



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 2, 2003

Via Federal Express

Tony P. Trimble, Esquire  
Matthew W. Haapoja, Esquire  
Trimble & Associates, Ltd.  
11700 Wayzata Boulevard  
Minneapolis, MN 55305

RE: MUR 5181  
Spirit of America PAC and  
Garrett M. Lott, as Treasurer  
Ashcroft 2000 and Garrett M.  
Lott, as Treasurer

Dear Messrs. Trimble and Haapoja:

This letter is in response to your April 30, 2002 letter requesting an extension until June 6, 2003 for your clients to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter and receiving signed tolling agreements, the Office of the General Counsel has granted the requested extension. Accordingly, your clients' reply brief is due by the close of business on Friday, June 6, 2003.

In your letter, you also request copies of the transcripts for the depositions of Jack Oliver, Garrett Lott, Rosann Garber, Arthur Speck and Bruce Eberle. This Office has contacted Miller Reporting Company, located at 735 8<sup>th</sup> Street, S.E., Washington, D.C., and provided permission for the release of copies of these transcripts to you. Please contact Miller Reporting directly at (202) 546-6666 to make arrangements to obtain the transcripts.

As also requested in your April 30, 2003, letter, this Office is providing you with copies of the exhibits that were used during the depositions. Additionally, we are providing you with a copy of an invoice to Ashcroft 2000 from Omega List Company dated May 27, 1999 that is referenced in the brief. These aforementioned documents are enclosed. Any documents cited to in the brief that are publicly available are not being provided because you already have access to such documents.

Tony P. Trimble, Esquire  
Matthew W. Haapoja  
MUR 5181  
Page 2

If you have any questions, please contact the undersigned or Cynthia E. Tompkins,  
Assistant General Counsel, at (202) 694-1650.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

*Mark Allen* *by mlt*

Mark Allen  
Attorney

Enclosures

c: Benjamin L. Ginsberg, Esquire (letter via facsimile)

# Trimble & Associates, Ltd.

Attorneys at Law

11700 Wayzata Boulevard  
Minneapolis, Minnesota 55305  
Telephone: 952-797-7477 Facsimile: 952-797-5858

Offices also in:  
Stillwater, Minnesota and  
Auckland, New Zealand

*Tony P. Trimble*  
*Matthew W. Haapoja*  
952-797-7477

April 30, 2003

VIA FACSIMILE AND U.S. MAIL

ATTN: Mary L. Taksar / Mark Allen  
General Counsel's Office  
Central Enforcement Docket  
Federal Election Commission  
999 E Street N.W.  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

2003 MAY -6 A 10:04

Re: MUR 5181  
Spirit of America PAC and Garrett M. Lott, as Deputy Treasurer / Executive  
Director  
Ashcroft 2000 and Garrett M. Lott as Treasurer

Dear Ms. Taksar / Mr. Allen:

This correspondence constitutes our written request, pursuant to our telephone conversation, on behalf of Spirit of America PAC and Garrett M. Lott, as Deputy Treasurer / Executive Director and Ashcroft 2000 and Garrett M. Lott as Treasurer (collectively, "Respondents") for an extension of time for Respondents to file a Joint Brief in Reply to General Counsel's Brief ("Reply Brief") and copies of all deposition transcripts and written evidence cited in the General Counsel's Brief dated April 23, 2003 ("Counsel's Brief") in this matter.

## Request for Extension

As we discussed, Respondents request an additional thirty (30) day extension beyond the statutory fifteen (15) day time limit within which to respond to the Counsel's Briefs. Because Respondents received the Counsel's Brief via Federal Express on April 24, 2003, Respondents request an extension until Friday, June 6, 2003 to file their joint Reply Brief.

Respondents will agree to an extension of the statute of limitations in this matter for up to thirty (30) days, provided that in the event the Reply Brief is filed sooner than June 6, 2003, such extension shall be shortened to the number of days following May 9, 2003 in which the Reply Brief is filed. (Thus, for example, if the Reply Brief is filed ten (10) days after the due date, the statute of limitations will only be extended ten (10) days).

The grounds for this extension request are because the Counsel's Brief has raised a new legal issue that was not the subject of the initial Complaint and Request for Investigation *or* the initial reason to show cause determination of the Federal Election Commission ("FEC") dated July 29, 2002 in this matter, namely, the "affiliation" issue. The Counsel's Brief, at pp. 6-19, posits a new theory upon which a violation of the Federal Election Campaign Act ("FECA") is alleged, set forth at Section III, "The PAC and Ashcroft 2000 Are Affiliated." This new legal theory has not been raised by the FEC in any previous written correspondence (or oral discussions), and Respondents deserve additional time to adequately respond to this new legal theory.

Additionally, the Counsel's Brief relies almost exclusively on deposition testimony and written evidence provided by Bruce Eberle (as well as deposition testimony of Arthur Speck and Roseann Garber of Precision Marketing, Inc. / Precision List, Inc.), which evidence has not been seen or reviewed by Respondents or Respondents' counsel. Due process requires that Respondents be given copies of these deposition transcripts (as well as the transcripts of the depositions of Jack Oliver and Garrett Lott, as requested below) to adequately prepare a factual defense in this matter.

Because the Counsel's Brief is essentially an exposition of facts, Respondents must respond in kind and simple justice entitles Respondent to access this factual evidence to utilize any exculpatory or contradictory evidence that supports Respondents' positions in the Reply Brief.

#### Request for Copies of Deposition Transcripts

As also discussed in our telephone conversation, Respondents request copies of the deposition transcripts relied on in the Counsel's Brief, namely, the depositions of Jack Oliver, Garrett Lott, Arthur Speck, Roseann Garber and Bruce Eberle, as well as all written documents cited in and/or relied on in the Counsel's Brief and attached as exhibits to the transcripts of these depositions. As stated above, due process requires that Respondents be permitted access to this evidence, particularly when Respondents' counsel was not present (or permitted to be present) at the depositions of Arthur Speck, Roseann Garber and Bruce Eberle.

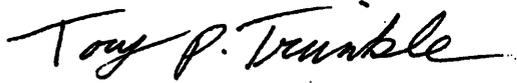
Failure to provide copies of these deposition transcripts will greatly prejudice Respondents in this matter (in violation of Respondents' due process rights under the Fourth and Fourteenth Amendments to the U.S. Constitution) and effectively prevent Respondents' counsel from adequately preparing the Reply Brief. As stated above, the Counsel's Brief relies almost wholly on a factual analysis, and Respondents' Reply Brief must therefore raise exculpatory and contradictory facts on the record. However, without access to the full factual record, Respondents' Counsel will be unable to fully defend Respondents or adequately prepare the Reply Brief.

For the reasons set forth above, Respondents request a thirty (30) day extension of the time in which to file the Reply Brief *and* request copies of the transcripts of the depositions of Jack Oliver, Garrett Lott, Arthur Speck, Roseann Garber and Bruce Eberle, as well as all written documents cited in and/or relied on in the Counsel's Brief.

April 30, 2003

Please contact either of the undersigned with any further questions or comments. Thank you.

Very truly yours,



Tony P. Trimble  
Matthew W. Haapoja  
\\mh

cc: Garrett M. Lott (via facsimile only)  
Benjamin Ginsberg (via facsimile only)  
Tom Josefiak (via facsimile only)