

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Rock Island County Democratic Central
Committee and John G. Gianulis, as
treasurer

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GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter originated with a complaint filed by the Rock Island County Republican Central Committee alleging that the Rock Island County Democratic Central Committee ("Rock Island Committee"), violated the Federal Election Campaign Act of 1971, as amended ("the Act").¹ The complaint alleged that the Rock Island Committee should have registered as a political committee and that it used prohibited funds to make federal expenditures in coordination with Rep. Lane Evans and his authorized committee, Friends of Lane Evans ("the Evans Committee"). On August 27, 2002, the Commission found that there is reason to believe that the Rock Island Committee and Walt Tiller, as treasurer,² violated 2 U.S.C. §§ 433(a), 434, 441a(f), 441b, and 11 C.F.R. § 102.5(a)(1).

¹ All of the facts relevant to these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act or statements of law regarding provisions of the Act contained in this Brief refer to the Act as it existed prior to the effective date of BCRA. Similarly, all citations to the Commission's regulations or statements of law regarding any specific regulation contained in this report refer to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

² At the time the Commission made its reason to believe findings against the Rock Island Committee and its treasurer, Walt Tiller was the committee's designated treasurer. On January 23, 2003, the committee filed an amended Statement of Organization with the Illinois State Board of Elections, designating John Gianulis as its new treasurer, replacing Mr. Tiller. Consequently, Mr. Gianulis has been substituted for Mr. Tiller as the treasurer-Respondent in this matter.

1 The Office of the General Counsel has investigated the allegations, examined documents,
2 and interviewed or deposed key witnesses in this matter.³ The evidence shows that the Rock
3 Island Committee made excessive, in-kind contributions to the Evans Committee. Additionally,
4 the evidence shows that the Rock Island Committee failed to include disclaimers on
5 communications that expressly advocated the election of Rep. Evans. Furthermore, the evidence
6 shows that the Rock Island Committee is a political committee and failed to register and file
7 disclosure reports with the Commission. Finally, the evidence shows that the Rock Island
8 Committee used prohibited and excessive funds in connection with federal elections. Therefore,
9 this Office is prepared to recommend that the Commission find probable cause to believe that the
10 Rock Island Committee violated 2 U.S.C. §§ 433, 434, 441a(a), 441a(f), 441b, and 441d.

11 **II. FACTUAL BACKGROUND**

12 The Rock Island Committee is the local county Democratic party committee for Rock
13 Island County, Illinois, the most populous county in the 17th Congressional District. The leader
14 of local Democratic politics in Rock Island County is John Gianulis, who for over 30 years has
15 served as chairman of the Rock Island Committee. *See* Gianulis Tr. at 19-20. According to the
16 Rock Island Committee's registration with the State of Illinois, the committee's purpose is "to
17 provide advice and financial support to all qualified candidates of the Democratic Party who seek
18 public office." According to state disclosure reports, the Rock Island Committee disbursed
19 \$125,095.63 in 1998 and \$131,737.97 in 2000. The Rock Island Committee is not registered
20 with the Commission.

³ In response to the Commission's subpoenas, the Rock Island Committee and other respondents submitted thousands of pages of documents. Documents relied upon in this Brief are cited as Exhibits, which were used in depositions taken in this matter. A listing of Exhibits cited in this Brief, as well as their corresponding Bates numbers, can be found at Appendix A to this Brief.

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1 Mr. Gianulis, as chairman, runs the committee with the assistance of three appointed
2 officers including a treasurer, a secretary and a chairwoman. *See* Gianulis Tr. at 20-21.
3 However, the committee itself is comprised of 120 elected precinct committeemen from the
4 county, who are responsible for electing the committee's chairman every two years. *Id.* The
5 committee meets approximately six to twelve times in a typical election year in order to plan and
6 carry out its activities. *See id.* at 23-24. The meetings are often attended by over 100 people,
7 including the committeemen, candidates running for office, and representatives from special
8 interest groups, such as labor organizations. *Id.* at 26-27. Mr. Gianulis explained, "We do invite
9 the candidates to attend and they usually, when they're up for election, they're very attentive at
10 our meetings." *Id.* at 26.

11 During the three months preceding the 1998 and 2000 elections, the Rock Island
12 Committee communicated with the Evans Committee "frequently" and "in some instances
13 daily." Exhibit 2, Resp. #4. This was facilitated by the fact that the Evans Committee based its
14 campaign operations out of Rock Island County in 1998 and 2000. Eric Nelson, Rep. Evans's
15 full-time campaign manager, testified that he frequently consulted with Mr. Gianulis and the
16 Rock Island Committee regarding campaign activities. *See* Nelson Tr. at 129, 132, 135

17 During election years, the Rock Island Committee also sponsors a coordinated campaign,
18 referred to as the "Rock Island County GOTV Committee." The members of the "GOTV
19 Committee" consist of all Democratic candidates running for election in Rock Island County in a
20 given year, federal and nonfederal alike (except for presidential candidates), along with select
21 representatives from other interest groups active in Rock Island County politics. *See* Gianulis Tr.
22 at 36-37. While this coordinated campaign is conducted and reported to the Illinois State Board
23 of Elections as part of the Rock Island Committee's activities, John Gianulis testified that the

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1 GOTV Committee is self-sufficient, functioning as if it is a separate entity. *See* Gianulis Tr. at
2 36-37, 40-42. For instance, the GOTV Committee has a separate bank account to keep track of
3 receipts and disbursements. *See id*

4 The GOTV Committee was self-financed, with the members directly contributing or
5 assisting in raising money from other sources. *See* Gianulis Tr. at 36-37; *see also* Nelson Tr. at
6 129. Although candidates were not required to contribute directly to, or raise funds for, the
7 account, each GOTV Committee member had to do so to be considered a member in good
8 standing. *See* Nelson Tr. at 129-30. A member in good standing was rewarded for his
9 contribution by having his name listed at the bottom of each piece of literature produced and
10 distributed by the group. *See id* at 130. According to one-time member Connie Engholm,
11 candidates contributed to the group's budget on a sliding scale determined by that candidate's
12 place on the ballot. *See* Engholm Tr. at 149-50. For instance, Lane Evans, as a Congressional
13 candidate, would be expected to raise more funds for the account than a state senatorial
14 candidate. In 1998, out of forty-seven contributors, the Evans Committee was the second largest
15 contributor to the GOTV Committee. *See* Ex. 48. In addition to his own direct contributions to
16 the committee, Rep. Evans also assisted the group in raising funds from other sources. *See*
17 Nelson Tr. at 129.

18 The GOTV Committee was also self-directed, with the members deciding what activities
19 they would undertake. At the beginning of an election year, the GOTV Committee held an initial
20 meeting to decide on a budget and to plan activities for the election. *See* Gianulis Tr. at 41-42.
21 Thereafter, the members met regularly to discuss the specifics of the group's activities, such as
22 the content of their direct mail pieces. *See* Nelson Tr. at 132-33. Decisions were made by group
23 consensus; however, only members in good standing, i.e., those members who contributed to or

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1 raised money for the group, were welcome to express their views on the group's activities *See*
2 *id*

3 In 1998 and 2000, Rep. Evans was a member in good standing of the GOTV Committee,
4 and Mr. Nelson, acting as the Evans Committee's representative at the group's meetings,
5 believed that Rep. Evans's name should be placed on the materials produced by the GOTV
6 Committee. *See* Nelson Tr. at 136-37. To facilitate this, Mr. Nelson provided pictures of Rep.
7 Evans for use in the committee's mailers. *See* Ex. 2A, Resp. #16. As a result of Mr. Nelson's
8 efforts, various activities sponsored by the Rock Island Committee focused on Rep. Evans.

9 Specifically, in 1998, the Rock Island Committee sent out direct mail explicitly urging
10 voters to vote for Rep. Evans, *see* Exs. 7 and 8; produced and aired a radio advertisement
11 advocating the re-election of Lane Evans, *see* Ex. 10; and ran a newspaper advertisement urging
12 voters to support Lane Evans, *see* Ex. 9. Similarly, in 2000, the Rock Island Committee sent out
13 two direct mail pieces that specifically mentioned Lane Evans. *See* Exs. 28 and 29.

14 **III. THE ROCK ISLAND COMMITTEE MADE EXCESSIVE IN-KIND**
15 **CONTRIBUTIONS TO THE EVANS COMMITTEE**

16 The Rock Island Committee and its chairman, John Gianulis, were among the major
17 players at the center of a coordinated campaign focused on re-electing Rep. Evans in 1998 and
18 2000. In the months preceding the elections, the Rock Island Committee sent out direct mail,
19 produced and aired radio advertisements, ran newspaper advertisements, hired poll watchers and
20 facilitated phone banks. The content of these activities ranged from generic support for the
21 Democratic Party to express advocacy of the election of Rep. Evans and other named candidates.
22 The Rock Island Committee conducted these activities through two separate bank accounts: one
23 controlled by the Rock Island Committee's officers, and another used by the "Rock Island
24 GOTV Committee."

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1 Although the name of the Rock Island GOTV Committee may suggest that the candidate
2 members were engaged in generic get-out-the-vote activities designed to get Democratic voters
3 to the polls on Election Day, many of the activities funded through this account in 1998
4 expressly advocated the election of specific Democratic candidates, particularly Rep. Evans.
5 Under the Act, "expenditures made by any person in cooperation, consultation or concert, with,
6 or at the request or suggestion of, a candidate, his authorized political committees, or their
7 agents, shall be considered to be a contribution to such candidate." 2 U.S.C. § 441a(a)(7)(B)(i).

8 Because the Rock Island GOTV Committee was composed of candidates running for
9 election in Rock Island County, including Rep. Evans, it necessarily made expenditures "in
10 cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his
11 authorized political committees, or their agents." *Id.* Furthermore, the investigation has shown
12 that Eric Nelson, on behalf of Rep. Evans, was actively involved in these coordinated efforts by
13 the GOTV Committee. Indeed, Mr. Nelson regularly attended the meetings of the Rock Island
14 GOTV Committee and provided input about the content of the direct mail and other
15 communications produced and distributed by the group, and voted on proposed communications.
16 *See Nelson Tr. at 129, 132, 135.*

17 In addition, Mr. Nelson acknowledged that he specifically requested that Rep. Evans,
18 who was one of the largest single contributors to the GOTV Committee, be featured in direct
19 mail pieces produced and distributed by the committee. *See Ex. 48; see also Nelson Tr. at 136-*
20 *37.* Consequently, a substantial amount of the Rock Island GOTV Committee's expenditures in
21 1998 were directed toward activities specifically advocating the re-election of Rep. Evans.
22 These specific activities did not qualify as exempt party activities under federal campaign laws,
23 or generic party activities benefiting the entire ticket. *See 11 C.F.R. §§ 100.7(b)(16) and*

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106 5(a)(2)(iv) Instead, as detailed in the following sections, these coordinated expenditures, which contained such express advocacy, constituted in-kind contributions to the specifically named candidates. *See* 2 U.S.C. § 441a(a)(7)(B)(i)

A. Radio Advertisement

In 1998, the Rock Island GOTV Committee produced and aired a 30-second radio advertisement focusing almost exclusively on Lane Evans and his policy positions. *See* Ex. 10. The radio advertisement script is as follows:

For veterans in need of health care, he was there. For seniors, whose social security checks didn't come, he found them. For students needing a loan to stay in college, he went to bat. For sixteen years, Congressman Lane Evans has helped thousands of our families when times were tough and we needed a hand. Now he needs ours. Because Lane's fought for the rights of working families, the big corporations are spending tens of thousands to defeat him. Because he's taken the side of patients and health professionals, the big insurance interests are out to get him. Because he stood up to Newt Gingrich's extreme agenda in congress, he's become Gingrich's number one target in this election. But all their money and negative commercials can't defeat Lane. Only we can by not bothering to vote. On November third come out and **vote for Congressman Evans and the entire Democratic ticket** Lane's always stood up for us, so let's stand up for him.

Ex. 10 (emphasis added).

According to the Rock Island Committee's state disclosure report, a total of \$9,262 was paid to media consultant Axelrod and Associates to produce and air the advertisement. Expenditures made on behalf of more than one clearly identified candidate must be attributed to candidates based on the space and time devoted to each candidate as compared to the total space and time devoted to all candidates. *See* 11 C.F.R. § 106.1(a)(1). Accordingly, because the radio advertisement is almost exclusively focused on Rep. Evans, with less than five seconds (8% of the total time) likely spent urging listeners to vote for the entire Democratic ticket, 92%, or \$8,521.04 of the advertisement constitutes an in-kind contribution to Rep Evans.

B. Direct Mail

The Rock Island GOTV Committee also sent out two separate direct mail pieces expressly advocating that voters vote for Lane Evans. *See* Exs 7 and 8. The first mailer includes a large picture of Rep. Evans talking to an elderly couple. *See* Ex. 8. Below the picture are quotes from four local candidates commenting on his legislative policies and positions on issues affecting senior citizens. The very bottom of the two-page mailer states, "This election is too important to stay home on Tuesday, November 3rd. Vote for Congressman Lane Evans and the entire Democratic ticket." *Id.* This exhortation is followed by a list of members of the Rock Island GOTV Committee (including Rep. Evans), and a disclaimer stating the mailer was paid for by the Rock Island GOTV Committee. *See id.* Based on the disclosure reports and the committee's bookkeeping records, the total costs involved in producing and distributing the first direct mail piece were approximately \$5,769.70.⁴ As with the radio advertisement, this direct mail piece is almost exclusively focused on Rep. Evans; therefore, 90%, or \$5,192.73, of the communication constitutes an in-kind contribution to Rep Evans. *See* 11 C.F.R. § 106.1(a)(1).

The second mailer produced and distributed by the GOTV committee in 1998 also expressly advocated the re-election of Rep. Evans *See* Ex. 7. The advertisement states, "The Republicans are betting that you and your family will stay home on election day." Below this statement is a picture of a pair of dice, and below that the advertisement states, "THEY LOSE!! The Stakes are Too High For Us Not To Vote November 3rd. Record Low Unemployment – Lower Crime Rates. Quality Health Care For All Americans. Lower Taxes for Working Men

⁴ This amount is derived from \$3,560 in postage, \$2,029.70 in printing costs, and \$180 for voting list and label costs. The voting list and label costs for this piece were derived by taking the total amount the Committee paid for these lists during the 1998 campaign cycle (\$720), and dividing by the number of direct mail pieces that the Committee put out that year (four). Similarly, the \$2,029.70 in printing costs was derived by taking the total amount of printing costs that most closely correspond to the mailer (\$4,059.70) and dividing it by the number of mail pieces sent out at that time (two).

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1 and Women Quality Education For Our Children ” The advertisement concludes, “Vote for
2 Congressman Evans and the entire Democratic ticket.” *Id* Again, this exhortation to vote for
3 Lane Evans is followed by a list of members of the Rock Island GOTV Committee (including
4 Rep. Evans), and a disclaimer stating that the mailer was paid for by the Rock Island GOTV
5 Committee. The total costs involved in producing and distributing this direct mail piece is
6 approximately \$5,769.70. Unlike the radio advertisement and the first direct mail piece, this
7 piece equally supports the party ticket and Rep. Evans; therefore, at least 50%, or \$2,884.85 of
8 the expenditures related to the communication constitute an in-kind contribution to Rep Evans.
9 *See* 11 C.F.R. § 106.1(a)(1).

10 C. Newspaper Advertisement
11

12 In 1998, the Rock Island GOTV Committee also ran a two-page newspaper
13 advertisement urging voters to support Lane Evans. *See* Ex. 9. The first page of the
14 advertisement is a picture of Lane Evans’s face and the words “Lane Evans” above his picture.
15 *Id.* The words below the picture say, “He’s More Than a Congressman: He’s a Friend of the
16 Family.” *Id.* On the second page, a large portion of the page discusses Rep. Evans’s legislative
17 accomplishments on various issues, including jobs, health care, and Social Security. The second
18 page also includes a statement from Rep. Evans which states, in part, “I want to build on our
19 work and with your vote on November 3rd, we will continue to build for our future.” Beneath
20 that message, the advertisement urges voters to “Vote for Congressman Evans and the entire
21 Democratic ticket.” Ex. 9. The bottom of the page lists the other Democratic candidates running
22 in Rock Island County as well as the members of the Rock Island County GOTV Committee,
23 including Rep. Evans.

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According to the committee's records, at least \$1,303 was spent placing the advertisement in the local paper, the Argus/Dispatch. *See* Ex 48 at 3. Approximately seven-eighths of the two-page advertisement is exclusively focused on Rep. Evans; therefore 87%, or \$1,133.61, of the expenditures related to the communication constitutes an in-kind contribution from the Rock Island Committee to the Evans Committee.

D. Conclusion

The following chart summarizes the total expenditures that constitute in-kind contributions from the Rock Island Committee to the Evans Committee in 1998.

<u>Activity</u>	<u>Related Expenditures</u>	<u>% Allocation</u>	<u>In-Kind Contribution</u>
Radio Advertisement	\$9,262.00	92%	\$8,521.04
Senior Citizen Direct Mail	\$5,769.70	90%	\$5,192.73
Gambling Direct Mail	\$5,769.70	50%	\$2,884.85
Newspaper Advertisement	\$1,303.00	87%	\$1,133.61
		<u>TOTAL</u>	\$17,732.23

Since the radio advertisement, direct mail pieces and newspaper advertisement specifically mention Lane Evans, they would not constitute generic party activity. *See* 11 C.F.R. § 106.5(a)(2)(iv). Moreover, general public political advertising, including radio advertisements, direct mail and newspaper advertisements, does not qualify as exempt activity. *See* 11 C.F.R. § 100.7(b)(15)(i). As a result, the Rock Island Committee made at least \$17,732.23 of in-kind contributions to the Evans Committee from October through November 1998. Of this amount, at least \$16,732.23 exceeded the Rock Island Committee's \$1,000 contribution limit. *See* 2 U.S.C.

§ 441a(a)(1)(A).⁵ Therefore, this Office is prepared to recommend that the Commission find probable cause to believe that the Rock Island Committee violated 2 U.S.C. § 441a(a)

IV. THE ROCK ISLAND COMMITTEE FAILED TO INCLUDE PROPER DISCLAIMERS ON COMMUNICATIONS EXPRESSLY ADVOCATING THE ELECTION OF LANE EVANS

The Rock Island Committee did not include proper disclaimers on the communications discussed above. *See* discussion *supra* Section III.A. – D; *see also* 2 U.S.C. § 441d. The Act provides that whenever any person makes an expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. *See* 2 U.S.C. § 441d(a); *see also* 11 C.F.R. § 110.11.

The Act's corresponding regulations provide that express advocacy includes any communication that "[u]ses phrases such as 'vote for the President,' 're-elect your Congressman,' 'support the Democratic nominee,' 'cast your ballot for the Republican challenger for U.S. Senate in Georgia,' ... 'vote against Old Hickory,' ... 'reject the incumbent,'" among others, or contains "communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)..." 11 C.F.R. § 100.22(a). The

⁵ The State Party has stated that it did not designate its Section 441a(d) authority to make coordinated expenditures to the Rock Island Committee. *See* Ex. 2D, Resp. #12. Further, the Rock Island Committee claims to be unaffiliated with the State Party and thus would not share the State Party's contribution limits or coordinated expenditure authority. *See* 2 U.S.C. § 441a(a)(2)(A) and (d). In its response to the complaint, the Rock Island Committee initially "confirmed that it is affiliated with the State Party." Ex. 47 at 1. However, in its response to the Commission's reason-to-believe finding, the Rock Island Committee retracted its statement and explained that "it does not currently believe that it was [affiliated], as affiliation was defined by the FECA. Rock Island's activities, together with the State Party consisted entirely of nonfederal activities in connection with state and local candidates." Ex. 73B at 4. Similarly, the State Party also stated that it is not affiliated with the Rock Island Committee. *See* Ex. 2D, Resp. #3.

Commission's regulation at 11 C.F.R. § 100.22(a) essentially incorporates the express advocacy tests announced in the Supreme Court case, *Buckley v. Valeo*, 424 U.S. 1 (1976). In *Buckley*, the Supreme Court provided some examples of phrases that would constitute express advocacy, e.g., "vote for", "elect", or "support." *Buckley*, 424 U.S. at 43-44, n. 52.

In this case, the four Rep. Evans-specific communications produced and distributed by the Rock Island Committee in 1998 contain express advocacy pursuant to the definitions provided in 11 C.F.R. § 100.22(a) and *Buckley v. Valeo*, 424 U.S. at 43-44, n. 52. The radio advertisement, the two direct mail pieces, and the newspaper advertisement each exhort the readers to "Vote for Congressman Evans and the entire Democratic ticket." See Exs. 7-10. However, while each communication includes a statement that it was "Paid for by Rock Island County GOTV Committee," none states that it was authorized by Rep. Evans or his authorized committee, as required by the Act. *Id.*; see also 2 U.S.C. § 441d. As a result, this Office is prepared to recommend that the Commission find probable cause to believe that the Rock Island Committee violated 2 U.S.C. § 441d.

V. THE ROCK ISLAND COMMITTEE FAILED TO REGISTER AND REPORT AS A POLITICAL COMMITTEE

The Rock Island Committee has never registered as a political committee with the Federal Election Commission. Pursuant to the Act, a political committee includes "any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year...or makes contributions aggregating in excess of \$1,000 during a calendar year or makes expenditures aggregating in excess of \$1,000 during a calendar year." 2 U.S.C. § 431(4)(C). Furthermore, a committee must file a statement of organization within 10 days after becoming a political committee within the meaning of section 431(4). See 2 U.S.C. § 433(a). As set forth below, an investigation has revealed that the Rock Island Committee

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1 became a political committee in 1998, and therefore violated 2 U.S.C. §§ 433(a) and 434 by
2 failing to register as such and subsequently to file the required disclosure reports.

3 The Act defines a contribution as “any gift, subscription, loan, advance, or deposit of
4 money or anything of value made by any person for the purpose of influencing any election for
5 Federal office.” 2 U.S.C. § 431(8)(A)(i). Similarly, the Act defines an expenditure as “any
6 purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value
7 made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C.
8 § 431(9)(A)(i). The term “anything of value” includes all “in-kind contributions.” 11 C.F.R.
9 § 100.7(a)(1)(iii)(A).

10 An investigation has revealed that the Rock Island Committee made enough federal
11 contributions and expenditures to trigger the Act’s registering and reporting requirements at least
12 as early as 1998.⁶ In fact, the Rock Island Committee admits that, based on ignorance of the law,
13 “[it] undertook some activities that it should have reported to the FEC.” Ex. 73B at 3. As
14 discussed previously, *see* discussion *supra* Section III, these activities included the production
15 and airing of a radio advertisement, *see* Ex. 10; two direct mail pieces, *see* Exs. 7 and 8; and a
16 newspaper advertisement, *see* Ex. 9; each of which expressly advocated the election of Lane
17 Evans. *See* 11 C.F.R. § 100.22(a), *Buckley v. Valeo*, 424 U.S. 1 (1976). The Rock Island
18 Committee spent a total of \$17,649.93 in 1998 on these four communications. As a result, in
19 1998, the Rock Island Committee surpassed the \$1,000 expenditure threshold and became a
20 political committee. *See* 2 U.S.C. § 431(4)(C).

⁶ The Rock Island Committee may have become a federal committee as early as 1996. During the 1996 election cycle, the Rock Island Committee distributed a direct mail piece featuring Rep. Evans, along with Presidential candidate Bill Clinton, and Senate candidate Dick Durbin. *See* Ex. 82. However, because the scope of the investigation in this matter is limited to 1998 through 2000, this Office makes no recommendations as to whether these 1996 activities would have resulted in the Rock Island Committee achieving political committee status.

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Specifically, on October 8, 1998, the GOTV Committee made the first of its expenditures relating to these four communications. This \$8,463 expenditure was for the production and airing of the radio advertisement. *See* Ex 48. As a result, the Rock Island Committee should have registered with the Commission within ten days of that date, or by October 18, 1998. *See* 2 U.S.C. § 433(a). However, the Rock Island Committee did not register in a timely manner, nor has it ever registered and reported with the Commission. Furthermore, the Rock Island Committee should have reported all of its receipts and expenditures from October 8, 1998 forward, including in-kind contributions made to the Evans Committee.⁷ *See* 2 U.S.C. § 434; 11 C.F.R. § 104.13.

Consequently, this Office is prepared to recommend that the Commission find probable cause to believe that the Rock Island Committee violated 2 U.S.C. §§ 433 and 434 for not registering with, and reporting to, the Commission, beginning with a Pre-General Election Report during the 1998 election cycle, and continuing to the present time.

VI. THE ROCK ISLAND COMMITTEE ACCEPTED PROHIBITED AND EXCESSIVE CONTRIBUTIONS

The Rock Island Committee accepted over \$120,000 in contributions in 1998 and in 2000. *See* Rock Island Committee Semi-Annual Reports, filed with the Illinois State Board of Elections, dated 7/24/98, 12/4/00, 8/6/00, and 1/25/01. A portion of these funds received after the Rock Island Committee qualified as a federal political committee in October 1998 originated

⁷ The Rock Island Committee continued to distribute direct mail pieces that clearly identified Rep. Evans in 2000. For example, one piece listed all of the Democratic candidates, including Rep. Evans, from the candidate for President to the candidates for the Rock Island County Board, and urged, "With Democrats You Win! When You Vote and Elect. President Al Gore...Congressman Lane A. Evans..." Ex. 29. Another direct mail piece gave instructions on how to send out for an absentee ballot, but also included a letter from John Gianulis, which stated, "From Al Gore and Joe Lieberman to Lane Evans and our area candidates, Democrats are fighting for key issues." Ex. 28

1 from prohibited sources, particularly labor organizations⁸ See 2 U.S.C. § 441b(a), *see also* Ex
2 2A, Resp. #23. Additionally, a portion of the funds exceed the Act's contribution limits See 2
3 U.S.C. § 441a(a), *see also* Rock Island Committee Semi-Annual Reports, filed with the Illinois
4 State Board of Elections, dated 7/24/98, 12/4/00, 8/6/00, and 1/25/01.

5 Pursuant to the Act, political committees are prohibited from accepting contributions
6 from corporations and labor organizations in connection with any Federal election. See 2 U.S.C.
7 § 441b(a). "Contribution or expenditure" includes "any direct or indirect payment, distribution,
8 loan, advance, deposit, or gift of money, or any services, or anything of value." 2 U.S.C.
9 § 441b(b)(2). Likewise, local party committees may not accept contributions of greater than
10 \$5,000 in a calendar year. See 2 U.S.C. § 441a(a)(1)(C) and (f).

11 A federal committee which engages in both federal and non-federal activities is required
12 to organize its funds in such a way as to ensure that the funds it uses to pay for its federal
13 election activity is permissible under the Act. Specifically, pursuant to 11 C.F.R. § 102.5(a)(1),
14 "a party committee, which finances political activity in connection with both federal and non-
15 federal elections and which qualifies as a political committee under 11 C.F.R. § 100.5 shall
16 either" establish a separate federal account which shall be treated as a separate federal political
17 committee, or establish a completely separate political committee. 11 C.F.R. § 102.5(a)(1)(i) –
18 (ii).

19 If the committee chooses to establish a separate federal account, "such account shall be
20 treated as a separate federal political committee which shall comply with the requirements of the
21 Act including the registration and reporting requirement. Only funds subject to the prohibitions

⁸ As to funds received prior to October 1998, the Rock Island Committee would have had to exclude any funds not permissible under the Act from its federal account, pursuant to 11 C.F.R. § 104.12. See also 11 C.F.R. § 103.3(b)(2).

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1 and limitations of the Act shall be deposited in such separate federal account All disbursements,
2 contributions, expenditures and transfers by the committee in connection with any federal
3 election shall be made in its federal account.” 11 C.F.R. § 102.5(a)(1)(i) Furthermore, if the
4 committee chooses to create a separate committee, that committee may only receive
5 “contributions subject to the prohibitions and limitations of the Act, regardless of whether such
6 contributions are for use in connection with federal or non-federal elections.” 11 C.F.R.
7 § 102.5(a)(1)(ii).

8 The evidence shows that the Rock Island Committee failed to comply with the foregoing
9 provisions of the Act, which are applicable to all federal committees. The Rock Island
10 Committee had three separate bank accounts from which it conducted its activities. The first
11 account, with Andalusia Community Bank, was used for the committee’s operating expenditures
12 and election activities; the second account, with Firststar, was used exclusively by the GOTV
13 Committee; and the third account was used exclusively for an annual raffle held each year to
14 raise funds.⁹ See Gianulis Tr. at 38. However, none of these accounts was designated as a
15 federal account, nor did any of these accounts limit deposits to funds that complied with the
16 prohibitions and limitations of the Act See 11 C.F.R. § 102.5(a)(1)(i) and (ii). Therefore, this
17 Office is prepared to recommend that the Commission find probable cause to believe that the
18 Rock Island Committee violated 2 U.S.C. §§ 441b and 441a(f).

⁹ The Committee has been less than forthcoming with accurate information regarding its bank accounts, providing inconsistent and incomplete information The committee had at one time asserted that it had separate federal and nonfederal accounts, and then retracted that statement Compare Ex. 2A at 6 and Ex. 71 at 2 In addition, in response to written discovery the Committee claimed that it maintained a single bank account, which was nonfederal. However, during the deposition of the Committee’s chairman, it became clear that the committee actually maintained three separate bank accounts. See Ex. 71 at 2, Gianulis Tr. at 35-40. Furthermore, in defiance of the Commission’s subpoena and follow-up request to produce all bank statements, the Committee has failed to produce any bank statements whatsoever from the two additional bank accounts identified by the committee’s chairman for the first time during his deposition testimony

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VII. GENERAL COUNSEL'S RECOMMENDATIONS

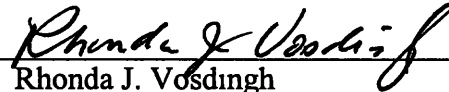
- 1 Find probable cause to believe that the Rock Island County Democratic Central Committee and John Gianulis, as treasurer, violated 2 U.S.C. § 441a(a).
- 2 Find probable cause to believe that the Rock Island County Democratic Central Committee and John Gianulis, as treasurer, violated 2 U.S.C. § 441d.
- 3 Find probable cause to believe that the Rock Island County Democratic Central Committee and John Gianulis, as treasurer, violated 2 U.S.C. §§ 433 and 434.
- 4 Find probable cause to believe that the Rock Island County Democratic Central Committee and John Gianulis, as treasurer, violated 2 U.S.C. § 441b.
- 5 Find probable cause to believe that the Rock Island County Democratic Central Committee and John Gianulis, as treasurer, violated 2 U.S.C. § 441a(f)

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Date

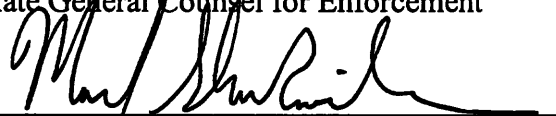
8/20/03



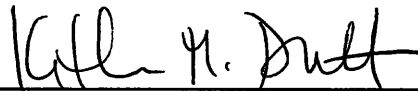
Lawrence H. Norton
General Counsel



Rhonda J. Vosdigh
Associate General Counsel for Enforcement



Mark D. Shonkwiler
Assistant General Counsel



Kathleen M. Dutt
Attorney



Brant S. Levine
Attorney

Concordance of Exhibits *

Exhibit	Description	FEC Bates Number	Respondents' Bates Number
1	Document Subpoena to the Evans Committee	n/a	n/a
2	Interrogatory Responses – Evans Committee	LE-00200 to 00205	n/a
2A	Interrogatory Responses – Rock Island Committee	RI-00201 to 00209	n/a
2B	Interrogatory Responses – Victory Fund	VF-00200 to 00216	n/a
2C	Interrogatory Responses – Strategic Consulting Group	SC-00100 to 00108	n/a
2D	Interrogatory Responses – Democratic Party of Illinois	SP-00200 to 00202	n/a
3	Initial Memo from SCG to the Victory Fund	VF-00518 to 00524	17D-000993 to 000999
4	1998 Contract between SCG and the Victory Fund	VF-00501 to 00502	17D-001000 to 001001
5	NAB Agreements for Television Advertisements	LE-00400 to 00402	LE-00018 to 00020
6	Invoice from GIS to the Victory Fund, Attn: Nelson	VF-00905	17D-001054
7	“Gambling” Mailer by Rock Island Committee	LE-00324 to 00325	LE-00190 to 00191
8	“Friend of the Family” Mailer #1 by Rock Island Committee	LE-00326 to 00327	LE-00192 to 00193
9	“Friend of the Family” Mailer #2 by Rock Island Committee	LE-00328/2 pages	LE-00194 to 00195
10	Rock Island/Knox County Radio Ad Scripts for 1998 & 2000	RI-00300 to 00301	RIC-00001 to 00002
11	Memo from Nelson to Evans re: Dem. County Chrmn's Ass'n	LE-00501	LE-00189
12	Memo from DCCC to the Victory Fund	VF-01200 to 01201	17D-000393 to 000394
13	Evans Committee Statement of Organization Amendment	n/a	n/a
14	Evans Committee Bank Statement with Gianulis as Treasurer	LE-00600 to 00601	LE-00095 to 00096
16	Evans Solicitation Letter to Fred	VF-01100	17D-000398
17	Nelson Union Solicitation Letter to Larry Atkins	VF-01101	17D-000406

* These exhibits were cited in the General Counsel's Brief, introduced during depositions, or otherwise used in the investigation of MUR 5031.

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Exhibit	Description	FEC Bates Number	Respondents' Bates Number
19	"School" Mailer by Victory Fund	LE-00329 to 00332	LE-00196 to 00199
20	"Dream" Mailer by Victory Fund	LE-00333 to 00334	LE-00200 to 00201
21	"Behind this Door" Mailer Victory Fund	LE-00343 to 00346	LE-00210 to 00213
22	Evans Fundraising Event on 7/13/98 – Letters/Invoice	VF-01600 to 01602	17D-001014 to 001016
23	Victory Fund Promotional Letter	VF-00300	17D-000408
24	SCG Promotional Brochure – Picture of Evans	SC-00717	n/a
25	1998 Phone Contract between SCG and Victory Fund	SC-00300 to 00303	n/a
26	Invoice from Channel 10 NBC-WGEM	LE-00409	LE-00007
27	Proposal by Compass Media to both Victory Fund and Evans Committee	VF-00604 to 00607	17D-000275 to 00278
28	Absentee Ballot Mailer by Rock Island Committee	RI-00302	RIC-00003
29	“With Dems You Win” Mailer by Rock Island Committee	RI-00303	RIC-00004
32	Victory Fund Solicitation from Evans to Don Turner	VF-01105 to 01106	17D-000438 to 00439
33	Solicitations from Evans to HRC – Eric Nelson	VF-01133	17D-000471
34	2000 Contract between Compass Media and Victory Fund	VF-00600 to 00603	17D-000271 to 000274
35	Invoice from QRS Newmedia to Victory Fund	VF-01003	17D-002675
36	‘Kids” Mailer by Victory Fund	LE-00318 to 00319	LE-00182 to 00183
37	“3 Rs” Mailer by Victory Fund	LE-00320 to 00323	LE-00184 to 00187
38	Memo from Nelson to SCG re: Concerns	VF-00505 to 00506	17D-000269 to 00270
39	2000 Contract between SCG and Victory Fund	SC-00204 to 00206	n/a
40	2000 SCG Campaign School Field Plan	SC-01200 to 01209	GD-00030 to 00039
41	SCG Volunteer Voter ID Script for 2000	SC-00307	GD-00004
42	SCG Canvass Voter ID Script for 2000	SC-00312	GD-00009
43	Evans Form Constituent Letters	SC-01101 to 01111	GD-00046 to 00056

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Exhibit	Description	FEC Bates Number	Respondents' Bates Number
44	Victory Fund 2000 GOTV Phone Scripts by Officials	SC-00304 to 00306	GD-00001 to 00003
45	Script of Rock Island Committee GOTV Calls for 2000	SC-00318	GD-00015
46	SCG Wrap-up Memo from Dunn to Nelson and Evans	SC-00412	GD-00020
47	Rock Island Committee Response to the Complaint	n/a	n/a
48	1998 Rock Island GOTV Report	RI-00400 to 00402	RIC-00005 to 00007
51	2000 Rock Island GOTV Report	RI-00403 to 00405	RIC-00008 to 00010
54	SCG Welcome Letter from Genie Dunn	SC-00400 to 00401	n/a
55	SCG Memo from Morrison to Dunn re: Voter Targeting	SC-00402 to 00407	GD-00022 to 00027
56	Letter from Engholm to FEC Denying Affiliation	n/a	n/a
57	Letter from Engholm to FEC re: Como Inn Event	n/a	n/a
58	SCG Promo Material: "High Intensity Field Operations"	SC-00702 to 00706	n/a
59	Phone bill for Pat O'Brien/ATT for \$1,449.38	n/a	17D-001438
59A	Excerpt from Victory Fund 1998 12-Day Amended Pre-Election Report Reflecting Payment to AT&T for \$1,449.38	n/a	n/a
60A	Excerpt from Victory Fund 2000 Amended Oct. Quarterly Report Reflecting Payment to Gallatin for \$486.38	n/a	n/a
61	Henry County/Verizon Phone bill for \$861.42	n/a	17D-002676
61A	Excerpt from Victory Fund 2000 30-day Post Election Report Reflecting Payment to Verizon for \$861.42	n/a	n/a
64	Letter from Engholm to FEC re: Como Inn Event with Attachments	n/a	n/a
65	State Party 2000 Coordinated Campaign Plan	SP-00300 to 00304	n/a
66	Kilbride Campaign Plan	SP-00608	n/a
67	Kilbride Post-Campaign Memo	SP-00638 to 00653	n/a
72	SCG "Countdown to Victory" Flyer	SC-00413	GD-00021
73	Evans Committee Response to the Commission's Reason to Believe Findings	LE-00100 to 105	n/a
73A	Victory Fund Response to the Commission's Reason to Believe Findings	VF-00100 to 00109	n/a

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Exhibit	Description	FEC Bates Number	Respondents' Bates Number
73B	Rock Island Committee Response to the Commission's Reason to Believe Findings	n/a	n/a
74	SCG Memo re: Voter Registration dated 8/29/00	SC-00409 to 00411	GD-00043 to 00045
75	Victory Fund Solicitation Letter by Evans to Steve Neal	VF-01132	17D-000470
78	State Party Response to the Commission's Reason to Believe Findings	SP-00100 to 00110	n/a
79	SCG Brochure Quoting Evans: "fight of my life"	SC-00722	n/a
80	State Party Constitution	SP-01301 to 01311	n/a
81	Association of County Chairs Constitution	SP-01401 to 01408	n/a
82	"Three Great Reasons" Mailer by Rock Island Committee	RI-00700 to 701	n/a

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