roberts for Congress.

\$17,000 Contribution

11. In or about August 1998, STIPE told Roberts that STIPE's law firm would pay Roberts \$17,000 supposedly for advertising and consulting work that Roberts had done in the past and would do in the future. On or about August 17, 1998, STIPE's law firm issued a \$17,000 check, signed by STIPE, payable to Roberts. On the same day, that \$17,000 check was deposited into the Auction Company's bank account. Also on the same day, Walt Roberts for Congress deposited a \$17,000 check that it had received from the Auction Company's bank account. As STIPE well knew, Roberts neither performed nor intended to perform any services for STIPE's law firm, at any time, to earn the \$17,000 he received.

12. On or about September 7, 1998, the conduct of STIPE and others caused Walt Roberts

for Congress to file a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely identified and concealed the true sources of the above-described \$17,000 contribution to Walt Roberts for Congress.

\$67,500 Contribution

13. On or about August 6, 1998, STIPE told Roberts that STIPE would provide Roberts's campaign with \$67,500 for a media purchase and that Roberts could explain the payment by saying it was for the sale of cattle. On or about August 6, 1998, STIPE instructed C-1 to pay \$67,500 from STIPE's bank account to Roberts. On or about August 7, 1998, that \$67,500 check was deposited into the Auction Company's bank account. Also on or about August 7, 1998, Walt Roberts for Congress deposited a \$67,500 check that it had received from the Auction Company's bank account. On or that same day, Walt Roberts for Congress wired \$67,500 to a media company to purchase campaign advertisements. There was no sale of cattle to STIPE for the \$67,500 payment.

14. On or about August 12, 1998, Walt Roberts for Congress filed a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely stated that Roberts was the true source of the \$67,500 contribution.

15. Later in August 1998, the media began questioning how Roberts could afford to provide \$67,500 to his campaign. On or about August 27, 1998, STIPE endorsed two cashier's checks, payable to himself, for \$40,900 and \$20,000 and instructed C-1 to give them to Roberts. On or about August 27, 1998, C-1 provided the checks to Roberts. On or about the same day, Roberts purchased \$60,900 of cattle using these two cashier's checks. The purpose of this transaction, as STIPE well knew, was to conceal from the FEC and the public the fact that the \$67,500 payment

was not for cattle, but was a contribution from STIPE to the campaign.

\$55,000 Contribution

16. In or about August 1998, STIPE and Roberts signed a handwritten document titled "Option Agreement," which purported to give STIPE a one-half interest in Roberts's artwork in exchange for \$35,000 annual payments from STIPE to Roberts. The contract was dated December 12, 1997, but that date was false because the contract had not even been drafted until August 1998.

17. On or about August 19, 1998, STIPE issued a \$70,000 check payable to Roberts. On or about the same day, that \$70,000 check was deposited into the Auction Company's bank account. Also on or about the same day, two campaign media companies received a total of \$55,000 that had been wired from the Auction Company's bank account. STIPE has never received the proceeds from Roberts's artwork to which the contract indicates STIPE is entitled. From the outset, both parties knew that the contract was a ruse, concocted for the sole purpose of purchasing media for the campaign. Walt Roberts for Congress never reported this contribution to the FEC.

Straw Contributions Made Through C-1

18. In or about early 1998, STIPE gave C-1 a large sum of money. Later in 1998, C-3 provided C-1 with a large sum of money that C-3 had received from STIPE.

19. Beginning in March 1998 and continuing until October 1998, C-1 gave money to straw contributors and asked them to contribute this money to Walt Roberts for Congress in their own names. Sometimes, C-1 provided the money directly to the straw contributors; other times, C-1 employed intermediaries to deliver the money. To reimburse the straw contributors, C-1 used money given to her by STIPE and C-3. C-1 reimbursed these contributors based on her prior conversations with STIPE, STIPE's conduct, and STIPE's desire to get Roberts elected to the United

States House of Representatives. These straw contributions caused Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions.

20. The following table details the dates and amounts of the reimbursed contributions and resulting false reports filed with the FEC:

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Aggregate Amount of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
22	SC1	\$1,000	3/28/98	4/15/98
23	SC1	\$990	8/14/98	9/7/98
24	SC2	\$250	5/22/98	9/29/98
25	SC2	\$1,000	8/28/98	11/17/98
26	SC2	\$550	8/28/98	11/17/98
27	SC2	\$1,000	10/22/98	12/3/98
28	SC3	\$1,000	8/28/98	11/17/98
29	SC3	\$1,000	8/28/98	11/17/98
30	SC3	\$200	8/28/98	11/17/98
31	SC3	\$150	10/17/98	12/3/98
32	SC3	\$150	10/17/98	12/3/98
33	SC4	\$100	10/17/98	12/3/98
34	SC4	\$1,000	10/20/98	12/3/98
35	SC5	\$100	10/17/98	12/3/98
36	SC5	\$1,000	10/21/98	12/3/98
37	SC6	\$980	8/17/98	9/7/98
38	SC6	\$990	8/19/98	9/29/98
39	SC7	\$1,000	9/18/98	10/15/98
40	SC8	\$1,000	10/29/98	12/3/98
41	SC8	\$1,000	10/29/98	12/3/98

42 SC8 \$1,000 10/29/98 12/3/98
 43 SC9 \$1,000 10/29/98 12/3/98
 44 SC9 \$1,000 10/29/98 12/3/98
 45 SC9 \$1,000 10/29/98 12/3/98
 46 SC10 \$1,000 3/28/98 4/15/98
 47 SC10 \$985 8/14/98 9/7/98
 48 SC11 \$1,000 5/5/98 9/29/98
 49 SC11 \$900 8/14/98 9/7/98
 50 SC12 \$1,000 3/31/98 4/15/98
 51 SC12 \$970 8/17/98 9/7/98
 52 SC13 \$990 9/2/98 11/17/98
 53 SC13 \$990 9/3/98 11/17/98
 54 SC13 \$100 10/17/98 12/3/98
 55 SC14 \$980 8/17/98 9/7/98
 56 SC14 \$990 8/18/98 11/17/98
 57 SC15 \$950 8/14/98 9/7/98
 58 SC15 \$1,000 8/31/98 2/28/99
 59 SC15 \$998 9/28/98 2/28/99
 60 SC16 \$950 9/3/98 11/17/98
 61 SC16 \$1,000 10/29/98 12/3/98
 62 SC17 \$980 8/14/98 9/7/98
 63 SC17 \$1500 8/31/98 2/28/99
 64 SC17 \$596 9/28/98 2/28/99
 65 SC18 \$950 8/14/98 9/7/98
 66 SC18 \$950 9/3/98 11/17/98
 67 SC18 \$1,000 10/29/98 12/3/98
 68 SC19 \$950 8/14/98 9/7/98
 69 SC20 \$1,000 10/12/98 10/21/98

Straw Contributions Made Through C-4 and C-5

21. On or about October 8, 1998, STIPE asked C-4 to use a \$15,000 check from STIPE to reimburse others for their contributions to Walt Roberts for Congress. On or about October 8, 1998, C-5 retrieved a \$15,000 check from STIPE's law firm, drawn on the law firm's account and signed by STIPE, and gave the check to C-4.

22. On or about the dates and in the amounts set forth below, C-4 gave STIPE's money to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Aggregate Amount of Contributions</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
72	SC21	\$3,000	10/8/98	10/21/98
73	SC22	\$3,000	10/9/98	10/21/98
74	SC23	\$3,000	10/9/98	10/21/98
75	SC24	\$3,000	10/9/98	10/21/98
76	SC25	\$3,000	10/9/98	10/21/98

Straw Contributions Made Through C-6

23. On or about October 10, 1998, STIPE gave C-6 a \$7,500 check from STIPE's bank account, with instructions for C-6 to use the money to reimburse others for contributions to Walt Roberts for Congress. Four days later, STIPE gave C-6 a \$7,500 check from STIPE's bank account, with instructions for C-6 to use the money to reimburse others for contributions to Walt Roberts for Congress.

24. On or about the dates and in the amounts set forth below, C-6 gave STIPE's money, sometimes directly and sometimes through intermediaries, to straw contributors, and asked them to

contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor</u> <u>("SC")</u>	<u>Aggregate Amount</u> <u>of Contributions</u>	<u>Date of</u> <u>Contribution</u>	<u>Date Report Filed</u> <u>with the FEC</u>
79	SC26	\$2,250	10/20/98	12/3/98
80	SC27	\$2,750	10/20/98	12/3/98
81	SC28	\$3,000	10/20/98	12/3/98
82	SC29	\$2,000	10/20/98	12/3/98
83	SC30	\$1,000	10/31/98	12/3/98
84	SC31	\$3,000	10/22/98	12/3/98

Straw Contributions Made Through C-7

25. In or about August 1998, STIPE gave C-7 approximately \$10,000 in cash with instructions for C-7 to use the money to reimburse others for contributions to Walt Roberts for Congress. On or about October 12, 1998, STIPE gave C-7 a \$9,900 check from STIPE's law firm, signed by STIPE, with instructions for C-7 to use the money to reimburse others for contributions to Walt Roberts for Congress.

26. On or about the dates and in the amounts set forth below, C-7 gave STIPE's money, sometimes directly and sometimes through intermediaries, to straw contributors and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

... defendant, admits that he is guilty of

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Aggregate Amount of Contributions</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
87	SC32	\$2,000	10/13/98	12/3/98
88	SC33	\$2,000	10/13/98	12/3/98
89	SC34	\$1,500	10/14/98	12/3/98
90	SC35	\$1,500	10/14/98	12/3/98
91	SC36	\$2,000	10/12/98	10/21/98
92	SC37	\$2,000	10/13/98	10/21/98
93	SC38	\$2,000	10/14/98	10/21/98
94	SC39	\$2,000	10/14/98	10/21/98

Knowing and Willful Violations of the FECA

27. STIPE acknowledges that, through his actions in furtherance of this conspiracy, he knowingly and willfully committed the following violations of the FECA: Making Campaign Contributions in the Name of Another, in violation of 2 U.S.C. §§ 441(f), 437g(d)(1)(A) (1998); Making Campaign Contributions in Excess of the Legal Limit, in violation of 2 U.S.C. §§ 441a(a)(1), 441a(f), and 437g(d)(1)(A) (1998); and Causing the Filing of a False Report of Campaign Contributions, in violation of 2 U.S.C. §§ 434 and 437g(d)(1)(A) (1998) and 18 U.S.C. § 2.

28. STIPE further acknowledges that he was aware that the FECA imposes limits on the amount of money individuals may contribute to federal campaigns, and that a scheme to evade these limits was against the law.

PERJURY AND CONSPIRACY TO OBSTRUCT A FEDERAL ELECTION COMMISSION INVESTIGATION

29. The FEC conducted an investigation into whether STIPE, Roberts, and others had violated the FECA. During the investigation, STIPE's conduct caused others to mislead and lie to the FEC.

30. The FEC had the authority, under 2 U.S.C. § 437d(a), to require persons to submit, under oath, written reports and answers to questions propounded by the FEC. Pursuant to this authority, on or about October 12, 1999, the FEC sent to STIPE a Subpoena to Produce Documents and Order to Submit Written Answers. The FEC also has the authority, under 2 U.S.C. § 437d(a) to conduct depositions under oath. Pursuant to this authority, the FEC deposed STIPE, under oath, on January 11 and 12, 2001.

31. In response to the FEC's October 12, 1999 Subpoena to Produce Documents and Order to Submit Written Answers, STIPE, on or about December 3, 1999, caused the submission of a written statement to the FEC, in the District of Columbia, that STIPE had signed and "declared under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information, and belief," but in which STIPE falsely stated that:

a. other than three \$1,000 personal contributions, he "provided no funds to the Walt Roberts 1998 congressional campaign." In truth and in fact, as STIPE well knew, he provided the Roberts campaign with over \$200,000, as described in the schemes outlined above.

b. the \$67,500 that he provided to Roberts on August 5, 1998 was to be used to purchase cattle. In truth and in fact, as STIPE well knew, neither he nor Roberts ever intended for the \$67,500 to be used to purchase cattle. STIPE intended for the \$67,500 to be used to purchase campaign media. The idea of a cattle sale was a concoction intended to mask the true nature of the payment.

c. he and Roberts signed an option agreement on or about December 12, 1997. In truth and in fact, as STIPE well knew, he and Roberts signed the option agreement in August 1998.

32. On or about December 8, 1999, Roberts caused the submission of a written statement to the FEC, in the District of Columbia, that Roberts had signed and declared under penalty of perjury to

be true and correct, but in which Roberts falsely stated that on or about August 1, 1998, STIPE and Roberts agreed that Roberts would sell cattle to C-1. In truth and in fact, as Roberts well knew, neither Roberts nor defendant STIPE ever intended for the \$67,500 to be used to purchase cattle. They intended for the \$67,500 to be used to purchase campaign media.

33. In or about January 2001, STIPE, Roberts, and C-1 attended a meeting in which they coordinated false testimony that they intended to give in upcoming FEC depositions.

34. On or about January 11 and 12, 2001, in a deposition conducted by the FEC in which STIPE had sworn, before a person competent to administer the oath, that he would answer truthfully, STIPE falsely testified:

a. that he did not know that the \$20,000 he had given to C-2 went into Roberts's campaign. In truth and in fact, as STIPE well knew at the time of the transaction, the \$20,000 he gave to C-2 went into Roberts's campaign.

b. that, at the time that he gave Roberts \$67,500, STIPE did not know that the money was to be used by the Roberts campaign for a media purchase. In truth and in fact, as STIPE well knew at the time of the transaction, the \$67,500 was to be used by the Roberts campaign to purchase media.

c. that he signed an option agreement with Roberts in 1997. In truth and in fact, as STIPE well knew, he and Roberts signed the option agreement in August 1998.

d. that a \$45,250 check that he wrote to C-3 on September 11, 1998 was not a reimbursement for purchases that C-3 and others had made at a September 11, 1998 auction of Roberts's sculptures. In truth and in fact, as STIPE well knew, he wrote the \$45,250 check to C-3 to reimburse C-3 for purchases that she and others had made at the auction.


35. The nature and scope of all schemes to funnel money into Walt Roberts for Congress and

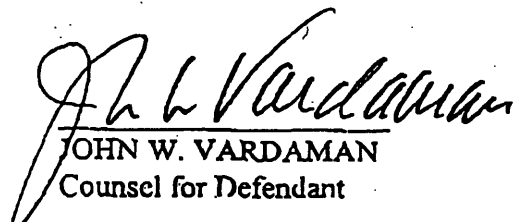
to disguise the true source of these contributions, including those schemes set forth in this Factual Basis for Plea, was material to the FEC's investigation into whether STIPE and others had violated the FECA. Defendant STIPE's statements set forth in Paragraphs 31 and 34 were, at all times, material to the FEC's investigation.


36. STIPE acknowledges that government could prove that he is guilty of perjury with the testimony of two or more witnesses and by corroborating documentary evidence.

Dated: March 25, 2003

FOR THE DEFENDANT

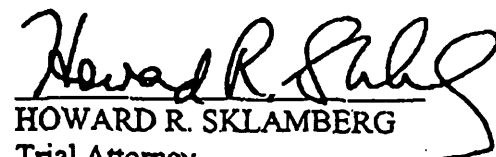

GENE STIPE
Defendant



JOHN W. VARDAMAN
Counsel for Defendant


MATTHEW J. HERRINGTON
Counsel for Defendant

FOR THE UNITED STATES

NOEL L. HILLMAN
Chief, Public Integrity Section


HOWARD R. SKLAMBERG
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section


MATTHEW C. SOLOMON
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

VIOLATIONS:

Count One:

18 U.S.C. § 371

(Conspiracy - Misdemeanor)

Count Two:

18 U.S.C. § 371

(Conspiracy - Felony)

Count Three:

18 U.S.C. § 1621

(Perjury)

v.

GENE STIPE,

Defendant

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, Gene Stipe, agree as follows:

1. The defendant is entering this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.
2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.
3. The defendant agrees to waive indictment and plead guilty to all three counts in the attached Information charging him with: one count of Conspiracy to Violate the Federal Election Campaign Act ("FECA"), in misdemeanor violation of 18 U.S.C. § 371; one count Conspiracy to Obstruct a Federal Election Commission Investigation, in felony violation of 18 U.S.C. § 371; and

ATTACHMENT 3
Page 1 of 8

one count of Perjury, in violation of 18 U.S.C. §1621. The defendant admits that he is guilty of these crimes, and the defendant understands that he will be adjudicated guilty of those offenses.

4. The defendant understands the nature of the offenses to which he is pleading guilty, and the elements thereof, including the penalties provided by law. With respect to Conspiracy to Obstruct a Federal Election Commission Investigation (a felony violation of 18 U.S.C. § 371) and with respect to Perjury (a violation of 18 U.S.C. § 1621), the maximum penalties for each offense are five years of imprisonment, a fine of \$250,000, and a mandatory special assessment of \$100. With respect to Conspiracy to Violate the Federal Election Campaign Act (a misdemeanor violation of 18 U.S.C. § 371), the maximum penalties are one year of imprisonment, a fine of not to exceed the greater of \$100,000 or 300 percent of any contributions or expenditures involved in such violation, and a mandatory special assessment of \$25. In this case, the contributions or expenditures involved in the defendant's violations are \$245,189. Therefore, the maximum fine is \$735,567. The defendant understands that the Court may impose a term of supervised release on each count to follow any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release for Conspiracy to Obstruct a Federal Election Commission Investigation and Perjury is not more than three years; the authorized term of supervised release for Conspiracy to Violate the Federal Election Campaign Act is not more than one year. The defendant also understands that the Court may impose restitution, costs of incarceration, and costs of supervision.

5. If the Court accepts defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes arising from Walt Roberts's congressional race for Oklahoma's Third

Congressional District in 1998 and from the FEC's investigation of that race, as described in the Factual Basis for Plea.

6. The parties agree that the defendant's conduct, as set forth in the Factual Basis for Plea and Information, did not relate to or arise from his duties as a public official or state senator from Oklahoma.

7. The defendant understands and acknowledges that the offense to which he is pleading guilty is subject to the provisions and guidelines of the "Sentencing Reform Act of 1984," Title 28, United States Code, Section 994(a).

8. The parties agree that the appropriate Sentencing Guideline for conspiracy to obstruct an FEC investigation as applied in this case is U.S.S.G. §2J1.2 (Obstruction of Justice). The parties agree that no specific offense characteristics apply. The parties further agree that no adjustments under § 3B1.1 or § 3B1.2 apply. The resulting offense level for Count Two is 12.

9. The parties agree that the appropriate Sentencing Guideline for perjury as applied in this case is U.S.S.G. § 2J1.3 (Perjury). The parties further agree that the defendant's conduct occurred in one single proceeding, pursuant to § 2J1.3(d)(1), that no specific offense characteristics apply, and that no adjustments under § 3B1.1 or § 3B1.2 apply. The resulting offense level for Count Three is 12.

10. The parties agree that the conduct underlying Counts Two and Three involves "substantially the same harm" under U.S.S.G. §3D1.2, and should be grouped together in a single group. The resulting offense level for Counts Two and Three, therefore, is 12.

11. The parties agree that the appropriate Sentencing Guideline for conspiracy to violate the FECA is U.S.S.G. § 2X5.1. The parties further agree that because there is not a sufficiently

analogous guideline to the charged offenses, "the provisions of 18 U.S.C. § 3553(b) shall control" the defendant's sentence. § 2X5.1. The parties further agree that because there is no guideline that can be applied to this offense, the rules for determining incremental punishment for significant additional criminal conduct found in U.S.S.G. §§ 3D1.1 through 3D1.4 do not apply, and that Count One of the information does not group with Counts Two or Three.

12. Should the defendant comply with each of the terms of this agreement, the United States will recommend that the defendant receive a two-level reduction for acceptance of responsibility under § 3E1.1 of the Sentencing Guidelines. The defendant understands that these recommendations and agreements are not binding on the Court or the Probation Office.

13. The government agrees that it will not move for an upward departure from the sentencing guideline level determined by the Court. The defendant agrees that if the Court finds that the defendant's final offense level, after all adjustments, including for acceptance of responsibility, is 10 or less, the defendant will not move for a downward departure. If the Court finds that the defendant's final offense level is greater than 10, the defendant retains the right to move for a downward departure, but such a motion would not seek a final offense level of less than 10.

14. The defendant understands and acknowledges that he may receive any sentence within the statutory maximum for the offenses of conviction.

15. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution, if any, the defendant may be ordered to pay. The defendant understands that the sentence and the sentencing guidelines applicable to this case will be determined solely by the Court, with the assistance of the United States Probation

Office, that the Court may impose the maximum sentence permitted by the statute. The Court is not obligated to follow any recommendations of the government at the time of sentencing. The defendant will not be permitted to withdraw his plea regardless of the sentence calculated by the United States Probation Office or imposed by the Court.

16. The United States reserves the right to allocute in all respects as to the nature and seriousness of the offense and to make a recommendation as to sentencing. The attorneys for the United States will inform the Court and the Probation Office of: (1) this agreement; (2) the nature and extent of the defendant's activities with respect to this case; and (3) all other information in its possession relevant to sentencing.

17. The parties agree that it is appropriate that the defendant pay a fine of \$490,378 for Count One.

18. The defendant agrees, as a special condition of supervised release or probation imposed by the court, that he will voluntarily surrender his license to practice law in any jurisdiction where he holds such a license and that he will take no action toward reinstatement of such license or licenses until the termination of probation and supervised release.

19. In consideration for the defendant's compliance with all of the terms of this agreement, the government will not oppose a request by the defendant at the time his plea is entered that he be permitted to remain free pending sentencing.

20. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction (or the manner in which

that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

21. The government retains the right to terminate this agreement if either Charlene Spears or James E. Lane has not entered a guilty plea to crimes arising from Walt Roberts's congressional race for Oklahoma's Third Congressional District in 1998 and from the FEC's investigation of that race, as described in the Factual Basis for Plea.

22. Upon defendant's failure to comply with any of the terms and conditions set forth in this agreement, the government may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

- a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible;
- b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and
- c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

23. In Count Three of the Information, the government has not alleged that the charged conduct occurred in the District of Columbia. The defendant hereby expressly waives any defense to Count Three, or the other counts, based on venue.

24. In the event of a dispute as to whether defendant has knowingly committed any material breach of this agreement, and if the United States chooses to exercise its rights under Paragraph 22, and if the defendant so requests, the matter shall be submitted to the Court and shall be determined by the Court in an appropriate proceeding at which defendant's disclosures and documents shall be admissible and at which time the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

25. The defendant agrees that if the Court does not accept the defendant's plea of guilty, this agreement shall be null and void.

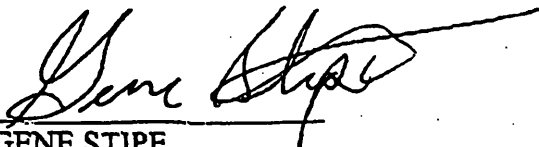
26. The defendant understands that this agreement is binding only upon the Public Integrity Section of the Department of Justice and the United States Attorney's Office for the Eastern District of Oklahoma. This agreement does not bind any other prosecutor's office. Nor does it bar or compromise any civil or administrative claim pending or that may be made against defendant, including any civil or administrative claim on the part of the FEC. If requested, however, the Public Integrity Section will bring this agreement to the attention of the FEC or to any prosecuting jurisdiction.

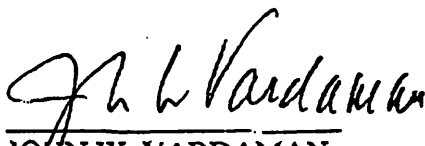
27. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice

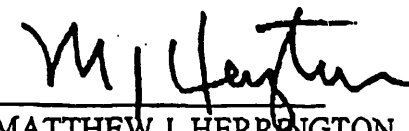
in connection with this case. This agreement may be amended only by a writing signed by all parties.

Dated: 3-24-03

FOR THE DEFENDANT

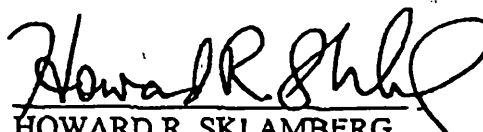

GENE STIPE
Defendant



JOHN W. VARDAMAN
Counsel for Defendant


MATTHEW J. HERRENTON
Counsel for Defendant

FOR THE UNITED STATES

NOEL L. HILLMAN
Chief, Public Integrity Section


HOWARD R. SKLAMBERG
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section


MATTHEW C. SOLOMON
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Criminal Number: **03-071**

Maa. No. **02-767M**
VIOLATIONS:

v.

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

WALTER L. ROBERTS,

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

Defendant

THOMSON, J.

INFORMATION

FEB 14 2003

The United States informs the Court that:

COUNT ONE

CONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT

Introduction

At all times material to this Information:

1. Defendant WALTER L. ROBERTS ("ROBERTS") was a candidate for the United States House of Representatives, in 1998, to represent Oklahoma's Third Congressional District. Defendant ROBERTS was the owner of the Walt Roberts Auction Company (the "Auction Company"), which was located in McAlester, Oklahoma.
2. C-1 was a political mentor and friend to defendant ROBERTS and a partner at a law firm which was located in the Third Congressional District
3. C-2 was an employee at C-1's law firm and the personal assistant to C-1.
4. C-3 was a friend to defendant ROBERTS who served as defendant ROBERTS's

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Page 1 of 10

24-04-408-1157

occasional driver during the campaign.

5. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

6. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

7. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

8. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

THE CONSPIRACY

9. From in or about March 1998, until in or about November 1998, in the District of Columbia and elsewhere, defendant WALTER L. ROBERTS and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, that is to violate the following provisions of the FECA:

a. Making Campaign Contributions in the Name of Another, that is, for C-1 and C-1's law firm to knowingly and willfully make contributions, in the name of defendant ROBERTS,

ATTACHMENT 4
Page 2 of 10

to Walt Roberts for Congress, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441(f), 437g(d)(1)(A) (1998);

b. Making Campaign Contributions in Excess of the Legal Limit, that is, for C-1 and C-1's law firm to knowingly and willfully make contributions to Walt Roberts for Congress totaling in excess of \$1,000 per election, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441a(a)(1) and 437g(d)(1)(A) (1998);

c. Filing a False Report of Campaign Contributions, that is, to knowingly and willfully cause Walt Roberts for Congress to file, with the FEC, reports that omitted and falsely stated the source of certain contributions which aggregated to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 434 and 437g(d)(1)(A) (1998).

The Goal of the Conspiracy

10. The goal of the conspiracy was for C-1 and others to make contributions, in excess of the legal limit, to Walt Roberts for Congress and to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or the public.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant ROBERTS and others employed the following manner and means, among others:

11. It was part of the conspiracy that defendant ROBERTS and others engaged in a number of schemes in which they caused funds to be transferred from C-1 and others to Walt Roberts for Congress. These schemes included:

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Page 3 of 18

24-04-403-139

a) the transfer of \$20,500 from C-1 and C-3 to defendant ROBERTS and then to Walt Roberts for Congress supposedly for the sale of a trailer when, in fact, no such sale was completed;

b) the transfer of \$17,000 from C-1's law firm to defendant ROBERTS and then to Walt Roberts for Congress supposedly as payment for advertising services that had been performed or were to be performed by defendant ROBERTS when, in fact, no such services were performed or were intended to be performed;

c) the transfer of \$67,500 from C-1 to defendant ROBERTS and then to Walt Roberts for Congress supposedly for the sale of cattle when, in fact, the supposed sale did not occur; and

d) the transfer of \$70,000 from C-1 to defendant ROBERTS and then, on the same day, the transfer of \$55,000 from defendant ROBERTS to media companies, for the purchase of campaign media. The transfer from C-1 to defendant ROBERTS was supposedly pursuant to an option contract between C-1 and defendant ROBERTS when, in fact, the contract was a sham which neither party ever intended to honor.

12. It was further part of the conspiracy that defendant ROBERTS and others caused Walt Roberts for Congress to submit to the FEC false reports of campaign receipts and disbursements.

Overt Acts

13. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant ROBERTS and others, committed the following overt acts, among others:

Overt Acts Involving the \$20,500 Contribution

(1) In or about March 1998, C-1 told defendant ROBERTS that C-3 wished to purchase defendant ROBERTS's trailer.

(2) On or about March 29, 1998, C-3 wrote a \$20,500 check payable to the Auction Company.

(3) On or about April 6, 1998, C-3 deposited into his own account a \$20,000 money order that had been drawn from C-1's bank account.

(4) On or about April 9, 1998, Walt Roberts for Congress deposited \$20,500 it had received from the Auction Company's bank account.

Overt Acts Involving the \$17,000 Contribution

(5) On or about August 17, 1998, C-1 caused C-1's law firm to issue a \$17,000 check payable to defendant ROBERTS.

(6) On or about August 17, 1998, Walt Roberts for Congress deposited \$17,000 it had received from the Auction Company's bank account.

Overt Acts Involving the \$67,500 Contribution

(7) On or about August 6, 1998, C-2 arranged for a payment by check of \$67,500 from C-1's bank account to defendant ROBERTS.

(8) On or about August 7, 1998, Walt Roberts for Congress deposited a \$67,500 check that it had received from the Auction Company's bank account.

Overt Acts Involving the \$55,000 Contribution

(9) In or about August 1998, defendant ROBERTS and C-1 signed a handwritten document titled "Option Agreement," which purported to give C-1 a one-half interest in

defendant ROBERTS's artwork in exchange for \$35,000 annual payments from C-1 to defendant ROBERTS.

(10) On or about August 19, 1998, C-1 issued a \$70,000 check payable to defendant ROBERTS.

(11) On or about August 19, 1998, two campaign media companies received a total of \$55,000 from the Auction Company's bank account.

Overt Acts Involving the Filing of False Reports with the FEC

(12-15) On or about the dates set forth below, defendant ROBERTS and others caused Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely identified and concealed the true sources of the above described \$20,500, \$17,000, \$67,500, and \$55,000 contributions:

<u>Date Report Filed with the FEC (Overt Acts 12-15)</u>	<u>True Source of Contribution</u>	<u>Reported Source of Contribution</u>
September 2, 1998 (12)	\$67,500 from C-1	defendant ROBERTS's personal funds
September 7, 1998 (13)	\$55,000 from C-1	Not reported
September 7, 1998 (14)	\$17,000 from C-1's law firm	defendant ROBERTS's personal funds
November 17, 1998 (15)	\$20,500 from C-1 and C-3	defendant ROBERTS's personal funds

(Conspiracy, in misdemeanor violation of Title 18 United States Code, Section 371)

...during the campaign **COUNT TWO**

**CONSPIRACY TO OBSTRUCT A
FEDERAL ELECTION COMMISSION INVESTIGATION**

1. Paragraphs one through eight and thirteen of Count One of this Information are realleged and incorporated by reference as if set out in full.
2. At all times material to this Count, the FEC was investigating whether defendant ROBERTS and others had violated the FECA.
3. During the FEC investigation, defendant ROBERTS and others submitted sworn written statements to the FEC and answered questions in sworn oral depositions conducted by the FEC.

THE CONSPIRACY

4. From in or about December 1999 through in or about July 2001, in the District of Columbia and elsewhere, defendant WALTER L. ROBERTS and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, that is, to corruptly influence, obstruct, and impede, and to endeavor to influence, obstruct, and impede the due and proper administration of the law under which a pending proceeding was being had before the FEC, an agency of the United States, in violation of Title 18, United States Code, Section 1505.

The Goal of the Conspiracy

5. The goal of the conspiracy was for defendant ROBERTS and others to mislead and lie to the FEC and to otherwise obstruct, impair, and impede an ongoing FEC investigation so that the FEC would not discover that they had violated the FECA.

ATTACHMENT 4
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Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant ROBERTS and others employed the following manner and means, among others:

6. It was part of the conspiracy that defendant ROBERTS and others coordinated false and misleading statements that they agreed to provide to the FEC.

7. It was further part of the conspiracy that, in sworn written and oral statements, defendant ROBERTS and others misled and lied, and caused others to mislead and lie, to the FEC about the true source of various contributions to Walt Roberts for Congress.

Overt Acts

8. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant ROBERTS and others committed the following overt acts, among others:

(1) On or about December 8, 1999, defendant ROBERTS caused the submission of a written statement to the FEC that defendant ROBERTS had signed and declared under penalty of perjury to be true and correct, but in which defendant ROBERTS falsely stated that:

a. the true source of the \$17,000 contribution Walt Roberts for Congress had received on or about August 17, 1998 was "personal income for services."

b. on or about August 1, 1998, C-1 and defendant ROBERTS agreed that defendant ROBERTS would sell cattle to C-1.

(2) In or about January 2001, defendant ROBERTS and others attended a meeting in which they coordinated false testimony that they intended to give in upcoming FEC depositions.

(3) On or about January 9 and 10, 2001, in a sworn oral deposition conducted by the

FEC, defendant ROBERTS falsely testified:

- a. that, in October 1997, C-1 and defendant ROBERTS discussed entering into an agreement by which C-1 would pay defendant ROBERTS \$35,000 per year to assist with defendant ROBERTS's art work.
- b. that defendant ROBERTS and C-1 signed an option agreement in December 1997.
- c. that C-3 received something of value from defendant ROBERTS in exchange for the \$20,500 that C-3 gave defendant ROBERTS.
- d. that, when \$67,500 was drawn from C-1's account on or about August 6, 1998, C-1 believed that the money was to be used for the purchase of cattle, rather than to be given to Walt Roberts for Congress.

(Conspiracy, in felony violation of Title 18 United States Code, Section 371)

ATTACHMENT 4
Page 9 of 10

Over the past few years, the DOJ has been

Respectfully submitted,

Respectfully submitted,

NOEL HILLMAN

Chief, Public Integrity Section

U.S. Department of Justice, Criminal Division

By:

Howard R. Sklamberg
HOWARD R. SKLAMBERG
D.C. Bar Number 453852

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202-514-1412

24-24-408-1412

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

VIOLATIONS:

v.

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

WALTER L. ROBERTS,

Defendant

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

FACTUAL BASIS FOR PLEA

The United States of America, through its undersigned attorneys, and the defendant, WALTER L. ROBERTS ("ROBERTS"), personally and through his undersigned counsel, hereby stipulate to the following facts pursuant to United States Sentencing Commission Guidelines § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure.

Introduction

1. ROBERTS was a sculptor of Western art, an auctioneer, and a fiddler. He owned the Walt Roberts Auction Company (the "Auction Company"), which was located in McAlester, Oklahoma.

2. In 1998, ROBERTS was a candidate for the United States House of Representatives to represent Oklahoma's Third Congressional District. He received the most votes in the Democratic primary election, which occurred on August 25, 1998. ROBERTS won the September 15, 1998 primary runoff election, but lost the November 3, 1998 general election.

3. C-1 was a political mentor and friend to ROBERTS and a partner at a law firm which was located in the Third Congressional District. C-2 was an employee at C-1's law firm and the

personal assistant to C-1. C-3 was a friend to ROBERTS who served as ROBERTS's driver during the campaign. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

4. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

5. Under the FECA, the responsible officials of "political committees" were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

CONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT

6. ROBERTS and others engaged in a number of schemes in which they caused funds to be transferred from C-1 and others to Walt Roberts for Congress. The schemes were designed to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or by the public. ROBERTS and others also caused Walt Roberts for Congress to submit to the FEC false reports of receipts and disbursements.

\$20,500 Contribution

7. In or about March 1998, ROBERTS's campaign was in need of money so that it could obtain matching funds from the Democratic Congressional Campaign Committee. C-1 was aware of the campaign's need for money and asked ROBERTS if ROBERTS had anything to sell. ROBERTS replied that he owned a stock trailer that was worth \$8,000-\$10,000. C-1 told ROBERTS that C-3 would want to buy the trailer. On or about March 29, 1998, C-3 wrote a \$20,500 check, which was deposited into ROBERTS's Auction Company account. On or about April 6, 1998, C-3 deposited into his own account a \$20,000 money order that had been drawn from

C-1's bank account. On or about April 9, 1998, Walt Roberts for Congress deposited \$20,500 it had received from the Auction Company's bank account.

8. Although the \$20,500 that ROBERTS received from C-3 was supposedly for the sale of a trailer, C-3 never took possession of the trailer.

\$17,000 Contribution

9. In or about August 1998, C-1 and C-2 told ROBERTS that C-1's law firm would pay ROBERTS \$17,000 supposedly for advertising and consulting work that ROBERTS had done in the past and would do in the future.

10. On or about August 17, 1998, C-1's law firm issued a \$17,000 check, signed by C-1, payable to defendant ROBERTS. On the same day, that \$17,000 check was deposited into the Auction Company's bank account. Also on the same day, Walt Roberts for Congress deposited a \$17,000 check that it had received from the Auction Company's bank account. ROBERTS did not perform nor intend to perform any services for C-1's law firm, at any time, to earn the \$17,000 he received.

\$67,500 Contribution

11. In or about August 1998, C-2 told ROBERTS that the campaign needed \$67,500 for a media buy. C-1 said that he could provide the \$67,500 and that ROBERTS could explain the payment by saying it was for the sale of cattle. ROBERTS objected to the plan. Nevertheless, on or about August 6, 1998, C-2 arranged for a payment by check of \$67,500 from C-1's bank account to defendant ROBERTS. On or about August 7, 1998, that \$67,500 check was deposited into the Auction Company's bank account. Also on or about August 7, 1998, Walt Roberts for Congress deposited the \$67,500 check that it had received from the Auction Company's bank account. There was no sale of cattle to C-1 for the \$67,500 payment.

12. ROBERTS reported to the FEC that the \$67,500 was from personal funds. Later in August 1998, the media began questioning how ROBERTS could afford to provide \$67,500 to his campaign. After this media scrutiny began, C-2 told ROBERTS to purchase around \$60,000 worth

of cattle and place them on C-1's ranch. On or about August 27, 1998, C-2 provided ROBERTS with cashier's checks for \$40,900 and \$20,000 that were payable to and endorsed by C-1. On or about the same day, ROBERTS purchased \$60,900 of cattle using these two cashier's checks. The purpose of this transaction was to conceal the fact that the \$67,500 payment was not for cattle, but was a contribution from C-1 to the campaign.

\$55,000 Contribution

13. In or about August 1998, C-1 told ROBERTS that C-1 could infuse ROBERTS's campaign with money if the two would say that the money was for artwork. C-1 further advised ROBERTS that C-1 would ask an attorney to draft an option contract. Later that month, ROBERTS and C-1 signed a handwritten document titled "Option Agreement," which purported to give C-1 a one-half interest in ROBERTS's artwork in exchange for \$35,000 annual payments from C-1 to ROBERTS. The contract was dated December 12, 1997, but that date was false because the contract had not even been drafted until August 1998.

14. On or about August 19, 1998, C-1 issued a \$70,000 check payable to ROBERTS. On or about the same day, that \$70,000 check was deposited into the Auction Company's bank account. Also on or about the same day, two campaign media companies received a total of \$55,000 that had been wired from the Auction Company's bank account. C-1 has never received the proceeds from ROBERTS's artwork to which the contract indicates C-1 is entitled. From the outset, both parties knew that the contract was a ruse, concocted for the sole purpose of purchasing media for the campaign.

Filing of False Reports with the FEC

15. On or about the dates set forth below, defendant ROBERTS and others caused Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely identified or concealed the true sources of the above described \$20,500, \$17,000, \$67,500, and \$55,000 contributions:

<u>Date Report Filed with the FEC</u>	<u>True Source of Contribution</u>	<u>Reported Source of Contribution</u>
September 2, 1998	\$67,500 from C-1	defendant ROBERTS's personal funds
September 7, 1998	\$55,000 from C-1	Not reported
September 7, 1998	\$17,000 from C-1's law firm	defendant ROBERTS's personal funds
November 17, 1998	\$20,500 from C-1 and C-3	defendant ROBERTS's personal funds

Knowing and Willful Violations of the FECA

16. ROBERTS acknowledges that, through his actions in furtherance of this conspiracy, he knowingly and willfully committed the following violations of the FECA: Accepting Campaign Contributions in the Name of Another, in violation of 2 U.S.C. §§ 441(f), 437g(d)(1)(A) (1998); Accepting Campaign Contributions in Excess of the Legal Limit, in violation of 2 U.S.C. §§ 441a(a)(1), 441a(f), and 437g(d)(1)(A) (1998); and Causing the Filing of a False Report of Campaign Contributions, in violation of 2 U.S.C. §§ 434 and 437g(d)(1)(A) (1998) and 18 U.S.C. § 2.

CONSPIRACY TO OBSTRUCT A FEDERAL ELECTION COMMISSION INVESTIGATION

17. The FEC conducted an investigation into whether ROBERTS and others had violated the FECA. During the FEC investigation, ROBERTS and others submitted sworn written statements to the FEC, in Washington, D.C., and answered questions in sworn oral depositions conducted by the FEC in Oklahoma and later transmitted to the FEC's headquarters in the District of Columbia.

18. ROBERTS and others coordinated false and misleading statements that they agreed to provide to the FEC. Pursuant to this plan, ROBERTS and others misled and lied to the FEC about the true source of various contributions to Walt Roberts for Congress.

December 8, 1999 Affidavit

19. On or about December 8, 1999, ROBERTS signed an affidavit, which was submitted to the FEC, in the District of Columbia, that he declared under penalty of perjury to be true and correct,

but in which ROBERTS falsely stated:

(a) the true source of the \$17,000 contribution Walt Roberts for Congress had received on or about August 17, 1998 was "personal income for services." In truth and in fact, ROBERTS never performed or intended to perform services for the \$17,000 that he received from C-1's law firm.

(b) on or about August 1, 1998, C-1 and defendant ROBERTS agreed that defendant ROBERTS would sell cattle to C-1. In truth and in fact, there was no such agreement, to sell cattle. C-1 gave \$67,500 to the campaign. The idea of a cattle sale was a concoction intended to mask the true nature of the payment.

January 2001 Meeting

20. In or about January 2001, ROBERTS and others attended a meeting in which they coordinated false testimony that they intended to give in upcoming FEC depositions.

January 9-10, 2001 Deposition

21. On or about January 9 and 10, 2001, in a sworn oral deposition conducted by the FEC, ROBERTS provided the following false and misleading statements, which were later transmitted to the FEC in the District of Columbia.

a. that, in October 1997, C-1 and ROBERTS discussed entering into an agreement by which C-1 would pay ROBERTS \$35,000 per year to assist with ROBERTS's art work. In truth and in fact, C-1 and ROBERTS first discussed entering into this agreement in or about August 1998.

b. that defendant ROBERTS and C-1 signed an option agreement in December 1997.

c. that C-3 received something of value from defendant ROBERTS in exchange for the \$20,500 that C-3 gave defendant ROBERTS. In truth and in fact, ROBERTS never provided C-3 with anything of value for the \$20,500.

d. that, when \$67,500 was drawn from C-1's account on or about August 6, 1998, C-1 believed that the money was to be used for the purchase of cattle, rather than to be given to Walt Roberts for Congress. In truth and in fact, there was no agreement to sell cattle for \$67,500. From the outset, C-1 said that his \$67,500 was to be used for a purchase of advertising by the campaign.

Dated: _____

FOR THE DEFENDANT

WALTER L. ROBERTS
Defendant

GREGORY SPENCER
Counsel for Defendant

FOR THE UNITED STATES
NOEL L. HILLMAN
Chief, Public Integrity Section
New York Bar Number 2337210

By:

HOWARD R. SKLAMBERG
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1400 New York Avenue, N.W., 12th Floor
Washington, D.C. 20005
(202) 514-1412

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

V. VIOLATIONS:

v.

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

WALTER L. ROBERTS,

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

Defendant

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, Walter L. Roberts, agree as follows:

1. The defendant is entering this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.
2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.
3. The defendant agrees to waive indictment and plead guilty to an information charging him with one count of conspiracy to violate the Federal Election Campaign Act ("FECA"), in misdemeanor violation of 18 U.S.C. § 371, and conspiracy to obstruct an investigation of the Federal Election Commission ("FEC"), in felony violation of 18 U.S.C. § 371. The defendant admits that he is guilty of these crimes, and the defendant understands that he will be adjudicated guilty of those offenses.
4. The defendant understands the nature of the offenses to which he is pleading guilty, and the elements thereof, including the penalties provided by law. With respect to the conspiracy to

obstruct the FEC, the maximum penalties for a felony violation of 18 U.S.C. § 371 in this case are five years of imprisonment, a fine of \$250,000, and a mandatory special assessment of \$100. With respect to the conspiracy to violate the FECA, the maximum penalties for a misdemeanor violation of 18 U.S.C. § 371 in this case are one year imprisonment, a fine of not to exceed \$100,000 or 300 percent of any contribution or expenditure involved in such violation, and a mandatory special assessment of \$25. The defendant understands that the Court may impose a term of supervised release on each count to follow any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release for the conspiracy to obstruct the FEC is not more than five years; the authorized term of supervised release for the conspiracy to violate the FECA is not more than one year. The defendant also understands that the Court may impose restitution, costs of incarceration, and costs of supervision.

5. If the Court accepts defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes arising from Walt Roberts's congressional race for Oklahoma's Third Congressional District in 1998 and from the FEC's investigation of that race, as described in the Factual Basis for Plea.

6. The defendant understands and acknowledges that the offense to which he is pleading guilty is subject to the provisions and guidelines of the "Sentencing Reform Act of 1984," Title 28, United States Code, Section 994(a).

7. The parties agree that the appropriate Sentencing Guideline for conspiracy to obstruct an FEC investigation as applied in this case is U.S.S.G. §2J1.2 (Obstruction of Justice). The parties agree that no adjustments under §3B1.1 or §3B1.2 apply.

8. The parties agree that the appropriate Sentencing Guideline for conspiracy to violate the FECA is U.S.S.G. §2X5.1. The parties further agree that because there is not a sufficiently analogous guideline to the charged offenses, "the provisions of 18 U.S.C. § 3553(b) shall control" the defendant's sentence. § 2X5.1. The parties further agree that because there is no guideline that

can be applied to this offense, the rules for determining incremental punishment for significant additional criminal conduct found in U.S.S.G. §§ 3D1.1 through 3D1.4 do not apply, and the two counts charged in the information do not group under the federal sentencing guidelines.

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9. The defendant agrees to cooperate with the United States. Specifically, the defendant agrees: (a) to provide complete, truthful, and candid disclosure of information and all records, writings, tangible objects, or materials of any kind or description that he has which relate directly or indirectly to violations of federal and local criminal statutes by himself and/or others; (b) to answer all questions put to him by attorneys and law enforcement officials during the course of this investigation completely, truthfully, and candidly at any hearing or trial related to or arising out of this investigation; (c) to make himself available for interviews by attorneys and law enforcement officers of the government upon request and reasonable notice; (d) not to attempt to protect any person or entity through false information or omission, nor falsely to implicate any person or entity; (e) to comply with any and all reasonable requests from federal government authorities with respect to the specific assistance that he shall provide; and (f) to testify fully and truthfully before any grand jury, and at all trials of cases or other court proceedings at which your client's testimony may be deemed irrelevant by the government. The defendant's agreement to cooperate applies not only to criminal matters, but also to all proceedings conducted by or brought by the Federal Election Commission.

10. Should the defendant clearly demonstrate acceptance of responsibility for the instant offense, the United States will recommend that the defendant receive a two-level reduction for acceptance of responsibility under §3E1.1 of the Sentencing Guidelines, or, if the defendant's final offense level is level 16 or greater, that the defendant receive a three-level reduction for acceptance of responsibility. The defendant understands that these recommendations and agreements are not binding on the Court or the Probation Office.

11. The defendant agrees that he will not move for a downward departure from the sentencing guideline level determined by the Court. The government agrees that it will not move

for an upward departure from the sentencing guideline level determined by the Court.

12. The government agrees that it will bring to the Court's attention at the time of sentencing the full nature and extent of the defendant's cooperation, or lack thereof. In addition, if the government determines that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed any offense, then the Public Integrity Section will file a motion pursuant to 18 U.S.C. § 3553(e) and §5K1.1 of the federal sentencing guidelines. The defendant understands that the determination of whether he has provided "substantial assistance" is within the sole discretion of the government, and is not reviewable by the Court. Nor shall the failure of the government to file a "substantial assistance" departure motion be ground for the defendant to move to withdraw his plea of guilty in this case.

13. The defendant understands and acknowledges that he may receive any sentence within the statutory maximum for the offenses of conviction.

14. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution, if any, the defendant may be ordered to pay. The defendant understands that the sentence and the sentencing guidelines applicable to this case will be determined solely by the Court, with the assistance of the United States Probation Office, that the Court may impose the maximum sentence permitted by the statute, and that the defendant will not be permitted to withdraw his plea regardless of the sentence calculated by the United States Probation Office or imposed by the Court.

15. The United States reserves the right to allocute in all respects as to the nature and seriousness of the offense and to make a recommendation as to sentencing. The attorneys for the United States will inform the Court and the Probation Office of: (1) this agreement; (2) the nature and extent of the defendant's activities with respect to this case; and (3) all other information in its possession relevant to sentencing.

16. In consideration for the defendant's compliance with all of the terms of this agreement, the government will not oppose a request by defendant Roberts at the time his plea is entered for

conditions of release that will permit him to remain free pending sentencing.

17. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

18. If the defendant fails to comply with any of the material conditions and terms set forth in this agreement, including but not limited to failing to cooperate, intentionally withholding information, giving false information, failing to meet with law enforcement authorities, committing perjury, or refusing to testify before the grand jury or at any judicial proceeding, the defendant will have committed a material breach of the agreement which will release the government from its promises and commitments made in this agreement. Upon defendant's failure to comply with any of the terms and conditions set forth in this agreement, the government may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

- a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible;
- b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and
- c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by

with the parties. Item on C-14 dated On or about August 27, 1998 C-2 p. 10a. REPLY IN

19. In the event of a dispute as to whether defendant has knowingly committed any material breach of this agreement, and if the United States chooses to exercise its rights under the preceding paragraph, and if the defendant so requests, the matter shall be submitted to the Court and shall be determined by the Court in an appropriate proceeding at which defendant's disclosures and documents shall be admissible and at which time the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

20. The defendant agrees that if the Court does not accept the defendant's plea of guilty, this agreement shall be null and void.

21. The defendant understands that this agreement is binding only upon the Public Integrity Section of the Department of Justice. This agreement does not bind any United States Attorney's Office, nor does it bind any state or local prosecutor. It also does not bar or compromise any civil or administrative claim pending or that may be made against defendant, including any civil or administrative claim on the part of the FEC. If requested, however, the Public Integrity Section will bring this agreement to the attention of any other prosecuting jurisdiction and ask that jurisdiction to abide by the provisions of this plea agreement. The defendant understands that other prosecuting jurisdictions retain discretion over whether to abide by the provisions of this agreement.

22. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

Dated:

FOR THE DEFENDANT

WALTER L. ROBERTS
Defendant

GREGORY SPENCER
Counsel for Defendant

FOR THE UNITED STATES

NOEL D. HILLMAN
Chief, Public Integrity Section

HOWARD R. SKLAMBERG
MATTHEW C. SOLOMON
Trial Attorneys
U.S. Department of Justice
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FROM

(FRI) 3. 7 '03 9:25/ST. 9:20/NO. 4861219901 ? 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

v.

VIOLATIONS:

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

CHARLENE SPEARS,

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

Defendant

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

INFORMATION

The United States of America informs the Court that:

COUNT ONE

CONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT

Introduction

At all times material to this information:

1. Defendant CHARLENE SPEARS ("SPEARS") was the personal assistant to C-1 and an employee of C-1's law firm.

2. In 1998, Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives to represent Oklahoma's Third Congressional District. Roberts was the owner of an auction company (the "Auction Company"), which was located in McAlester, Oklahoma.

3. C-1 was a political mentor and friend to Roberts, a partner at a law firm which was located in the Third Congressional District, and a state elected official.

ATTACHMENT

Page 1 of 11

4. C-2 was a long-time friend of C-1.
5. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).
6. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

7. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

8. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

THE CONSPIRACY

9. From in or about March 1998, until in or about November 1998, in the District of Columbia and elsewhere, defendant CHARLENE SPEARS and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, that is to violate the following provisions of the FECA:

- a. Making Campaign Contributions in the Name of Another, that is, for C-1 and others to knowingly and willfully make contributions, in the name of others, to Walt Roberts for

Congress, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441(f), 437g(d)(1)(A) (1998);

b. Making Campaign Contributions in Excess of the Legal Limit, that is, for C-1 and others to knowingly and willfully make contributions to Walt Roberts for Congress totaling in excess of \$1,000 per election, said contributions aggregating to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 441a(a)(1) and 437g(d)(1)(A) (1998);

c. Filing a False Report of Campaign Contributions, that is, to knowingly and willfully cause Walt Roberts for Congress to file, with the FEC, reports that omitted and falsely stated the source of certain contributions which aggregated to \$2,000 and more during calendar year 1998, in violation of Title 2, United States Code, Sections 434 and 437g(d)(1)(A) (1998).

The Goal of the Conspiracy

10. The goal of the conspiracy was for C-1 and others to make contributions, in excess of the legal limit, to Walt Roberts for Congress and to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or the public.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant SPEARS and others employed the following manner and means, among others:

11. It was part of the conspiracy that defendant SPEARS and others engaged in a number of schemes in which they caused funds to be transferred from C-1 and others to Walt Roberts for Congress. These schemes included:

a) the transfer of at least \$40,000 of C-1's and C-2's money from defendant SPEARS to

others who then contributed the money to Walt Roberts for Congress in their own names;

b) the transfer of \$67,500 from C-1 to Roberts and then to Walt Roberts for Congress supposedly for the sale of cattle when, in fact, the supposed sale did not occur, and the subsequent transfer of \$60,900 from C-1 to Roberts to disguise the true source of the \$67,500 contribution;

12. It was further part of the conspiracy that defendant SPEARS and others caused Walt Roberts for Congress to submit to the FEC false reports of campaign receipts and disbursements.

Overt Acts

13. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant SPEARS and others, committed the following overt acts, among others:

Overt Acts Involving Straw Contributions

(1-48) On or about the dates and in the amounts set forth below, defendant SPEARS gave money, derived from C-1 and C-2, to straw contributors, and asked them to contribute money to Walt Roberts for Congress in their own names, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions:

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Amount of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
1	SC1	\$1,000	3/28/98	4/15/98
2	SC1	\$990	8/14/98	9/7/98
3	SC2	\$250	5/22/98	9/29/98
4	SC2	\$1,000	8/28/98	11/17/98
5	SC2	\$550	8/28/98	11/17/98
6	SC2	\$1,000	10/22/98	12/3/98
7	SC3	\$1,000	8/28/98	11/17/98
8	SC3	\$1,000	8/28/98	11/17/98
9	SC3	\$200	8/28/98	11/17/98
10	SC3	\$150	10/17/98	12/3/98
11	SC3	\$150	10/17/98	12/3/98
12	SC4	\$100	10/17/98	12/3/98
13	SC4	\$1,000	10/20/98	12/3/98
14	SC5	\$100	10/17/98	12/3/98
15	SC5	\$1,000	10/21/98	12/3/98
16	SC6	\$980	8/17/98	9/7/98
17	SC6	\$990	8/19/98	9/29/98
18	SC7	\$1,000	9/18/98	10/15/98
19	SC8	\$1,000	10/29/98	12/3/98
20	SC8	\$1,000	10/29/98	12/3/98
21	SC8	\$1,000	10/29/98	12/3/98
22	SC9	\$1,000	10/29/98	12/3/98
23	SC9	\$1,000	10/29/98	12/3/98

24	SC9	\$1,000	10/29/98	12/3/98
25	SC10	\$1,000	3/28/98	4/15/98
26	SC10	\$985	8/14/98	9/7/98
27	SC11	\$1,000	5/5/98	9/29/98
28	SC11	\$900	8/14/98	9/7/98
29	SC12	\$1,000	3/31/98	4/15/98
30	SC12	\$970	8/17/98	9/7/98
31	SC12	\$990	9/2/98	11/17/98
32	SC13	\$990	9/3/98	11/17/98
33	SC13	\$100	10/17/98	12/3/98
34	SC14	\$980	8/17/98	9/7/98
35	SC14	\$990	8/18/98	11/17/98
36	SC15	\$950	8/14/98	9/7/98
37	SC15	\$1,000	8/31/98	2/28/99
38	SC15	\$998	9/28/98	2/28/99
39	SC16	\$950	9/3/98	11/17/98
40	SC16	\$1,000	10/29/98	12/3/98
41	SC17	\$980	8/14/98	9/7/98
42	SC17	\$1500	8/31/98	2/28/99
43	SC17	\$596	9/28/98	2/28/99
44	SC18	\$950	8/14/98	9/7/98
45	SC18	\$950	9/3/98	11/17/98
46	SC18	\$1,000	10/29/98	12/3/98
47	SC19	\$950	8/14/98	9/7/98
48	SC20	\$1,000	10/12/98	10/21/98

(49-50) On or about the dates and in the amounts set forth below, defendant SPEARS

used money, derived from C-1 and C-2, to make contributions to Walt Roberts for Congress in her own name, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that defendant SPEARS was the true source of the contributions:

<u>Overt Act</u>	<u>Amount of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
49	\$1,000	3/30/98	4/14/98
50	\$950	8/14/98	9/7/98

Overt Acts Involving the Cattle Transaction

(51) On or about August 6, 1998, defendant SPEARS arranged for a payment by check of \$67,500 from C-1's bank account to Roberts.

(52) On or about August 7, 1998, that \$67,500 check was deposited into the Auction Company's bank account.

(53) On or about August 7, 1998, Walt Roberts for Congress deposited a \$67,500 check drawn on the Auction Company's bank account.

(54) On or about August 7, 1998, Walt Roberts for Congress wired \$67,500 to a media company to purchase campaign advertisements.

(55) On or about August 12, 1998, Walt Roberts for Congress filed a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely stated that Roberts was the true source of the \$67,500 contribution.

(56) On or about August 27, 1998, defendant SPEARS gave two cashier's checks, which

were drawn from C-1's account and totaled \$60,900, to Roberts.

(Conspiracy, in misdemeanor violation of Title 18 United States Code, Section 371)

COUNT TWO

**CONSPIRACY TO OBSTRUCT A
FEDERAL ELECTION COMMISSION INVESTIGATION**

1. Paragraphs one through eight and thirteen of Count One of this Information are realleged and incorporated by reference as if set out in full.
2. On or around September 1998, there was an auction in McAlester, Oklahoma during which pieces of artwork produced by Roberts were sold and money was raised for the Roberts campaign.
3. At all times material to this Count, the FEC was investigating whether defendant SPEARS and others had violated the FECA.
4. During the FEC investigation, defendant SPEARS and others answered questions in sworn oral depositions conducted by the FEC and submitted sworn and unsworn written statements to the FEC.

THE CONSPIRACY

5. From in or about December 1999 through in or about July 2001, in the District of Columbia and elsewhere, defendant CHARLENE SPEARS and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, that is, to corruptly influence, obstruct, and impede, and to endeavor to influence, obstruct, and impede the due and proper administration of the law under which a pending proceeding was being had before the FEC, an agency of the United States, in

violation of Title 18, United States Code, Section 1505.

The Goal of the Conspiracy

6. The goal of the conspiracy was for defendant SPEARS and others to mislead and lie to the FEC and to otherwise obstruct, impair, and impede an ongoing FEC investigation so that the FEC would not discover that they had violated the FECA.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant SPEARS and others employed the following manner and means, among others:

7. It was part of the conspiracy that defendant SPEARS and others coordinated false and misleading statements that they agreed to provide to the FEC.

8. It was further part of the conspiracy that, in sworn statements, defendant SPEARS and others misled and lied, and caused others to mislead and lie, to the FEC about the true source of various contributions to Walt Roberts for Congress.

Overt Acts

9. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant SPEARS and others committed the following overt acts, among others:

(1) In or about 2000, SPEARS told C-1 that they might as well tell the truth to the FEC. C-1 replied that he could not tell the truth, because he had to run for re-election that year.

(2) On at least one occasion, in or about 2000 or 2001, defendant SPEARS and Roberts had a conversation in which they agreed that they would make false statements to the FEC designed to minimize C-1's legal exposure.

(3) In or about late 2000, defendant SPEARS suggested to C-1 that they tell the FEC, truthfully, that C-1 had reimbursed C-2 for purchases that C-2 and others had made at a September 11, 1998 auction of Roberts's sculptures. C-1 responded that he was not going to tell the truth about his dealings with C-2.

(4) On or about December 6 and 7, 2000, in a sworn oral deposition conducted by the FEC, defendant SPEARS falsely testified:

- a. that she did not give money to SC11, SC15, or others to reimburse them for contributions to Walt Roberts for Congress.
- b. that, on or about August 6, 1998, C-1 gave Roberts \$67,500 to purchase cattle.
- c. that a \$45,250 check, written by C-1 on September 11, 1998 and cashed by C-2, was not a reimbursement for purchases that C-2 and others had made at a September 11, 1998 auction of Roberts's sculptures.

(5) On or about January 9, 2001, defendant SPEARS caused the submission of a written statement to the FEC, in the District of Columbia, that falsely stated that C-1 gave Roberts \$67,500 to purchase cattle.

(Conspiracy, in felony violation of Title 18 United States Code, Section 371)

Respectfully submitted,

NOEL L. HILLMAN

Chief, Public Integrity Section

U.S. Department of Justice, Criminal Division

By:



HOWARD R. SKLAMBERG

D.C. Bar Number 453852

Trial Attorney

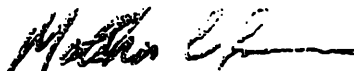
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MATTHEW C. SOLOMON

Trial Attorney

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Public Integrity Section

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Washington, D.C. 20005

202-514-1412

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

VIOLATIONS:

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

CHARLENE SPEARS,

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

Defendant

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

FACTUAL BASIS FOR PLEA

The United States of America, through its undersigned attorneys, and the defendant, CHARLENE SPEARS ("SPEARS"), personally and through her undersigned counsel, hereby stipulate to the following facts pursuant to United States Sentencing Commission Guidelines § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure.

Introduction

1. SPEARS was the personal assistant to C-1 and an employee of C-1's law firm.
2. In 1998, Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives to represent Oklahoma's Third Congressional District. Roberts was the owner of an auction company (the "Auction Company"), which was located in McAlester, Oklahoma.
3. C-1 was a political mentor and friend to Roberts, a partner at a law firm which was located in the Third Congressional District, and a state elected official. C-2 was a long-time friend of C-1. For many years, C-1 has provided large sums of money to C-2. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

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Page 1 of 9

4. The Federal Election Commission ("FEC") was an agency of the United States, headquartered in the District of Columbia, and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

5. Under the FECA, the responsible officials of "political committees" were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution.

CONSPIRACY TO VIOLATE THE FEDERAL ELECTION CAMPAIGN ACT

6. SPEARS and others engaged in schemes in which they caused funds to be transferred from C-1 and others to Walt Roberts for Congress. The schemes were designed to disguise the true source of these contributions, so that the contributions would not be detected by the FEC or by the public. SPEARS and others also caused Walt Roberts for Congress to submit to the FEC false reports of receipts and disbursements.

Straw Contributions

7. Beginning in March 1998 and continuing until October 1998, SPEARS gave money to straw contributors and asked them to contribute this money to Walt Roberts for Congress in their own names. Sometimes, SPEARS provided the money directly to the straw contributors; other times, SPEARS employed intermediaries to deliver the money. To reimburse the straw contributors, SPEARS used money given to her by C-1 and C-2. SPEARS reimbursed these contributors based on her prior conversations with C-1, C-1's conduct, and C-1's desire to get

Roberts elected to the United States House of Representatives. SPEARS's conduct caused Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that the straw contributors were the true source of the contributions.

8. The following table details the dates and amounts of the reimbursed contributions and resulting false reports filed with the FEC:

<u>Overt Act</u>	<u>Straw Contributor ("SC")</u>	<u>Amount of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
1	SC1	\$1,000	3/28/98	4/15/98
2	SC1	\$990	8/14/98	9/7/98
3	SC2	\$250	5/22/98	9/29/98
4	SC2	\$1,000	8/28/98	11/17/98
5	SC2	\$550	8/28/98	11/17/98
6	SC2	\$1,000	10/22/98	12/3/98
7	SC3	\$1,000	8/28/98	11/17/98
8	SC3	\$1,000	8/28/98	11/17/98
9	SC3	\$200	8/28/98	11/17/98
10	SC3	\$150	10/17/98	12/3/98
11	SC3	\$150	10/17/98	12/3/98
12	SC4	\$100	10/17/98	12/3/98
13	SC4	\$1,000	10/20/98	12/3/98
14	SC5	\$100	10/17/98	12/3/98
15	SC5	\$1,000	10/21/98	12/3/98
16	SC6	\$980	8/17/98	9/7/98
17	SC6	\$990	8/19/98	9/29/98
18	SC7	\$1,000	9/18/98	10/15/98
19	SC8	\$1,000	10/29/98	12/3/98
20	SC8	\$1,000	10/29/98	12/3/98

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21	SC8	\$1,000	10/29/98	12/3/98
22	SC9	\$1,000	10/29/98	12/3/98
23	SC9	\$1,000	10/29/98	12/3/98
24	SC9	\$1,000	10/29/98	12/3/98
25	SC10	\$1,000	3/28/98	4/15/98
26	SC10	\$985	8/14/98	9/7/98
27	SC11	\$1,000	5/5/98	9/29/98
28	SC11	\$900	8/14/98	9/7/98
29	SC12	\$1,000	3/31/98	4/15/98
30	SC12	\$970	8/17/98	9/7/98
31	SC13	\$990	9/2/98	11/17/98
32	SC13	\$990	9/3/98	11/17/98
33	SC13	\$100	10/17/98	12/3/98
34	SC14	\$980	8/17/98	9/7/98
35	SC14	\$990	8/18/98	11/17/98
36	SC15	\$950	8/14/98	9/7/98
37	SC15	\$1,000	8/31/98	2/28/99
38	SC15	\$998	9/28/98	2/28/99
39	SC16	\$950	9/3/98	11/17/98
40	SC16	\$1,000	10/29/98	12/3/98
41	SC17	\$980	8/14/98	9/7/98
42	SC17	\$1500	8/31/98	2/28/99
43	SC17	\$596	9/28/98	2/28/99
44	SC18	\$950	8/14/98	9/7/98
45	SC18	\$950	9/3/98	11/17/98
46	SC18	\$1,000	10/29/98	12/3/98
47	SC19	\$950	8/14/98	9/7/98
48	SC20	\$1,000	10/12/98	10/21/98

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9. As set forth in the following table, SPEARS used money, derived from C-1 and C-2, to make contributions to Walt Roberts for Congress in her own name, causing Walt Roberts for Congress to file reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that falsely stated that defendant SPEARS was the true source of the contributions:

<u>Overt Act</u>	<u>Amount of Contribution</u>	<u>Date of Contribution</u>	<u>Date Report Filed with the FEC</u>
49	\$1,000	3/30/98	4/15/98
50	\$950	8/14/98	9/7/98

Cattle Transaction

10. On or about August 6, 1998, at C-1's direction, SPEARS wrote a \$67,500 check on C-1's bank account, to Roberts. This payment falsely purported to be for the purchase of cattle. On or about August 7, 1998, that \$67,500 check was deposited into the Auction Company's bank account. Also on or about August 7, 1998, Walt Roberts for Congress deposited the \$67,500 check that it had received from the Auction Company's bank account. On or about the same day, Walt Roberts for Congress wired \$67,500 to a media company to purchase campaign advertisements. There was, in fact, no sale of cattle to C-1 for the \$67,500 payment. Within a few days of writing the \$67,500 check to Roberts, SPEARS knew that the \$67,500 was used to purchase campaign media, and that C-1 and Roberts never intended that the \$67,500 would be used to purchase cattle.

11. On or about August 12, 1998, Walt Roberts for Congress filed a report with the FEC, in the District of Columbia, that purported to be a "true, correct, and complete" report of receipts and disbursements, but that falsely stated that Roberts was the true source of the \$67,500 contribution.

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12. Later in August 1998, the media began questioning how Roberts could afford to provide \$67,500 to his campaign. On or about August 27, 1998, after this media scrutiny began, SPEARS provided Roberts with cashier's checks for \$40,900 and \$20,000. These cashier's checks were payable to and endorsed by C-1. On or about the same day, Roberts purchased \$60,900 of cattle using these two cashier's checks. The purpose of this transaction, as SPEARS well knew, was to conceal the fact that the \$67,500 payment was not for cattle, but was a contribution from C-1 to the campaign.

Knowing and Willful Violations of the FECA

13. SPEARS acknowledges that, through her actions in furtherance of this conspiracy, she knowingly and willfully committed the following violations of the FECA: Accepting Campaign Contributions in the Name of Another, in violation of 2 U.S.C. §§ 441(f), 437g(d)(1)(A) (1998); Accepting Campaign Contributions in Excess of the Legal Limit, in violation of 2 U.S.C. §§ 441a(a)(1), 441a(f), and 437g(d)(1)(A) (1998); and Causing the Filing of a False Report of Campaign Contributions, in violation of 2 U.S.C. §§ 434 and 437g(d)(1)(A) (1998) and 18 U.S.C. § 2.

14. SPEARS further acknowledges that she was aware that the FECA imposes limits on the amount of money individuals may contribute to federal campaigns, and that a scheme to evade these limits was against the law.

CONSPIRACY TO OBSTRUCT A FEDERAL ELECTION COMMISSION INVESTIGATION

15. The FEC conducted an investigation into whether SPEARS, C-1, and others had violated the FECA. During the FEC investigation, SPEARS and others answered questions in sworn oral depositions conducted by the FEC and submitted sworn and unsworn written statements to the FEC.

16. SPEARS and others provided false and misleading statements to the FEC about the true source of various contributions to Walt Roberts for Congress. They agreed to provide these false statements in order to minimize C-1's legal exposure.

17. In or about 2000, SPEARS told C-1 that they might as well tell the truth to the FEC. C-1 replied that he could not tell the truth, because he had to run for re-election that year. SPEARS took C-1's statement as a request for SPEARS not to tell the truth.

18. On at least one occasion, in or about 2000 or 2001, SPEARS and Roberts had a conversation in which they agreed that they would make false statements to the FEC designed to minimize C-1's legal exposure.

19. In or about late 2000, SPEARS suggested to C-1 that they tell the FEC, truthfully, that C-1 had reimbursed C-2 for purchases that C-2 and another had made at a September 11, 1998 auction of Roberts's sculptures. C-1 responded that he was not going to tell the truth about his dealings with C-2.

20. On or about December 6 and 7, 2000, in a sworn oral deposition conducted by the FEC, SPEARS falsely testified:

a. that she did not give money to SC11, SC15, or others to reimburse them for contributions to Walt Roberts for Congress. In truth and in fact, SPEARS did reimburse these individuals for their contributions to Walt Roberts for Congress.

b. that, on or about August 6, 1998, C-1 gave Roberts \$67,500 to purchase cattle. In truth and in fact, as SPEARS well knew by the time of the deposition, neither C-1 nor Roberts ever intended for this money to be used to purchase cattle. C-1 provided Roberts with this money to purchase

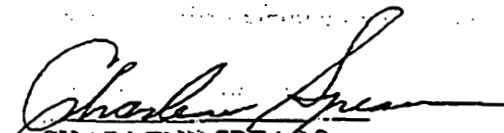
campaign media. The idea of a cattle sale was a concoction intended to mask the true nature of the payment.


c. that a \$45,250 check, written by C-1 on September 11, 1998 and cashed by C-2, was not a reimbursement for purchases that C-2 and others had made at a September 11, 1998 auction of Roberts's sculptures. In truth and in fact, as C-2 had told SPEARS, the check was a reimbursement for these purchases.

21. On or about January 9, 2001, defendant SPEARS caused the submission of a written statement to the FEC, in the District of Columbia, that falsely stated that C-1 gave Roberts \$67,500 in order to purchase cattle. In truth and in fact, neither C-1 nor Roberts ever intended for this money to be used to purchase cattle.

Dated: 3-7-03

FOR THE DEFENDANT


By: CHARLENE SPEARS
Defendant

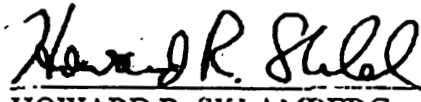

JAMES BRANAM
Counsel for Defendant

FOR THE UNITED STATES

NOEL I. HILLMAN

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24-04-408-1180

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

v.

VIOLATIONS:

Count One:

18 U.S.C. § 371

(Conspiracy - misdemeanor)

CHARLENE SPEARS,

Count Two:

18 U.S.C. § 371

(Conspiracy - felony)

Defendant

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, Charlene Spears, agree as follows:

1. The defendant is entering this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.
2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.
3. The defendant agrees to waive indictment and plead guilty to an information charging her with one count of conspiracy to violate the Federal Election Campaign Act ("FECA"), in misdemeanor violation of 18 U.S.C. § 371, and conspiracy to obstruct an investigation of the Federal Election Commission ("FEC"), in felony violation of 18 U.S.C. § 371. The defendant admits that she is guilty of these crimes, and the defendant understands that she will be adjudicated guilty of those offenses.

ATTACHMENT 9
Page 1 of 8

4. The defendant understands the nature of the offenses to which she is pleading guilty, and the elements thereof, including the penalties provided by law. With respect to the conspiracy to obstruct the FEC, the maximum penalties for a felony violation of 18 U.S.C. § 371 in this case are five years of imprisonment, a fine of \$250,000, and a mandatory special assessment of \$100. With respect to the conspiracy to violate the FECA, the maximum penalties for a misdemeanor violation of 18 U.S.C. § 371 in this case are one year imprisonment, a fine not to exceed the greater of \$100,000 or 300 percent of any contribution or expenditure involved in such violation, and a mandatory special assessment of \$25. The defendant understands that the Court may impose a term of supervised release on each count to follow any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release for the conspiracy to obstruct the FEC is not more than three years; the authorized term of supervised release for the conspiracy to violate the FECA is not more than one year. The defendant also understands that the Court may impose restitution, costs of incarceration, and costs of supervision.

5. If the Court accepts defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes arising from Walt Roberts's congressional race for Oklahoma's Third Congressional District in 1998 and from the FEC's investigation of that race, as described in the Factual Basis for Plea.

6. The defendant understands and acknowledges that the offense to which she is pleading guilty is subject to the provisions and guidelines of the "Sentencing Reform Act of 1984," Title 28, United States Code, Section 994(a).

7. The parties agree that the appropriate Sentencing Guideline for conspiracy to obstruct an FEC investigation as applied in this case is U.S.S.G. §2J1.2 (Obstruction of Justice). The parties agree that no adjustments under §3B1.1 or §3B1.2 apply.

8. The parties agree that the appropriate Sentencing Guideline for conspiracy to violate the FECA is U.S.S.G. §2X5.1. The parties further agree that because there is not a sufficiently analogous guideline to the charged offense, "the provisions of 18 U.S.C. § 3553(b) shall control" the defendant's sentence. § 2X5.1. The parties further agree that because there is no guideline that can be applied to this offense, the rules for determining incremental punishment for significant additional criminal conduct found in U.S.S.G. §§ 3D1.1 through 3D1.4 do not apply, and the two counts charged in the information do not group under the federal sentencing guidelines.

9. The defendant agrees to cooperate with the United States. Specifically, the defendant agrees: (a) to provide complete, truthful, and candid disclosure of information and all records, writings, tangible objects, or materials of any kind or description that she has which relate directly or indirectly to violations of federal and local criminal statutes by herself and/or others; (b) to answer all questions put to her by attorneys and law enforcement officials during the course of this investigation completely, truthfully, and candidly at any hearing or trial related to or arising out of this investigation; (c) to make herself available for interviews by attorneys and law enforcement officers of the government upon request and reasonable notice; (d) not to attempt to protect any person or entity through false information or omission, nor falsely to implicate any person or entity; (e) to comply with any and all reasonable requests from federal government authorities with respect to the specific assistance that she shall provide; and (f) to testify fully and truthfully before any grand jury, and at all trials of cases or other court proceedings at which the defendant's testimony

may be deemed irrelevant by the government. The defendant's agreement to cooperate applies not only to criminal matters, but also to all proceedings conducted by or brought by the Federal Election Commission.

10. Should the defendant clearly demonstrate acceptance of responsibility for the instant offense, the United States will recommend that the defendant receive a two-level reduction for acceptance of responsibility under §3E1.1 of the Sentencing Guidelines, or, if the defendant's final offense level is level 16 or greater, that the defendant receive a three-level reduction for acceptance of responsibility. The defendant understands that these recommendations and agreements are not binding on the Court or the Probation Office.

11. The defendant agrees that she will not move for a downward departure from the sentencing guideline level determined by the Court. The government agrees that it will not move for an upward departure from the sentencing guideline level determined by the Court.

12. The government agrees that it will bring to the Court's attention at the time of sentencing the full nature and extent of the defendant's cooperation, or lack thereof. In addition, if the government determines that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed any offense, then the Public Integrity Section will file a motion pursuant to 18 U.S.C. § 3553(e) and § 5K1.1 of the federal sentencing guidelines. The defendant understands that the determination of whether she has provided "substantial assistance" is within the sole discretion of the government, and is not reviewable by the Court. Nor shall the failure of the government to file a "substantial assistance" departure motion be ground for the defendant to move to withdraw her plea of guilty in this case.

13. The defendant understands and acknowledges that she may receive any sentence within the statutory maximum for the offenses of conviction.

14. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution, if any, the defendant may be ordered to pay. The defendant understands that the sentence and the sentencing guidelines applicable to this case will be determined solely by the Court, with the assistance of the United States Probation Office, that the Court may impose the maximum sentence permitted by the statute, and that the defendant will not be permitted to withdraw her plea regardless of the sentence calculated by the United States Probation Office or imposed by the Court.

15. The United States reserves the right to allocate in all respects as to the nature and seriousness of the offense and to make a recommendation as to sentencing. The attorneys for the United States will inform the Court and the Probation Office of: (1) this agreement; (2) the nature and extent of the defendant's activities with respect to this case; and (3) all other information in its possession relevant to sentencing.

16. In consideration for the defendant's compliance with all of the terms of this agreement, the government will not oppose a request by the defendant at the time her plea is entered that she be permitted to remain free pending sentencing.

17. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding her right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground

whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

18. If the defendant fails to comply with any of the material conditions and terms set forth in this agreement, including but not limited to failing to cooperate, intentionally withholding information, giving false information, failing to meet with law enforcement authorities, committing perjury, or refusing to testify before the grand jury or at any judicial proceeding, the defendant will have committed a material breach of the agreement which will release the government from its promises and commitments made in this agreement. Upon defendant's failure to comply with any of the terms and conditions set forth in this agreement, the government may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

- a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible;
- b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and
- c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

19. In the event of a dispute as to whether defendant has knowingly committed any material breach of this agreement, and if the United States chooses to exercise its rights under the preceding paragraph, and if the defendant so requests, the matter shall be submitted to the Court and shall be determined by the Court in an appropriate proceeding at which defendant's disclosures and documents shall be admissible and at which time the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

20. The defendant agrees that if the Court does not accept the defendant's plea of guilty, this agreement shall be null and void.


21. The defendant understands that this agreement is binding only upon the Public Integrity Section of the Department of Justice. This agreement does not bind any United States Attorney's Office, nor does it bind any state or local prosecutor. It also does not bar or compromise any civil or administrative claim pending or that may be made against defendant, including any civil or administrative claim on the part of the FEC. If requested, however, the Public Integrity Section will bring this agreement to the attention of any other prosecuting jurisdiction and ask that jurisdiction to abide by the provisions of this plea agreement. The defendant understands that other prosecuting jurisdictions retain discretion over whether to abide by the provisions of this agreement.

22. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

Dated: 3-7-03

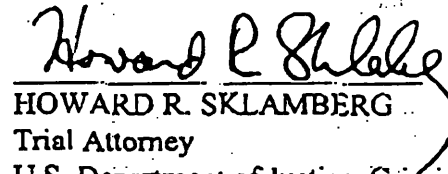
FOR THE DEFENDANT



CHARLENE SPEARS
Defendant


JAMES BRANAM
Counsel for Charlene Spears

FOR THE UNITED STATES

NOEL L. HILLMAN
Chief, Public Integrity Section


HOWARD R. SKLAMBERG
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MATTHEW C. SOLOMON
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

v.

VIOLATION:

JAMES E. LANE,

Count One:

18 U.S.C. § 371

Defendant

(Conspiracy - Felony)

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OFFICE OF GENERAL
COUNSEL
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MAR 11 2003

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

INFORMATION

The United States of America informs the Court that:

COUNT ONE

CONSPIRACY TO CAUSE THE SUBMISSION OF FALSE STATEMENTS

Introduction

At all times material to this Information:

1. Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives, in 1998, to represent Oklahoma's Third Congressional District. Roberts was the owner of the Walt Roberts Auction Company (the "Auction Company"), located in McAlester, Oklahoma.

2. C-1 was a political mentor and friend to Roberts and a partner at a law firm located in the Third Congressional District.

3. Defendant JAMES E. LANE was C-1's close personal and business associate and Walter L. Roberts's occasional driver during Roberts's congressional campaign.

4. C-2 was an employee at C-1's law firm and the personal assistant to C-1.

5. Walt Roberts for Congress was a "political committee," as defined in the Federal

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Page 1 of 5

Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

6. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

7. The Federal Election Commission ("FEC"), which was headquartered in the District of Columbia, was part of the executive branch of the Government of the United States and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

8. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution. These reports were within the jurisdiction of the FEC.

THE CONSPIRACY

9. From in or about March 1998, until in or about November 1998, in the District of Columbia and elsewhere, defendant JAMES E. LANE and others did unlawfully and knowingly combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, that is to cause Walt Roberts for Congress to submit material false statements to the FEC, in violation of Title 18, United States Code, Sections 1001 and 2(b).

The Goal of the Conspiracy

10. The goal of the conspiracy was for C-1 and others to make contributions, in excess of the legal limit, to Walt Roberts for Congress, and to disguise the true source of these contributions

by causing Walt Roberts for Congress to file false and incomplete reports with the FEC.

Manner and Means of the Conspiracy

In order to achieve the goal of the conspiracy, defendant LANE and others employed the following manner and means, among others:

11. It was part of the conspiracy that defendant LANE and others engaged in a number of schemes in which they caused funds to be transferred from C-1 and others to Walt Roberts for Congress. These schemes included the transfer of approximately \$40,000 from C-1 to defendant LANE that was used to pay for campaign expenses of Walt Roberts for Congress.

12. It was further part of the conspiracy that defendant LANE and others caused Walt Roberts for Congress to submit to the FEC false and incomplete reports of campaign receipts and disbursements.

Overt Acts

13. Within the District of Columbia and elsewhere, in furtherance of the above described conspiracy and in order to carry out the objects thereof, defendant LANE and others, committed the following overt acts, among others:

(1-4) In or about May 1998 through July 1998, C-2 gave defendant LANE at least four checks, payable to either defendant LANE or to "cash" and drawn from C-1's bank accounts, totaling approximately \$24,000. C-2 instructed defendant LANE to use this money to pay for campaign expenses of Walt Roberts for Congress.

(5) In or about May 1998 through July 1998, with the knowledge of C-1 and C-2, defendant LANE used these approximately \$24,000 worth of checks to pay for campaign expenses of Walt Roberts for Congress.

(6-7) On or about July 15, 1998 and on or about August 12, 1998, because of the actions of defendant LANE and others, Walt Roberts for Congress filed reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that omitted these \$24,000 in contributions.

(8-12) On or about the dates and in the amounts set forth below, C-2 gave defendant LANE checks totaling \$22,980, drawn from C-1's bank accounts and payable to either defendant LANE or to "cash" and, and instructed defendant LANE to use this money to pay for campaign expenses of Walt Roberts for Congress.

<u>Overt Act</u>	<u>Date of Check</u>	<u>Amount of Check</u>
8	9/1/98	\$3,500
9	9/3/98	\$2,490
10	9/3/98	\$2,490
11	9/3/98	\$9,500
12	10/12/98	\$5,000

(13) In or about September and October 1998, with the knowledge of C-1 and C-2, defendant LANE used this \$22,980 to pay for campaign expenses of Walt Roberts for Congress.

(14-15) On or about October 15, 1998 and on or about October 21, 1998, because of the actions of defendant LANE and others, Walt Roberts for Congress filed reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that omitted these \$22,980 in contributions.

(Conspiracy, in felony violation of Title 18 United States Code, Section 371)

Respectfully submitted,

NOEL L. HILLMAN
Chief, Public Integrity Section
U.S. Department of Justice, Criminal Division

By:



HOWARD R. SKLAMBERG
D.C. Bar Number 453852
Trial Attorney
U.S. Department of Justice, Criminal Division
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1400 New York Avenue, N.W., Twelfth Floor
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202-514-1412



MATTHEW C. SOLOMON
Trial Attorney
U.S. Department of Justice, Criminal Division
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1400 New York Avenue, N.W., Twelfth Floor
Washington, D.C. 20005
202-514-1412

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal Number:

v.

VIOLATION:

JAMES E. LANE,

Count One:
18 U.S.C. § 371
(Conspiracy - Felony)

Defendant

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

FACTUAL BASIS FOR PLEA

The United States of America, through its undersigned attorneys, and the defendant, JAMES E. LANE ("LANE"), personally and through his undersigned counsel, hereby stipulate to the following facts pursuant to United States Sentencing Commission Guidelines § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure.

Introduction

1. Walter L. Roberts ("Roberts") was a candidate for the United States House of Representatives, in 1998, to represent Oklahoma's Third Congressional District. Roberts was the owner of the Walt Roberts Auction Company (the "Auction Company"), which was located in McAlester, Oklahoma.
2. C-1 was a political mentor and friend to Roberts and a partner at a law firm which was located in the Third Congressional District. C-2 was an employee at C-1's law firm and the personal assistant to C-1.
3. LANE was C-1's close personal and business associate and Walter L. Roberts's occasional driver during Roberts's congressional campaign.

ATTACHMENT 11
Page 1 of 5

4. Walt Roberts for Congress was a "political committee," as defined in the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431(4).

5. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District occurred on August 25, 1998. The runoff election occurred on September 15, 1998. The general election occurred on November 3, 1998.

6. The Federal Election Commission ("FEC"), which was headquartered in the District of Columbia, was part of the executive branch of the Government of the United States and was responsible for enforcing the reporting requirements of the FECA. The FEC was also responsible for directing, investigating, and instituting enforcement actions with respect to FECA violations.

7. Under the FECA, the responsible officials of "political committees," were required to file periodic reports with the FEC. In each report, the responsible official was required to state for all federal contributions that were made by a person who contributed more than \$200 during the calendar year: (a) the identity of the contributor; (b) the date of the contribution; and (c) the amount of the contribution. These reports were within the jurisdiction of the FEC.

CONSPIRACY TO CAUSE THE SUBMISSION OF FALSE STATEMENTS

8. In or about May 1998 through July 1998, C-2 gave LANE at least four checks, payable to either defendant LANE or to "cash" and drawn from C-1's bank accounts, totaling approximately \$24,000. C-2 instructed defendant LANE to use this money to pay for campaign expenses of Walt Roberts for Congress. In or about May 1998 through July 1998, with the knowledge of ~~C-1 and C-2~~ ^{MS R. S. JE}, LANE used these approximately \$24,000 worth of checks to pay for campaign expenses of Walt Roberts for Congress.

9. On or about July 15, 1998 and on or about August 12, 1998, because of the actions of LANE and others, Walt Roberts for Congress filed reports with the FEC, in the District of

Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that omitted these \$24,000 in contributions.

10. On or about the dates and in the amounts set forth below, C-2 gave LANE checks totaling \$22,980, drawn from C-1's bank accounts and payable to either LANE or to "cash" and instructed LANE to use this money to pay for campaign expenses of Walt Roberts for Congress:

<u>Date of Check</u>	<u>Amount of Check</u>
9/1/98	\$3,500
9/3/98	\$2,490
9/3/98	\$2,490
9/3/98	\$9,500
10/12/98	\$5,000

11. In or about September and October 1998, with the knowledge of ~~G-1~~ and C-2, LANE used this \$22,980 to pay for campaign expenses of Walt Roberts for Congress.

12. On or about October 15, 1998 and on or about October 21, 1998, because of the actions of LANE and others, Walt Roberts for Congress filed reports with the FEC, in the District of Columbia, that purported to be "true, correct, and complete" reports of receipts and disbursements, but that omitted these \$22,980 in contributions.

13. LANE was aware that Walt Roberts for Congress had to file periodic reports with the FEC enumerating campaign receipts and expenditures. LANE intentionally paid for Walt Roberts for Congress campaign expenses knowing that his actions would cause Walt Roberts for Congress to file reports with the FEC that would falsely state that they were "true, correct, and complete" reports of receipts and disbursements because they would omit the \$24,000 payments from between May and July 1998, as well as the \$22,980 payments from September and October 1998.

investigation or prosecution of another person who has provided any information that is false or misleading.

14. LANE acknowledges that, through his actions in furtherance of this conspiracy, he

knowingly and willfully committed the following violations of the FECA: Making Campaign

Contributions in the Name of Another, in violation of 2 U.S.C. §§ 441(f), 437g(d)(1)(A) (1998);

Making Campaign Contributions in Excess of the Legal Limit, in violation of 2 U.S.C. §§ 441a(a)(1), 441a(f), and 437g(d)(1)(A) (1998); and Causing the Filing of a False Report of Campaign

Contributions, in violation of 2 U.S.C. §§ 434 and 437g(d)(1)(A) (1998) and 18 U.S.C. § 2.

LANE'S OBSTRUCTION OF A FEDERAL ELECTION COMMISSION INVESTIGATION

15. The FEC conducted an investigation into whether LANE and others had violated the FECA. During the FEC investigation, LANE and others answered questions in sworn oral depositions conducted by the FEC. One of the topics investigated by the FEC was the transfer of \$20,500 from LANE to Walt Roberts for Congress.

16. In or about March 1998, Roberts's campaign was in need of money so that it could obtain matching funds from the Democratic Congressional Campaign Committee. LANE was aware of the campaign's need for money and told Roberts that LANE wished to purchase Roberts's trailer. LANE told C-1 that LANE wished to purchase Roberts's trailer to aid the campaign. On or about March 29, 1998, LANE wrote a \$20,500 check payable to Roberts's Auction Company. On or about April 6, 1998, defendant LANE deposited into his own account a \$20,000 money order that had been drawn from C-1's bank account. On or about April 9, 1998, Walt Roberts for Congress deposited \$20,500 it had received from the Auction Company's bank account.

17. On or about June 7, 2000, in a sworn oral deposition conducted by the FEC, LANE provided the following false and misleading statements about this transaction:

a) that when he gave Roberts \$20,500 on or about March 29, 1998, he did not know that Roberts needed that money for the campaign. In truth and in fact, as LANE well knew, this \$20,500 was going to be transferred immediately to the Roberts campaign, which needed the money.

b) that the reason that he gave Roberts \$20,500 was that LANE needed a trailer. In truth and in fact, as LANE well knew, the real purpose of the transaction was to provide money to Roberts's campaign.

Dated: 3-25-04

FOR THE DEFENDANT

James E. Lane
JAMES E. LANE
Defendant

Vester Songer
VESTER SONGER
Counsel for Defendant

By:

FOR THE UNITED STATES
NOEL L. HILLMAN
Chief, Public Integrity Section
New York Bar Number 2337210

Howard R. Sklamberg
HOWARD R. SKLAMBERG
D.C. Bar Number 453852
Trial Attorney
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

Criminal Number:

v.

VIOLATION:

JAMES E. LANE,

Count One:

18 U.S.C. § 371

Defendant

(Conspiracy - Felony)

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, James E. Lane, agree as follows:

1. The defendant is entering this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.
2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.
3. The defendant agrees to waive indictment and plead guilty to an information charging him with one count of Conspiracy to Cause the Submission of False Statements, in felony violation of 18 U.S.C. § 371. The defendant admits that he is guilty of this crime, and the defendant understands that he will be adjudicated guilty of this offense.
4. The defendant understands the nature of the offense to which he is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalties for the offense are five years of imprisonment, a fine of \$250,000, and a mandatory special assessment of \$100. The defendant understands that the Court may impose a term of supervised release to follow

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Page 1 of 7

any incarceration, in accordance with 18 U.S.C. § 3583. The authorized term of supervised release is not more than three years. The defendant also understands that the Court may impose restitution, costs of incarceration, and costs of supervision.

5. If the Court accepts defendant's plea of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes arising from Walt Roberts's congressional race for Oklahoma's Third Congressional District in 1998 and from the FEC's investigation of that race, as described in the Factual Basis for Plea.

6. The defendant understands and acknowledges that the offense to which he is pleading guilty is subject to the provisions and guidelines of the "Sentencing Reform Act of 1984," Title 28, United States Code, Section 994(a).

7. The parties agree that the appropriate Sentencing Guideline for Conspiracy to Cause the Submission of a False Statement, as applied in this case, is U.S.S.C. §2B1.1, and that the base offense level is 6. The parties agree that no specific offense characteristics apply, and that no adjustments under §3B1.1 or §3B1.2 apply. The parties also agree that the defendant "willfully obstructed or impeded, or attempted to obstruct or impede" the FEC's investigation, and that a two-level upward adjustment, under § 3C1.1 is, therefore, appropriate. The resulting offense level is 8.

8. The defendant agrees to cooperate with the United States. Specifically, the defendant agrees: (a) to provide complete, truthful, and candid disclosure of information and all records, writings, tangible objects, or materials of any kind or description that he has which relate directly or indirectly to violations of federal and local criminal statutes by himself and/or others; (b) to answer all questions put to him by attorneys and law enforcement officials during the course of this

investigation completely, truthfully, and candidly at any hearing or trial related to or arising out of this investigation; (c) to make himself available for interviews by attorneys and law enforcement officers of the government upon request and reasonable notice; (d) not to attempt to protect any person or entity through false information or omission, nor falsely to implicate any person or entity; (e) to comply with any and all reasonable requests from federal government authorities with respect to the specific assistance that he shall provide; and (f) to testify fully and truthfully before any grand jury, and at all trials of cases or other court proceedings at which your client's testimony may be deemed irrelevant by the government. The defendant's agreement to cooperate applies not only to criminal matters, but also to all proceedings conducted by or brought by the Federal Election Commission.

9. Should the defendant comply with each of the terms of this agreement, the United States will recommend that the defendant receive a two-level reduction for acceptance of responsibility under § 3E1.1 of the Sentencing Guidelines, or, if the defendant's final offense level is level 16 or greater, that the defendant receive a three-level reduction for acceptance of responsibility. The defendant understands that these recommendations and agreements are not binding on the Court or the Probation Office.

10. The defendant agrees that he will not move for a downward departure from the sentencing guideline level determined by the Court. The government agrees that it will not move for an upward departure from the sentencing guideline level determined by the Court.

11. The government agrees that it will bring to the Court's attention at the time of sentencing the full nature and extent of the defendant's cooperation, or lack thereof. In addition, if the government determines that the defendant has provided substantial assistance in the

investigation or prosecution of another person who has committed any offense, then the Public Integrity Section will file a motion pursuant to 18 U.S.C. § 3553(e) and §5K1.1 of the federal sentencing guidelines. The defendant understands that the determination of whether he has provided "substantial assistance" is within the sole discretion of the government, and is not reviewable by the Court. Nor shall the failure of the government to file a "substantial assistance" departure motion be ground for the defendant to move to withdraw his plea of guilty in this case.

12. The defendant understands and acknowledges that he may receive any sentence within the statutory maximum for the offenses of conviction.

13. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution, if any, the defendant may be ordered to pay. The defendant understands that the sentence and the sentencing guidelines applicable to this case will be determined solely by the Court, with the assistance of the United States Probation Office, that the Court may impose the maximum sentence permitted by the statute, and that the defendant will not be permitted to withdraw his plea regardless of the sentence calculated by the United States Probation Office or imposed by the Court.

14. The United States reserves the right to allocate in all respects as to the nature and seriousness of the offense and to make a recommendation as to sentencing. The attorneys for the United States will inform the Court and the Probation Office of: (1) this agreement; (2) the nature and extent of the defendant's activities with respect to this case; and (3) all other information in its possession relevant to sentencing.

15. In consideration for the defendant's compliance with all of the terms of this agreement, the government will not oppose a request by defendant Roberts at the time his plea is entered for conditions of release that will permit him to remain free pending sentencing.

16. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statutes of conviction (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

17. If this agreement becomes null and void pursuant to Paragraph 19, or if the defendant fails to comply with any of the material conditions and terms set forth in this agreement, including but not limited to failing to cooperate, failing to plead guilty in court to the charges set forth in this agreement, intentionally withholding information, giving false information, failing to meet with law enforcement authorities, committing perjury, or refusing to testify before the grand jury or at any judicial proceeding, the defendant will have committed a material breach of the agreement which will release the government from its promises and commitments made in this agreement. Upon defendant's failure to comply with any of the terms and conditions set forth in this agreement, the government may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other federal rule, that defendant's statements pursuant to this agreement or any leads derived therefrom, should be suppressed or are inadmissible;

b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

18. In the event of a dispute as to whether defendant has knowingly committed any material breach of this agreement, and if the United States chooses to exercise its rights under the preceding paragraph, and if the defendant so requests, the matter shall be submitted to the Court and shall be determined by the Court in an appropriate proceeding at which defendant's disclosures and documents shall be admissible and at which time the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

19. The defendant agrees that if the Court does not accept the defendant's plea of guilty, this agreement shall be null and void.

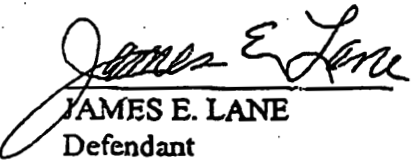
20. The defendant understands that this agreement is binding only upon the Public Integrity Section of the Department of Justice. This agreement does not bind any United States Attorney's Office, nor does it bind any state or local prosecutor. It also does not bar or compromise any civil or administrative claim pending or that may be made against defendant, including any civil or administrative claim on the part of the FEC. If requested, however, the Public Integrity Section will


bring this agreement to the attention of any other prosecuting jurisdiction and ask that jurisdiction to abide by the provisions of this plea agreement. The defendant understands that other prosecuting jurisdictions retain discretion over whether to abide by the provisions of this agreement.

21. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

Dated:

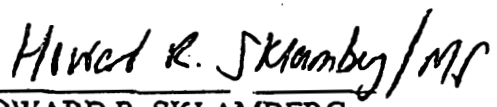
FOR THE DEFENDANT



JAMES E. LANE
Defendant


VESTER SONGER
Counsel for Defendant

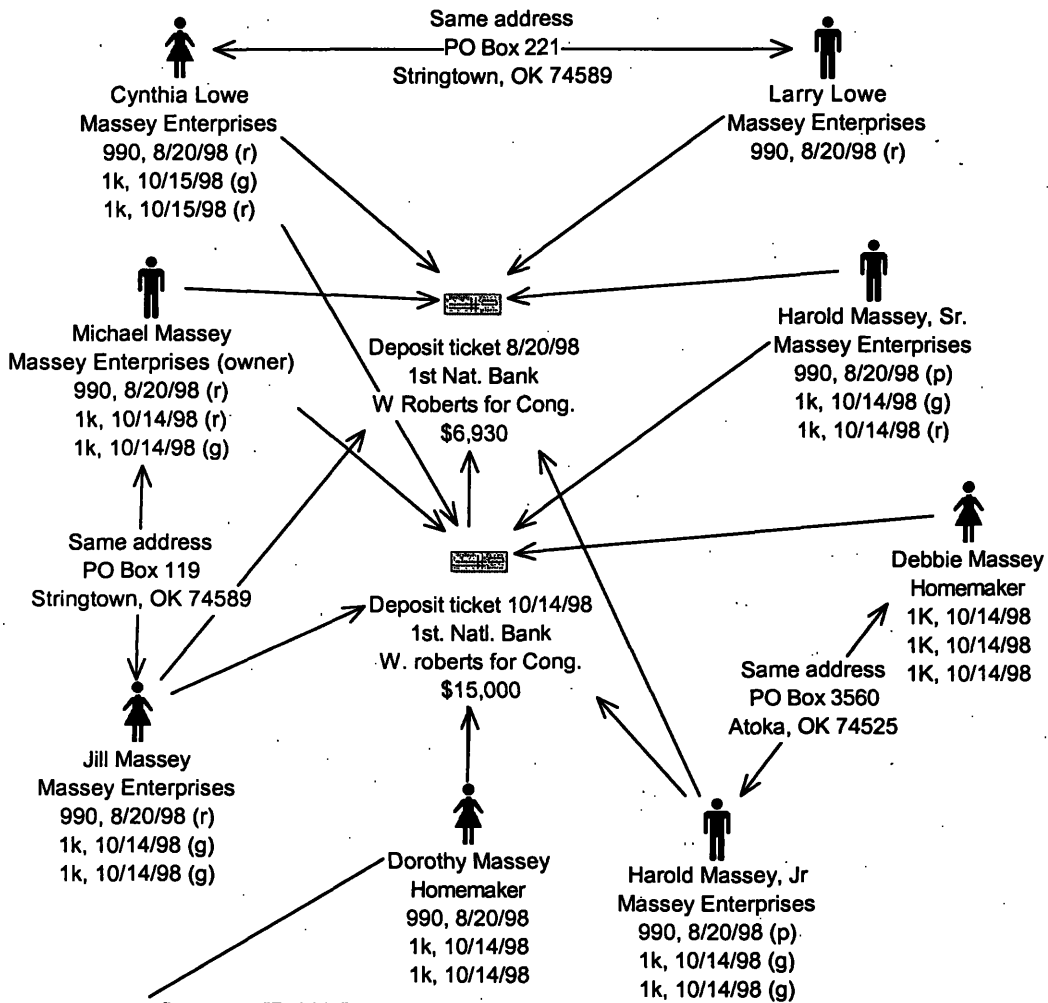
FOR THE UNITED STATES

NOEL L. HILLMAN
Chief, Public Integrity Section


HOWARD R. SKLAMBERG
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section


MATTHEW C. SOLOMON
Trial Attorney
U.S. Department of Justice
Criminal Division
Public Integrity Section

Contributions by
Massey Enterprises
within timeframe of
Stipe Law Firm reimb.
scheme



Total: \$ 21,930.00

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