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December 18, 2001

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VIA COURIER

Kamau Philbert, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5094

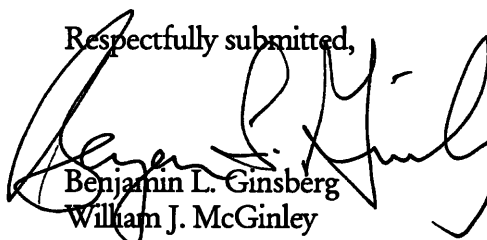
Republican Party of Florida (nonfederal account)  
and Paul J. Bedinghaus, as Treasurer

Dear Mr. Philbert:

Enclosed is the response of our client, the Republican Party of Florida (nonfederal account) and Paul J. Bedinghaus, as treasurer (collectively "RPOF"), to the Federal Election Commission's ("Commission") reason to believe notification, documentary subpoena and interrogatories in the above referenced matter. We will file the original documents after we receive them.

Please do not hesitate to call with any questions.

Respectfully submitted,

  
Benjamin L. Ginsberg  
William J. McGinley

Enclosures

Doc 679245

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Republican Party of Florida (nonfederal account)  
and Paul J. Bedinghaus, as Treasurer

MUR 5094

DEC 18 4 37 PM '01

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REPLY BRIEF OF RESPONDENTS  
REPUBLICAN PARTY OF FLORIDA (NONFEDERAL ACCOUNT)  
AND PAUL J. BEDINGHAUS, AS TREASURER

I. INTRODUCTION

The Republican Party of Florida (nonfederal account) and Paul J. Bedinghaus, as Treasurer (collectively "Respondents" or "RPOF"), hereby respond to the Federal Election Commission's ("Commission") Factual and Legal Analysis ("OGC Brief") in the above referenced matter. As demonstrated below, there was no violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), or the Commission's Regulations, and the Commission should dismiss this matter and take no further action.

The OGC Brief rests upon an invitation from Respondents that the *Miami Herald* reported solicited corporate funds for a United States Senate race through a September 22, 2000 luncheon. While the wording of the invitation itself (see Attachment A) implies improper fundraising, the reality is quite different. In fact, the invitation yielded no contributions, there was no fundraising event for the RPOF or any other entity that raised corporate funds at the Miami Wyndham Hotel on September 22 and the Respondents made no disbursements in connection with any event at the Miami Wyndham on September 22. Thus, despite a badly worded invitation, there was no activity that violated the Act or Regulations.

Despite the poorly worded invitation, at no time during the 2000 election cycle did the Respondents spend any non-federal funds to benefit the U.S. Senate campaign. Any and all corporate funds raised by the RPOF under Florida law were deposited into its non-federal accounts

and none of those funds were spent on federal races, including the McCollum for Senate campaign. Since there was no RPOF event at the Miami Wyndham and since there was no corporate or non-federal money raised at all by the McCollum Victory Committee ("MVC"), a joint fundraising committee between the Bill McCollum for U.S. Senate Committee ("McCollum Campaign") and the National Republican Senatorial Committee ("NRSC"), there was no activity that would require RPOF to enter into a joint fundraising agreement or form a joint fundraising committee.

In other words, contrary to the OGC Brief's conclusions, while there may have been some overeager fundraising hyperbole, there were no actions that violated the Act or Commission regulations.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Factual Discussion

The OGC Brief rests upon several misunderstandings regarding the events of September 22, 2000 at the Miami Wyndham Hotel. While an unfortunately worded invitation may have contributed to the misunderstandings, the Respondents' activities comply with the Act and Regulations. There was no fundraising activity by the RPOF at the Miami Wyndham Hotel on September 22, 2000. The RPOF raised no funds at the hotel on that day and made no disbursements in connection with any event at the hotel that day.<sup>1</sup>

#### 1. RPOF Fundraising

As noted in the OGC Brief, during September 2000, the RPOF nonfederal account received approximately 13 donations in the amount of \$20,000 each. N. Watkins Aff. ¶ 4. However, a review of the RPOF's nonfederal records indicates that all of those donations were raised in

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<sup>1</sup> RPOF Finance Director Rob Carter did attend the events at the Miami Wyndham on September 22, 2000, and the RPOF did reimburse his travel expenses associated with his stay in Miami.

connection with other RPOF nonfederal events held around the State during that month. See N. Watkins Aff. ¶ 4; J. Wilson Aff. ¶ 4.

The RPOF's records indicate that it did not receive any nonfederal donations or proceeds from Bill McCollum, the McCollum Campaign or MVC during the course of the 2000 cycle. N. Watkins Aff. ¶ 6. Moreover, the RPOF's records indicate that neither MVC or the McCollum Campaign transferred any nonfederal donations to the RPOF during the 2000 cycle. See id.

## 2. MVC Event.

The September 22 Miami Wyndham event benefited MVC, a joint fundraising committee formed by the McCollum for U.S. Senate Committee and the NRSC. The MVC event, which was paid for by MVC out of receipts from the event, raised only federal contributions which were later distributed to the McCollum Campaign and the NRSC. See OGC Brief at 2-4. MVC did not raise or distribute any nonfederal funds during its existence, including from this event. See id. The OGC Brief concedes that neither MVC nor any of its participants disbursed any nonfederal funds to the RPOF during the relevant time period. See id. at 4 ("A further review of Schedule I of the NRSC's report shows the receipt of transfers of nonfederal funds from several other 'victory committees' during September 2000 but none from the McCollum Victory Committee.") & 7 ("Factually, the available information does not show any transfer of non-federal funds from [MVC] or the NRSC to the [RPOF] during the relevant period."). There is no evidence that MVC collected any nonfederal donations or forwarded any donations to the RPOF. See 11 C.F.R. 102.17 (c)(3)(i); OGC Brief at 4 & 7.

RPOF did not participate in this reception fundraising event, it did not receive any funds from this event nor did it disburse any funds for this event. See N. Watkins Aff. ¶¶ 4 & 5; J. Wilson Aff. ¶¶ 4 & 5.

**B. Legal Analysis.**

The OGC Brief is flawed. Commission regulations do not provide for a "same date, same location" test to determine whether separate fundraising events should be characterized as a single joint fundraising event. In order to trigger the application and requirements of the joint fundraising regulations, there must be an agreement between the separate committees to raise funds for the purpose of distributing the proceeds according to a predetermined formula. 11 C.F.R. § 102.17(c); Joint Fundraising, 48 Fed. Reg. 26298 (1983); e.g., FEC Adv. Ops. 1977-8 ("two committees agreed to participate in a joint fundraising event . . .") & 1977-14 (multiple presidential campaigns "propose to under take joint fundraising . . ."). There is no evidence of such an agreement here and there was no activity that would trigger the need for such an agreement since the RPOF neither raised funds or made disbursements in connection with any September 22 events at the Miami Wyndham Hotel.

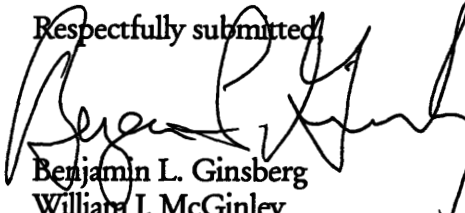
Finally, the OGC Brief does not make any allegations nor cite any evidence that nonfederal funds were used in connection with any federal election or that nonfederal funds were deposited into the RPOF's federal account. Under the Act and Commission regulations, a state political party committee is permitted to raise federal funds for its federal account and nonfederal funds for its nonfederal account. See 11 C.F.R. §§ 102.5(a)(1)(i) & 106.5(a)(1). The Act and Commission regulations do not prohibit a federal candidate from raising federal contributions and nonfederal donations for his or her state party committee. See New York Senate 2000, et al., MUR 4994. Nonfederal funds may be used by a state party committee for the nonfederal portion of generic party building activities that benefit the entire Republican ticket, including both federal and nonfederal candidates. See 11 C.F.R. 106.5(a)(2). As stated in the September 8, 2000 *Miami Herald* article and the OGC Brief, any nonfederal funds raised by the RPOF were not earmarked for any candidate. See OGC Brief at 1 & 2.

Accordingly, the Respondents did not participate in any joint fundraising activity as a result of the September 22, 2000 events at the Miami Wyndham Hotel. Respondents did not improperly spend any non-federal funds in conjunction with the U.S. Senate election and there is no evidence presented to the contrary.

### III. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Commission revisit its reason to believe finding since the facts in this matter demonstrate that the RPOF did not raise any funds at the event in question and was not a joint fundraising participant in MVC. The MVC did not distribute any federal or nonfederal funds to the RPOF. Nor did it forward any nonfederal donations to the RPOF. Since the Republican Party of Florida (nonfederal account) and Paul J. Bedinghaus, as treasurer, did not violate the Act and Commission regulations, the Commission should dismiss this matter and take no further action.

Respectfully submitted,



Benjamin L. Ginsberg  
William J. McGinley

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**MUR 5094  
RPOF RTB Reply Brief  
Attachment A**

[illegible]

## **THE "MCCOLLUM VICTORY COMMITTEE"**

### ***Fact sheet for corporate contributions***

Please make all checks payable to: *Republican Party of Florida*. Checks should be mailed to P O Box 536056, Orlando, FL 32853-6056.

Corporate contributions to the Republican Party of Florida are unlimited.

**A corporation's contribution to the to the Republican Party of Florida will help Bill McCollum's effort to replace retiring Senator Connie Mack in the U.S. Senate.**

For more information, please feel free to call Rob Carter at (850) 222-7920