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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

DEMOCRATIC PARTY OF THE
UNITED STATES, et al.,

Plaintiffs,

v.

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE, et al.,

Defendants,

and

FEDERAL ELECTION COMMISSION,

Intervenor.

Civil Action No. 83-2329

FEDERAL ELECTION COMMISSION,

Plaintiff,

v.

NATIONAL CONSERVATIVE POLITICAL
ACTION COMMITTEE, et al.,

Defendants.

Civil Action No. 83-2823
Consolidated
Three-Judge Court

JOINT STIPULATION OF FACT

A. The Internal Structure of the National Conservative
Political Action Committee

1. The National Conservative Political Action Committee (NCPAC)
is a nonprofit, nonmembership corporation formed under the
District of Columbia Nonprofit Corporation Act on August 12,
1975. [Exhibit 1, Stipulated Findings from Mott v. FEC, pp. 9-
13].

2. NCPAC is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office.

[Exhibit 1].

3. NCPAC attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures^{*}/ in support of and against candidates for public office. [Exhibit 1].

4. NCPAC registered with the FEC as a political committee on or about March 27, 1975. [Exhibit 1].

5. In order to carry out its activities, NCPAC solicits and receives contributions from the public. [Exhibit 1].

6. NCPAC conducts general solicitations for contributions to NCPAC, not related to any specific candidate, for the purpose of receiving funds to carry out its activities. [Exhibit 2, p. 12, #51].

7. NCPAC also conducts solicitations for the specific purpose of raising funds to spend on NCPAC's independent expenditure programs aimed at electing or defeating specific candidates. [Exhibit 2, p. 12, #53].

8. NCPAC does not maintain and is not required by law to maintain separate accounts for the receipts from its general solicitations and specific solicitations. [Exhibit 1, Mott v. FEC].

^{*}/ The term "independent expenditure" is used throughout this stipulation for the convenience of the parties and court. By so using this term, the plaintiffs do not take a position as to whether any specific expenditure was or is independent within the meaning of the law.

9. Listed on reports filed with the FEC as original (March 27, 1975) Treasurer and Custodian of NCPAC's records was Roger J. Stone, Jr. Other officers listed were Charles R. Black, Chairman; John Carbaugh, Vice Chairman; Frank J. Donatelli, Director-at-Large; and J. David Nickles, Secretary. NCPAC amended its registration with the FEC on October 10, 1975, naming Black as Chairman, Nickles as Secretary, and Stone as Treasurer and Custodian of Records. In an amendment dated March 8, 1978, John T. Dolan is listed as Chairman; J. Curtis Herge as Secretary; Becki A. Cecil [Burlingame] as Treasurer; with Stone and Donatelli having resigned. Effective April 8, 1980, Susan S. Hannegan became Treasurer of the Committee, replacing Becki Cecil Burlingame. Effective February 13, 1981, Susan Hannegan resigned as Treasurer, and Lisa Stoltenberg became Treasurer. Effective on or about July 27, 1981, Lisa Stoltenberg resigned as Treasurer, and was replaced by Candace Taw. Effective on or about February 10, 1982, Candace Taw resigned as Treasurer, and was replaced by Leif Noren, who also assumed duties as Custodian of Records on August 4, 1983. [Exhibits 2, (pp. 10-11, #49), 3, 4 and 5].

10. NCPAC is incorporated in the District of Columbia and qualified to do business in the State of Virginia. The current principal officers of NCPAC are: John T. Dolan, Chairman; Leif Noren, Treasurer; J. Curtis Herge, Secretary; Eleanor Hannegan, Asst. Treasurer; and Cheryl Bendis, Asst. Treasurer. [Exhibit 6, NCPAC's 1982 Annual Corporate Report].

11. NCPAC's current Board of Directors consists of: John T. Dolan, Rhonda K. Stahlman and Robert L. Shortley. [Id.].

12. NCPAC is governed by a three member Board of Directors which is elected annually by the then current members of the board.

[Exhibit 1, p. 11, #48].

13. The decision as to which candidates to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition are decided by NCPAC's Chairman and its Board of Directors. [Id.].

14. NCPAC's and FCM's direct mail fundraising solicitations typically include discussions of issues which are the subject of popular debate at the time that the solicitations are made.

NCPAC's and FCM's direct mail fundraising solicitations have in the past solicited funds to assist in the independent expenditure efforts of those groups on behalf of Mr. Reagan in 1980, and have solicited funds to be expended by those groups in support of or in opposition to various legislative proposals, social and national defense issues, and to support or oppose the candidacies of various individuals for public office.

15. NCPAC's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights or participation in the conduct of NCPAC affairs. [Exhibit 8, NCPAC's Articles of Incorporation].

16. Individual contributors to NCPAC do not determine which candidates NCPAC supports or opposes with their contributions.

[Id.].

17. For the 1980 presidential election, the Board of Directors of NCPAC did not make decisions concerning campaign strategy or day-to-day expenditures of NCPAC. [Exhibit 10, Dolan depo., p. 12].

18. The press has reported that John T. Dolan has stated that the Board of Directors of NCPAC only does whatever is necessary to keep the organization legal by fulfilling certain nominal responsibilities set out in NCPAC's by-laws, such as holding an annual meeting. [Exhibit 11, p. 45, Statement of John T. Dolan, The Sun, 7/13/82; and Exhibit 10, Dolan depo., p. 12].

19. John T. Dolan is on the Board of Directors of NCPAC. [Exhibit 11, The Sun, 7/13/82].

20. The press has reported that NCPAC is dominated by its Chairman, John T. Dolan. [Exhibit 12, The Wall Street Journal, 5/29/81, Hunt article].

21. For the 1980 presidential election, John T. Dolan had primary authority to make expenditures on behalf of NCPAC. [Exhibit 13, Dolan depo., p. 11].

22. Subject to the director of the Board of Directors, there are no other restrictions on the amount or nature of expenditures that John T. Dolan is authorized to make on behalf of NCPAC. [Exhibit 10, Dolan depo., p. 12].

B. The Internal Structure of the Fund For A Conservative Majority

23. The Fund For A Conservative Majority (FCM) is a multi-candidate political committee registered with the Commission. [Exhibit 2].

24. FCM originally registered in 1972 with the General Accounting Office as "Young America's Campaign Committee" (YACC). On October 13, 1976, in reports filed with the Commission, YACC changed its name to the "Fund for a Conservative Majority". [Exhibit 2, p.3, #11; Exhibit 15, FEC Committee Index; Exhibit 16, FEC Committee Index].

25. FCM is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office.

26. FCM attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures in support of and against candidates for public office.

27. In order to carry out its activities, FCM solicits and receives contributions from the general public.

28. FCM conducts general solicitations for contributions to FCM, not related to any specific candidate, for the purpose of receiving funds to carry out its activities.

29. FCM conducts solicitations for the specific purpose of raising funds to spend on FCM's independent expenditure programs.

30. FCM does not maintain and is not required to maintain separate accounts for the receipts from its general solicitations and specific solicitations.

31. Original FCM officers were Ronald Robinson, Chairman, and John S. Buckley, Secretary and Treasurer. On or about March 15, 1979, in reports filed with the Commission, FCM changed its officers to Robert C. Heckman, Chairman and Kenneth F. Boehm, Treasurer. Effective October 24, 1981, Kenneth Boehm resigned, and was replaced by Robert C. Heckman, who also assumed duties as Custodian of Records on January 6, 1982. [Exhibit 2, p. 3, #11; Exhibit 82, Amended Statement of Organization, 10/24/81; Exhibit 87, Amended Statement of Organization, 1/6/82].

32. FCM is incorporated in the State of Virginia. The current principal officers of the Fund For A Conservative Majority are: Robert C. Heckman, who is both Chairman and Treasurer, and Suzanne Scholte, Secretary. [Exhibit 17, FCM's Annual Corporate Reports].

33. The current Board of Directors of FCM consists of Robert C. Heckman, Jeffrey D. Kane, Kenneth Grasso and Kenneth F. Boehm. [Id.].

34. Paul Dietrich was Executive Director of FCM from January, 1981, until August 3, 1983.

35. The decision as to which candidates or issues to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition is decided by FCM's Board of Directors.

36. Robert C. Heckman has authority to oversee all facets of the operation of FCM, on a day-to-day basis, including FCM's expenditures. [Exhibit 88, Heckman depo., p. 10].

37. FCM's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights of participation in the conduct of FCM's affairs. [Exhibit 18, FCM's Articles of Incorporation].

38. Individual contributors to FCM do not determine which candidates FCM supports or opposes with their contributions. [Id.].

39. For the 1980 presidential election, the Board of Directors was responsible for deciding which candidate FCM would support

and for deciding the amount of support candidates received from FCM.

C. NCPAC and FCM's Associations with Ronald Reagan, 1980 Presidential Campaign, and the Reagan Administration

40. Soon after NCPAC came into existence in 1975, Ronald Reagan wrote a personal letter to his supporters soliciting financial support for NCPAC. The press has reported that John T. Dolan has credited Reagan with helping to establish NCPAC, saying "He [Reagan] is one of the main reasons NCPAC is here today."

[Exhibit 20, Washington Post, 8/10/80, MacPherson article].

41. After he lost the Republican nomination for president in 1976, Ronald Reagan helped raise money by signing fundraising letters and attending a fundraising event in Washington, D.C., for NCPAC. One such solicitation letter was signed by Ronald Reagan, dated Sept. 29, 1976, and was mailed to 187,422 potential contributors to NCPAC. [Exhibit 21, p. 9 Dolan's Depo.; Exhibit 22, p. 2 Dolan's letter dated 1/28/77 from MUR 322].

42. According to John T. Dolan, Ronald Reagan was probably responsible for raising \$1 million on behalf of NCPAC in 1976.

[Exhibit 21, Dolan depo., p. 9].

43. The press has reported that John T. Dolan said that NCPAC's independent expenditures for commercials for the 1980 presidential race would depend on the Reagan campaign strategy.

[Exhibit 20, Washington Post, 8/10/80, MacPherson Article].

44. John T. Dolan claimed that NCPAC's sole source of information about what the Reagan campaign was doing was through the media. [Exhibit 23, Dolan depo., p. 64].

45. The press has reported that Lyn Nofziger, former Assistant to the President for Political Affairs, and a Reagan campaign official in 1980, in describing how the head of an independent committee in 1980 could have found out how to aid the Reagan campaign in 1980, stated that "I wouldn't have to talk to Bill Casey [Reagan's 1980 campaign director]. I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem getting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick Wirthlin's [a Reagan pollster] data or talk to the chairman of the Republican National Committee, or whatever."
[Exhibit 24, The New Yorker, 12/13/82, pp. 91-92].

46. The Ronald Reagan Victory Fund was described by NCPAC as a "project" of NCPAC for the 1979-80 presidential campaign. The purpose of the Ronald Reagan Victory Fund was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures. [Exhibit 2; Exhibit 26, Dolan depc. p. 41; Exhibit 27].

47. Prior to May 15, 1980, John T. Dolan, Chairman of NCPAC sent an "Urgentgram" to NCPAC supporters which indicated that "Governor Reagan's campaign is desperately short of funds going into crucial May-June primaries." This solicitation letter further indicated that NCPAC "has and will run 'independent' pro-Reagan advertisements and stated that Reagan will lose valuable momentum if he cannot maintain his campaign advertising program in high gear in the May-June primaries." [Exhibit 28, NCPAC solicitation letter].

48. In that "Urgentgram" fundraising letter, NCPAC promised to expose President Carter's weaknesses as well as promote candidate Reagan. "These advertisements will be produced by top notch professionals.... We will run these advertisements in major cities and places where many voters will be making up their minds between Carter and Reagan in the next two months." [Id.]

49. That letter also solicited funds on behalf of NCPAC's pro-Reagan independent expenditure effort. The letter requested that if the recipient could send a contribution to NCPAC, NCPAC would also ask that recipients send to Governor Reagan an enclosed postcard telling him of their support. The letter closes with the statement "Whatever you can send I know Governor Reagan would deeply appreciate it." [Id.]

50. The press has reported that John Block, Secretary of Agriculture, Richard Schweiker, (former) Secretary of Health and Human Services, Drew Lewis, (former) Secretary of Transportation, James Watt, Secretary of the Interior, and James Edwards, (former) Secretary of Energy, personally provided major contributors to NCPAC with "off the record" and confidential policy briefings. [Exhibit 29, The Sun, 9/5/82].

51. The press has reported that John T. Dolan stated that Secretary Block met with major contributors to NCPAC in his office on July 22, 1982, at the Department of Agriculture. [Id.]

52. The press has reported that John T. Dolan stated that Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. [Id.]

53. The press has reported that John T. Dolan stated that Secretary Lewis briefed major contributors to NCPAC in his office at the Department of Transportation on September 14, 1982. [Id.]

54. The press has reported that John T. Dolan described the "off the record" and confidential policy briefings with Reagan Administration Cabinet Secretaries and White House Personnel as "one of the ways we [NCPAC] raise high dollar money." [Id.]

55. According to published reports, Lyn Nofziger, now working as a political consultant, will act as an outside link between Ronald Reagan's re-election campaign and conservatives, should President Reagan seek a second term. [Exhibit 30, U.S. News & World Report, August 29, 1983, p. 19].

56. In a Washington Post article entitled "GOP 'Peace Mission' Becomes Stormy," it was reported that a meeting was called to smooth relations between RNC Chairman Richard Richards and conservatives John T. Dolan, Chairman of NCPAC, Richard Viguerie, President of the Viguerie Company, Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress, Howard Phillips, Chairman of the Conservative Caucus, Thomas F. Ellis, Chairman of the Congressional Club, Phyllis Schlafly of Eagle Forum, Ronald Godwin of Moral Majority, Robert Richardson of Gun Owners of America, and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. [Exhibit 31, Washington Post, 5/20/81, Peterson article].

57. According to that article, the purpose of their meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. [Id.]

58. According to that article, the May 19, 1981, meeting was arranged by Lyn Nofziger, a former advisor to President Reagan who held the position of Assistant to the President for Political Affairs. [Id.].

59. In that article it was reported that Richard Richards, Chairman of the Republican National Committee, stated that "We [the independent political groups and the Republican National Committee] will attempt to formulate an agreement as to our respective positions, including how we will disagree, if at all, in the future." [Id.].

60. In that article it was reported that the meeting was acrimonious and that, according to one participant, although there may have been some fiery words, nobody swung a punch. Mr. Richards is reported to have said, "My quarrel is that independent expenditure groups butt in on the strategy of the campaign. The problem is they stay too long, they say the wrong things and ultimately they may be counterproductive." [Id.].

61. It has been publicly reported in an article in The Sun entitled "Unlikely Allies: White House Staff Chief and New Right Leader," that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides. [Exhibit 32, The Sun, 5/19/83, p. A16, Barnes article].

62. In that article it was reported that the briefing session for major NCPAC contributors, which was held in February, 1983, was requested by John T. Dolan, Chairman of NCPAC, prior to President Reagan's inauguration. [Id.].

63. The press has reported that NCPAC has established a \$5 million project which will exclusively support the reelection effort of Ronald Reagan in 1984. [Exhibit 33, The Sun, 2/24/83, Barnes article; Exhibit 32, The Sun, 2/24/83, p. 9A].

64. This \$5 million NCPAC project is called, "American Heros for Reagan." All money received by NCPAC for this project is deposited into NCPAC's general political account. [Exhibit 32].

65. The press has reported on October 3, 1983, that President Ronald Reagan liked NCPAC's television program "Ronald Reagan's America" so much that he telephoned NCPAC's Chairman, John T. Dolan, to congratulate him. Dolan thanked Reagan, then informed the President that White House lawyers didn't want them discussing what NCPAC was doing. [Exhibit 112, Washington Post, 10/3/83, p. A3].

66. NCPAC has distributed a letter to conservative supporters which appears on stationery bearing the letterhead of the "Re-elect Reagan Campaign Committee." [Exhibit 33, The Sun, 5/19/83, p. A16, Barnes article].

67. The press has reported that John T. Dolan, Chairman of NCPAC, has publicly warned President Reagan that he had better heed the "massive conservative mandate" or "pay a political price." [Exhibit 34, L.A. Times, 11/6/80, Shaw article].

68. The press has reported that John T. Dolan said that, "groups like ours [NCPAC and other political committees making independent expenditures] are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in

politics." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

69. According to newspaper accounts of statements made by John T. Dolan, the rise of independent political committees such as NCPAC is "potentially very damaging to the political system." [Exhibit 35, Washington Post, 6/27/81, p. A4, Walsh article].

70. In the same article, it was reported that the Chairman of the Republican National Committee had asked independent political action committees to stay out of campaigns when they are asked to do so by Republican candidates or State Republican Chairmen. It was also reported that John T. Dolan said that lawyers for NCPAC and for the Republican National Committee had concluded that such an agreement to abide by the wishes of Republican officials would violate federal election laws. [Id.].

71. The press has reported that John T. Dolan has publicly stated that NCPAC successfully manipulated 70% of the elections which it had targeted in 1982. In the same article Dolan claimed that David Broder said NCPAC's win record was one in seventeen. [Exhibit 36, Washington Post, 11/7/82, Dolan article].

72. Edward Rollins, a political advisor to President Reagan with the title of Assistant to the President for Political Affairs, has stated that he expects to work closely with NCPAC in the 1982 Congressional campaigns. [Exhibit 37, Washington Post, 12/31/81, Emory article].

73. The press has reported that Edward Rollins will become the political director of President Reagan's reelection campaign should Reagan choose to seek reelection. [Exhibit 30, U.S. News & World Report, August 29, 1983].

74. The press has reported that NCPAC and the Fund for a Conservative Majority (FCM) have publicly announced that they intend to spend at least \$10 million to help re-elect President Reagan in 1984. [Exhibit 38, Washington Post, 5/13/83].

75. Frank Donatelli was a founder and former Director-at-Large of NCPAC (1975-79). [Exhibit 2].

76. Frank Donatelli was a member of the Board of Directors of FCM (1978-79). [Exhibit 6].

77. Frank Donatelli was the Midwest coordinator for the Reagan for President Committee in 1980. [Exhibit 87].

78. Robert Shortley, John T. Dolan's brother-in-law, has been a member of NCPAC's Board of Directors. [Exhibit 11, The Sun, 7/13/82; Exhibit 6, NCPAC Annual Corporate Report].

79. John T. Dolan's brother, Anthony Dolan, was a staff member for the Reagan campaign, and currently works for the Reagan Administration. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 39, personnel list (campaign); and Exhibit 40, Dolan's depo., p. 49].

80. In 1980, John T. Dolan was a business partner in a joint venture with Lyn Nofziger, Paul Russo, David Keene, and Roger Stone. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 41, Dolan's depo., p. 22].

81. Lyn Nofziger was an official on Ronald Reagan's presidential campaign and held the title of Assistant to the President for Political Affairs at the beginning of President Reagan's administration.

82. David Keene worked for Ronald Reagan in 1976 and was a staff member on the Bush campaign in 1980. [Exhibit 20].

83. Roger Stone, one of the founders and the original treasurer of NCPAC, was the Northeast coordinator for the Reagan campaign in 1980. [Exhibit 20].

84. The press has reported that a company owned by Richard Viguerie was a tenant in the Dolan, Nofziger, Russo, Keene and Stone partnership's Alexandria office building in 1980. [Id.].

85. The press has reported that NCPAC has already spent approximately \$2 million on behalf of Ronald Reagan for president in 1984 and projects to spend at least \$5 million. [Exhibit 132, Washington Post, 10/6/83].

86. Arthur J. Finkelstein and Associates has performed polling services for FCM. [Exhibit 42, Heckman's depo., p. 48].

87. Arthur J. Finkelstein has conducting polls for the Reagan for President Committee, NCPAC, and FCM. [Exhibits 39, 20, 36 and 43].

88. According to Robert Heckman, Chairman of FCM, "simply from reading the newspapers and magazines and so forth, the general analysis seemed to be that the Texas primary would be critical for Reagan." Heckman allegedly used the same authorities to also target Pennsylvania, Iowa, New Hampshire, South Carolina and Florida as important states to support the Reagan candidacy. [Exhibits 43, 90, 91, 92, 93 and 94].

89. The press has reported that Paul Dietrich, former Executive Director of FCM, who worked for the Reagan campaign in 1980, and who also headed the Republican National Committee's State Fund

Operation in Missouri in 1980, has publicly stated that, "there is no way to enforce independence as long as there is a press corps giving us (FCM) information and as long as one group puts out information and gets it to others." [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

90. The press has reported that Paul Dietrich stated that, "If I really want a poll from the Republican National Committee or a campaign, I can get it. They'll leak it to me." [Id.].

91. The press has reported that Paul Dietrich stated that, "All the independent PAC's... have a little dance [where] we dance around the law in a way that never breaks the letter but breaks the spirit of the law -- but we don't agree with the law anyway." [Id., p. 101].

92. FCM spent approximately \$60,000 on behalf of Ronald Reagan in New Hampshire. FCM also bussed 40-50 students from New York and other locations to hand out literature in New Hampshire on behalf of Ronald Reagan. [Exhibits 116, 117].

93. According to FEC reports, Ronald Reagan exhausted nearly all of the \$294,400 he was limited to by the federal election laws in connection with the New Hampshire primary. [Id.].

94. FCM made approximately \$60,000 in expenditures on behalf of the candidacy of Ronald Reagan in New Hampshire after the Reagan campaign reached its spending limit. [Id.].

95. FCM sponsored activities on behalf of Mr. Reagan in connection with the New Hampshire primary also included voter mailings, newspaper advertising, and radio spots. FCM produced

radio advertisements attacking Mr. Reagan's opponent George Bush. [Id.; Exhibit 45, letter from William Loeb].

96. The press has reported that FCM publicly took credit for Ronald Reagan's victory in New Hampshire. [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

97. Prior to the May 6, 1980, primary in Texas, Ronald Reagan had utilized most of the \$14.7 million limit under the Primary Matching Account Act. FCM then expended approximately \$80,000 on behalf of Ronald Reagan in connection with the Texas primary. With this \$80,000 FCM bought radio advertisements and financed a 250,000 piece mailing campaign. [Exhibits 24, 89].

98. FCM set aside \$100,000 for use in support of Ronald Reagan for the California primary, but decided to save that amount for use on behalf of Mr. Reagan in the general election, as reports and communications in the press indicated that the Reagan campaign did not require assistance in that state. [Exhibit 24].

99. FCM also budgeted for expenditures in connection with the Reagan 1980 candidacy in primaries held in Florida, Illinois, Connecticut, Pennsylvania, Ohio and New Jersey and in state conventions in Virginia and Missouri. These budgeted expenditures included radio and newspaper advertising, voter mailings, polling and literature distribution. [Exhibits 24, 46, 91, and 94].

100. FCM sent other solicitation letters in connection with its "Citizens for Reagan in '80" project in envelopes which read, "Dateline: Republican Convention, Detroit 11:30 p.m. Weds. July 16, 1980" which solicited funds for "national advertising

on television and radio, full page advertisements in newspapers, election mailings pin-pointed to selected voters... which will be carefully and professionally used to help elect Ronald Reagan president." [Exhibit 2, p. 5, #21; Exhibit 47].

101. This solicitation letter indicated FCM believed it needed to raise at least \$3,476,000 on behalf of Ronald Reagan for the general election and expressed its immediate need to raise \$755,000 over the following three weeks to reserve advertising space and television and radio time for the fall. [Exhibits 24, 47].

102. FCM's direct mail campaigns are in whole or in part computerized. The employees, consultants and agents of FCM include professional speechwriters, public relations and advertising specialists, media experts and firms which maintain and rent professionally compiled mailing lists. [Exhibit 2, p. 5, #24; Exhibit 48].

103. FCM had posters bearing the name of its project, "Citizens for Reagan in '80" at the Republican National Convention for use in connection with floor demonstrations and rallies during the convention. [Exhibit 2, p. 5, #23].

D. Other Independent Expenditure Campaigns for Reagan for President

104. The National Congressional Club (NCC), formerly known as North Carolina Congressional Club (NCCC), a political committee registered with the FEC, undertook activities on behalf of the nomination and election of Ronald Reagan, in the 1980 election

cycle which were similar in nature to those undertaken by NCPAC and FCM. [Exhibits 50, 116, 118].

105. NCC is a political committee that originally registered with the Clerk of the U.S. House of Representatives on October 29, 1974. [Exhibit 50].

106. NCC has as its Honorary Chairman, Senator Jesse Helms. NCC had a "project" entitled "Americans for Reagan" which was organized for the purpose of raising and expending money on behalf of the candidacy of Ronald Reagan for president in 1980. Jesse Helms is also the Honorary Chairman of "Americans for Reagan." [Id., p. 9, ¶43; Exhibit 49, NCC solicitation, p. 2].

107. The purpose of Americans for Reagan was to help elect Ronald Reagan president. This was accomplished through independent expenditures. [Exhibit 49].

108. During the last week of May, 1980, "Americans for Reagan" sent out its initial mailing of 250,000 letters soliciting funds to purchase television time on behalf of the Reagan candidacy for the nomination as the Republican Party candidate for president. The letter solicited funds to "Americans for Reagan" in order to amass \$26,800 in the following 30 days for the purchase of air time for television advertisements, was written by Jesse Helms and sent on Senator Helms' personal stationery. The letter stated "Americans for Reagan"'s first goal as being to purchase over \$500,000 of television time for the fall on behalf of Ronald Reagan's campaign for the general election. Checks were to be made payable to "Americans for Reagan." [Exhibit 2, p. 9, ¶44; Exhibit 49, pp. 1-2].

109. Another solicitation letter on behalf of NCC's project "Americans for Reagan," dated July 14, 1980, was written by Senator Helms from the Republican National Convention. This letter solicited funds for the purchase of television spots, newspaper advertisements, and radio commercials which were already prepared for "Americans for Reagan." The letter further indicated that "Americans for Reagan" would also be ordering brochures and other campaign materials. The solicitation letter asked recipients to "Remember, Ronald Reagan and our nation need your financial help." [Exhibit 2, p. 10, #45; Exhibit 51, pp. 1-3].

110. "Americans for Reagan" was specifically organized to solicit funds from the general public on behalf of the candidacy of Ronald Reagan "because the Reagan campaign cannot accept your contribution." [Exhibit 2, p. 10, #46; Exhibit 51].

111. The press has reported that Arthur J. Finkelstein and Associates performed polling services for NCC during the 1980 presidential election. [Exhibit 24, The New Yorker, December 13, 1982, p. 92].

112. The press has reported that Senators Jesse Helms and Harrison Schmitt, Chairman for Americans for Change (AFC) (another registered political committee similar in nature to NCPAC, FCM and NCC), were delegates who supported Ronald Reagan at the July, 1980, Republican National Convention. [Exhibit 20, Washington Post, August 10, 1980, MacPherson article].

113. Americans For Change (AFC) is an unincorporated association which registered with the Federal Election Commission as a multi-candidate political committee by filing a Statement of

Organization on May 23, 1980. Its officers were listed as Harrison H. Schmitt, Chairman; Carl T. Curtis, Treasurer; and Stan Huckaby, Assistant Treasurer, who is also the custodian of the committee's records. AFC did not file with the Commission as an "authorized committee" of Ronald Reagan or George Bush or any other presidential or vice presidential candidates for the 1980 election. Nor has it filed with the Commission as an "authorized committee" of Ronald Reagan, or for any other presidential or vice presidential candidates for the 1984 election. [Exhibit 128].

114. AFC held a press conference at the Republican National Convention as was listed on the official Calendar of Events for the 1980 Republican National Convention. Appearing on behalf of AFC at that press conference were Senator Harrison Schmitt, Chairman of AFC, John Harmer, former Lt. Governor of California and co-chairman of AFC, appointed by Mr. Reagan in 1974, and Howard Ruff. [Exhibit 129].

115. On July 18, 1980, Americans for Change, as advertised by letter from AFC Chairman, Senator Harrison Schmitt, held the first fundraiser on behalf of Ronald Reagan subsequent to the Republican National Convention. Tickets to the fundraiser held in Houston, Texas, cost \$1,000 per couple and were payable to "Reagan for President in '80". [Exhibit 2, p. 3, #10].

116. Harrison Schmitt, the Chairman of AFC, was, at the same time, a member of the Republican National Committee Advisory Council on Economic Affairs and a Reagan delegate to the 1980 Republican National Convention. [Exhibit 135].

117. John Harmer, the Co-Chairman of AFC, was Ronald Reagan's former Lieutenant Governor. [Exhibits 117, 122, 129].

118. Stan Huckaby, the Assistant Treasurer and Custodian of Records of AFC, was, at the same time, the Treasurer of the 1980 Republican Presidential Unity Committee, an authorized committee of Ronald Reagan, and has served as a paid consultant to the Republican National Committee. [Exhibits 128 and 138].

119. He maintained his office at the Republican National Committee headquarters. [Id.].

120. James Edwards, former Governor of South Carolina and a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Council and a Reagan delegate to the 1980 Republican National Convention. [Exhibits 120, 121, 135 and 137].

121. Anna Chennault, a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Committee on Fiscal Affairs, and an ex-officio member of the Republican National Committee Executive Committee. [Exhibits 120, 121, 135].

122. After the 1980 election, AFC invited contributors and their families to attend various events sponsored by AFC in conjunction with the Inauguration of President-elect Reagan. The invitation was signed by then-Senator Harrison Schmitt and stated that the purpose of these events was to provide AFC supporters "an opportunity to meet the Republican men and women who will play an

important part in shaping the destiny of our country." The invitation also stated:

We intend to hold attendance at each of our functions to a limited number of guests to allow everyone ample opportunity to visit with Senators or Cabinet officials who may be in attendance.

[Exhibit 119].

123. James Edwards, a member of the steering committee of AFC, was appointed Secretary of Energy by President Reagan.

[Exhibits 135, 137].

124. Senator Jesse Helms (R, N.C.), Honorary Chairman of the National Congressional Club, has stated that "I've had to... talk indirectly with [Senator] Paul Laxalt (R. Nev.) [President Reagan's national campaign chairman]" to avoid a direct consultation with then-candidate Reagan. [Exhibit 24, The New Yorker, December 13, 1982, pp. 90-91; Exhibit 20, p. 28].

125. Senator Helms has also stated that "I hope that the Senator [Laxalt] would pass along [the messages], and I think the messages have gotten through all right." [Exhibit 20, p. 28].

126. Independent expenditures by PACs, individuals and other groups exceeded \$16 million for the 1979-80 election cycle. A total of \$13.7 million was spent to influence the presidential race. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980; Exhibit 115].

127. Americans For An Effective Presidency (AEP) is an unincorporated association which registered with the Commission as a multi-candidate committee by filing a Statement of

Organization. AEP was formed for the express purpose of electing Ronald Reagan president. The only officer listed on its statement was its Treasurer, Robert H. Masson. Serving as AEP's Chairman is Peter Flanigan and as Chairman of the Expenditures Committee, Thomas Reed. [Exhibits 130, 131].

128. It has been reported in the press that Peter Flanigan, the Chairman of AEP, was, at the same time, a member of the Policy Board of the Republican National Committee Advisory Council on Economic Affairs. [Exhibits 133 and 135].

129. Stuart Spencer, who was involved in the organization of AEP and who was to run its operation, subsequently worked for the official Reagan campaign. He ran Mr. Reagan's campaigns for Governor of California in 1966 and 1970 and was the national political director for the official 1976 general election campaign for the Republican Party candidate. [Exhibits 123, 124, 125 and 126].

130. William Clements, who was involved in the organization of AEP, served as the Chairman of the official Reagan campaign in Texas and is a member of the Republican National Committee Advisory Council on National Security and International Affairs. [Exhibits 19, 135, 136].

131. Bailey, Deardourff & Associates, the Media Directors of AEP, served as the advertising agency for the official 1976 general election campaign for the Republican Party candidate. [Exhibit 131].

132. Douglas L. Bailey, a prominent media consultant and a Media Director for AEP during the 1980 Presidential campaign, has

expressly acknowledged the power and influence wielded by large private fundraisers.

The people who wield the authority coming out of private fundraising are not the people who give the money so much as the people who raise the money, and that has not significantly changed. If anything, it may have been accelerated [by the \$1,000 limit on contributions] because the guy who can raise \$51,000 in contributions is the guy who is incredibly important to that campaign and therefore has a significant amount of power.

[Exhibit 131 and Deposition of Douglas L. Bailey, p. 28, in RNC v. FEC, 487 F. Supp. 280 (S.D.N.Y.), aff'd mem, 445 U.S. 955 (1980)].

133. AEP had a stated objective in 1980, which was to raise and expend funds to defeat the re-election of Jimmy Carter, to elect Ronald Reagan president, and to further Governor Reagan's prospects for victory should the presidential election have to be decided in the U.S. House of Representatives. [Exhibit 131].

134. AEP considered every contributor to be a member of that organization. [Id.].

135. An Expenditures Committee determined which expenditures were to be made by AEP, it hired all staff, provided legal counsel, supervised all recordkeeping, authorized all fundraising and represented the organization to the media and public. [Id.].

136. Professional staff was retained by AEP to implement all aspects of AEP's programs. [Id.].

137. AEP hired as staff director, Don Pierce, the 1976 regional political director for former President Ford who has also managed numerous Congressional campaigns. [Id.].

138. AEP devoted at least 75% of all its funds to telephone, radio, and newspaper advertising to defeat Jimmy Carter and elect Ronald Reagan. The timing and location of such advertising was determined by the Expenditure Committee after having received input from "Participating Members" of AEP and AEP's professional staff. [Id.].

139. AEP ran a complete press office that sought free radio and television time and newspaper space by making prominent Republicans available for interviews as part of its strategy for achieving the election of Mr. Reagan and Mr. Bush in 1980. [Id.].

E. Independent Expenditures and Other Political Activity

140. The press has reported that, to counter NCPAC's efforts in support of and in opposition to certain candidates, at least five new political action committees were created. Those committees, the press has reported, were not formally connected with the Democratic Party, but like the National Committee for an Effective Congress, which spent more than \$1,420,000 in 1979-80, the committees ranged from general to exclusive support of Democratic candidates. [Exhibit 14].

141. During 1975-76, NCPAC's reports filed with the FEC indicate receipts of \$3,006,292.09 and disbursements of \$2,954,147.83. Of this latter amount NPCAC reported spending:

- a. \$2,123,588.20 for operating expenses.*

*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

- b. \$88,537.08 for independent expenditures.
- c. \$400,189.16 for direct/in-kind contributions to federal candidates.

[Exhibit 53, 1975 year end amendment; Exhibit 54, 1976 year end amendment].

142. During 1979-80, NCPAC's reports filed with the FEC indicate receipts of \$7,648,551.34 and disbursements of \$7,530,378.09. Of this latter amount NCPAC reported spending:

- a. \$3,813,929.29 for operating expenses.*
- b. \$3,402,616.81 for independent expenditures.
- c. \$253,326.99 for direct/in-kind contributions to federal candidates.

[Exhibit 55, 1979 year end amendment; Exhibit 56, 1980 year end amendment, Exhibit 83, FEC 1979-80 D Index].

143. During the 1979-80 presidential race, NCPAC spent \$1,859,168 as independent expenditures advocating the election of Ronald Reagan for president. NCPAC spent an additional \$108,077 against Jimmy Carter for president. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980, p. 31].

144. During 1983 (7/83), NCPAC reported to the FEC, receipts of \$3,015,930.44 and disbursements of \$2,998,504.54. Of this latter amount, NCPAC reported spending:

- a. \$2,711,558.52 for operating expenses.*
- b. \$83,575.84 for independent expenditures.

*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

- c. \$6,646.43 for direct/in-kind contributions to federal candidates.

[Exhibit 58, 1983 August Monthly Report].

145. The press has reported that John T. Dolan stated that independent expenditures made by political committees, including NCPAC, made the difference in Louisiana and Mississippi during the 1980 presidential election. [Exhibit 59, Miami Herald, 3/29/81].

146. According to FEC Records, NCPAC had received \$8,772,146 in contributions and made \$9,003,776 in expenditures by October 13, 1982. [Exhibits 113, 114, NCPAC 1981 Year End and 1982 Pre-General Reports].

147. Of the \$9,003,776 in expenditures which NCPAC made for the 1981-82 election by October 13, 1982, \$5,760,320, went to fundraising, salary, travel and administrative costs. [Id.].

148. In 1978, NCPAC received 122 contributions between \$500 and \$1,000, 5 contributions between \$1,001 and \$2,500, and 5 contributions between \$2,501 and \$5,000. [FEC Data Base].

149. In 1980, NCPAC received 763 contributions between \$500 and \$1,000, 93 contributions between \$1,001 and \$2,500, and 54 contributions between \$2,501 and \$5,000. [Id.].

150. In 1982, NCPAC received 908 contributions between \$500 and \$1,000, 178 contributions between \$1,001 and \$2,500, and 114 contributions between \$2,501 and \$5,000. [Id.].

151. In 1983, NCPAC has received 264 contributions between \$500 and \$1,000, 48 contributions between \$1,001 and \$2,500, and 85 between \$2,501 and \$5,000. [Id.].

152. From 1978 to the present, NCPAC has received 2,057 contributions between \$500 and \$1,000, 324 contributions between \$1,001 and \$2,500, and 258 contributions between \$2,501 and \$5,000. [Id.].

153. During 1975-76, FCM's reports filed with the FEC, indicate receipts of \$474,642.09 and disbursements of \$484,344.70. Of this latter amount, FCM reported spending:

- a. \$391,095.60 for operating expenses.*/
- b. \$39,655.26 for independent expenditures.
- c. \$50,943.84 for direct/in-kind contributions to federal candidates.

[Exhibit 61, 1975 year end amendment; Exhibit 62, 1976 comprehensive amendment; and Exhibit 63, conciliation agreement, MUR 503].

154. During 1979-80, FCM's reports filed with the FEC indicate receipts of \$3,163,537.68 and disbursements of \$3,150,292.79. Of this latter amount, FCM reported spending:

- a. \$937,192.93 for operating expenses.*/
- b. \$2,062,908.29 for independent expenditures.
- c. \$143,082.00 for direct/in-kind contributions to federal candidates.

[Exhibit 64, 1979 year end amendment; Exhibit 65, 1980 year end amendment; Exhibit 84, FEC 1979-80 D Index].

*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

155. During 1979-80, 100% of FCM's independent expenditures were made to aid Ronald Reagan in his race for president [Exhibit 66, FEC Index of Independent Expenditures, 1979-80, p. 168].

156. FCM spent more than \$500,000 during the 1980 primaries in connection with its "project" entitled "Citizens for Reagan in '80". [Exhibit 2, p. 3, #13].

157. The purpose of Citizens for Reagan in '80 was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures.

158. Many of FCM's expenditures on behalf of Ronald Reagan for the 1980 primaries were made to purchase advertisements which attacked Ronald Reagan's chief rival, George Bush. [Exhibit 2, p. 3, #13].

159. From January through June of 1980, FCM reported making expenditures on behalf of Ronald Reagan totalling \$656,467.26. Included in this amount, FCM reported spending: \$465,727.22 on written communications; \$29,200.80 on radio ads; \$27,054.69 on newspaper ads; \$61,080.39 on the rental of mailing lists; \$3,163.75 on computer services; \$3,143.87 on bumper stickers; \$4,405.00 on consulting services, \$7,822.86 on television ads; \$2,172.00 for buttons; \$21,675.00 for surveys; \$9,991.92 on promotional paraphernalia; \$1,475.00 on video. [Exhibit 2, p. 6, #25; Exhibit 67; Exhibit 48].

160. During 1983 (6/83), FCM reported to the FEC, receipts of \$822,229.23 and disbursements of \$818,968.69. Of this latter amount, FCM reported spending:

- a. \$725,824.12 for operating expenses.*/
- b. \$55,448.37 for independent expenditures.
- c. \$18,355.31 for direct/in-kind contributions to federal candidates.

[Exhibit 85, FCM's July Monthly Report].

161. The 1980 presidential general election campaigns of Ronald Reagan and Jimmy Carter were publicly financed. The Reagan and Carter Committees received \$29.4 million from the United States Treasury. [26 U.S. § 9001, et. seq.].

162. Over \$13.7 million was spent as independent expenditures to influence the 1980 presidential race by political committees, individuals, and other groups. [Exhibits 57 and 115].

163. Over \$12.2 million was spent as independent expenditures by political committees, individuals, and other groups, on behalf of Ronald Reagan for president during the 1980 election cycle.

[Id.].

164. In addition to the \$12.2 million spent on behalf of Ronald Reagan, an additional \$747,000 was spent against Reagan's 1980 presidential opponents. [Id.].

165. As of July 1, 1983, there were 3,461 political committees eligible to make independent expenditures for the 1984 presidential election. [FEC Data Base].

*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

166. For the 1979-80 election cycle the following political committees reported spending the most money on independent expenditures:

1.	Congressional Club	\$ 4,601,069
2.	NCPAC	3,307,962
3.	Fund for a Conservative Majority	2,062,456
4.	Americans for an Effective Presidency	1,270,208
5.	Americans for Change	711,856
6.	NRA Political Victory Fund	441,891
7.	Christian Voice Moral Government Fund	406,199
8.	1980 Republican Presidential Campaign Committee	314,740
9.	American Medical Political Action Committee	172,397
10.	Gun Owners of America Campaign Committee	119,891

[Exhibits 57 and 115].

167. For the 1979-80 election cycle the following individuals reported spending the most money on independent expenditures:

1.	Cecil R. Haden	\$ 599,333
2.	Stewart Rawlings Mott	110,179
3.	Norman Lear	108,301
4.	Richard M. Devos	70,575
5.	Fay Van Andel	68,433
6.	Theo N. Law	66,230
7.	David B. Melville	35,159
8.	Henry C. Grover	29,076

9.	Michael Rosen	25,940
10.	Dwight G. Vedder	20,000

[Exhibits 57 and 115].

168. In 1978, FCM received 22 contributions between \$500 and \$1,000, 2 contributions between \$1,001 and \$2,500, and 1 contribution between \$2,501 and \$5,000. [FEC Records].

169. In 1980, FCM received 265 contributions between \$500 and \$1,000, 15 contributions between \$1,001 and \$2,500, and 9 contributions between \$2,501 and \$5,000. [Id.].

170. In 1982, FCM received 157 contributions between \$500 and \$1,000, 13 contributions between \$1,001 and \$2,500, and 7 contributions between \$2,501 and \$5,000. [Id.].

171. In 1983, FCM has received 27 contributions between \$500 and \$1,000, and 61 contributions between \$1,001 and \$2,500. [Id.].

172. From 1978 to the present, FCM has received 471 contributions between \$500 and \$1,000, 91 contributions between \$1,001 and \$2,500, and 17 contributions between \$2,501 and \$5,000. [Id.].

173. Independent expenditures by PACs, individuals and other groups exceeded \$2 million for the 1975-76 election cycle (figures are approximated and unverified). A total of \$1.6 million was spent to influence the presidential race. [Exhibit 68, FEC Press Release, 10/9/80].

174. For the 1979-1980 election cycle, 51 individuals spent over \$1,000 to influence the 1980 presidential election.

[Exhibit 134, Affidavit].

175. These 51 individuals spent over \$1.7 million to influence the 1980 presidential election. [Exhibit 134, Affidavit].

F. Common Vendors

176. The Reagan for President Committee and the Reagan/Bush Committee as well as NCPAC and FCM employed many of the same vendors. The Reagan for President Committee employed these vendors to assist in the 1980 presidential campaign while NCPAC and FCM used many of the same vendors while making independent expenditures on behalf of Ronald Reagan for president during the 1980 election.

177. Ed Nichols Associates, a direct mail firm, was performing services as early as August, 1979, through July, 1980, for the Reagan for President Committee, in September, 1980, for the Reagan/Bush Committee, and as early as November, 1980, for NCPAC. [Exhibits 73, 101 and 102].

178. Arthur J. Finkelstein was on the Board of Directors of NCPAC in 1979. [Exhibit 6, NCPAC's Annual Report].

179. Arthur J. Finkelstein was the chief political pollster for NCPAC during the presidential election of 1980 and continued in that capacity through 1981. [Exhibit 37, Washington Post, 12/31/81, Emory article; Exhibit 78, Dolan's depo. p. 94].

180. Arthur J. Finkelstein and Associates, a political consulting firm owned by Arthur J. Finkelstein, performed services for the Reagan for President Committee as early as September, 1979, through February, 1980. This firm first provided political services to NCPAC as early as April, 1976. [Exhibits 78, 79 and 111].

181. Arthur J. Finkelstein and Associates conducted political polls for NCPAC, FCM, and the Reagan for President Committee and the Reagan/Bush Committee during 1979-80. [Exhibits 52, 110 and 111].

182. The press has reported that Arthur J. Finkelstein and his firm, Arthur J. Finkelstein and Associates, received payments from NCPAC of \$261,533 between 1975 and January, 1982. [Exhibit 11, The Sun, 7/13/83].

183. DELETED.

184. The press has reported that Richard Geske is a direct mail specialist. [Exhibit 11, The Sun, 7/1/82, p.45].

185. The press has reported that Richard Geske and the National Conservative Political Action Committee - State Election Fund, a NCPAC affiliate, were joint owners of Mediamerica, Inc. during the period of 1978-79. [Id.].

186. The press has reported that Richard Geske bought NCPAC State Election Fund's share in Mediamerica, Inc., during 1979. [Id.].

187. Richard Geske's firm Mediamerica, Inc., received payments from NCPAC totalling \$1.3 million between 1975 and January, 1982. This figure represents approximately 12% of NCPAC's total operating funds for these years. [Exhibit 11, Sun, 7/13/82; Exhibit 80, Dolan's depo., p. 88].

188. Mediamerica, Inc., a media production and advertising firm, provided services to the Reagan for President Committee as early as January, 1980 through October, 1980, and for NCPAC as early as April, 1980 through November, 1980. [Exhibits 80, 108 and 110].

189. The press has reported that Rhonda Stahlman was director of NCPAC's lobbying arm, Conservatives Against Liberal Legislation (CALL). She held this position from 1978 to 1982. [Exhibit 11, The Sun, 7/13/82, p. 45].

190. Rhonda Stahlman was a member of Mediamerica's Board of Directors from 1979 through 1982. [Id.].

191. Rhonda Stahlman was a member of both NCPAC's Board of Directors and Executive Committee from 1979 to 1983. [Exhibit 7, NCPAC's Annual Reports; Exhibit 10, Dolan depo., p. 13].

192. John T. Dolan, Rhonda Stahlman, and Dolan's sister, Maiselle Shortley, all acted as unpaid members of Mediamerica's Board of Directors. [Exhibit 11, The Sun, 7/13/82].

193. John T. Dolan was a member of the Mediamerica's Board of Directors from 1978-79. [Id.].

194. Maiselle Shortley, John T. Dolan's sister, was Vice President and a member of the Board of Directors of Mediamerica, Inc., from the company's inception in 1978 through 1982. [Exhibit 81, Mediamerica's Annual Report].

G. Additional Facts

195. According to FCM, the Committee received the following contributions during the following years:

<u>Year</u>	<u>Number of Contributions</u>	<u>Total Dollar Amount</u>
1983 (to date)	38,549	\$1,057,176.00
1982	82,107	1,707,347.00
1981	49,060	949,705.00
1980	100,353	2,526,824.00
1979	8,619	168,493.00
1978	14,862	208,058.00

196. Exhibit 139 sets forth the costs of placing ads in various forms of media. The information contained in this exhibit is incorporated herein by reference.

197. Exhibit 140 is a videotape of a commercial entitled "Ronald Reagan's America" which was produced and financed by NCPAC and which has been and will be used during the 1984 presidential cycle.

198. On July 24, 1979, then-candidate Ronald Reagan sent to FCM a mailgram requesting that FCM immediately stop its independent effort. [Exhibit 141].

199. Twenty-five labor unions and five incorporated membership organizations reported spending a total of \$2.2 million on partisan communications directed to their members during the 1981-82 election cycle. [Exhibit 142, FEC newsletter, Vol. 9, #10, October 1983].

200. The Internal Revenue Service has reported that in 1977, only 29% of those taxpayers who filed income tax returns chose to have \$1.00 of their taxes earmarked for the Presidential Election Campaign Fund Act. In 1981, the last year for which figures are available, 48.2% of returns were marked "no" and 26.1% were marked "yes" to the questions whether \$1.00 of a taxpayer's tax liability should go to the Fund. [Exhibit 143, "Campaign Practices Reports," Congressional Quarterly, Vol. 10, #7, 4/11/83].

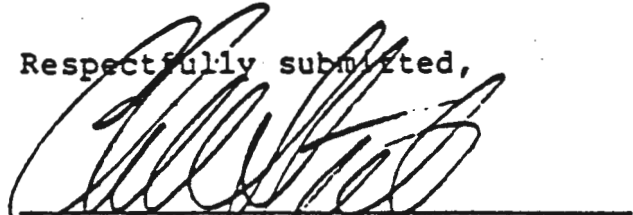
201. Although only a minority of taxpayers check the "yes" presidential campaign box, the election fund is in no financial difficulty. The presidential fund had a total of \$153.4 million at the end of 1982. [Id.].

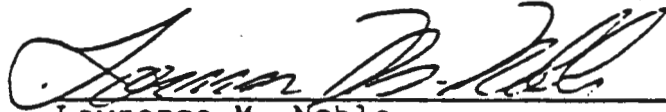
202. During the 1979 election cycle, NCPAC received contributions from approximately 101,000 contributors. During the 1981-82 election cycle, NCPAC received contributions from approximately 143,000 contributors. [Review of NCPAC's contributor data base].

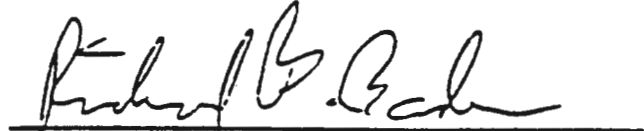

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Respectfully submitted,

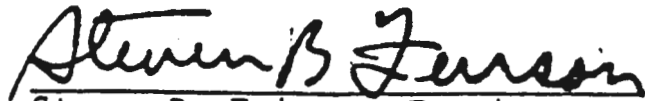

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August 10, 1980

(front page of Style Section
in Sunday paper)

The New Right Brigade

John Terry Dolan's NCPAC Targets Liberals And the Federal Election Commission

By Myra MacPherson

GROUPS LIKE ours are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in politics. We could say whatever we want about an opponent of a Senator Smith and the senator wouldn't have to say anything. A group like ours could lie through its teeth and the candidate it helps stays clean."

So speaks John Terry Dolan, 29, one of the foremost leaders of the New Right. A collection of far right groups, they have become a phenomenon in this election year. They are the "independent expenditures" brigade. They have been denounced by liberals and some mainstream conservatives alike. Dolan is chairman of the National Conservative Political Action Committee (NCPAC). It is, according to preliminary Federal Election Commission reports from January 1979 until this June, the leader of all PACs in gross receipts—over \$4 million. "We're bugging the hell out of them," says Dolan, with a self-satisfied grin.

A short, slim, mustachioed young man, Dolan proudly shows off his suite of offices in Arlington, where he creates his "attack" ads, brochures and fund-raising pleas, collecting and spending thousands a month. NCPAC is active on two fronts. (1) Targeting six liberal Democratic senators—Frank Church, George McGovern, Alan Cranston, John Culver, Birch Bayh and Thomas Eagleton—spending almost \$700,000 on predominately negative advertising. (2) It is one of five committees dedicated to raising millions in support of Reagan's candidacy.

Dolan goes after his opponents with the ferocity of an enraged terrier; senators hit by his ads howl that they are spurious, distorting, often inaccurate, and that there is at very least a tacit acceptance of Dolan's function by some of their opponents. Let them howl, says Dolan. For Dolan is not only finding loopholes in the Federal Election Reform law, he is taunting the FEC, the lawmakers and everyone else. "It's a stupid law. They're gonna take me kicking and screaming to jail before I stop my activities. Look," says Dolan, punching out his sentences in fast bursts, revealing his true intention in a repeated battle cry, "we're saying 'come and get us.' That law should go."

Dolan's theories often have an interesting simplicity to them. Take government management, for instance. He scathingly says Reagan does not go far enough with proposed budget and tax cuts. The federal budget, under Dolan, would be doled out this way: 79 percent for Defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

Critics of the New Right decry what they perceive as a no-compromise, no-accommodation stance. Liberal George McGovern calls them members of the new right, "angry and intolerant, equally incapable of believing that they can be mistaken or that those with whom they disagree might have honorable intentions. They call themselves 'conservative' but their zealotry, self-

righteousness and vindictiveness toward those with whom they disagree promote something radically different from authentic conservatism."

And some Republican officials have characterized NCPAC as a "loose cannon on the deck." William Brock, national chairman of the Republican Party, commented, "You can't build a party around those emotional social issues. The New Right groups draw attention in Congress away from the broad issues of tax reduction, job creation, health care, honoring the American Dream issues."

Says Dolan, "Brock should have been fired long ago." Dolan once said, "The Republican Party is a fraud. It's a social club where the rich people go to stick their noses."

What are NCPAC and other similar groups managing to do, and why is everyone so angry? And why have lawsuits, charges and countercharges been flung with all the regularity of campaign promises? A brief explanation:

The staggering facts department of elections, American style, revealed that in 1972 a mere 153 individuals contributed \$20 million to President Nixon's campaign. Reacting to Watergate and such contribution practices, Congress passed the 1974 Election Reform Act. Individuals can contribute only \$1,000 per election to a candidate for federal office, including president. And groups like NCPAC are allowed to contribute \$10,000 directly to a Congressional and presidential candidate (\$5,000 primary and \$5,000 general). Once a Democratic or Republican presidential nominee accepts federal funds, private contributions are prohibited. But now, in 1980, various "independent" groups—including NCPAC—are gleefully spending millions to defeat senatorial candidates and additional millions on Ronald Reagan's campaign. How so?

In 1976 a collection of odd couples in politics—from Jettist Eugene McCarthy to rightist James Buckley, from the ACLU to Human Events, the conservative weekly—challenged the election reform law on the ground that it violated their first amendment rights. The Supreme Court ruled in basically upholding the act that independent groups cannot be prohibited from spending any money in support of or in opposition to a candidate so long as there is no collaboration or cooperation between the campaign and the people making these independent expenditures.

Now enter the "independents"—who have seized upon this loophole to spend their millions. These PACs differ from corporate and labor union PACs. Independents can, as one FEC official said, "solicit the world," reaching out to the public while corporate and labor union PACs can only go to a targeted group for their money—the corporation to its stockholders, executives and administrative personnel; the union to its membership. In addition to its activity in senatorial races, NCPAC is one of five committees aiming to raise from \$35 to \$55 million to

A member of the staff in 1976, Jimmy Carter said, "Why Not the Best?" That's what he said. Now look what he gave us: Andy Young, the man who called Ayatollah Khomeini a saint, forced to resign after lying to the president; Bert Lance, forced to resign for questionable banking practices; Peter Bourne, forced to resign for supplying drugs to a White House staffer.

A definition of "independent" is a sometime thing. Terry Dolan has more than a passing awareness of Ronald Reagan. NCPAC filed with the FEC in 1979 and a few months later a personal letter from Reagan asked his legion of supporters all over the country to support the Virginia-based outfit. "He is," claims Dolan, "one of the main reasons NCPAC is here today." Terry Dolan's brother works for the Reagan campaign. Dolan's chief pollster, Art Finkelstein, does work for Reagan. Dolan is co-owner of an Alexandria office building along with longtime Reagan aide Lyn Nofziger; Paul Russo, a 1980 Reagan campaign staffer; and Roger Stone, Reagan's northeast coordinator in the primaries and now a consultant to Reagan and former NCPAC treasurer. A tenant is Richard Vignerie—NCPAC's virtual creator and right-wing fund-raising czar for Reagan as well as many of the independent expenditure groups. A network of friendship and contacts began when most were Yaffers (members of Young Americans for Freedom). "There is no crime in being friends," argues Dolan.

The Democratic National Committee charges in its complaint to the FEC that all this coziness of New Right leadership forms a "seamless web" and that they are "probably incapable of acting truly independently of each other." Common Cause is suing one of the committees, Americans for Change. (Arguments will be heard this week.) "There is collusion in this," charges DNC Chairman John White. "It's the same old heavy-handed misuse of the political system." Archibald Cox, chairman of Common Cause, claims such independent groups "threaten a return to the old Watergate tactics and influence of money in politics."

Dolan says he makes few moves without checking it out first with his lawyers. "We got an advisory opinion from the FEC which says the use of polling data is not an independent expenditure. It's an operating expense. So whether Finkelstein does stuff for us and Reagan is beside the point. I know it's a ridiculous ruling but the FEC is stupid. We asked them the nine best questions we could think of on what constitutes independent and they came up with nine of the stupidest answers. The lawyers check over our ads for libel. So if Andy Young wants to sue, sue."

So the challenge goes on as to whether these groups of friends are independent (they claim they do not consult with Reagan or his staff). Fred Wertheimer of Common Cause contends, "If they figure out a way not to make direct contact, their actual philosophy is one of coordination and it is quantitatively different from a truly independent group out in Des Moines

The Chuckles in NCPAC circles are long and loud. But for those who see a troublesome subversion of the intent of the law, it is no laughing matter. Says Wertheimer, "NCPAC and Dolan and these other groups are out to destroy campaign financing laws. They want to eliminate the parts that have been effective. Today you don't see huge sums from single contributors looking for favors. These groups want to unravel the whole process and get back as quickly as they can to the big spender days when 153 individuals contributed \$20 million to Nixon."

As for the FEC, its critics form a long line; the agency seems to have all the clout of a moth hitting a summer screen. One FEC official admitted that the battle could drag on indefinitely, that the FEC, with its makeup of three Democrats and three Republicans, is leery of "interjecting itself. Either way it acts it's going to be perceived as political." With a sigh, he delivered a true bureaucrat's lament, "This is a very strange place. We've achieved this distinction of being disliked by everybody—those who think we can do something and those who think we can't."

Dolan sits in his office in front of pictures of some of the senators he's targeted this year. The hair is close clipped, the mustache trim. From time to time, Dolan opens his bottom drawer, gets out a roll of toilet paper, rips off a few pieces, blows his nose and puts the roll back.

Some of Dolan's views sound like slogans of raw anger. "The biggest threat to America—it isn't the commies, it isn't the oil companies. The biggest problem is the United States government. The U.S. government has done more to destroy the American spirit." "There's nothing unjustified in ridding the world of Fidel Castro. He's the same as Idi Amin. The only difference is one has a beard," and then the smile, "and one has darker skin." He admires William Buckley because he can "knock anybody down in two seconds." He admires "the strength of a Patton or a MacArthur." Carter is "our weakest president ever." It is easy to get around the FEC because "they're a bunch of mindless bureaucrats who know less about the first amendment than they do politics."

Dolan says "Liberals never bother to find out if conservatives are right. Take a voucher system for education—If you paid for private education, you'd get tax breaks." How would that help families with children in public schools? "Who said it would?" Well, what if you can't afford private schools? "Well, that's who public school is for," he says, indifferently.

Dolan is also for getting the government out of nearly everything that doesn't please him. Federal social programs should be done away. "Say next year we cut all food stamps. It would take moral courage, if that's what it takes, to, if you were a local politician, decide your state was going to give out food stamps. Gov. Carey, say, is going to have to have the courage to give out the food stamps, not the federal government."

From irresponsible to sissy by those he targets. A few years ago his heavily negative espousals would have been considered on the fringe. RNC Chairman Brock has denounced the independent approach as detrimental to the RNC mainstream fund-raising. Dolan sneers, "Every chance he's got Brock tries to screw Reagan. He's frustrated by jealousy. We're raising the funds. We're on the cutting edge of politics."

Lest one confuse Dolan with mainstream Republicanism, Dolan hastens to thumb his nose at both parties. "The only difference between Republicans and Democrats on a presidential level is the Democrats tell you they're going to screw you and the Republicans tell you they're not going to screw you—and do it anyhow."

He likes to appear impervious to the charges leveled at him. "I'm not after respectability. That doesn't bother me. The only thing I care about is if we're effective. I'm absolutely convinced our negatives on Carter will stick. We've got a couple more 'attack spots' planned." One will include Billy Carter. Ethnic and southern accents will be prominent as Dolan develops plans for his rural markets, but there will be no blacks. "Let Brock spend the RNC's money to try to get that vote," he said.

Some Reagan aides murmur that Reagan privately wonders if Dolan and others like him will create a backlash with their negative advertising, but Reagan so far has done nothing publicly to disavow them.

Dolan's ads are more of a "no" than "against" a candidate, rather than "for" someone. Alan Crawford's new book "Thunder on the Right: New Right the 'politics of fear' movement."

Dolan retorts, "I know I'm screwed up, but at least I admit it. That's more than I can say for the author of that silly book."

Dolan seldom loses his cool but one subject that causes a bit of nervous fumbling is something his opponents discovered last week. NCPAC had not reported a single itemized contribution since October 1979—despite over \$2 million in receipts. Dolan admits the omission. "I just found that out. We're going to take immediate action; of course we're going to amend the reports," he says quickly. "It was just a comedy of errors," he contends. "We had, ah, a new bookkeeper and she just discontinued itemizing them." (According to federal statute, any contribution over \$200 has to be itemized; failure to do so could be ruled a serious violation of disclosure laws.) "I just don't know what happened. We're not trying to hide anybody. We don't have any H.L. Hunts. I wish we did. Joe Coors has contributed but not this year."

One irony is that the very law he lambastes, created the Dolans and Vigneries. The direct mail mills (Vignerie has a reported 5 million names) sprang up when small donors became vital to campaigns after large individual contributions were ruled out.

Opponents accuse Dolan of bending and distorting the law.

"The federal budget, under Carter, 'Ninety-nine percent for Defense—keep America strong—and one percent on delivering the mail. That's it. Leave us alone.'"

• Dolan also plans a half-hour film "using Ronald Reagan. That'll drive the FEC crazy. It's a part of his acceptance speech. I think we are violating the regulation—it says you cannot re-broadcast something of the candidate—but as far as I'm concerned, the regulation is unconstitutional," says Dolan.

• An exasperated Frank Church accused Dolan of "scummy tactics" and was successful in getting NCPAC to withdraw an ad that erroneously accused him of voting to increase his Senate pay. Another ad—which stayed on—showed an empty missile silo and stated that because they were empty, "they won't be of much help in defense of your family or mine. You see, Senator Church has almost always opposed a strong national defense . . . The obvious implication was that Church's votes had emptied out that silo—even though it had been made obsolete by a more advanced weapons system. "Innuendo? Sure," says Dolan. "But I have absolutely no ethical qualms about that. It's symbolic of his record."

• Ads against George McGovern charge that he is a "baby killer" (he is pro-choice) and one has him in the gunights as a 1980 target. "That's not our stuff, even though he is a baby killer. We wouldn't use such rhetoric. McGovern in the gunights, I don't see anything wrong with that. It was not intended to mean you ought to shoot McGovern." Who did those ads? A man named Dave Bell. "Well, Bell used to be an employe of ours—but not in this campaign." Some NCPAC ads attack McGovern as favoring "a gas tax that could reach 50 cents a gallon . . . and voting 'against energy tax incentives.'" McGovern staffers protest "that's dead wrong. He has never proposed such a tax measure in the Senate." To that Dolan says, "Well, he supported Anderson's plan." Back to the McGovern staff: "He never did! And McGovern has cosponsored measures and voted for energy tax credits for individuals and companies installing energy conservation devices." Dolan says "They're lying."

• Dolan uses The American Farm Bureau Federation, a right wing, anti-union group, to base his rating on farm votes. Senators he attacks howl that this distorts the vote and that Dolan should use the National Farmers Union rating. Dolan says, "That's just a pro-union, anti-business organization."

• When Dolan kicked off his Get Eagleton campaign, the senator's staff fired off a letter to Dolan: "Your 'analysis' of the Eagleton record which you distributed yesterday fully lives up to your earned reputation for inaccuracy, distortion and untruths." NCPAC castigated Eagleton for "giving \$75 million of taxpayers' money in aid to revolutionary government in Nicaragua." Eagleton voted against

• In a last winter fund-raising letter to "stop Kennedy," Dolan charged that Kennedy "can legally spend as much of his own money [on his own campaign] as he wants—and he's got millions." When asked about it, Dolan seemed vague about the details, even though he signed the letter. This is, of course, inaccurate, as Kennedy had applied for matching funds and is therefore limited to spending \$50,000 of his own money. "Oh, our statement was an accurate statement of the law—we didn't mention matching funds. It's all so incredibly irrelevant."

Dolan's father was manager of the Sears Roebuck store when he was growing up in Fairfield, Conn. Irish Catholic—except for "one quarter Swiss"—Dolan learned about politics early. His mother ran for local office when he was young. At first the Dolans were Democrats but switched to the GOP. "They even voted for Jack Kennedy because he was Irish," Dolan recalls. Dolan attended private high school in Connecticut and then Georgetown University. "I managed to survive four years of their (Georgetown's) socialist doctrine," he says witheringly (1968 to 1972). Dolan was in school during the Vietnam War although he "firmly believed it was a moral duty, trying to resist communist aggression." Dolan was heavy in the

Yaffer movement and in such counter-protests as Honor America Day.

He majored in government and German.

His brother, Anthony, went on to become a Pulitzer Prize-winning journalist and Dolan drifted more to the right in his interests. "I used to be a Republican. I used to be a political hack, but then in 1972, it was like a sexual awakening. I couldn't understand these strange urgings to do conservative things. On the ballot I saw John Schmitz [the American Party presidential candidate who once quipped that he had "gone pretty far in life for a Catholic Bircher with a mustache"] and I had this urge to pull the lever."

Dolan worked for right wing causes and then got in on the ground floor when NCPAC was formed in 1975—along with Charles Black, a former Helms aide who worked for Reagan until he was fired along with campaign chairman John Sears this spring. Dolan describes NCPAC as a "central bureau" to help conservatives—both Democrats and Republican. Helms was "the prime mover. He gave us credibility." A huge stockpile of lists and names in Viguerie's and Helms' possession were fed into the NCPAC operation. "Helms just went to his magic computer," says Dolan. The appeals are often on emotional social issues. "Oh, no question," says Dolan. "It is a perfect list for anti-abortion, anti-ERA

Dolan acknowledges that NCPAC was a creation of Dick Viguerie. "In 1978 about 90% of our money was Viguerie-raised. Now he does about 50%—probably a little over \$2 million by the end of the year." At one time he was heavier in debt to Viguerie but now says NCPAC owes "only about \$50,000."

There seems to be no getting around Dolan's luck with the FEC—the group he constantly belittles. The South Dakota Democratic party filed a suit challenging Dolan's independent status, charging that he openly encouraged Jim Abdnor to run against McGovern. "I know we did," says Dolan with a chuckle. "We admit it. He admits it. We just led him up to the nomination. We got an advisory from the FEC that we could do it." The FEC has reportedly decided to rule 4-2 to dismiss the suit.

Dolan leads a visitor around his empire—a whole floor of an Arlington office building. Next to his office is the National Conservative Research and Education Foundation and next to that is Conservatives Against Liberal Legislation (CALL). Dolan is on the board of directors. Rhonda Stahlman, who runs CALL, a lobbying outfit, can be buzzed on Dolan's telephone. A handful of volunteers are working xerox machines; there are "Nuke Now" signs around.

There is a commonality of board of directors but we keep the finances separate. We used to do post-election analysis—but why should NCPAC do it when a tax deduction agency [his research outfit] can do it? It's totally legitimate. Sure we use the information in upcoming elections but there is nothing wrong with that."

There is, in fact, a real sense of expansiveness as Dolan brags. "Nothing that NCPAC does is illegal. If we went out of business tomorrow I could pocket everything. Of course, I wouldn't—but I could. Why? Because the law makes no sense. They ought to scrap it." The smile is there to the last. "You can do what you want with PACs."

Election Law Violations Admitted in '82 Race

By Thomas B. Edsall
Washington Post Staff Writer

Officials of the 1982 Senate campaign of Bruce F. Caputo in New York have admitted to the Federal Election Commission that they violated federal election law by working in coordination with the National Conservative Political Action Committee (NCPAC).

The admission, in a consent agreement with the FEC, could prove damaging to NCPAC, which specializes in controversial "independent" campaigns against liberal candidates and in support of conservative ones.

The consent agreement declares that the "independence" of a NCPAC campaign against Sen. Daniel Patrick Moynihan (D-N.Y.) was "compromised" by illegal ties to the Caputo camp.

However, NCPAC officials reject any suggestion of illegal activity, and intend to fight the case through FEC proceedings and in court, if necessary, according to Craig Shirley, a spokesman for the group.

Shirley, who confirmed the FEC agreement, said the Caputo campaign was forced by lack of funds to give up fighting the case.

In the agreement, the Caputo campaign agreed to pay a \$3,000 fine. Attempts to reach officials of the campaign were unsuccessful.

By law, organizations such as NCPAC may spend unlimited sums for or against federal candidates as long as the expenditures are made

without consultation with the campaign that benefits from them. The FEC consent agreement raises questions about NCPAC's claims that it has run independent campaigns.

In 1982, Caputo, a former Republican House member, entered the GOP senatorial primary with the intention of challenging Moynihan, the Democratic incumbent, in the general election. At the same time, NCPAC conducted an independent campaign against Moynihan budgeted at \$750,000, although only \$73,775 was spent.

In the consent agreement, which has not been made public, Caputo campaign officials acknowledged that Robin E. Martin, the chairman of NCPAC's anti-Moynihan campaign, attended "some of the staff meetings of the Caputo for Senate Committee."

In addition, Caputo and NCPAC hired the same pollster, Arthur Finkelstein & Associates, to conduct surveys and provide advice. The New York Democratic Committee, which originated the FEC complaint against NCPAC and the Caputo campaign, charged that the similar rhetoric of the two campaigns suggested illegal collusion.

Both campaigns came to an abrupt halt in March, 1982, when it was disclosed that Caputo had exaggerated claims concerning his military service and academic training. The disclosures forced Caputo to drop out of the race for the GOP nomination.

THE WHITE HOUSE
WASHINGTON

January 31, 1984

MEMORANDUM FOR THE SENIOR STAFF

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Communications with
"Independent Expenditure Committees"

Prior to the President's announcement of his candidacy for re-election, several political committees announced their intentions to make "independent expenditures" on behalf of the President if he became a candidate for re-election. Such statements were made by the National Conservative Political Action Committee (NCPAC) and The Fund for a Conservative Majority (FCM); additionally, we have been advised that a committee called Americans for Reagan has been formed as an independent expenditure committee.

An independent expenditure is defined as

. . . an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. [2 U.S.C. § 431(17) (emphasis added).]

The Federal Election Commission ("FEC") has interpreted the elements that preclude the existence of an independent expenditure broadly. Indeed, in response to complaints questioning the existence of "consultation, coordination, cooperation or control" between the 1980 Reagan-Bush Committee and various independent expenditure committees, the FEC made "factual inquiries" and pursued enforcement proceedings against the political committees involved for nearly two and one-half years before determining that no further action with respect to such allegations was required.

As members of the President's staff, you (and possibly members of your staffs) are potential "agents" of Reagan-Bush '84, the authorized campaign committee of the President. Accordingly, I must recommend that you avoid any substantive political communications with any officers, employees or key supporters of NCPAC, FCM and Americans for Reagan until after the 1984 general elections. To do otherwise is to invite an FEC

"factual review" of all communications between members of the President's staff and these committees. Additionally, if any other "independent expenditure" committees are established on behalf of the President, you should adhere to this same restriction on communications with such groups.

The above restrictions on individual speech are abhorrent to my personal views of First Amendment freedoms. In light of the FEC's interpretations of the Federal election laws relating to independent expenditures, however, and in the interest of avoiding the possibility of FEC review of potential allegations (however groundless) questioning communications between White House staff and members of independent expenditure committees which may work on behalf of the President, I must request that you adhere to these guidelines.


If you have any questions with respect to this matter, please do not hesitate to contact my office.

THE WHITE HOUSE
WASHINGTON



January 27, 1984

MEMORANDUM FOR: EDWIN MEESE, III
✓ JAMES A. BAKER III

FROM: FRED F. FIELDING 

SUBJECT: Dellums, et al. v. Smith, et al.,
U.S.D.C. for the Northern District
of California, Civil Action No. C-83-3228

By my memorandum of January 13, 1984, copy attached, I notified you of the adverse ruling entered by the District Court in the referenced case. The action, as described in greater detail in my January 13 memorandum, alleges that the President and several cabinet officers violated the Neutrality Act of 1794 by providing covert assistance to insurgents in Nicaragua, and requests that the Attorney General conduct a "preliminary investigation" of the Nicaraguan matter pursuant to the Ethics in Government Act. On November 3, 1983, the district court ordered that the Attorney General conduct a "preliminary investigation." On January 10, 1984, it denied the government's motion for reconsideration and for a stay pending appeal.

I am pleased to advise you that the 9th Circuit has just granted the government's motion for stay pending appeal, thus precluding the need for the Attorney General to initiate an investigation.

I, of course, will keep you advised of all significant developments.

THE WHITE HOUSE

WASHINGTON

January 13, 1984

MEMORANDUM FOR EDWIN MEESE, III
COUNSELLOR TO THE PRESIDENT

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Dellums, et al. v. Smith, et al.

As you know, the referenced action was filed last year against the Attorney General and Assistant Attorney General, Criminal Division, by Congressman Dellums and others seeking judicial enforcement of the Ethics in Government Act ("Ethics Act"). Plaintiffs claim that the President and several Cabinet officers have violated the Neutrality Act of 1794 (18 U.S.C. § 960), by providing covert assistance to insurgents in Nicaragua. On November 3, 1983, the district court (Weigel, J) entered judgment ordering the Attorney General to conduct a 90-day "preliminary investigation" of the Nicaragua matter, and by February 1, 1984, to report his findings to the special court established by the Ethics Act.

The district court's opinion concludes that private citizens have standing to seek judicial enforcement of the Ethics Act, and that the Attorney General's decision under the Act not to conduct a preliminary investigation is reviewable in court. The district court also concluded that the provision of government assistance to the insurgents in Nicaragua "may" constitute a violation of the Neutrality Act. That Act provides in pertinent part: "Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for * * * any military or naval expedition * * * against the territory of any foreign * * * state * * * with whom the United States is at peace, shall be fined not more than \$3,000 or imprisoned not more than three years, or both." The court rejected the government's contention that the political question doctrine barred judicial consideration of the Neutrality Act issue.

The government promptly sought to alter the district court's judgment on the ground that the Neutrality Act cannot conceivably apply to official governmental activities authorized by the President and funded by Congress. The government also asked that if the court did not alter its judgment that it issue a stay pending appeal. The district court, on January 10, 1984, denied both motions. The court rejected the motion for reconsideration on the ground that plaintiffs' allegations "reasonably" may be

construed as a crime under the Neutrality Act. The court refused to grant a stay because it felt that a "successful appeal" by the government was not likely, and that "irreparable injury" was "unlikely."

The government immediately filed with the Ninth Circuit a notice of appeal and an emergency motion for stay pending appeal. The motion argues that compliance with the district court's order by the February 1 deadline effectively would render this case moot, and preclude appellate consideration of the important questions raised. It urges that the last word on these matters, involving the outer limits of judicial power and criminal allegations against the highest officials of the United States, obviously should not be left to a single district judge and that appellate review is essential. It points out that in circumstances virtually identical to those in this case, the United States District Court for the District of Columbia recently entered a stay pending appeal. Nathan v. Attorney General, No. 812-2716 (D.D.C., June 3, 1983).

The motion urges that to avoid mootness, and thereby preserve the Court of Appeals' ability ultimately to consider this case, the Court promptly should issue a stay of the district court's judgment pending appeal. The motion also requests that the Court order that any response to defendants' emergency motion be filed no later than January 19, 1984. That would permit the Ninth Circuit to rule prior to the February 1 deadline for the Attorney General's Report.

The Solicitor General has informally indicated that should the Ninth Circuit deny defendant's emergency motion, or fail to rule prior to February 1, he will seek a stay from the Supreme Court.

4:30 Meeting

THE WHITE HOUSE
WASHINGTON

January 26, 1984

MEMORANDUM FOR EDWIN MEESE III
JAMES A. BAKER, III ←
MICHAEL K. DEEVER
RICHARD G. DARMAN
CRAIG L. FULLER
ROBERT C. McFARLANE
JOHN A. SVAHN
ROBERT M. KIMMITT

FROM: FRED F. FIELDING *FF*
COUNSEL TO THE PRESIDENT

SUBJECT: National Security Decision Directive on
Safeguarding National Security Information

Attached for your review in connection with the meeting on the above-referenced subject scheduled for tomorrow afternoon are background materials prepared by the Department of Justice.

Attachment



U.S. Department of Justice
Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

26 JAN 1984

MEMORANDUM FOR THOSE ATTENDING 4:30 MEETING ON JANUARY 27, 1984

Introduction

President Reagan signed National Security Decision Directive 84 (NSDD-84) on March 11, 1983. (See Tab A.) This directive contains a number of measures to safeguard classified information from unauthorized disclosure. Implementation of the directive has been delayed by controversy regarding two aspects.

- Paragraph 1.b. of the directive requires that persons with access to Sensitive Compartmented Information (SCI) sign secrecy agreements that include a pre-publication review provision. This sort of "lifetime censorship agreement" has been upheld by the Supreme Court in the Snepp case and used at CIA and NSA for some years. (See Tab B.)

- Paragraph 5 of the directive requires that agencies clarify their policies so that "appropriate adverse consequences" could follow an employee's refusal to be polygraphed in a leak investigation. This does not require use of the polygraph in any particular case; it does mean that agency policies cannot effectively preclude polygraph use. (See Tab C.)

This controversy has become linked to an unrelated Department of Defense proposal to permit greater use of the polygraph in determining security clearances for certain employees in highly sensitive jobs. (See Tab C.) In addition, some press critics have linked these measures with other Administration initiatives as part of an overall program to squelch the First Amendment. (See Tab D.)

Issue for Decision

Brooks
Congress has enacted legislation that blocks -- until April 15, 1984 -- any change in polygraph policy at the Department of Defense, and any new policy regarding prepublication review throughout the government. It is quite likely that legislation will be introduced to extend the current moratoria until 1985 or to impose permanent restrictions on the use of polygraphs and prepublication review.

We need to decide how to respond to this legislative challenge. Administration witnesses will be called to testify starting on February 7 before a joint hearing of subcommittees chaired by Don Edwards and Pat Schroeder. Senator Mathias also plans hearings in February. Other hearings are likely.

Options

(1) Abandon efforts to implement these controversial policies, at least prior to 1985. A public announcement to this effect would probably eliminate most of the congressional hearings and deprive the issue of immediate significance. Permanent legislation could be avoided and, at most, the current moratoria would be extended another year.

Implementation of this option would require revocation or suspension of paragraphs 1.b. and 5 of NSDD-84. This could be combined with option 3 so as to avoid an impression that we no longer care about this problem.

(2) Seek to implement these policies, with some modifications, and oppose further legislative restrictions. The intelligence committees, especially in the Senate, are likely to be most sympathetic to these policies. However, some modifications (at least in the prepublication review program) will be necessary to win sufficient support. The precise modifications would have to be developed in consultation with key Senators (such as Chafee, Lugar, and Huddleston).

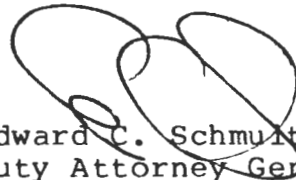
For example, the prepublication review agreement could be modified to require submissions for a limited period of time (e.g., 12 years) after leaving the government. Another possible change would be to limit the scope of materials required to be submitted for review. Such modifications would not require any change in NSDD-84 itself, only in the manner of implementation.

Successful pursuit of this option will require indications from the White House to key Senators that the Administration is serious about implementing these policies, as modified. The White House legislative affairs and communications office would have to work closely with NSC, Justice, CIA and Defense in this

effort. It would be particularly helpful if CIA and NSA could declassify a few specific examples of the damage to national security caused by unauthorized disclosures of classified information.

(3) Seek to enact new legislation to address the problem. The intelligence community has long sought a comprehensive criminal statute to punish unauthorized disclosures of classified information. A statute providing civil penalties could be sought instead of, or in addition to, a criminal statute. Enactment of such legislation would provide more effective remedies than are available under existing law and administrative regulations.

The chances of getting such legislation enacted this year are practically nonexistent. The main purpose of this option is to begin a long-range campaign for enactment in 1985 or later.



Edward C. Schmults
Deputy Attorney General

Tab A: General Reference

Text of NSDD-84, Mar. 11, 1983
President's Memorandum for Federal Employees
Statistics on August 30, 1983 Security
Clearances and Classification Activity

Tab B: Prepublication Review

Development of Policy
Some Fiction and Facts about Prepublication
Review
Form 4193 (Dec. 1981)
New SCI Nondisclosure Agreement (Aug. 1983)

Tab C: Polygraphs

Four Categories of Polygraph Use
Use of Polygraph in Leak Investigations
DOD Polygraph Screening Proposal
Statistics on Federal Polygraph Use
Statistics on Polygraph Accuracy

Tab D: Related Issues of Legislative Interest

Proposals to Amend FOIA
Executive Order on Classification (E.O. 12356)
New FBI Domestic Security/Terrorism Guidelines

Safeguarding National Security Information

As stated in Executive Order 12356, only that information whose disclosure would harm the national security interests of the United States may be classified. Every effort should be made to declassify information that no longer requires protection in the interest of national security.

At the same time, however, safeguarding against unlawful disclosures of properly classified information is a matter of grave concern and high priority for this Administration. In addition to the requirements set forth in Executive Order 12356, and based on the recommendations contained in the interdepartmental report forwarded by the Attorney General, I direct the following:

1. Each agency of the Executive Branch that originates or handles classified information shall adopt internal procedures to safeguard against unlawful disclosures of classified information. Such procedures shall at a minimum provide as follows:

a. All persons with authorized access to classified information shall be required to sign a nondisclosure agreement as a condition of access. This requirement may be implemented prospectively by agencies for which the administrative burden of compliance would otherwise be excessive.

b. All persons with authorized access to Sensitive Compartmented Information (SCI) shall be required to sign a nondisclosure agreement as a condition of access to SCI and other classified information. All such agreements must include a provision for prepublication review to assure deletion of SCI and other classified information.

c. All agreements required in paragraphs 1.a. and 1.b. must be in a form determined by the Department of Justice to be enforceable in a civil action brought by the United States. The Director, Information Security Oversight Office (ISOO), shall develop standardized forms that satisfy these requirements.

d. Appropriate policies shall be adopted to govern contacts between media representatives and agency personnel, so as to reduce the opportunity for negligent or deliberate disclosures of classified information. All persons with authorized access to classified information shall be clearly apprised of the agency's policies in this regard.

2. Each agency of the Executive branch that originates or handles classified information shall adopt internal procedures to govern the reporting and investigation of unauthorized disclosures of such information. Such procedures shall at a minimum provide that:

a. All such disclosures that the agency considers to be seriously damaging to its mission and responsibilities shall be evaluated to ascertain the nature of the information disclosed and the extent to which it had been disseminated.

b. The agency shall conduct a preliminary internal investigation prior to or concurrently with seeking investigative assistance from other agencies.

c. The agency shall maintain records of disclosures so evaluated and investigated.

d. Agencies in the possession of classified information originating with another agency shall cooperate with the originating agency by conducting internal investigations of the unauthorized disclosure of such information.

e. Persons determined by the agency to have knowingly made such disclosures or to have refused cooperation with investigations of such unauthorized disclosures will be denied further access to classified information and subjected to other administrative sanctions as appropriate.

3. Unauthorized disclosures of classified information shall be reported to the Department of Justice and the Information Security Oversight Office, as required by statute and Executive orders. The Department of Justice shall continue to review reported unauthorized disclosures of classified information to determine whether FBI investigation is warranted. Interested departments and agencies shall be consulted in developing criteria for evaluating such matters and in determining which cases should receive investigative priority. The FBI is authorized to investigate such matters as constitute potential violations of federal criminal law, even though administrative sanctions may be sought instead of criminal prosecution.

4. Nothing in this directive is intended to modify or preclude interagency agreements between FBI and other criminal investigative agencies regarding their responsibility for conducting investigations within their own agencies or departments.

5. The Office of Personnel Management and all departments and agencies with employees having access to classified information are directed to revise existing regulations and policies, as necessary, so that employees may be required to submit to polygraph examinations, when appropriate, in the course of investigations of unauthorized disclosures of classified information. As a minimum, such regulations shall permit an agency to decide that appropriate

adverse consequences will follow an employee's refusal to cooperate with a polygraph examination that is limited in scope to the circumstances of the unauthorized disclosure under investigation. Agency regulations may provide that only the head of the agency, or his delegate, is empowered to order an employee to submit to a polygraph examination. Results of polygraph examinations should not be relied upon to the exclusion of other information obtained during investigations.

6. The Attorney General, in consultation with the Director, Office of Personnel Management, is requested to establish an interdepartmental group to study the federal personnel security program and recommend appropriate revisions in existing Executive orders, regulations, and guidelines.