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105TH CONGRESS
2d Session

SENATE

REPT. 105–167
Vol. 4

INVESTIGATION OF ILLEGAL OR IMPROPER ACTIVITIES IN CONNECTION WITH 1996 FEDERAL ELECTION CAMPAIGNS

FINAL REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TOGETHER WITH

ADDITIONAL AND MINORITY VIEWS

Volume 4 of 6

MARCH 10, 1998.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
47–004 WASHINGTON : 1998

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FOREWORD TO THE MINORITY REPORT

The faith of the American people in our political system is being jeopardized by the increasing perception, expressed in public opinion polls, that campaign contributions buy access to officeholders that in turn affects policy decisions. The confluence of increased use of expensive television ads and increasingly lengthy campaigns has driven both major parties to excesses in raising and spending political money, particularly soft money. The campaigns of 1996 exhibited a dangerous rise in such excess, including the use of so called independent non-profit and tax-exempt groups whose unregulated expenditures on issue ads that are really thinly disguised campaign ads have made them a major force in our political life.

An investigation of what has happened to the campaign finance system and what is needed to fix it was warranted and had the potential to be a catalyst for a public uproar to bring about the needed legislative changes to the system.

While the investigation produced some important information, its high potential was not realized by the Governmental Affairs Committee investigation as a result of the Committee Majority's highly partisan approach to the investigation. And this partisanship continues to be on spectacular display in the Majority's report. Bringing balance to the investigation was therefore left to the Minority, and we fulfilled what we saw as our obligation as best we could. This Minority Report is the culmination of our effort and contains a comprehensive description of the Committee's investigation, a set of findings that logically and compellingly follow from the evidence presented, and the implications of our findings for reform of the campaign finance system.

It is the hope of the Minority and all the other Democrats in this Senate that the Senate will pass a strong campaign finance reform bill this year. Failing to do that would mean failure to take even a first step to dispel the growing cynicism and lack of trust in our political system and the growing notion of many Americans that our government is for sale. In that notion lies the seed for the future destruction of American democracy. We ignore it at our peril.

JOHN H. GLENN, *Ranking Member.*

THE MINORITY REPORT

EXECUTIVE SUMMARY

INTRODUCTION

The founders of this country envisioned that American political discourse would be based on the power of ideas, not money, and that our elected representatives would be chosen by the principles for which they stand, not the amount of money they raise. Unfortunately, elected officials in the United States have become so dependent on political contributions from wealthy donors that the democratic principles underlying our government are at risk. As Senator Glenn has warned, we face the danger of becoming a government of the rich, by the rich, and for the rich. Candidates for Congress and the presidency spent over $1 billion on their 1996 election activities, according to an estimate by the Annenberg Public Policy Center. In order to raise that enormous quantity of money, some candidates and party officials pushed the campaign finance laws to the breaking point—and some pushed it beyond. The abuses that occurred during the 1996 election exposed the dark side of our political system and underscored the critical need for campaign finance reform, as well as the need to enhance the ability of the Federal Election Commission to enforce campaign finance laws.

On March 11, 1997, the Senate voted unanimously to authorize the Governmental Affairs Committee to conduct an investigation of illegal and improper activities in connection with 1996 Federal election campaigns. The Senate asked the Committee to conduct a bipartisan investigation, one that would explore allegations of improper campaign finance activities "by all, Republicans, Democrats, or other political partisans." This was a noble goal, and there were widespread hopes that the Committee would conduct a serious, bipartisan investigation, one that would investigate allegations of abuses by candidates and others aligned with both major political parties. In the end, however, the Committee's investigation provided insights into the failings of the campaign finance system, but it did not live up to its potential.

The Minority regrets the failure of the Committee to expose the ways in which *both* political parties have pushed and exceeded the limits of our campaign finance system.

Both parties have openly offered access in exchange for contributions.

Both parties have been lax in screening out illegal and improper contributions.

Both parties have become slaves to the raising of soft money.

Violating the spirit and the letter of the Senate resolution that established its investigation, the Committee aggressively pursued allegations of wrongdoing involving Democrats, but largely ignored

allegations of wrongdoing involving Republicans. As a result, the investigation became a partisan exercise, losing credibility and significance.

• Every one of the 320 subpoenas proposed by the Majority was issued; fewer than half of the subpoenas proposed by the Minority—89 out of 200—were issued.

• Sixty-six deposition subpoenas requested by the Minority were denied because they were directed to individuals affiliated with the Republican National Committee and conservative political groups, all of whom refused to cooperate voluntarily with the Committee.

• Thirteen deposition subpoenas issued to, but then ignored by, individuals affiliated with the Republican Party, were not enforced by the Committee. These subpoenas were directed to top officers of the Republican National Committee, the Dole for President campaign, Triad Management, and Americans for Tax Reform.

• Twenty-five of the 28 hearing days devoted to fundraising practices examined the Democrats. Only three days were allotted to look at possible Republican wrongdoing. Four additional days were spent discussing the need for campaign finance reform.

The partisan nature of the investigation was also demonstrated by the Majority's repeated violations of the Committee's longstanding rules of procedure, abrogation of bipartisan agreements on Committee process, and the failure to issue or enforce Minority-requested subpoenas. More significantly, the failure by the Committee to enforce its subpoena authority may have damaged the ability of the U.S. Senate to compel information in future oversight and investigative efforts.

The Minority Report brings some balance to the Committee's investigation. Our Report does not shrink from or condone illegal or improper conduct by Democrats. On the contrary, when the evidence indicates misconduct on the Democratic side, that misconduct is noted and condemned. The Minority Report also lays out the evidence we were able to compile about fundraising illegalities and improprieties on the Republican side. The fact that both parties engaged in campaign abuses provides the foundation of our most important conclusion, that the underlying cause of the 1996 campaign scandal is our deeply flawed system of campaign financing. The Committee investigation has built an undeniable case for campaign finance reform.

A SYSTEMIC PROBLEM

The Committee examined a host of 1996 election-related activities alleged to have been improper or illegal. We heard from fundraisers, donors, party officials, lobbyists, candidates and government officials. Roger Tamraz, a contributor to both parties, admitted making 1996 campaign contributions for one reason, to obtain access to events held in the White House. Buddhist Temple officials admitted reimbursing monastics for making campaign contributions at the temple's direction. A wealthy Hong Kong businessman hosted the chairman of the Republican National Committee on a yacht in Hong Kong Harbor and provided $2 million in collateral for a loan used to help elect Republican candidates to office.

The Committee's investigation exposed these and other incidents that ranged from the exemplary, to the troubling, to the possibly

illegal. But investigations undertaken by the U.S. Senate are not law enforcement efforts designed to arrive at judgments about whether particular persons should be charged with civil or criminal wrongdoing, but, by Constitutional design, are inquiries whose primary purpose must be "in aid of the legislative function." Accordingly, the most important outcome of the Committee's investigation is the compilation of evidence demonstrating that the most serious problems uncovered in connection with the 1996 election involve conduct which should be, but is not now, prohibited by law. Or as Senator Levin has put it, the evidence shows that the bulk of the campaign finance problem is not what is illegal, but what is legal.

The systemic legal problems and the need for dramatic campaign finance reform are highlighted in our Report and in the following summary, which covers subjects addressed during the hearings as well as subjects the Minority would have addressed at the hearings if it had been allocated additional hearing days. The summary is organized like the Minority Report itself—both thematically and by chapter—and, like the Report, it discusses a wide range of questionable conduct by persons and organizations associated with the Republican and Democratic Parties. But the Report also seeks to draw larger lessons about what is needed to repair a campaign financing system in crisis.

In our democracy, power is ultimately to be derived from the people—the voters. In theory, every voter is equal; the reality is that some voters, to borrow George Orwell's phrase, are "more equal than others." No one can deny that individuals who contribute substantial sums of money to candidates are likely to have more access to elected officials. And most of us think greater access brings greater influence. It was this concern over linkages between money, access and influence—amid allegations that Richard Nixon's 1968 and 1972 presidential campaigns accepted individual contributions of hundreds of thousands, even millions, of dollars—that spurred Congress to enact the original campaign finance laws. While those laws have evolved over the 20 years since that time, the goals have remained the same: To prevent wealthy private interests from exercising disproportionate influence over the government, to deter corruption, and to inform voters. To achieve those goals, the law imposes both contribution limits and disclosure requirements:

- Certain categories of donors—including corporations, labor unions, and foreign nationals—are prohibited from making contributions to federal campaigns.
- Individual donors are limited in the amount of money they may contribute to federal campaigns.
- All campaign contributions must be disclosed.

Violations of the law's contribution limits and disclosure requirements have occurred since they were first enacted. For example, corporations and foreign nationals prohibited from making direct campaign contributions have laundered money through persons eligible to contribute. Donors who have reached their legal contribution limit have channeled additional campaign contributions through relatives, friends, or employees. Indeed, the investigation of the 1996 elections was triggered by suspected foreign contributions to the Democratic Party allegedly solicited by Democratic National Committee ("DNC") fundraiser John Huang. Indictments and

convictions have emerged involving contributors to both parties, including Charlie Trie and the Lum family on the Democratic side, and Simon Fireman, vice chair of finance of Senator Dole's presidential campaign, and corporate contributors to the campaigns of Representative Jay Kim of California on the Republican side. The most elaborate scheme investigated by the Committee involved a $2 million loan that was backed by a Hong Kong businessman, routed through a U.S. subsidiary, and resulted in a large transfer of foreign funds to the Republican Party.

While the Committee's investigation uncovered disturbing information about the role of foreign money in the 1996 elections, the evidence also shows that illegal foreign contributions played a much less important role in the 1996 election than once suspected. Whether judged by the number of contributions or the total dollar amount, only a small fraction of the funds raised by either Democrats or Republicans came from foreign sources. More importantly, the Committee obtained no evidence that funds from a foreign government influenced the outcome of any 1996 election, altered U.S. domestic or foreign policy, or damaged our national security.

The Committee's examination of foreign money also brought to light an array of fundraising practices used by both parties that, while not technical violations of the campaign finance laws, expose fundamental flaws in the existing legal and regulatory system. The two principal problems involve soft money and issue advocacy.

The federal election laws, as noted above, place strict limits on campaign contributions to federal candidates. Campaign funds which meet all of the federal strictures are often called "federal" or "hard" money. But FEC regulations also permit political parties to raise and accept contributions that do not meet the law's strict requirements, if the funds are not intended to be used to help specific federal candidates. That means, for example, under the FEC regulations, parties may accept otherwise prohibited contributions from corporations and unions and unlimited contributions from individuals. Parties can then—legally—use this so-called "non-federal" or "soft" money to help state and local candidates and for generic, party-building purposes such as get-out-the-vote drives.

The Committee's investigation revealed that the legal distinction created by the FEC between hard and soft money, while clear on the fundraising side, has become all but meaningless on the spending side. Both the Democratic and Republican Parties raised vast amounts of soft money from corporate, union and individual donors, and then used loopholes in the law to spend that money helping specific candidates. The biggest of these loopholes involves so-called issue advocacy, in which communications, paid for in whole or part with soft money, attack a candidate by name while claiming to be an issue discussion outside the reach of federal election laws. This loophole widened in 1996 due to rulings by a few courts giving wide latitude to the definition of issue advocacy. These courts held, in essence, that political communications are outside the scope of federal election laws unless they contain so-called "magic words" (such as "vote for," "elect," or "defeat") advocating the election or defeat of a clearly identified candidate. These court rulings led to over $135 million in televised ads by parties and other groups, almost 90 percent of which named specific candidates. This unlimited

and undisclosed spending, which the Annenberg Public Policy Center has called "unprecedented" and "an important change in the culture of campaigns," may have changed the outcome of at least some 1996 federal elections.

It is beyond question that raising soft money and broadcasting issue ads are not, in themselves, unlawful. The evidence suggests that much of what the parties and candidates did during the 1996 elections was within the letter of the law. But no one can seriously argue that it is consistent with the spirit of the campaign finance laws for parties to accept contributions of hundreds of thousands—even millions—of dollars, or for corporations, unions and others to air candidate attack ads without meeting any of the federal election law requirements for contribution limits and public disclosure.

The evidence indicates that the soft-money loophole is fueling many of the campaign abuses investigated by the Committee. It is precisely because parties are allowed to collect large, individual soft-money donations that fundraisers are tempted to cultivate big donors by, for example, providing them and their guests with unusual access to public officials. In 1996, the soft-money loophole provided the funds both parties used to pay for televised ads. Soft money also supplied the funds parties used to make contributions to tax-exempt groups, which in turn used the funds to pay for election-related activities. The Minority Report details, in several instances, how the Republican National Committee deliberately channeled funds from party coffers and Republican donors to ostensibly "independent" groups which then used the money to conduct "issue advocacy" efforts on behalf of Republican candidates.

Together, the soft-money and issue-advocacy loopholes have eviscerated the contribution limits and disclosure requirements in federal election laws and caused a loss of public confidence in the integrity of our campaign finance system. By inviting corruption of the electoral process, they threaten our democracy. If these and other systemic problems are not solved, the abuses witnessed by the American people in 1996 will be repeated in future election cycles. All that will change will be the names, dates, and details.

FOREIGN MONEY

A substantial portion of the Committee's efforts was directed at uncovering whether there was an illegal infusion of foreign funds into the American political process during the 1996 election cycle.

The China Plan

In his opening statement on the first day of the Committee's public hearings, Chairman Thompson stated that the Committee had discovered a plan "hatched by the Chinese Government" that was designed "to pour illegal contributions" into American campaigns. Chairman Thompson suggested that the Committee had evidence that this "China Plan" had "affected the 1996 presidential race." The Committee did, in fact, receive information that Chinese government officials had proposed a plan during the last election cycle designed to promote its interests in the United States. The Committee also discovered that the China Plan focused not on the presidential race, but on lobbying and promoting Chinese Government interests with Congress, state legislatures and the American pub-

lic. Although the evidence presented to the Committee supports the conclusion that the plan was implemented in a number of ways, there was ultimately insufficient evidence presented to the Committee to show that the plan involved the Chinese government making contributions to the presidential campaign, let alone that any Chinese government money had actually made its way into any federal campaign, presidential or congressional. Based on the information available to the Committee to date, the China Plan was found to be of minimal significance to the issues investigated by the Committee.

Haley Barbour and the National Policy Forum

The clearest example of foreign money being solicited and directed into U.S. elections involves the Republican Party and a Hong Kong businessman. It occurred when Haley Barbour, chairman of the Republican National Committee ("RNC'), persuaded Hong Kong businessman Ambrous Young to post collateral of $2 million in support of a loan to the National Policy Forum ("NPF"). NPF, a think tank also presided over by Barbour, was a de facto subsidiary of the RNC. The collateral was posted by a shell corporation that had no assets other than money transferred from Hong Kong. Because of Young's help, NPF was able to obtain a $2 million bank loan, and it quickly transferred the bulk of the loan proceeds to the RNC which, in turn, channeled the money into congressional races around the country. This was a clear case of foreign money being brought into our domestic political process. This money transfer was conceived and executed at the highest levels of the Republican Party.

Barbour's testimony that he did not know that the source of the funds was foreign or that the money was intended for infusion into the 1994 congressional elections was contradicted by both documentary and testimonial evidence. Evidence before the Committee demonstrated that Barbour was made aware on several occasions, both before and after the loan was made, that the collateral, $2 million in certificates of deposit, was purchased with foreign money. Barbour himself was quoted on several occasions stating that the money was needed for the November 1994 congressional elections. His denials to this Committee were not credible.

Both the Minority and Chairman Thompson agreed that the RNC should repay its Hong Kong benefactor the $800,000 that was forfeited as a result of NPF's default on the loan. Barbour authorized the default after having given assurances that the RNC would stand behind the NPF loan.

John Huang

John Huang, a U.S. citizen who emigrated from Taiwan in 1969, worked for several years for the Lippo Group, an Indonesian-owned conglomerate. During the late 1980s, he became active in Democratic Party politics. He raised money for President Clinton's campaign in 1992 and later joined the Department of Commerce. It appears that Huang may have raised money for the Democratic National Committee while he was a Commerce Department employee. If true, he may have violated the Hatch Act, which proscribes the solicitation of campaign contributions by federal employees.

After leaving Commerce, Huang joined the DNC staff as a full-time fundraiser, concentrating on the Asian-American community. On several occasions, he collected contributions that he knew—or should have known—were improper and possibly illegal.

Some Members of the Committee viewed Huang as a potential espionage agent, and spent considerable time attempting to establish that he relayed classified information to his former employer, the Lippo Group, or to the Chinese government when he was employed by the Department of Commerce. Huang offered to testify without immunity from prosecution for any acts of espionage or improper transfer of classified information. The Majority did not pursue this offer. The evidence before the Committee does not support the allegation that Huang served as a spy or a conduit for contributions from any foreign government, including China.

Yah Lin ("Charlie") Trie

Yah Lin ("Charlie") Trie, a U.S. citizen who emigrated from Taiwan in 1974, was not a DNC employee, but he raised substantial sums of money for the DNC and the Presidential Legal Expense Trust, an entity established to raise money to defray the legal bills of President and Mrs. Clinton.

Some of the money Trie raised appears to have come from foreign sources, notably Ng Lap Seng (also known as "Wu"), a business associate of Trie's based in Macao. Trie appears to have made some of his own political contributions from a bank account that was funded with transfers from Wu.

The evidence before the Committee does not support the allegations that Trie was acting on behalf of a foreign government or that he was improperly attempting to influence American foreign policy. However, there can be little doubt that Trie hoped to promote his business interests by capitalizing on his earlier friendship with President Clinton. In February, 1997 Trie was indicted by the Department of Justice for conspiracy to defraud the DNC and the FEC by making and arranging illegal contributions utilizing foreign funds. He has returned to the United States and has pleaded not guilty to these charges.

Ted Sioeng

Individuals and companies associated with Ted Sioeng, an Indonesian-born businessman who is not a U.S. citizen or a legal resident, contributed large sums of money to both Democrats and Republicans. These contributions enabled Sioeng to gain access to high-ranking officials of both parties. The Minority urged the Committee to hold hearings on Sioeng, but none took place. This failure is striking since the Committee focused enormous attention on John Huang and Charlie Trie and other individuals linked to questionable Asian contributions. As noted above, unlike Huang and Trie, individuals associated with Sioeng contributed to both political parties.

Jay Kim

One of the best-documented examples of foreign contributions to a federal candidate concerned U.S. Representative Jay Kim, a California Republican, who pled guilty last year to campaign finance

violations stemming from his 1992 and 1994 campaigns. Kim's wife also pled guilty, while a former campaign treasurer was convicted of criminal charges after a jury trial. While examining the Kim case, the Minority found evidence suggesting that there were ongoing improprieties during the 1996 election cycle. Moreover, a recent lucrative book deal between Mrs. Kim and a South Korean publisher raises a serious question as to whether it is an attempt to channel foreign funds to the Kims for improper purposes. These transactions warrant further scrutiny.

While the above examples clearly show that foreign money is a problem in the political process, the dimensions of the problem must be kept in perspective. It should be noted that the amount of foreign money that made its way into the election campaigns was a small fraction of the total amount of money contributed and the number of contributions received.

INDEPENDENT GROUPS

The Minority hoped for a broad bipartisan investigation into the issue of how tax-exempt entities may have been used to circumvent the campaign finance laws. The Minority joined the Majority to issue a subpoena to the AFL–CIO, the Christian Coalition, and nearly 30 other independent groups holding a wide range of political ideologies and affiliations that appeared to have played some role in the 1996 elections.

After the subpoenas were issued, however, the Majority failed to enforce them, even in the face of open non-cooperation by entities and individuals subpoenaed by the Committee. The Minority indicated that it would support action against any entity, whether associated with either the Democratic or Republican Party, that failed to comply with a valid Committee subpoena. However, by late summer 1997, compliance by almost all of the independent groups had stopped.

Despite these obstacles, the Minority was able to establish that several tax-exempt organizations spent millions of dollars on behalf of Republican candidates through purported "issue ads" and other campaign support. Even more disturbing, the RNC funneled money through several theoretically "independent" groups and thereby effectively evaded the federal legal limits on the spending of soft money contributions.

The RNC and Americans for tax reform

One of the most egregious examples of the misuse of tax-exempt entities concerned the Republican National Committee's transfer of money to Americans for Tax Reform ("ATR"). Shortly before the November 1996 election, ATR received a $4.6 million "donation" from the RNC and spent that money on direct mail and phone bank operations to counter anti-Republican advertising on the Medicare issue. The evidence collected by the Committee shows clearly that ATR acted as a surrogate for the RNC, enabling the Republican Party to evade campaign finance laws. The coordinated effort between the RNC and ATR permitted the RNC to conserve hard dollars which the RNC could then expend elsewhere. The alliance between the RNC and ATR is a classic example of the soft

money loophole being exploited in a manner that pushed the limits of our campaign finance laws.

These activities should have been exposed at public hearings, but the Majority refused to permit such hearings. The relationship between the RNC and ATR should be the subject of continued investigation by the Department of Justice, the Internal Revenue Service and the Federal Election Commission.

Triad and related organizations

The issue advocacy loophole was also exploited by Triad Management Services, a for-profit company that claims to be in the business of providing advice to conservative donors in exchange for fees. In fact, Triad was funded by a handful of wealthy Republican donors who used it as a mechanism to support the election of conservative Republican candidates to the House of Representatives and the Senate. Triad channeled millions of dollars from its backers to two tax-exempt groups it had established for the sole purpose of running attack ads against Democratic candidates under the guise of "issue advocacy." By operating this way, Triad and its financial backers avoided the disclosure and campaign contribution limits of the federal election laws.

Triad itself made possibly illegal contributions by providing free consulting advice and other assistance to candidates. Moreover, the evidence suggests that Triad conspired with contributors who had reached their maximum contribution limit to evade the law by laundering additional contributions through designated political action committees ("PACs") and then earmarking these contributions for certain campaigns. The Department of Justice and the Federal Election Commission should continue the investigation into the operations of Triad to determine the nature and the extent of any illegal activities by that organization.

One of the most unfortunate aspects of this entire investigation was the decision by the Majority to unilaterally reverse its pledge to the Minority that the Minority would be afforded three hearing days in October or November, 1997. The Minority was prepared to use the promised hearing days to educate the American people about Triad.

The Christian Coalition

Among all the "independent" groups in the pro-Republican camp, few have been as active as the Christian Coalition ("the Coalition"). In local, state, and federal elections, the Coalition spends substantial sums of money to distribute millions of copies of its voter guides. It has acknowledged spending between $22 million and $24 million on 1996 races, and working to distribute about 45 million voter guides.

At the Minority's request, the Committee issued a subpoena to the Christian Coalition, but the organization produced only a handful of documents. It refused to provide copies of voter guides, even though copies had been distributed publicly across the country. Despite the lack of cooperation from the Coalition, and the failure of the Majority to seek enforcement, the Minority was able to piece together information about this organization from other sources, in-

cluding court papers in the FEC's ongoing suit against the Coalition.

The Minority found that the Christian Coalition has routinely circumvented federal election law by exploiting the "issue advocacy" loophole. Its voter guides, for example, purport to be honest portrayals of candidates, examining how their positions on controversial issues are in accord with the Coalition. In fact, the guides are highly slanted publications, characterized by distortions and omissions in order to help Coalition-backed candidates. Although it purports to be a nonpartisan, social welfare organization, the Christian Coalition is one of the biggest proponents of the Republican Party and Republican candidates.

Warren Meddoff and tax exempt groups

The evidence before the Committee on coordination between Democratic officials and independent groups is not comparable to the disturbing evidence of Republican coordination with independent groups. The Committee examined activities surrounding a written suggestion by White House Deputy Chief of Staff Harold Ickes to Florida businessman Warren Meddoff that, in response to Meddoff's request, identified organizations to which tax-deductible contributions could be made. However, there was no evidence presented that the groups identified by Ickes, which do not run issue ads and focus mostly on voter-registration activities, coordinated their activities with the White House or the DNC. The Meddoff story sheds so little light on the issue of improper coordination that it is questionable that he would have been called to testify before the Committee were it not for his allegation that Ickes had asked him to shred the memorandum identifying the tax-exempt groups. This allegation, as discussed in this Minority Report, is not credible.

The Teamsters election and the DNC

The Committee investigated allegations of a possible "contribution-swapping" scheme proposed by Martin Davis, a direct-mail consultant to the reelection campaign of Ron Carey, former president of the Teamsters union. The essence of Davis's proposal was that the Teamsters would make contributions to the DNC in return for which Democratic Party officials would find a donor to contribute to Carey's re-election campaign. The evidence established that there were discussions between Davis and various fundraising officials at the DNC about this proposal.

While the evidence does not support the conclusion that a contribution-swap ultimately took place, it is disturbing that the matter progressed to the point where a possible contributor for the Carey campaign was identified. This donor did not ultimately contribute to the Teamsters because her status as an employer made her ineligible to contribute to a union election. Nevertheless, Martin Davis's comments to DNC officials should have led them to suspect that Davis was improperly seeking to influence the use of Teamsters funds to benefit the Carey campaign. DNC officials should have immediately refused to take any action in response to Davis's request.

THE HSI LAI TEMPLE EVENT

The Committee examined whether Vice President Gore knew or should have known that a community outreach rally held at the Hsi Lai Temple in California on April 29, 1996, was an event used by Huang to encourage contributions to the DNC and, therefore, should not have been held on the premises of a tax-exempt religious organization. The evidence before the Committee indicates that the Vice President neither knew nor had reason to know that this was anything other than a community outreach event. The evidence presented to the Committee indicates that there had been plans for the Vice President to appear at a fundraising luncheon at a restaurant and then go to the Hsi Lai Temple for the community outreach event. When the luncheon was canceled, the Hsi Lai Temple event proceeded without any of the indicia normally associated with a fundraiser. There was no admission price for attending, no tickets were sold, no campaign materials were displayed, and the Vice President's speech made no reference to the solicitation of funds.

The evidence established that the day after the Vice President appeared at the temple, DNC fundraiser John Huang advised Maria Hsia, a prominent member of the Asian-American community, that he needed to raise money and he asked her to help. She, in turn, asked members of the temple to find contributors. There is not a shred of evidence, however, that the Vice President had any knowledge of this. Moreover, although the donors were reimbursed for their contributions, the source of the funds appears to have been domestic, not foreign.

The evidence before the Committee shows that no aspect of Vice President Gore's appearance at the temple was improper.

CONTRIBUTION LAUNDERING

The Committee learned that some improper reimbursement of campaign contributions occurred in connection with the 1996 federal election cycle. A number of persons associated with Trie and Wu appear to have been reimbursed for their contributions using funds from accounts controlled by Trie. Similarly, Yogesh Gandhi, a Los Angeles businessman, appears to have made a $325,000 contribution in his name using funds supplied by a Japanese businessman. Businesswoman Pauline Kanchanalak, while reportedly wealthy in her own right, appears to have made substantial contributions with funds supplied by her mother-in-law. All of these contributions were improper and were returned by the DNC. There was, however, no evidence presented to the Committee to suggest that any DNC officials were aware that contributions were being reimbursed from third parties. In addition, the evidence before the Committee does not support allegations of impropriety related to $425,000 in contributions by the Wiriadinatas.

The Committee also investigated several instances of contributions to the RNC that were apparently laundered or unlawfully reimbursed. For example, Michael Kojima contributed $500,000 to the Republican Senate-House Dinner Committee in 1992, and the evidence strongly suggests that those funds had actually come from

several Japanese businessmen. Despite this evidence, the RNC has kept $215,000 from that contribution.

Simon Fireman, a national vice chair of the Dole campaign, and his company, Aqua Leisure Industries, Inc., were convicted for using employees as conduits to make illegal corporate contributions. Aqua Leisure employees contributed more than $100,000 and were reimbursed with corporate funds laundered through a Hong Kong trust. These contributions went to several campaigns, including the Dole for President campaign. There was a similar scheme involving contributions to the Dole for President campaign by employees of Empire Sanitary Landfill, Inc., and, apparently, DeLuca Liquor and Wine, Ltd.

Just as the DNC was unaware of having received laundered or illegally reimbursed contributions, there was no evidence to suggest that anyone at the RNC knowingly accepted such contributions.

SOFT MONEY AND ISSUE ADVOCACY

The federal campaign finance laws provide that candidates should finance their campaigns with so-called "hard dollars"—contributions received in relatively small dollar amounts from individual donors and political action committees. Soft money—which can be donated by individuals, corporations and unions and in unlimited amounts—is not supposed to be spent on behalf of individual candidates. And yet it is: Tens of millions of soft dollars are raised by the parties and spent, through such devices as "issue advocacy" ads, for the benefit of candidates. The soft money loophole undermines the campaign finance laws by enabling wealthy private interests to channel enormous amounts of money into political campaigns. Most of the dubious or illegal contributions that were examined by the Committee involved soft money.

The Committee's investigation also showed that the legal distinction between "issue ads" and "candidate ads" has proved to be largely meaningless. The result has been that millions of dollars, which otherwise would have been kept out of the election process, were infused into campaigns obliquely, surreptitiously, and possibly at times illegally.

The issue of soft money abuses is inevitably tied to the question of how access to political figures is obtained through large contributions of soft money. It is also tied to the question of how tax-exempt organizations have been used to hide the identities of soft money donors. A system that permits large contributions to be made for partisan purposes, without public disclosure, invites subversion of the intent of our election law limitations.

THE NATIONAL PARTIES

It is beyond dispute that the present campaign finance system is riddled with loopholes that invite abuse by both parties. The flaws inherent in the system, however, do not excuse poor judgment.

The evidence supports the conclusion that both parties failed to scrutinize their fundraising practices and political contributions with sufficient vigilance.

The Committee received evidence that the DNC did not vigilantly supervise the fundraising of its employee John Huang, who was not an experienced professional fundraiser and who was tapping a

source of funds—the Asian-American community—that had not previously been heavily targeted for substantial contributions. When the party received large contributions from previously unknown contributors such as Charlie Trie, Yogesh Gandhi, and others, it should have taken special steps to ensure that these were legal and proper donations and that all DNC fundraisers were familiar with—and in compliance with—the rules. Such heightened vigilance is important for any new source of contributions. Instead of heightened vigilance, however, there appear to have been instances where DNC officials ignored warning signals and permitted improper contributions to be accepted.

The Committee also learned, however, that a very small proportion of the money raised by the DNC during the 1996 cycle was improper or illegal. The DNC raised $122 million and voluntarily returned less than 200 out of 2.7 million contributions, or .01% of the contributions it received.

The DNC also deserves criticism for the manner in which it used access to political figures as a fundraising tool. Also of concern were instances when DNC Chairman Donald Fowler intervened on behalf of contributors in the face of admonitions to refrain from doing so. While there is no basis for ascribing improper intent to Fowler, he exhibited an insensitivity to both the appearance and the implications of his conduct.

Notwithstanding these failings, there was insufficient evidence to support a claim that the DNC was engaged in a systematic effort to disregard or evade the federal election laws. None of the evidence suggests that the DNC condoned any intentional misconduct. DNC fundraising personnel, with few exceptions, performed their functions in a legal and ethical manner.

Many of the RNC's activities were subject to similar problems as the DNC. The RNC, for example, received foreign contributions, gave access to top Republican congressional leaders for large contributions, and held fundraising-related events on federal property. However, because the RNC did not comply with the Committee's document subpoena and did not make RNC officials available for deposition, the Committee did not subject allegations involving the RNC to the same level of scrutiny as it did allegations involving the DNC.

CONTRIBUTOR ACCESS

One of the most troubling aspects of the campaign finance system is that major contributors often enjoy added access to decision-makers in the legislative and executive branches of government. It is neither a mystery nor a surprise that the drive of political campaigns to raise money enables those who can provide funds to gain access to those who control the government. Neither political party can claim the high road of virtue on this issue, and abuses are pervasive in both presidential and congressional fundraising.

For years, Republicans have openly offered contributors access to congressional and political figures in their party. One 1997 Republican invitation states that for a $250,000 contribution, a smorgasbord of benefits is available, including sharing a table with the Senate or House committee chairman "of your choice." Another 1992 invitation states in a burst of candor: "Benefits based on re-

ceipts." This practice of promising access to political figures in exchange for contributions is the offensive product of a campaign finance system that remains badly in need of reform.

One of the most egregious examples of access being provided in exchange for political contributions concerns businessman Roger Tamraz. Evidence presented to the Committee indicates that Tamraz used every tactic imaginable to gain administration support for his oil pipeline scheme. Eventually, Tamraz resorted to making campaign contributions to the Democratic Party, just as he had given to the Republican Party when President Reagan was in the White House. The sobering fact is that the tactic was effective. Despite warnings from DNC staff and opposition from National Security Council staff and Vice President Gore's staff, Tamraz gained access to DNC events in the White House.

It was equally troubling for the Republican Party to provide access to Michael Kojima when President Bush was in office—a subject not explored in any of the Committee's hearings. Kojima, a notorious "deadbeat dad" who was pursued by creditors, was seated with President Bush because he had donated $500,000 to the Republicans. He also received special assistance from U.S. Embassy officials for his private business interests. After Kojima's attendance at the dinner was publicized, the Republicans were forced to relinquish some of the money he had contributed to Kojima's creditors. But the party has—to this day—ignored strong evidence that Kojima made his donation not with his own money, but with funds transferred to him from Japanese businessmen. The Kojima event may have contributed to subsequent campaign finance abuses. The failure to prosecute Kojima during the Bush administration may have sent a message to other donors that the campaign finance laws were not taken seriously in Washington, a message that could only have encouraged the excesses of 1996.

WHITE HOUSE FUNDRAISING TELEPHONE CALLS

Fundraising calls from the White House are not a new practice. President Reagan made such calls as did President Clinton.

After conducting an extensive investigation into telephone calls made by President Clinton and Vice President Gore, the evidence showed that the calls were not illegal. President Clinton made fundraising calls for the DNC from the private residence while Vice President Gore made DNC telephone calls from his office, in all instances to persons who were outside any federal building. None of these calls violated the Pendleton Act, a 19th century law which forbids the solicitation of campaign contributions from persons who are located on federal property, and Chairman Thompson was correct when he stated that no one would be prosecuted based on such telephone calls.

SECRETARY BABBITT AND THE HUDSON CASINO

On the final day of the hearings, the Committee heard testimony by Interior Secretary Bruce Babbitt and Paul Eckstein, a lobbyist and former colleague of the Secretary. Eckstein had unsuccessfully lobbied Secretary Babbitt to approve an Indian trust application for the purpose of building a casino near Hudson, Wisconsin. Secretary Babbitt and Eckstein were questioned about allegations that Interi-

or's denial of the Hudson casino proposal was undertaken in response to political pressure brought to bear by opposing tribes who were also Democratic Party supporters.

Much of the hearing was devoted to the particulars of a conversation between Secretary Babbitt and Eckstein about Harold Ickes, then-Deputy Chief of Staff in the White House. Several members of the Committee questioned whether Secretary Babbitt had accurately described this conversation in responding to an earlier inquiry from Senator John McCain. More attention should have been paid, however, to the extensive evidentiary record which demonstrated that Secretary Babbitt had played no role in the decision and that the Interior officials who did make the decision had no knowledge of either campaign contributions by the opposing tribes or alleged "pressure" from the White House or the DNC to deny the casino proposal.

WHITE HOUSE PRODUCTION

The Majority devoted two full hearing days to an effort to establish that the White House Counsel's Office conspired to withhold videotapes that showed the first few minutes of 44 coffees held at the White House. The evidence before the Committee indicates that the tapes were not produced until October 1997—about six months after they had been requested by the Committee. But the evidence is also clear that shortly after the request was received at the White House, an appropriately worded directive was issued, asking for all materials, including any videotapes, from persons within the White House complex.

Evidence presented at the hearing strongly suggested that the delay in producing the tapes was caused by the unintentional mishandling of a fax by personnel at the White House Communications Agency ("WHCA'). The WHCA is staffed by career military personnel who, among their many responsibilities, are charged with creating a videotape record of presidential events in the White House. Had the White House Counsel's Office fax been forwarded to them in its entirety, WHCA personnel would have retrieved the tapes and the tapes would have been produced on a timely basis. Allegations were also made that the tapes may have been tampered with. The Committee hired an expert to examine the tapes: after extensive analysis he concluded there was no evidence of tampering.

Overall, the White House cooperated with the Committee's investigative efforts. Hundreds of thousands of pages of documents were voluntarily produced by the White House, many of which shed important light on the fundraising practices being examined by the Committee. In addition, over 50 witnesses were provided by the White House for interview or deposition by Committee staff without the need of subpoenas. During the course of the investigation, however, criticisms arose about delays in the production of certain categories of requested materials. The Committee found no evidence that these delays, although disappointing to the Committee, were the result of an intention to obstruct the Committee's work. In addition to the White House cooperation with the Committee, the DNC also cooperated by producing over 450,000 pages of unredacted documents and providing over 30 witnesses for inter-

view or deposition without the need of subpoenas. In contrast, the RNC responded to its document subpoena, which was virtually identical to the DNC's subpoena, by producing only 70,000 pages of heavily redacted documents and providing no witnesses voluntarily, and only two witnesses for depositions after subpoenas were issued.

CONCLUSION

Despite a highly partisan investigation, the Committee has built a record of campaign fundraising abuses by both Democrats and Republicans. This record will hopefully be useful to the Federal Election Commission, the Internal Revenue Service and to the Department of Justice as they investigate the 1996 campaign. Most importantly, the Committee's investigation should spur much-needed reform of the campaign finance laws and strengthening of the Federal Election Commission. Congress should provide the Federal Election Commission with the necessary resources to significantly enhance its investigative and enforcement staff. Ultimately, the most important lesson the Committee learned is that the abuses uncovered are part of a systemic problem, and that the system that encourages and permits these abuses must be reformed.

PART 1 FOREIGN INFLUENCE

Chapter 1: Overview and Legal Analysis

FINDINGS

(1) Large contributors to both the Republican and Democratic parties used funds from foreign sources to gain access to top U.S. Government officials.

(2) Foreign money comprised only a small fraction of the total contributions made during the 1996 election cycle, and the evidence before the Committee suggests that, with the exception of Republican National Committee Chairman Haley Barbour and Representative Jay Kim, neither party's leaders or candidates intentionally solicited or accepted foreign donations. Nor did the evidence before the Committee suggest that foreign donations altered U.S. policy or damaged American national security.

(3) Although detection of foreign-sourced donations is difficult, closer supervision of party fundraisers and a more careful and complete review of large contributions may have prevented some of these contributions from being accepted.

OVERVIEW OF FOLLOWING CHAPTERS

A primary objective of the Committee's campaign finance hearings was to determine what role foreign money played in the 1996 elections and what impact, if any, it had on American foreign policy. Media reports were rife with allegations that foreign money had infiltrated American political campaigns to win special consideration of private commercial ventures or policy concerns. Such allegations, if true, threaten the integrity of our electoral system, foreign policy, and national security.

The Committee vigorously pursued these allegations. As the following chapters demonstrate, the investigation substantiated a host of disturbing facts involving both parties, including a $2 million loan transaction involving a foreign national and foreign funds resulting in the Republican Party benefiting from $800,000 in foreign funds; large contributions to the Democratic Party solicited by John Huang and Charlie Trie in which foreign dollars were used and/or the identity of the true contributor was hidden; large contributions to both parties from apparently insolvent individuals such as Yogesh Gandhi and Michael Kojima; repeated appearances at White House events and Democratic National Committee ("DNC") fundraisers by foreign nationals attending as guests of DNC contributors; even an organized effort to solicit contributions from foreign nationals in South Korea, resulting in the criminal convictions associated with the election campaigns of Representative Jay Kim of California. In most cases, the Committee uncovered no evidence that a recipient candidate or political party intentionally solicited a contribution funded with foreign money. However, in the cases involving the $800,000 and convictions related to the Kim campaigns, the Committee did obtain evidence that foreign money had been deliberately targeted as a funding source.

Some of the transactions described in this and other parts of the Minority Report, such as the conduit contributions obtained by Trie, the Cheong Am contribution, and the solicitation of foreign

nationals in the Kim matter, involve foreign money in apparent violation of federal law. Other transactions initially portrayed as involving foreign money, such as contributions from persons associated with the Hsi Lai Temple, turned out not to involve foreign money, but the apparent improper use of domestic funds. Many of the transactions demonstrate that, during the 1996 election cycle, the DNC had deficient procedures for supervising fundraisers and detecting foreign contributions and exercised inadequate oversight, including instances in which DNC senior officials who observed questionable fundraising practices or contributions failed to take the action needed to prevent problems or wrongdoing. Still other transactions expose existing vulnerabilities in federal election law, which, although intended to prohibit foreign money in U.S. elections, is not always as clear or as strong as required.

One critical question examined by the Committee was whether either party made a systematic attempt to solicit foreign funds for use in campaigns. After a year-long investigation, the Committee found no documentary or testimonial evidence indicating a deliberate plan by the DNC to pursue foreign funds.[1] The Committee did obtain documentary and testimonial evidence that the RNC established and funded a tax-exempt organization called the National Policy Forum ("NPF"), helped it solicit foreign funds, and then used a portion of those funds to advance Republican electoral activities in the 1994 and 1996 election cycles. In Senator Glenn's words, NPF presents the only known case "where the head of a national political party knowingly and successfully solicited foreign money, infused it into the election process, and intentionally tried to cover it up."[2]

A second important issue addressed by the Committee's investigation involved allegations that the Chinese government had devised a plan to, in Chairman Thompson's words, "pour illegal money into American political campaigns" and which affected the 1996 congressional and presidential elections.[3] In the end, the evidence before the Committee demonstrated that Chinese government officials had proposed a plan during the last election cycle designed to promote China's interests with members of Congress and state legislators, not with presidential candidates. There was not sufficient evidence to support the conclusion that any Chinese government funds actually made their way into the 1996 federal elections, congressional or presidential, and there was no evidence that any steps that may have been taken by the Chinese government affected the 1996 presidential race.

The evidence before the Committee indicates that foreign money, as a whole, provided a small fraction of the contributions involved in the 1996 elections. During the 1996 election cycle, the Democratic Party received over three million contributions totalling about $346 million and returned fewer than 200 individual contributions totalling about $3 million, of which an even smaller fraction involved foreign money.[4] The Republican Party received about $555 million in contributions and has returned about $137,000 in foreign contributions, and there is another $1 million that should also be returned, as this Report will explain.[5] The evidence before

Footnotes at end of chapter.

the Committee also shows that, while contributors did win access to senior decisionmakers, none obtained a change in U.S. domestic or foreign policy.

Although foreign contributions did compromise a small portion of campaign contributions during the 1996 election cycle and U.S. policy was not altered, the seriousness of the problem is established by the many disturbing facts that were uncovered or substantiated during the investigation with respect to both parties. As the chapters on John Huang and Charlie Trie demonstrate, deficient DNC oversight in monitoring fundraising activities and detecting foreign contributions allowed a number of contributions derived from foreign sources to enter the campaign finance system. The chapters on Ted Sioeng and Michael Kojima demonstrate that similar oversight deficiencies affected the Republican Party.[6] The chapters on NPF and Representative Kim document two instances in which foreign funds were deliberately pursued. Together, these chapters demonstrate that both parties failed to adequately investigate large contributions for possible illegal involvement of foreign nationals or possible use of foreign funds; that both parties failed adequately to search out and stop the pursuit of illegal foreign contributions; and that both parties wooed large contributors by providing access to the White House, presidents, vice presidents, and other senior government officials. The Kojima chapter demonstrates that these tactics and the resulting stain on the federal campaign finance system are not new.

LEGAL ANALYSIS

The federal law barring foreign contributions in U.S. elections is set forth in section 441e of Title 2 of the U.S. Code. Section 441e is intended to prohibit foreign money from playing any role in U.S. elections, but the statutory language is not as clear or as strong as needed and should be strengthened. Weaknesses in the existing legal prohibition may hinder the criminal prosecutions and civil enforcement actions needed to keep foreign money from influencing U.S. elections.

Section 441e(a) states:

> It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contributions, in connection with an election to any political office . . . or for any person to solicit, accept, or receive any such contribution from a foreign national.[7]

"Foreign national" is defined in section 441e(b) to include: (1) a foreign government or foreign political party; (2) an individual who is not a U.S. citizen or legal permanent resident; or (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

Section 441e's foreign money ban contains a number of ambiguities which have been partially resolved by the Federal Election Commission ("FEC") and Department of Justice. For example, the key FEC regulation, 11 C.F.R. 110.4, states that section 441e's for-

eign money ban applies not only to contributions by foreign nationals, but also to campaign expenditures by foreign nationals.[8] In addition, the regulation states that the statutory ban extends not only to federal elections, but also to state and local elections.[9] A third ambiguity is the statutory language applying the foreign money ban to contributions made "in connection with an election," which has led to questions of whether the statute permits soft money contributions by foreign nationals to parties or others for non-election-related activities, such as payments for office building construction or issue ads.[10] Clear legal prohibitions on foreign nationals in these three areas—campaign expenditures, state and local elections, and soft money contributions—are vital to keeping foreign money from influencing U.S. elections. While most are addressed administratively, section 441e's foreign money prohibition would clearly benefit from improved statutory language.

A fourth set of issues involves foreign corporations which establish subsidiaries in the United States. The statute is silent on how these corporate entities are to be treated. The FEC has determined that they may make campaign contributions under certain circumstances. The key FEC regulation states that a "foreign national shall not direct, dictate, control, or directly or indirectly participate in the decisionmaking process" of a U.S. corporation with regard to "election-related activities, such as decisions concerning the making of contributions or expenditures" or the administration of a PAC.[11] A 1982 FEC advisory opinion holds that a U.S. subsidiary of a foreign corporation may lawfully make campaign contributions in state and local elections, provided that the subsidiary is organized under the laws of a state in the United States, its principal place of business is in the United States, and no foreign national controls or participates in the contribution decision.[12] One FEC Commissioner strongly dissented, stating:

> The plain language of Section 441e explicitly prohibits "a foreign national directly or through any other person to make any contribution . . ." in connection with an election. [The US subsidiary] is a "person" under the definition in the Statute. . . . The fact that the foreign national's assets go through a USA subsidiary does not make a difference. . . . The facts of this case are conclusive that the ultimate source of the contribution will be [the foreign national]. [The foreign national] owns [the U.S. subsidiary]. They bought it. They paid for it. It's theirs. But it cannot contribute its money to our elections.

Despite this and other dissenting opinions taking the same position,[13] the FEC continues to permit U.S. subsidiaries of foreign corporations to make soft money contributions if the subsidiary operates under U.S. laws, in the United States, and without the participation of a foreign national in its contribution decisions.

In addition, a 1992 FEC advisory opinion states that a U.S. subsidiary of a foreign parent must be able to "demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent," to pay for its campaign contributions.[14] The opinion states that a foreign parent corporation "cannot replenish all or any por-

tion of the subsidiary's political contributions." The opinion cites approvingly an earlier advisory opinion prohibiting campaign contributions by a subsidiary "predominantly funded by a foreign national parent, and whose projects were not yet generating income."[15] These rulings attempt to ensure that a U.S. subsidiary of a foreign corporation pays for its campaign contributions with domestic and not foreign money.

These FEC rulings do not, however, resolve a key legal issue for U.S. subsidiaries—the type of accounting demonstration required. During the Committee's hearings, a question was raised as to whether the 1992 FEC advisory opinion requires U.S. subsidiaries to demonstrate that their contributions are made from domestic profits or net earnings, in order for these contributions to satisfy FEC regulatory requirements.[16] The opinion's actual language is less explicit, however, requiring only a demonstration "through a reasonable accounting method" that "sufficient funds" are in the subsidiary's account to pay for the contribution, not counting "funds given or loaned by its foreign national parent." This language could be interpreted to require the subsidiary to demonstrate only that, at the time of the contribution, it had sufficient domestic funds in its account to pay the contributed amount, without reference to its ultimate net earnings or profits during a particular period of time. Since both intrepretations of the 1992 advisory opinion are reasonable, clarifying legislation or additional regulations are needed to ensure that subsidiaries are fully informed of their legal obligations with respect to such contributions.

The following chapters demonstrate how compliance with section 441e's foreign money ban can be difficult, even for campaign organizations acting in good faith. With respect to contributors who are individuals, one key difficulty is ascertaining a person's legal status as a U.S. citizen or legal permanent resident. Neither candidates nor political parties have ready access to personal immigration and citizenship data.[17] It also can be difficult to determine whether a U.S. citizen or legal resident who receives money from abroad, either from a business or relative, is properly using his or her own money to make a contribution or is instead making an illegal contribution in the name of another.[18] With respect to corporations, it can be difficult for a campaign organization to determine whether a foreign national is participating, directly or indirectly, in a corporation's contribution decisions. It is also difficult to determine whether a corporation has sufficient domestic funds to pay for its contributions, or whether a foreign parent is planning to replenish a subsidiary's campaign contributions.[19] These practical enforcement problems[20] are in addition to statutory ambiguities that should be resolved through legislation clarifying and strengthening section 441e's foreign money ban.[21]

FOOTNOTES

[1] DNC finance chair Richard Sullivan testified that no DNC plan for pursuing foreign money ever existed:

> Sen. Glenn. I would like to know if at the DNC when you were there, there was ever any guideline put out to go for foreign money, and let me clarify. I do not mean money raised from American citizens of foreign extraction. I do not mean foreign money that is legal from green card holders in this country or things like that. I am talking about going after foreign money from abroad and bringing it back into our political system.

Was there ever any such guideline with regard to foreign money by that definition that you had at the DNC?

Sullivan. No.

Sen. Glenn. Did Mr. Fowler [Chairman of the DNC] ever discuss the possibility of going into that area and trying to raise money from abroad, foreign money as I defined it?

Sullivan. No.

Sen. Glenn. Was there ever any discussion pro or con about whether you would even consider something like that?

Sullivan. No.

Sen. Glenn. Was there ever any communication or even a hint from the President or the Vice President that we should include foreign money?

Sullivan. No. . . .

Sen. Torricelli. [W]as there ever any discussion of duplicating the Republican National Committee's efforts with the National Policy Forum by using a tax-free vehicle, which became a conduit for foreign money?

Sullivan. No.

Richard Sullivan, 7/9/97 Hrg., pp. 30–31, 116;

DNC Chairman Fowler testified:

During the 1995-96 electoral cycle, we at the Democratic National Committee made mistakes. . . . Those mistakes, however, were mistakes of process, not intent. If any member of our staff or anyone associated with our fundraising efforts did things that were illegal or unethical, they did so in violation of our policies. Our vetting was deficient, but our purpose and values were good and proper. To the best of my knowledge, there was no intent by DNC officials to accept money from illegal foreign sources. . . . If there was a plot or conspiracy to pump money illegally into the Democratic National Committee coffers, no one told me about it. And to my knowledge, it did not happen.

Donald Fowler, 9/9/77 Hrg., pp. 4–5.

[2] Senator Glenn, 7/8/97 Hrg., p. 22. See Chapter 3 on the National Policy Forum. The evidence before the Committee includes a resignation memorandum by NPF President, Michael Baroody, which cites Chairman Haley Barbour's inappropriate "fascination" with soliciting foreign money for NPF; an NPF document listing "foreign" contributions as a fundraising option; and testimony and documents describing the successful solicitation of several foreign contributions. In the most significant transaction, documents and testimony chronicle how NPF, with the assistance of Barbour and the RNC, obtained a $2 million loan in October 1994, collateralized with $2 million in certificates of deposit paid for with funds transferred from Hong Kong dollars at the direction of a foreign national, Ambrous Young; how $1.6 million of the loan proceeds were immediately transferred to the RNC and used in its 1994 election efforts; how Barbour met with Young on a yacht in Hong Kong in 1995 to ask him to forgive repayment of the loan; how NPF unilaterally stopped repayment five months before the 1996 elections, thereby halting a cash drain on the RNC which had been supplying the repayment funds; and how, after the election, NPF settled the loan with RNC funds wired to Hong Kong under an arrangement that allowed non-repayment of approximately $800,000.

[3] Chairman Thompson, 7/8/97 Hrg., pp. 2, 4.

[4] See FEC filings for Democratic National Committee, Democratic Senatorial Campaign Committee, and Democratic Congressional Campaign Committee; Exhibit 62: DNC In-Depth Contribution Review, DNC 0134–45.

[5] See FEC filings for Republican National Committee, National Republican Senatorial Committee, and National Republican Congressional Committee. To date, the Republican Party has returned a $15,000 foreign contribution made in 1995 by Methanex Management, Inc., a U.S. subsidiary of a Canadian corporation; and about $122,000 in foreign contributions made from 1991 through 1994 by Young Brothers Development (USA). See, for example, *Roll Call*, 10/21/96 (Methanex contribution); *New York Times,* 5/9/97 (Young Brothers contributions). The NPF has apparently returned a $50,000 foreign contribution made in 1996 by Panda Industries, Inc., a company owned by a foreign national, Ted Sioeng. See *Newsday,* 9/14/97.

The Republican Party has not returned $800,000 retained in 1996 from NPF's default on a loan transaction involving a foreign national and foreign dollars from Hong Kong; $25,000 from a 1996 contribution by a foreign organization, the Pacific Cultural Foundation, which is based in Taiwan; or $215,000 remaining from a 1992 contribution by Michael Kojima that apparently utilized foreign funds from Japan. Each of these matters is discussed in the following chapters.

[6] See also Part 3, chapters 21 and 22 on contributions in the name of another affecting both parties in 1996.

[7] 2 U.S.C. 441e.

[8] 11 C.F.R. 110.4(a)(1). The need to ban campaign expenditures as well as contributions by foreign nationals is illustrated, for example, in an incident involving the Embassy of India in Washington, which, in 1996, sent an unknown number of mailings to Indian-American voters in New Jersey discussing one of the candidates running for the U.S. Senate. The 1/30/96 letter, which was addressed to "Friend" from Ambassador Shyamala Cowsik, Deputy Chief of Mission at the Embassy, states: "As you know, Congressman Robert Torricelli (D-NJ) is . . . currently running for the New Jersey seat being vacated by Senator Bill Bradley. You also know that Congressman Torricelli has consistently been a strong critic of India. He was, in 1995, the original co-sponsor, along with Congressman Dan Burton, of the amendment (H.R. 1425) to suspend development assistance to India." See also *The Ethnic NewsWatch,* 11/15/96.

[9] 11 C.F.R. 110.4(a)(1). Section 441e bars a foreign national from making a "contribution" in connection with "an election." "Contribution" is defined in section 431(8)(A) of the law in terms of an election "for Federal office." This limiting language in the definition of contribution may create an ambiguity as to whether the foreign money ban extended to Federal, state and local elections, which is resolved in the regulation.

[10] See, for example, *Legal Times,* 1/6/97. FEC Advisory Opinon 1984–41 determined that it was acceptable for a foreign national to contribute $500,000 to a U.S. charitable organization to broadcast issue ads criticizing the "liberal bias" of the media. These ads did not mention candidates, political parties, or elections. The FEC deadlocked on three other proposed ads that did mention candidates, parties or elections, and so provided no guidance on whether foreign money may be used for those issue ads.

[11] 11 C.F.R. 110.4(a)(3).

[12] FEC Advisory Opinion 1982–10.

[13] See, for example, dissenting opinion in FEC Advisory Opinion 1992–16.

[14] FEC Advisory Opinion 1992–16.

[15] FEC Advisory Opinion 1989–20.

[16] See Committee hearing on 7/15/97.

[17] No federal database exists with citizenship information for persons born in the United States; campaign organizations have to obtain such information from the birth records maintained by individual states and U.S. territories. While the U.S. Immigration and Naturalization Service does maintain a database of information about naturalized citizens and legal permanent residents, federal law prohibits the release of such personal information without the written permission of the person that is the subject of the inquiry. See 5 U.S.C. 552(b)(6) and 552a; 28 C.F.R. Part 16. Even if a campaign organization were to obtain written permission from a donor to request citizenship or immigration information, replies to such inquiries would likely consume too much time to be of practical use during a campaign.

[18] 2 U.S.C. §441f states: "No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."

[19] See, for example, testimony of Thomas R. Hampson, an experienced corporate investigator specializing in evaluating foreign companies. Thomas R. Hampson, 7/15/97 Hrg., p. 62. Hampson was asked by the Committee to examine companies related to Indonesia's Lippo Group, including Hip Hing Holdings, a U.S. corporation. He testified that a reasonably thorough search over two weeks of a number of different public databases did not enable him to determine the gross or net income of Hip Hing Holdings in the year in which it made a contribution to the DNC. Thomas R. Hampson, 7/15/97 Hrg., pp. 82–84. He indicated that this information is not a matter of public record nor easily accessible, even to an expert investigator.

[20] An illustration is provided by *In re Kramer*, FEC MUR 4398, an FEC civil enforcement action settled by conciliation agreement dated 8/22/96.

Thomas Kramer, a foreign national, contributed a total of $322,600 in illegal campaign contributions during the 1994 election cycle to both parties at the state, local and national level. He made these contributions directly, through several Florida corporations he controlled, and through several individuals used as contribution conduits. His donations included $205,000 to the Florida Republican Party and $65,000 to the DNC. His lawyer was quoted in the press as saying that "no fundraiser had ever inquired into Kramer's immigration status or refused his funds because he was a foreign national" and that Kramer first learned he might be violating the law from reading a newspaper article. *Associated Press,* 7/18/96.

Kramer voluntarily contacted the FEC, which ultimately fined him $323,000. The press reported that some campaign organizations were resisting refunding his illegal contributions. The Florida Republican Party, for example, initially wrote to Kramer that his contributions "had been received in good faith and, therefore, were not available for refund," though it later returned a portion of the funds. The Kramer case illustrates the widespread lack of awareness and understanding of the law, the ease with which illegal foreign contributions enter the campaign finance system, and an enforcement apparatus that took action in this matter only after being contacted by the wrongdoer.

[21] S. 25, the McCain-Feingold bill, would make a number of the legislative remedies needed to clarify and strengthen section 441e.

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PART 1 FOREIGN INFLUENCE

Chapter 2: The China Plan

In early 1997, news reports appeared alleging that U.S. federal intelligence agencies had discovered an attempt by the government of the People's Republic of China ("Chinese Government") to increase its influence in the U.S. political process. From February through December 1997, the Committee considered these allegations.

The information gathered by the Committee shows that during the 1996 federal election cycle, Chinese Government officials decided to attempt to promote China's interests with the United States Congress, state legislatures and the American public. Following the 1995 congressional resolution advocating that Taiwanese President Lee be permitted to visit the U.S., as well as President Lee's subsequent visit, the Chinese Government determined that Congress and state officials were more influential in foreign policy decisions than the Chinese Government had previously believed. The Chinese Government's efforts have become known in the media as "the China Plan." The Committee's public discussion of the China Plan began on July 8, 1997, when Chairman Thompson opened the first day of public hearings by asserting that the China Plan was "hatched during the last election cycle by the Chinese Government and designed to pour illegal money into American political campaigns." The Chairman explained that the information before the Committee indicated that the Chinese Government had apparently taken legal steps pursuant to the plan, such as hiring lobbying firms, contacting the media and inviting more Congress members to visit China. He also asserted that "[a]lthough most discussion of the plan focuses on Congress, our investigation suggests it affected the 1996 Presidential race and State elections as well."

The Chairman's assertions implied that the non-public information presented to the Committee included evidence that the Chinese Government's activities had affected, or had some meaningful impact on, the 1996 elections.

Based on the evidence presented to the Committee, the Minority makes the following findings:

(1) Following the 1995 congressional resolution advocating that Taiwanese President Lee be permitted to visit the U.S. and President Lee's subsequent visit, Chinese Government officials decided to attempt to increase the Chinese Government's promotion of its interests with the U.S. Congress, state legislatures and the American public. These efforts, which became known in the media as "the China Plan," reflected the Chinese Government's perception that Congress was more influential in foreign policy decisions than it had previously determined.

(2) The non-public information presented to the Committee to date does not support the conclusion that the China Plan was aimed at, or affected, the 1996 presidential election.

(3) Although some steps were taken to implement the China Plan, the non-public information presented to the Committee to date does not support the conclusion that those steps involved Chinese Government funds going to federal campaigns, either congres-

sional or presidential. During the Committee's public investigation, the Committee learned that contributions derived from foreign funds made their way into the 1996 federal election. The non-public information presented to the Committee, however, does not support the conclusion that these contributions were tied to the China Plan, or to Chinese Government officials. The non-public information presented to the Committee does support the conclusion that the China Plan was implemented with a relatively modest sum of money that was spent on lobbying Congress, paying for members of Congress to visit China, and increasing public relations with Chinese Americans.

(4) The non-public information presented to the Committee raised questions regarding the political activities of one individual investigated by the Committee, Ted Sioeng, but the information available to date was insufficient to support the conclusion that his activities in connection with the political contributions made by his daughter or by his associates in the United States were connected to Chinese Government officials or the China Plan. For information on Sioeng's activities explored during the Committee's public investigation, see Chapter 7 of this Minority Report.

Chapter 3: The National Policy Forum

One of the most striking examples of foreign money in federal elections involved the National Policy Forum ("NPF")—Young Brothers Development loan transaction. Republican National Committee ("RNC") Chairman Haley Barbour used grants and loans from the RNC to create NPF in 1993 (which applied for tax-exempt exempt status under section 501(c)(4) of the U.S. tax code as a social welfare organization). NPF was designed to advance the Republican Party's agenda. In the hope of finding funds to repay the RNC's loans, Barbour targeted foreign sources of money. At the request of Barbour, Ambrous Young, a Hong Kong businessman, agreed to post $2.1 million in collateral, transferred from his Hong Kong business, for a bank loan in the same amount to the NPF. NPF transferred the loan proceeds to the RNC, which used them to help Republican candidates in the 1994 Congressional elections. NPF eventually defaulted on the bank loan. The RNC paid $1.3 million to Young, but refused to repay the balance, resulting in an $800,000 benefit of foreign money to the RNC.

Based on the evidence before the Committee, we make the following findings regarding NPF and this transaction:

(1) RNC Chairman Haley Barbour and the RNC intentionally solicited foreign money for the NPF.

(2) The NPF was an arm of the RNC and, as the Internal Revenue Service concluded, was not entitled to tax-exempt status as a social welfare organization under section 501(c)(4) of the U.S. tax code.

(3) Barbour solicited Ambrous Young, a foreign national, and Young agreed to provide the collateral for a loan to NPF for the purpose of helping Republican candidates during the 1994 elections.

(4) The evidence before the Committee strongly supports the conclusion that Barbour and other RNC officials knew that the money used to collateralize the NPF loan came from Hong Kong.

Barbour's testimony that he did not know about the foreign source of the loan collateral was not credible.

(5) As a result of NPF's default on the loan, the RNC improperly retained $800,000 in foreign money during the 1996 election cycle.

Chapter 4: John Huang

John Huang, an American citizen who emigrated from Taiwan in 1969, is a former Lippo Group executive, Commerce Department official, and Democratic National Committee ("DNC") fundraiser. Huang engaged in a number of activities that were improper and possibly illegal during and prior to his tenure at the DNC. In the end, the DNC returned over $1.7 million of the almost $3.5 million in contributions attributable to Huang. The Committee investigated whether Huang engaged in improper fundraising activities. In addition, the Committee examined allegations that Huang acted as an agent for a foreign government or entity.

Based on the evidence before the Committee, we make the following findings regarding Huang's activities:

(1) John Huang engaged in a number of improper and possibly illegal activities during and prior to his service as a DNC fundraiser. These activities ranged from failing to ensure the legality or propriety of the contributions he solicited, to obtaining foreign reimbursement for a 1992 corporate contribution he directed, to possibly soliciting foreign contributions. In addition, he appears to have improperly solicited several contributions during his tenure at the Commerce Department, in possible violation of the Hatch Act.

(2) There is no evidence before the Committee that DNC officials were knowingly involved in Huang's misdeeds, but the DNC did not adequately supervise Huang's fundraising, did not adequately review the contributions that Huang solicited, and did not respond appropriately to warning signs of his improper activities. The DNC could have avoided some of Huang's misdeeds had it more closely supervised Huang's activities and had it not unwisely abandoned its previously-existing system for checking the propriety of large contributions.

(3) Huang contributed and raised substantial sums of money to benefit the DNC in order to gain access for himself and his associates to the White House and senior Administration officials.

(4) The evidence before the Committee does not establish that Huang served as a spy or a conduit for contributions from any foreign government, including the People's Republic of China. The Committee's investigation yielded no direct support for the allegation that Huang acted as either a spy or a conduit for any foreign government.

(5) The evidence before the Committee does not establish that Huang either misused his security clearance or improperly disseminated classified information during his service at the Commerce Department.

(6) The evidence before the Committee does not allow for any definitive conclusion regarding the nature of Huang's interactions with the Lippo Group during his tenure at the Commerce Department and the DNC. Huang's frequent contacts with Lippo-related entities and his intermittent use of an office across the street from the Commerce Department to receive faxes or mail cast suspicion

on Huang's activities while working for the Commerce Department. Nevertheless, the absence of specific evidence on the nature of his contacts with Lippo or the contents of the materials he received makes it difficult to draw any conclusions regarding actual misconduct or a conflict of interest within the meaning of the ethics laws governing federal employees.

(7) Neither Huang's hiring at the Commerce Department nor his receipt of a security clearance was inappropriate. At the time of Huang's hiring, all Commerce Department political appointees received interim clearances as a matter of course, a practice the Department subsequently discontinued.

Chapter 5: Charlie Trie

Yah Lin "Charlie" Trie, an American citizen who emigrated from Taiwan in 1974, raised and contributed substantial sums of money to benefit the Democratic National Committee ("DNC") and raised funds for the Presidential Legal Expense Trust ("PLET") during the 1996 election cycle. Trie, who owned a restaurant in Arkansas and became a friend of then-Governor Clinton, opened a Washington, D.C.-based import-export company in 1992, apparently to take advantage of his relationship with the President-elect. He and his business associates had frequent access to the White House. In April 1996, President Clinton appointed Trie to the Commission on United States-Pacific Trade and Investment Policy. Trie's international business dealings with Ng Lap Seng (also known as Wu), a wealthy Macao businessman, raised questions about the source of Trie's contributions.

Based on the evidence before the Committee, we make the following findings regarding Trie's activities:

(1) Charlie Trie contributed and raised substantial sums of money to benefit the DNC in order to gain access for himself and his associates to the White House and senior Administration officials.

(2) Trie and his businesses received substantial sums of money from abroad and used these funds to pay for some or all of the $220,000 in contributions that Trie, his family and businesses made to the DNC. The evidence before the Committee suggests that some of the contributions may have been illegal, and, in fact, Trie was recently indicted with respect to some of these contributions. Trie has pleaded not guilty. The DNC returned all $220,000.

(3) Trie and Wu used individuals who were legally permitted to make campaign contributions as conduits to make contributions to the DNC, in apparent violation of law.

(4) There is no evidence before the Committee that any DNC officials were knowingly involved in Trie's misdeeds, but the DNC did not adequately review the source of Trie's contributions and did not respond appropriately to warning signs of his improper activities.

(5) The evidence before the Committee does not establish that the Government of the People's Republic of China provided money to Trie or directed Trie's actions.

(6) The Presidential Legal Expense Trust, a private trust not involved in campaigns, acted prudently and responsibly in its dealings with Trie.

(7) There is no evidence before the Committee that Trie, Wu, or anyone associated with them had any influence or effect on U.S. domestic or foreign policy.

Chapter 6: Michael Kojima

Michael Kojima, a Japanese-born American citizen, first gained public notice as a "deadbeat dad" who failed to pay child support but gave $500,000 to the Republican Party to sit with President Bush at a fundraising dinner in 1992. This contribution, which the evidence before the Committee strongly suggests Kojima paid for with funds obtained from Japanese businessmen, appears to be the second largest source of foreign money for either party during the 1990s—surpassed only by the $800,000 obtained by the RNC from a Hong Kong corporation through the National Policy Forum.

Kojima's story has since gained importance as an example of a little-known contributor whose large contribution should have been investigated before being accepted and should have been returned when evidence emerged that it was from foreign sources. Kojima's dealings with the Republican Party and the Bush administration provide a context for understanding how many of the events on which the Committee focused its attention had precedent in previous campaigns and Administrations. The Kojima matter illustrates that the receipt of large foreign contributions, the provision of special access to large contributors, and the use of the White House for fundraising purposes are neither unprecedented practices nor confined to one party.

Based on the evidence before the Committee, we make the following findings with respect to Kojima's activities:

(1) Michael Kojima contributed substantial sums to the Republican Party in order to gain access for himself and his associates to President Bush and Bush administration officials and the help of U.S. embassies abroad. With the help of a Republican fundraising organization, the Presidential Roundtable, and because of his status as a contributor, Kojima obtained access to U.S. embassy and foreign officials to advance his private business interests.

(2) Kojima's $500,000 contribution to the Republican Party appears to have been derived from foreign funds. As a result of his substantial contributions, Kojima was able to bring ten Japanese nationals with him to a 1992 dinner with President Bush. According to some of those foreign nationals, they provided Kojima with significant sums of money for the express purpose of facilitating their attendance at the dinner.

(3) The RNC has improperly retained $215,000 in apparent foreign funds contributed by Kojima.

(4) The Republican Party failed to conduct an adequate investigation of Kojima even when it had information that the source of the funds was questionable.

Chapter 7: Ted Sioeng

Ted Sioeng, an Indonesian-born businessman who is not a U.S. citizen or a legal resident, and other members of the Sioeng family contributed to both Republican and Democratic organizations during the 1990s. Sioeng has longstanding relationships with business interests in the People's Republic of China ("PRC") and owns a pro-

PRC newspaper in California. The evidence before the Committee paints a disturbing picture of fundraisers from both political parties courting an individual (Sioeng) who, because of his status as a foreign national, had no ability to make or direct legal contributions under U.S. election laws.

Based on the evidence before the Committee, we make the following findings with respect to political contributions from Sioeng and related persons:

(1) The evidence before the Committee strongly suggests that Ted Sioeng, a foreign national, was directly or indirectly involved in a number of contributions to Democrats and Republicans.

(2) Matt Fong, California State Treasurer, did not exercise appropriate diligence in personally soliciting and receiving $100,000 in contributions from Sioeng and helping solicit a $50,000 contribution to NPF from a Sioeng-owned company. Fong has since returned the $100,000 he received; NPF has reportedly returned the $50,000 it received.

(3) The evidence before the Committee does not allow for any conclusion as to whether Sioeng served as a conduit for contributions from any foreign government, including the Government of China.

(4) Sioeng's contributions enabled Sioeng and his associates to gain access to senior figures in both the Democratic and Republican parties, including President Clinton, Vice President Gore, and House Speaker Gingrich.

Chapter 8: Jay Kim

In July 1997, Representative Jay Kim (R-Ca.) and his wife, June Kim, pled guilty to numerous violations of federal campaign finance laws arising out of his 1992 and 1994 campaigns. The violations were part of a scheme which funneled over $230,000 in illegal corporate funds, some of which were directed by Korean nationals, into Kim's campaigns. Five corporations pled guilty to making illegal contributions, and Kim's campaign treasurer, Seokuk Ma, was convicted of soliciting and accepting illegal contributions. Some of these violations occurred well after the Kims became aware that they were targets of a federal investigation.

Based on the evidence before the Committee, we make the following findings regarding activities by the Kims:

(1) The Kims appear to have continued some of the same troubling practices during the 1996 election cycle that laid the foundation for the criminal misconduct in the prior two election cycles, including using a campaign treasurer with no knowledge of federal election law and instructing the treasurer to sign blank checks and blank Federal Election Commission forms.

(2) The evidence before the Committee suggests that June Kim's recently-disclosed book deal with a South Korean publishing company may be an attempt to inappropriately channel foreign money to the Kims.

PART 2 FINDINGS ON INDEPENDENT GROUPS

Chapter 9: Overview and Legal Analysis

(1) Independent groups, including tax-exempt organizations, corporations and unions, spent large sums of money to influence the public's perception of federal candidates and campaigns and the outcome of certain elections in 1996.

(2) During the 1996 election cycle, tax-exempt organizations spent tens of millions of dollars on behalf of Republican and Democratic candidates under the guise of issue advocacy, in violation of the spirit and possibly the letter of the tax code and election laws. Despite their election-related activity, none of these organizations registered with or disclosed their activities to the FEC. Moreover, because of restrictions in the tax code with respect to such tax-exempt organizations, these organizations may have violated their tax status.

(3) Although many groups conduct activities that influence the public's perception of federal candidates and campaigns, they either are not required, or do not, register with or disclose their activities with the FEC.

Chapter 10: The Republican Party and Independent Groups

The Republican National Committee ("RNC") used tax-exempt organizations for partisan political purposes during the 1996 election cycle. The RNC channeled over $5 million—directly from party coffers—to organizations supposedly independent from the Republican Party, and collected and delivered significant additional sums from third parties to these groups. Some of these organizations then used the funds to help Republican candidates win election; two were actually founded and controlled by RNC officials. Other tax-exempt organizations served as conduits for Republican donors who used the organizations to conceal their identities and evade federal ceilings on campaign contributions.

Based on the evidence before the Committee, we make the following findings with respect to the Republican network of independent organizations:

(1) The Republican Party financed and participated in election-related activities by tax-exempt organizations, in part to evade the limits of federal election laws and to use the organizations as surrogates for delivering the Republican Party's message.

(2) The RNC directly funded, for purposes that benefited the Republican Party, a number of tax-exempt organizations that were supposed to operate in a non-partisan manner.

(3) The RNC also solicited, collected and delivered third-party funds to tax-exempt organizations for election-related activities to benefit the Republican Party.

(4) The RNC instructed and helped Republican candidates to coordinate their campaign activities with independent groups.

Chapter 11: Americans for Tax Reform

Despite a commitment to nonpartisanship in its incorporation papers, ATR engaged in a variety of partisan activities on behalf of the Republican Party during the 1996 election cycle. For example, ATR accepted $4.6 million in soft dollars from the Republican Na-

tional Committee ("RNC") and spent them on election-related efforts coordinated with the RNC. ATR acted as an arm of the RNC in promoting the Republican agenda and Republican candidates, while shielding itself and its contributors from the accountability required of campaign organizations. Although ATR's refusal to comply with Committee document and deposition subpoenas has kept the Committee from learning the full extent of ATR's involvement with the RNC in the 1996 elections, the evidence before the Committee strongly suggests coordinated campaign efforts between the RNC and ATR that appear to have circumvented hard and soft money restrictions, evaded disclosure requirements and abused ATR's tax-exempt status.

Based on the evidence before the Committee, we make the following findings with respect to ATR's activities:

(1) The Republican National Committee improperly and possibly illegally gave $4.6 million to Americans for Tax Reform to fund issue advocacy efforts including mail, phone calls, and televised ads. By using ATR as the nominal sponsor of issue advocacy efforts, the RNC effectively circumvented FEC disclosure requirements and the requirement to fund 65% of the cost of its issue advocacy with hard (restricted) money.

(2) By operating as a partisan political organization on behalf of the Republican Party, Americans for Tax Reform appears to have violated its status as a tax-exempt, social welfare organization under section 501(c)(4) of the tax code.

(3) ATR's issue advocacy activity was conducted, in part, by an affiliate called the Americans for Tax Reform Foundation, which appears to be a violation of the foundation's status as a 501(c)(3) charitable organization, contributions to which are tax deductible.

Chapter 12: Triad and Related Organizations

Triad Management Services, Inc. is a for-profit corporation owned by Republican fundraiser Carolyn Malenick. Malenick incorporated Triad in the spring of 1996, but appears to have operated the business as an unincorporated entity since at least early 1995. Triad holds itself out as a consulting business that provides advice to conservative donors about how to maximize their political contributions. Triad oversaw advertising in 26 campaigns for the House of Representatives and three Senate races. Triad also advised at least 53 Republican candidates on ways to improve their campaigns. Despite Triad's refusal to fully comply with the Committee's subpoenas for both documents and testimony, substantial evidence of wrongdoing by Triad was developed by the Minority.

Based on the evidence before the Committee, we make the following findings with respect to the activities of Triad and two nonprofit organizations which it established:

(1) The evidence before the Committee suggests that Triad exists for the sole purpose of influencing federal elections. Triad is not a political consulting business: it issues no invoices, charges no fees, and makes no profit. It is a corporate shell funded by a few wealthy conservative Republican activists.

(2) Triad used a variety of improper and possibly illegal tactics to help Republican candidates win election in 1996 including the following:

(A) Triad provided free services to Republican campaigns in possible violation of the federal prohibition against direct corporate contributions to candidates. These services included raising funds for candidates, providing consulting advice on fundraising and political strategy, and providing staff to assist candidates.

(B) The evidence before the Committee suggests that Triad was involved in a scheme to direct funds from supporters who could not legally give more money directly to candidates, through political action committees ("PACs"), and back to candidates. Triad obtained from Republican candidates names of supporters who had already made the maximum permissible contributions and solicited those supporters for contributions to a network of conservative PACs. In many instances, the PACs then made contributions to the same candidates.

(C) Triad operated two non-profit organizations—Citizens for Reform and Citizens for the Republic Education Fund—as allegedly nonpartisan social welfare organizations under 501(c)(4) of the tax code and used these organizations to broadcast over $3 million in televised ads on behalf of Republican candidates in 29 House and Senate races. Using these organizations as the named sponsors of the ads provided the appearance of nonpartisan sponsorship of what was in fact a partisan effort conducted by Triad. Neither organization has a staff or an office, and both are controlled by Triad. Over half of the advertising campaign was paid for and controlled by the Economic Education Trust, an organization which appears to be financed by a small number of conservative Republicans.

Chapter 13: Coalition for Our Children's Future

Coalition for Our Children's Future ("CCF") is a tax-exempt organization under section 501(c)(4) of the tax code. Between its creation in mid-1995 and the November 1996 election, CCF spent over $5 million on advertising in targeted Congressional districts.

Based on the evidence before the Committee, we make the following findings with respect to CCF's activities:

(1) Haley Barbour and others associated with the RNC created Coalition for Our Children's Future ("CCF") as a purportedly nonpartisan, tax-exempt social welfare organization under 501(c)(4) of the tax code and used CCF to carry out issue advocacy campaigns on behalf of Republican candidates and against Democratic candidates in 1995 and the first part of 1996.

(2) The evidence before the Committee suggests that several Republican candidates solicited contributions for CCF from their own supporters and coordinated with CCF to secure issue ads that they believed would help their candidacy.

(3) The evidence before the Committee suggests that in October 1996, CCF funded televised ads attacking Democratic candidates with money donated by a contributor who obtained a confidentiality agreement and oversaw development of the ads. Based on the evidence before the Committee, it is likely that this contributor was the Economic Education Trust, the same entity that funded and perhaps controlled the development and placement of ads through two tax-exempt organizations operated by Triad.

Chapter 14: Christian Coalition

The Christian Coalition was founded by Reverend Marion G. ("Pat") Robertson, a former Republican candidate for president, with $64,000 in seed money from the National Republican Senatorial Committee ("NRSC"). Its longtime executive director was Ralph Reed, a Republican activist. In spite of Reed's extensive Republican political experience, Robertson's ties to the Republican Party, and the infusion of start-up funds from the NRSC, the Christian Coalition applied for tax-exempt status as a nonpartisan social welfare organization under section 501(c)(4) of the tax code. The application has been pending and unapproved for over seven years. In 1996 the Federal Election Commission ("FEC") brought suit in federal court against the Coalition for allegedly coordinating election-related activities with Republican candidates during the 1990, 1992, and 1994 election cycles. Despite the Christian Coalition's refusal to respond to the Committee's subpoena, the Minority was able to develop information about the Coalition's election-related activities.

Based on the evidence before the Committee, we make the following finding with respect to the Christian Coalition's activities:

Although the Christian Coalition has applied for status as a 501(c)(4) organization and claims to be a nonpartisan, social welfare organization, the evidence before the Committee suggests that the Christian Coalition is a partisan political organization operating in support of Republican Party candidates. The evidence of partisan activity includes: spending at least $22 million on the 1996 elections; working to distribute 45 million voter guides manipulated to favor Republican candidates; and endorsing Republican candidates at organization meetings.

Chapter 16: The Democratic Party and Independent Groups

In 1996, the Democratic National Committee ("DNC") contributed approximately $185,000 to five independent, tax-exempt organizations, most of which were involved in voter registration activities. In addition, Democratic Party officials directed contributions to some of these organizations. Independent groups associated with Democratic issues also spent millions of dollars on issue ads, direct mail, and related organizing activities largely benefiting Democratic candidates.

Based on the evidence before the Committee, we make the following findings with respect to the Democratic Party and its activities involving independent organizations :

(1) During the 1996 election cycle, several independent groups spent millions of dollars to promote Democratic issues and possibly Democratic candidates through issue advocacy, and voter education and registration.

(2) The evidence before the Committee, however, suggests that the Democratic Party did not play a central role in financing, or coordinating with, these groups.

Chapter 17: Warren Meddoff

Shortly before the 1996 election, Florida businessman Warren Meddoff approached President Clinton at a Florida fundraiser concerning a possible $5 million donation to the President's campaign

from Meddoff's associate. Subsequently contacted by Harold Ickes, White House Deputy Chief of Staff, Meddoff told Ickes that his associate wanted to make at least some of his contributions tax deductible. Ickes prepared a memo suggesting some possible tax-exempt and tax deductible recipients. After sending the memo to Meddoff, Ickes received word that a DNC background check of Meddoff and his associate raised serious questions and that it would be better for the DNC to decline Meddoff's offer of contributions. Ickes and Meddoff dispute what happened next. Meddoff testified that Ickes told him to "shred" the memo; Ickes testified that he merely told Meddoff that the memo "was inoperative."

Based on the evidence before the Committee, we make the following findings regarding these events:

(1) There is no evidence before the Committee suggesting that Harold Ickes or any DNC official acted illegally in their dealings with Warren Meddoff. Current law does not prohibit a federal government employee or party official from directing contributions to tax-exempt organizations.

(2) It would have been more prudent, as Ickes himself testified, for Ickes to have immediately referred Meddoff to the DNC. Meddoff sought suggestions on how to make a tax-deductible contribution that would help President Clinton's campaign. The Committee does not have sufficient evidence to determine whether the organizations recommended by Ickes were actually engaged in any partisan political activities. Ickes's opinion that a contribution to such groups would benefit the President's campaign does not establish that these organizations were engaged in any activities that would have been inconsistent with their tax-exempt status.

(3) The DNC acted appropriately by checking the backgrounds of Meddoff and his associate and ultimately refusing their proposed contribution.

(4) Meddoff is not a credible witness. His explanation to the Committee of two past proposals on behalf of two different persons to contribute $5 million to the Republican Party in one case and the Democratic Party in the other case; his admission of involvement in conduct that appears to be an attempt to bribe a federal official; his apparent threats to his former employer and a DNC fundraiser; and the fact that he never met the person on whose behalf he was allegedly making a $5 million contribution to help President Clinton, cast significant doubt on his credibility.

Chapter 18: Teamsters

During the reelection campaign of International Brotherhood of Teamsters President Ron Carey, consultants working for Carey's campaign launched a "contribution-swapping" scheme to help raise money for their campaign. As these fundraisers have acknowledged in court proceedings, they illegally asked a number of groups to donate money to Carey's campaign in exchange for donations to those groups from the Teamsters union funds. As a small part of this scheme, one of these consultants, Martin Davis, sought the help of DNC officials in locating donors willing to give money to Carey's campaign and promised greater Teamsters donations to Democratic party organizations in return. Evidence before the Committee suggests that DNC officials took little action in response to this re-

quest but that they did make an ultimately unsuccessful effort at directing to the Carey campaign the donation of an individual who sought to donate to the DNC, but whose foreign citizenship made her ineligible to make that donation.

Based on the evidence before the Committee, we make the following findings regarding these events:

(1) The evidence before the Committee indicates that the DNC's efforts at finding a donor for the Carey campaign were limited to exploring the legality of a possible donation from one individual to the Carey campaign, but that donation did not ultimately occur because the potential donor was not eligible, under labor laws and Teamsters" rules, to contribute to the Carey campaign.

(2) Nevertheless, Martin Davis's comments to DNC officials should have led them to suspect that Davis was improperly seeking to influence the use of Teamsters funds to benefit the Carey campaign. DNC officials should have immediately refused to take any action in response to Davis's request.

Chapter 19: The Democratic Party and Other Independent Groups

During the 1996 federal election cycle, there were allegations that ostensibly independent, tax-exempt groups engaged in improper or illegal partisan political activity. The alleged activity ranged from broadcasting issue ads that in reality were candidate ads, to closely coordinating with one of the national political parties. Unfortunately, the vast majority of allegations against independent groups remain unexplored by the Committee because subpoenas issued to most of these groups were not complied with or enforced. Despite these and other limitations, allegations regarding groups traditionally associated with the Republican Party are addressed in Chapters 10–15. Allegations regarding groups traditionally associated with the Democratic Party, and including those that were explored in public hearings, are addressed in Chapters 17–18. This chapter addresses, to the extent possible based on evidence submitted to the Committee, allegations regarding certain other groups traditionally associated with the Democratic Party.

Based on the evidence before the Committee, we make the following findings regarding these allegations:

(1) During the 1996 election cycle, several independent groups spent millions of dollars to promote Democratic issues and possibly Democratic candidates through "issue advocacy," voter education and voter registration.

(2) The Committee, however, uncovered no evidence that the Democratic Party played a central role in contributing to, or coordinating with, these groups. The Democratic National Committee contributed only $185,000 to such groups in 1996, compared to over $5 million the Republican National Committee contributed to conservative groups in the last half of 1996 alone.

PART 3 FINDINGS ON CONTRIBUTION LAUNDERING/THIRD PARTY TRANSFERS

Chapter 20: Overview and Legal Analysis

The Federal Election Campaign Act ("FECA") provides that "no person shall make a contribution in the name of another person or

knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person." 2 U.S.C. §441f. This prohibition serves two purposes. (1) It helps guarantee that persons and entities otherwise prohibited from making political contributions cannot evade those restrictions by making donations using other peoples" names. (2) It ensures that no one seeking to influence elections with their money can circumvent the election laws' requirement of contributions limits and full public disclosure by offering their money in someone else's name rather than their own. The Committee's investigation examined a number of individuals alleged to have engaged in activities that violated this prohibition.

A number of individuals in both the Republican and Democratic parties made contributions to candidates for federal office and political parties through persons who were eligible to contribute, in apparent violation of the Federal Election Campaign Act.

Chapter 21: Contributions to the Democratic Party

The Committee examined a number of allegations of contributions to the DNC that were "laundered" or made in the name of persons who were not the real source of the contributions.

Based on the evidence before the Committee, we make the following findings regarding these contributions, all of which have been returned by the DNC:

(1) The evidence before the Committee shows that a number of individuals made contributions to the DNC or Democratic organizations in the name of others. Some of these were hard (restricted) money contributions, in which case they may be improper or illegal; some of these were soft (unrestricted) money contributions, in which case they may be technically legal, but result in inaccurate contribution records at the FEC. Among those whose activities the Committee investigated are:

(A) Charlie Trie/Ng Lap Seng ("Wu"): Trie and Wu used Keshi Zahn to arrange to have two legal permanent residents, Yue Chu and Xiping Wang, contribute $28,000 in hard (restricted) money to Democratic campaign organizations and reimbursed them. There is no evidence before the Committee to suggest that either Chu or Wang understood that their actions potentially violated campaign finance laws. Trie and Wu also used Zahn to make a $12,500 hard (restricted) money contribution to the DNC.

(B) Pauline Kanchanalak: Kanchanalak used her mother-in-law's money to fund $253,500 in contributions to the DNC, $26,000 of which was hard (restricted) money. Although both Pauline Kanchanalak and her mother-in-law Praitun Kanchanalak were legal permanent residents of the U.S. and each, therefore, lawfully could make contributions in her own name, the $26,000 contribution of her mother-in-law's money in Kanchanalak's name appears to violate Section 441f.

(C) Yogesh Gandhi: Gandhi, a legal permanent resident, appears to have used an associate's foreign-source money to fund a $325,000 contribution in soft (unrestricted) money in connection with a DNC fundraiser. Gandhi's bank records reveal that he would not have been able to make that contribution without significant wire transfers from Yoshio Tanaka, a Japanese national who

attended a DNC fundraiser with Gandhi. Evidence before the Committee supports the conclusion that Tanaka transferred the money to fund Gandhi's contribution.

(D) Arief and Soraya Wiriadinata: The Wiriadinatas, at one time legal permanent residents, made contributions of over $425,000 to the DNC, $20,000 of which appears to be hard (restricted) money contributions. The contributions were made in checks drawn on bank accounts funded with overseas transfers from Soraya Wiriadinata's father. In light of representations from Soraya Wiriadinata that her father transferred Soraya's own money, the evidence before the Committee does not establish that the $20,000 in hard money contributions came from another.

(2) The evidence before the Committee does not support a finding that any DNC official knowingly solicited or accepted contributions given in the name of another.

Hsi Lai Temple event

On April 29, 1996, Vice President Gore attended a DNC-sponsored and John Huang-organized event at the Hsi Lai Temple in Hacienda Heights, California. Vice President Gore's briefing papers for the event described it as an outreach event with members of the Asian-American community, but much controversy has arisen regarding allegations that the DNC improperly used a religious institution to host a fundraising event and that the Temple funneled money through its monastics to the DNC.

Based on the evidence before the Committee, we make the following findings regarding the event at the Hsi Lai Temple:

(3) From the perspective of Vice President Gore and DNC officals, the Hsi Lai Temple event was not a fundraiser. There is no evidence before the Committee that Vice President Gore knew that contributions were solicited or received in relation to the Temple event. The information received by the Vice President regarding the event described it as an opportunity for the Vice President to meet with members of the local Asian-American community. John Huang assured DNC Finance Director Richard Sullivan that the event was not a fundraiser, but instead would involve community outreach. Moreover, the event had none of the features of a fundraiser: no tickets were taken or sold at the door; the speakers did not solicit donations; and most of those who attended did not contribute to the DNC.

(4) John Huang and Maria Hsia used Vice President Gore's appearance at the Temple to raise money for the DNC. Although the event itself was not a fundraiser, Huang and Hsia, unbeknownst to DNC officials or the Vice President, used it as an opportunity to raise money for the DNC. Both before and after the event, they suggested to Temple officials that they collect contributions in connection with the Temple event. Their efforts eventually yielded $65,000 in contributions from persons associated with the Temple.

(5) There is no evidence before the Committee to suggest that the money donated in connection with the Hsi Lai Temple event was foreign in origin.

(6) Many of the donations made in connection with the Hsi Lai Temple event appear to have violated federal campaign laws prohibiting contributions in the name of another. The Temple reim-

bursed the monastic donors for their contributions. There is evidence to suggest that most of those writing the checks did not understand that they were potentially violating federal election law. Nevertheless, there appears to be little doubt that most, if not all, wrote the checks to the DNC only because the Temple asked them to do so and with the understanding that they would not fund the contributions themselves.

(7) There is no evidence before the Committee that any DNC official knew that contributions made by Hsi Lai Temple monastics were of questionable legality.

Chapter 22: Contributions to the Republican Party

The Committee refused to devote sufficient resources, despite repeated requests to do so by the Minority, to investigating allegations of laundered contributions to the Republican Party, including the Dole for President campaign, RNC, and other Republican organizations. The Committee took testimony at one of the Minority's three days of hearings on the laundering scheme of Simon Fireman, a national vice chairman of the Dole for President finance committee, and had evidence with respect to other cases of proven and alleged laundered contributions to Republican organizations.

Based on the evidence before the Committee, we make the following findings regarding these contributions to the Republican Party all of which have been returned:

(1) Simon Fireman, a national vice chairman of the Dole for President campaign, used his company, Aqua Leisure Industries, Inc., to reimburse contributions to several Republican Party organizations made in the name of employees of Aqua Leisure. Over $100,000 in contributions made by employees of Aqua Leisure to the Bush-Quayle campaign, the RNC, and the Dole for President campaign were actually corporate contributions from Aqua Leisure. Fireman was convicted for his offenses.

(2) Empire Sanitary Landfill, Inc. reimbursed its employees for over $110,000 in contributions the employees made to the Dole for President campaign and other Republican campaigns. Empire was convicted for its offenses.

(3) DeLuca Liquor & Wine, Ltd. reimbursed five of its employees for $10,000 in contributions the employees and their spouses made to the Dole for President campaign.

(4) There is no evidence before the Committee that anyone in the Dole for President campaign, the Bush-Quayle campaign or the RNC, other than Simon Fireman, knew about the above activities.

PART 4 FINDINGS ON SOFT MONEY AND ISSUE ADVOCACY

Chapter 23: Systemic Problems of the Campaign Finance System

The Committee's investigation into campaign financing during the 1996 election cycle exposed a system in crisis, with the worst problems stemming not from activities that are illegal under current law, but from those that are legal. The massive use of soft, or unrestricted, money is a relatively new phenomenon in the campaign financing system. Since 1988 it has become the crux of many of the problems examined by the Committee, including the offers

of access for large contributions and the use of party-run issue ads on behalf of candidates.

Based on the evidence before the Committee, we make the following findings with respect to the role of soft money and issue advocacy in the 1996 elections:

(1) The most insidious problem with the campaign finance system involved soft (unrestricted) money raised by both parties. The soft money loophole, though legal, led to a meltdown of the campaign finance system that was designed to keep corporate, union and large individual contributions from influencing the electoral process.

(2) The vast majority of issue ads identified specific candidates and functioned as campaign ads.

(3) Both parties went to significant lengths to raise soft money, including offering access to party leaders, elected officials, and exclusive locations on federal property in exchange for large contributions. Both parties used issue ads, which were effectively indistinguishable from candidate ads and which—unlike candidate ads—can be paid for in part with soft (unrestricted) money, to support their candidates.

PART 5 FINDINGS ON FUNDRAISING AND POLITICAL ACTIVITIES OF THE NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 24: Overview and Legal Analysis

During the 1996 election cycle, spending by candidates, their campaign committees, political parties, other political committees and persons making independent expenditures totaled a record-breaking $2.7 billion. Of that amount, the Democratic and Republican Parties together spent almost $900 million, or one-third of the total. The two presidential candidates, President Clinton and Senator Dole, together spent about $232 million, or almost 10 percent of the total.

One of the primary objectives of the Committee's investigation was to investigate allegations of improper and illegal activities associated with fundraising by both parties used to finance this campaign spending. The allegations examined include the alleged misuse of federal property and federal employees to raise funds, the sale of access to top government officials in exchange for campaign contributions, and the circumvention of campaign spending restrictions through such devices as issue advocacy and coordination between the parties and their presidential nominees.

I. FUNDRAISING PRACTICES OF THE NATIONAL PARTIES

Chapter 25: DNC and RNC Fundraising Practices and Problems

The Committee investigated a number of the allegations of improper conduct by the DNC during the 1996 election cycle, taking 38 days of depositions, conducting 14 interviews, receiving five days of public testimony and receiving over 450,000 pages of unredacted DNC documents. Despite repeated requests from the Minority, allegations against the RNC were not fully explored by the Committee, which took only two depositions and one day of public testimony from RNC officials limited to issues involving the

National Policy Forum. Although the RNC and DNC subpoenas were virtually identical, the Committee received only 70,000 pages of RNC documents, many of which were heavily redacted. The RNC's failure to comply with the Committee's document subpoena or to make RNC officials available for depositions, prevented the Committee from learning the true scope of the Republican Party's campaign activities during the 1996 election cycle.

Based on the evidence before the Committee we make the following findings with respect to the overall fundraising practices of the national parties:

(1) The evidence before the Committee establishes that both political parties engaged in questionable fundraising practices. Both parties scheduled events at government buildings and promised access to top government officials as enticements for donors to attend fundraising activities or make contributions. Both parties used their presidential candidates to raise millions of dollars in soft money donations in addition to the $150 million provided in public financing for presidential campaigns. Both parties worked with their candidates to design and broadcast issue ads intended to help their candidates' election efforts.

(2) The RNC's activities were subject to some of the same or similar problems as the DNC's activities. The RNC received foreign contributions, gave access to top Republican leaders for large contributions, held fundraising-related events on federal property, engaged in coordination between the Presidential campaign and the national party and used supposedly nonpartisan, tax-exempt organizations for partisan purposes.

(3) The compliance systems of the DNC in the 1996 campaign were flawed. Although the evidence before the Committee indicates that the DNC fundraising staff as a whole attempted to do their job in accordance with the law, isolated failures of supervision coupled with a compelling desire to raise more money led the DNC to accept hundreds of thousands of dollars in contributions it otherwise would not have accepted. Despite these problems, the overwhelming majority of contributions received by the DNC appear to have been legal and appropriate.

(4) The position taken by the Republican Party in the 1992 and 1994 election cycles that it had no obligation to investigate contributions or contributors is troubling. The evidence before the Committee is insufficient to evaluate the compliance procedures of the RNC during the 1996 election cycle. Because the Committee did not have the full cooperation of the RNC in complying with the Committee's subpoenas and requests for information (and the Committee failed to enforce the subpoenas), the Committee failed to fully assess the RNC's practices and procedures for insuring the legality and propriety of major contributions.

II. USE OF FEDERAL PROPERTY AND CONTRIBUTOR ACCESS

Chapter 26: Telephone Solicitations From Federal Property

Documents produced to this Committee by both the DNC and the White House indicate that on a number of occasions the DNC requested the President and the Vice President to make telephone calls to solicit funds for the DNC. The Committee reviewed evi-

dence, including testimony and documents relating to the circumstances surrounding these calls and analyzed the laws applicable to these calls. The Committee also investigated whether past presidents and other federal officials had made fundraising phone calls.

Based on the evidence before the Committee, we make the following findings with respect to fundraising calls made by the President, the Vice President, and past presidents and top officials:

(1) Telephone calls made on federal property to solicit contributions from persons neither on federal property or employed by the federal government have been made by elected officials from both parties and prior administrations.

(2) There was nothing illegal about the one solicitation telephone call known to the Committee made by the President.

(3) There was nothing illegal about the solicitation telephone calls made by the Vice President.

Chapter 27: White House Coffees and Overnights

Beginning in late 1994 and continuing through the end of the 1996 campaign, the President hosted a number of small events known as "coffees" at the White House, some of which were sponsored by the DNC Finance Division. Others were sponsored by the DNC Political Division and the Clinton campaign. The DNC and the President viewed the coffees as a means for the President to reconnect with, spread his message to, and motivate his political and financial supporters. Over 1,000 people attended these coffees. The Committee examined these events and reviewed allegations that they included a number of persons who should not have been granted access to the President and violated federal law prohibiting the solicitation or receipt of contributions in federal buildings. The Committee also reviewed evidence on allegations that the President improperly offered overnight visits to a number of DNC contributors.

Based on the evidence before the Committee, we make the following findings regarding the White House coffees and overnights:

(1) The evidence before the Committee does not indicate that the DNC coffees at the White House violated existing law. The evidence before the Committee did not establish that anyone solicited contributions at the coffees, and, in any event, indicated that all but one of the coffees (about which the Committee heard no testimony) occurred in areas of the White House where solicitations are not prohibited by law.

(2) Affording campaign contributors access to White House events, often where the President is in attendance, has been a bipartisan practice over the years, but the DNC's use of these events, such as coffees and overnights, during the last election cycle was extensive and created an appearance of offering access to the White House in exchange for campaign contributions. There is no evidence before the Committee that the coffees or overnights were offered in return for campaign contributions.

(3) The DNC used poor judgment in permitting several persons of questionable affiliation or character to attend coffees as a favor to DNC contributors.

Chapter 28: Republican Use of Federal Property and Contributor Access

The practice of granting large contributors access to elected officials and special locations on federal property, such as the White House, is a longstanding fundraising technique that has been used by both political parties. In response to claims that practices under the Clinton Administration were "unprecedented," this Chapter examines how the Republican Party and preceding Republican Administrations have used the White House as a fundraising tool, provided access to elected officials for large contributors, and appointed large contributors to positions within the government.

Based on the evidence before the Committee, we make the following findings with respect to the offers of access by the Republican Party:

(1) In the 1996 election cycle, the Republican Party continued its longstanding practice of raising money by offering, and providing, major contributors with access to top Republican federal officials. These offers of access are central components of Republican donor programs such as Team 100 and the Republican Eagles. They started in the 1970s and continue today.

(2) Federal property has routinely been used by the Republican Party in its fundraising efforts. The RNC has hosted fundraising events on Capitol Hill, at the Bush White House, the Pentagon, and at other federal government locations.

(3) The Bush Administration rewarded major contributors with significant government positions, including ambassadorships.

Chapter 29: Democratic Contributor Access to the White House

From 1993 through 1996, the Democratic National Committee organized numerous events attended by the President, Vice President or First Lady to which it invited supporters of the Democratic Party and their guests. Many of these events were at the White House. The Committee investigated the procedures used by the White House and the DNC to assess and approve individuals invited by the DNC to attend events in the White House.

Based on the evidence before the Committee, we make the following findings with respect to Democratic contributor access to the White House:

(1) From 1993 through 1996, White House procedures for assessing and approving individuals invited by the DNC to attend events in the White House were similar to the procedures used by prior administrations, but such procedures were inadequate. The White House Office of Political Affairs relied on the DNC (and in prior administrations, the RNC) to assess the appropriateness of attendees at DNC (RNC) events at which the President was present. Unfortunately, from 1993 through 1996, the DNC did not adequately perform that function.

(2) When asked to provide information regarding the foreign policy implications arising from DNC-organized events, the National Security Council performed its function. Unfortunately, prior to 1997, the White House did not have a formal structure to adequately assess and approve all attendees at DNC events where the President was present.

Chapter 30: Roger Tamraz

Roger E. Tamraz is an American businessman involved in investment banking and international energy projects. In the mid-1990s, he sought to become a "dealmaker" in an oil pipeline project that would cross the Caspian Sea region. In the hope of obtaining U.S. Government support for his project, Tamraz used his past relationship with the Central Intelligence Agency ("CIA"), met with mid-level U.S. Government officials, and made political contributions to the Democratic Party.

The Committee's investigation focused on whether officials of the CIA, the National Security Council, the DNC, the White House, or the Department of Energy improperly promoted Tamraz's pipeline proposal or gave him access to high-level government officials; why Tamraz was permitted to attend DNC events in the White House when staff had recommended that he not have any contact with high-level officials; and whether U.S. policy on the Caspian Sea pipeline changed as a result of Tamraz's political contributions or access to governmental officials.

Based on the evidence before the Committee, we make the following findings with respect to the matters involving Roger Tamraz:

(1) Roger Tamraz openly bought access from both political parties.

(2) Tamraz's attendance at DNC events was based on his political contributions and was unwise given the warnings that he might misuse such attendance. DNC Chairman Donald Fowler endorsed Tamraz's attendance at these events, despite early warnings from DNC staff and opposition from NSC officials and Vice President Gore's staff.

(3) A Central Intelligence Agency official promoted Tamraz's pipeline proposal in 1995, despite knowing that the NSC opposed it.

(4) An Energy Department official promoted additional political access for Tamraz in 1996, despite knowing that the NSC and other officials opposed it.

(5) U.S. policy in the Caspian Sea was not affected by Tamraz's lobbying, political contributions, or presence at DNC-related events. This policy was solidified in early October 1995 and did not incorporate any aspect of Tamraz's proposal.

Chapter 31: Other Contributor Access Issues

Johnny Chung, a Taiwanese-American businessman, delivered a $50,000 check made payable to the DNC to the White House in 1995. The Committee investigated whether Margaret Williams, Chief of Staff to the First Lady, acted appropriately when she was given this check. The Committee also reviewed whether Chung's access to the White House—over 32 visits in 1995—was appropriate.

Based on the evidence before the Committee, we make the following findings with respect to Chung's contributions and access:

(1) The evidence before the Committee shows that even though Chief of Staff to the First Lady, Margaret Williams, immediately placed the contribution from Johnny Chung to the DNC in the mailbox, it would have been more prudent for her to have refused

to accept the check from Chung and told him to give it directly to the DNC.

(2) Chung's access to the White House, which was based in part on his contributions to the Democratic Party, was excessive and inappropriate. On one occasion Chung was permitted to bring foreign business associates to view the President's delivery of a radio address without appropriate vetting by the DNC or the White House.

III. COORDINATION BETWEEN THE NATIONAL PARTIES AND THEIR CANDIDATES

Chapters 32 and 33

During the 1996 election cycle, the Democratic National Committee ("DNC") and the Republican National Committee ("RNC") coordinated issue advocacy campaigns with the Clinton campaign and the Dole for President campaign, respectively. Both presidential campaigns paid for this issue advocacy with millions of dollars in soft (non-restricted) money that the candidates themselves helped to raise.

Based on the evidence before the Committee, we make the following findings with respect to this matter:

(1) Both the Clinton campaign and the Dole for President campaign benefited from spending by their respective parties in excess of the spending limits applicable to presidential candidates who accept public financing.

(2) Coordination of issue advocacy between the Clinton campaign and the DNC and between the Dole for President campaign and the RNC was legal under current campaign finance laws.

(3) Both presidential campaigns coordinated fundraising to pay for the issue advocacy of their respective parties.

PART 6 FINDINGS ON ALLEGATIONS OF QUID PRO QUOS

Chapter 34: Overview and Legal Analysis

Chapter 35: Hudson Casino

The Committee investigated and held a day of hearings on the Department of the Interior's decision to deny a controversial application of three Wisconsin Indian tribes to take control of land near Hudson, Wisconsin, to open a casino. Both the nearby Minnesota tribes who opposed it and the Wisconsin tribes making the application hired lobbyists who contacted various Administration officials in an attempt to influence the Interior Department's final decision. The local Hudson community and local, state and federal officials in Wisconsin from both parties opposed the application. Both before and after Interior's decision on the application, the Minnesota tribes opposing it made significant donations to the Democratic Party.

The Committee took testimony on whether political influence affected Interior's decision, with particular focus on a conversation Interior Secretary Bruce Babbitt had with Paul Eckstein, who was a longtime friend and a former law partner of the Secretary and who had been retained as a lobbyist for the Wisconsin tribes, on the day Interior issued the decision denying the application. Eckstein testified that he tried to get the Secretary to reconsider

the Department's imminent decision to deny the application, and that during that conversation Secretary Babbitt mentioned that White House Deputy Chief of Staff Harold Ickes had directed the Secretary to issue the decision. Secretary Babbitt testified that his comment to Eckstein was a general statement reflecting the fact that Ickes was Secretary Babbitt's official contact in the White House and was intended to end an awkward and lengthy conversation with Eckstein.

Based on the evidence before the Committee, we make the following findings regarding these events:

(1) The evidence before the Committee supports the conclusion that Secretary Babbitt did not act improperly with respect to the Department of Interior's decision to deny the Hudson trust application. The evidence shows that Secretary Babbitt played no role in the Hudson trust decision, that he did not hear from, or talk to, Harold Ickes about the decision, and that the Interior officials who recommended denying the trust application had no knowledge of either campaign contributions by the opposing tribes or the alleged "pressure" from the White House or the DNC to deny the trust application.

(2) However, Secretary Babbitt's actions with respect to Eckstein, his letters to Senators McCain and Thompson, and his testimony to this Committee regarding his conversations with Eckstein were unnecessarily confusing. Secretary Babbitt's letter to Senator McCain omitted the fact that Secretary Babbitt had invoked Ickes' name to Eckstein even though that allegation was at the center of Senator McCain's earlier letter to Secretary Babbitt. The Secretary's subsequent letter to Senator Thompson acknowledged that he did invoke Ickes' name with Eckstein, but said that he did so only as a means to terminate his conversation with Eckstein. Secretary Babbitt then testified to this Committee that, even though he had not spoken to Ickes about the trust application, he did not technically mislead Eckstein when invoking Ickes' name because the White House naturally wanted him to issue decisions in a timely way. These statements, when taken together, are confusing, but they are not directly inconsistent with the facts.

Chapter 36: Tobacco and the 1996 Elections

During the 1996 election cycle, tobacco companies contributed roughly $8.5 million in soft money to the Republicans, much of which was raised by Haley Barbour. There are grounds for suspecting that Barbour assisted the industry in exchange for campaign money, but the Committee did not investigate these troubling allegations.

Chapter 37: Cheyenne-Arapaho Tribes of Oklahoma

On June 17, 1996, two representatives of the Cheyenne-Arapaho Tribes of Oklahoma ("Tribes") ate lunch with the President and five other guests at the White House. Two weeks later, the Tribes donated $87,671.74 to the Democratic National Committee ("DNC'). In August 1996, they contributed an additional $20,000 to the party.

The Committee investigated allegations that the DNC solicited $100,000 from a politically naive and poor Native American tribe;

improperly granted tribal members access to the President of the United States; and illegally promised the return of historic tribal lands currently used by the federal government in a quid pro quo exchange for a contribution from the Tribes' "welfare" fund.

Although no public hearings were held regarding the Tribes and their contributions to the DNC, the Committee conducted interviews and depositions of witnesses, as well as a review of numerous documents.

Based on the evidence before the Committee, we make the following findings regarding these events:

(1) No arrangement existed, or was ever contemplated, between the Cheyenne-Arapaho Tribes of Oklahoma and the Democratic National Committee or the Administration to return tribal lands held by the federal government to the Tribes in exchange for a political contribution to the DNC.

(2) The evidence before the Committee supports the conclusion that the DNC and the Administration acted properly and legally throughout the course of their dealings with the Tribes.

PART 7 FINDINGS ON INVESTIGATION PROCESSES

Chapters 38–41

Senate Resolution 39 directed the Senate Governmental Affairs Committee to conduct an investigation of illegal or improper activities in connection with the 1996 Federal election campaigns. By the specific terms of this resolution, the Committee was not to limit its investigation to the activities of only one political party or only one branch of government, but was to investigate and inform the public about the full nature of the problems associated with the last election cycle, regardless of the party with which those problems were associated.

We make the following findings regarding the process by which the Committee conducted this investigation:

(1) The Committee's investigation was not bipartisan. The Committee's investigation focused predominantly on persons and entities associated with the Democratic Party. The Majority devoted virtually no resources to exploring a variety of serious allegations against those affiliated with the Republican Party. Moreover, it refused to issue or enforce many of the Minority-requested subpoenas related to the Committee's mandate, simply because those subpoenas sought information from Republican-related persons and entities. When the Minority accumulated substantial evidence of Republican wrongdoing despite these significant limitations, the Majority refused to schedule hearings to allow for the public airing of this information. As a result, virtually all of the Majority's investigatory resources and Committee hearings focused upon activities involving the Democratic Party and its associates.

(2) Although the Committee's investigation provided insight on the serious shortcomings in our campaign finance system, the failure to fully and impartially investigate wrongdoing in the 1996 federal elections, regardless of party, kept the Committee from fulfilling its mandate and eliminated the ability to produce a bipartisan report. The Committee's hearings did make a contribution to the public's understanding of the ways in which money influenced the

1996 elections. As a consequence of the investigation's partisanship, the Committee cannot credibly claim that it offered the American people a complete picture of the illegal or improper activity that occurred during the 1996 federal elections. The Committee virtually ignored at least half of the story of those elections, and the partisan framework in which it presented and interpreted the evidence it did uncover diminishes the Committee's ultimate findings and conclusions.

(3) The Committee's failure to pursue enforcement actions against those who failed to comply with the Committee's subpoenas threatens to have lasting impact on the success and credibility of future Senate investigations. The Committee's acceptance of the refusal of groups and individuals to comply with the Committee's subpoenas will make objective investigations in the future much more difficult by emboldening persons and entities to ignore future Senate subpoenas.

(4) The DNC made a good faith effort to comply with Committee requests. To this end, the Committee conducted 38 days of depositions, 14 interviews, and five days of public hearings of DNC witnesses. The DNC also produced over 450,000 pages of documents and hired over 30 additional staff to review and prepare documents for production to the Committee.

(5) The RNC impeded the investigation. The RNC unilaterally redacted documents and appears to have intentionally withheld material documents. RNC witnesses failed to cooperate in scheduling depositions, and, in the instances where depositions were scheduled, they were unilaterally canceled.

(6) Entities supportive of the Republican party impeded the investigation. Entities including the National Policy Forum, Americans for Tax Reform, and Triad intentionally impeded the investigation by failing to produce documents and witnesses under subpoena.

(7) The White House Counsel's Office took appropriate and reasonable steps to discover the existence of responsive videotapes in response to the Committee's April 1997 document request. There is no evidence before the Committee to suggest that the White House Counsel's Office intended to obstruct the work of the Committee.

(8) The evidence before the Committee is conclusive, based on exhaustive technical analysis, that none of the videotapes or audiotapes produced by the White House to the Committee have been altered in any way.

PART 1 FOREIGN INFLUENCE

Chapter 2: The China Plan

In early 1997, news reports appeared alleging that U.S. federal intelligence agencies had discovered an attempt by the government of the People's Republic of China ("Chinese Government") to increase its influence in the U.S. political process.[1] From February through December 1997, the Committee examined these allegations. The examination included a consideration of both public and classified ("non-public") information.

Footnotes at end of chapter.

Following the 1995 congressional resolution advocating that Taiwanese President Lee be permitted to visit the United States, as well as President Lee's subsequent visit, the Chinese Government determined that Congress and state officials were more influential in foreign policy decisions than the Chinese Government had previously believed. The information considered by the Committee shows that during the 1996 federal election cycle, Chinese Government officials decided to attempt to promote China's interests with the U.S. Congress, state legislatures, and the American public.[2] The Chinese Government's efforts have become known in the media as "the China Plan." The Committee's public discussion of the China Plan began on July 8, 1997, when Chairman Thompson opened the first day of public hearings by asserting that the China Plan was "hatched during the last election cycle by the Chinese Government and designed to pour illegal money into American political campaigns."[3] The Chairman explained that the information before the Committee indicated that the Chinese Government had apparently taken legal steps pursuant to the plan, such as hiring lobbying firms, contacting the media and inviting more members of Congress to visit China.[4] He also asserted that, "[a]lthough most discussion of the plan focuses on Congress, our investigation suggests it affected the 1996 Presidential race and State elections as well."[5]

The Chairman's assertions implied that the non-public information presented to the Committee included evidence that the Chinese Government's activities had affected, or had some meaningful impact on, the 1996 elections.

Based on the evidence presented to the Committee, the Minority makes the following findings:

FINDINGS

(1) Following the 1995 congressional resolution advocating that Taiwanese President Lee be permitted to visit the U.S. and President Lee's subsequent visit, Chinese Government officials decided to attempt to increase the Chinese Government's promotion of its interests with the U.S. Congress, state legislatures and the American public. These efforts, which became known in the media as "the China Plan," reflected the Chinese Government's perception that Congress was more influential in foreign policy decisions than it had previously determined.

(2) The non-public information presented to the Committee to date does not support the conclusion that the China Plan was aimed at, or affected, the 1996 presidential election.

(3) Although some steps were taken to implement the China Plan, the non-public information presented to the Committee to date does not support the conclusion that those steps involved Chinese Government funds going to federal campaigns, either congressional or presidential. During the Committee's public investigation, the Committee learned that contributions derived from foreign funds made their way into the 1996 federal election. The non-public information presented to the Committee, however, does not support the conclusion that these contributions were tied to the China Plan, or to Chinese Government officials. The non-public information presented to the Committee does support the conclusion that the

China Plan was implemented with a relatively modest sum of money that was spent on lobbying Congress, paying for members of Congress to visit China, and increasing public relations with Chinese Americans.

(4) The non-public information presented to the Committee raised questions regarding the political activities of one individual investigated by the Committee, Ted Sioeng, but the information available to date was insufficient to support the conclusion that his activities in connection with the political contributions made by his daughter or by his associates in the United States were connected to Chinese Government officials or the China Plan. For information on Sioeng's activities explored during the Committee's public investigation, see Chapter 7 of this Minority Report.

INTRODUCTION

After numerous press accounts were published discussing information gathered by Executive Branch agencies regarding the Chinese Government's plan to gain influence in the United States, Chairman Thompson began the first day of the Committee's public hearings by discussing these allegations. Thereafter, the Committee's handling of the allegations became one of the most hotly debated issues surrounding its investigation into campaign finance activities.

Before describing the plan on July 8, 1997, the Chairman cautioned that he was able to reveal only a small portion of the information gathered by the Committee due to its non-public nature. He stated, however, that the Committee had "uncovered a significant amount of documentary and other relevant information"[6] indicating that the Chinese Government plan was "one of the most troublesome areas" of the investigation and needed to "be placed on the public record . . . as soon as possible and in a careful and accurate manner."[7]

The Chairman then described the plan as one "hatched during the last election cycle by the Chinese Government and designed to pour illegal money into American political campaigns."[8] He asserted that "high-level Chinese Government officials"[9] crafted the plan and that "the Committee has identified specific steps taken in furtherance of the plan." Such steps, he claimed, were undertaken by "Chinese Government officials and individuals enlisted to assist in the effort."[10]

The Chairman also asserted that the plan had been implemented by legal as well as illegal means.[11] According to the Chairman, the legal activities proposed by the Chinese Government included "retaining lobbying firms, inviting more Congresspersons to visit China, and attempting to communicate Beijing's views through media channels in the United States."[12] Immediately following the statement that illegal actions were involved, he asserted:

> Although most discussion of the plan focuses on Congress, our investigation suggests it affected the 1996 Presidential race and State elections as well. The Government of China is believed to have allocated substantial sums of money to achieve its objectives.[13]

In response to these assertions, Senator Glenn said that "the Committee should go just as far as the facts take us."[14] Several Senators also immediately disagreed with the Chairman's conclusion that the China Plan had "affected" the presidential race, believing instead that the non-public information showed that the plan was focused exclusively on Congress. On the first day of hearings, Senator Levin pointed out that "China's target in 1995 and 1996 was not the White House. It was the Congress."[15] In fact, Senator Levin noted that press reports indicated that the China Plan was focused on lobbying Congress, and that foreign countries had spent $86 million to lobby the U.S. Government in the first half of 1996 alone, with Japan registering expenditures of $17 million in six months.[16] He concluded that the China Plan expenditure which had been referred to during the public hearing that morning was a small fraction of the $86 million.[17] The amount referred to during the public hearing that morning was less than one candidate typically raises to run for election to the U.S. House of Representatives.

On July 15, 1997, Senators Glenn and Lieberman issued a joint statement explaining their position:

> We are in absolute agreement as to the intelligence information known to us and the conclusions that can be drawn with certainty from that evidence. We acknowledge, and never denied, that the information shown to us strongly suggests the existence of a plan by the Chinese Government—containing components that are both legal and illegal—designed to influence U.S. *congressional* elections.
>
> However, as we also both agree, it is not clear from the evidence that the illegal aspects of such a plan were ever put into motion. Nor is there sufficient information to lead us to conclude that the 1996 presidential election was affected by, or even part of, that plan.[18]

Senator Durbin predicted that because the evidence pointed to the plan's focus on Congress, "this Committee will not touch that issue" and will instead focus only on any possible link between China and the Democratic presidential campaign.[19] And, indeed, the Committee's investigation of the China Plan focused on the sole question of whether the Chinese Government actually made campaign contributions to the Democratic National Committee or the Democratic presidential campaign. After two months of hearings, Senator Durbin again commented that "[t]his investigation kicked off with the Chairman's statement that we were setting out to find evidence of an effort by the Chinese Government to influence the outcome of the 1996 Presidential election. I don't believe there's been any evidence presented to support that . . . [P]erhaps there will be in the weeks to come."[20]

Ultimately, despite the attempt by the Majority to tie China to a variety of contributions to the Democratic Party, the Committee to date has not received information in its closed proceedings, or in its open proceedings, that supports the assertion that the China Plan "affected the 1996 presidential race."

THE COMMITTEE'S INVESTIGATION

The Committee's investigation of the China Plan consisted primarily of gathering non-public information already obtained by Executive Branch agencies. The Committee began requesting information from the agencies in February 1997, and thereafter received and reviewed boxes of responsive documents. The Committee also held closed hearings on July 28, 1997, and September 11, 1997, and received numerous staff briefings during the course of its investigation, which terminated on December 31, 1997. The Committee was informed that the non-public information from the Executive Branch agencies should not be understood to represent the full picture of any issue that was under investigation.

With that caveat, the Committee reviewed non-public information to determine the extent to which the Chinese Government's activities affected the 1996 federal elections. This chapter sets forth conclusions based on the non-public information made available to the Committee. A more detailed classified report has been lodged with the Office of Senate Security, located in the United States Capitol.

The Minority believes that it is the responsibility of the Committee to clearly distinguish between conclusions based on *non-public* information, not available to the public, and *public* information that is available to both the Committee and members of the public. This chapter focuses on conclusions based on the non-public information reviewed by the Committee. Where public information is discussed, it is clearly noted as such, although this chapter does not fully address conclusions that may be drawn from the Committee's public proceedings. The Committee's public investigation is discussed elsewhere in this Minority Report and, unlike the Committee's closed proceedings, is based upon information that is available for public review and analysis.

This chapter discusses background on federal law regulating the political activities of foreign governments and companies in the U.S.; the results of the Committee's closed proceedings regarding the China Plan; and information not pursued by the Committee in its closed proceedings. The Minority response to the Majority Chapter on the China Plan is located in Part 9 of this Minority Report. See Part 9, Response to Majority Chapter 18.

BACKGROUND

Foreign involvement in the American political process has long been permitted under federal law. In 1938, the federal government enacted the Foreign Agents Registration Act ("FARA") to govern the activities of all individuals in the United States who engage in lobbying, political activities or public relations on behalf of foreign governments or companies.[21] As amended, FARA requires individuals who conduct political or public relations activities on the behalf of foreign governments or political parties to register as "foreign agents" and disclose their expenditures. An "agent" is defined as one who acts "at the order, request, or under the direction or control of a foreign principal, or of a person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in part by a foreign principal. . . ." [22] Reg-

istration is not required if the individual is acting in his or her capacity as an official of a foreign government or a member of the news media.[23] Beginning in 1996, individuals who lobby on behalf of foreign companies or other foreign private interests, as opposed to foreign governments, may register under the Lobbying Disclosure Act.[24]

Promotional activities on behalf of foreign governments or other interests have increased dramatically as the world economy has become more integrated. Foreign governments and companies are affected by, among other things, U.S. trade policies, foreign aid decisions, intellectual property protections, and tourism.[25] As the world economy becomes more integrated, decisions made in the United States have an impact on the ability of foreign governments and companies to prosper.

A report published by the Asian Development Bank in 1997 noted that "[c]ountries that are well integrated into international production networks and widely exposed to market trends abroad will be much better placed to benefit than those that remain isolated."[26] The report suggested that Asian governments:

> Be open to foreign direct investment, and to capital markets more generally [because] free capital mobility allows firms to tap into funds from abroad and to create new and flexible capital structure with partners in other parts of the world.[27]

The report also noted that prosperous Asian countries are "increasingly relying on international joint ventures, strategic relationships and information-sharing partnerships."[28]

It comes as no surprise that lobbying and promotional activities of foreign countries in the United States have increased in recent years. In 1992, the Justice Department reported that Hong Kong interests spent nearly $80 million on lobbying and public relations in the United States, with Japan spending over $60 million, Canada $22.7 million, and Mexico $1.5 million on lobbying for passage of the North American Free Trade Agreement alone.[29] By 1996, a summary of the Justice Department figures showing that foreign interests spent over $400 million on such activities in the first six months of 1996 alone.[30]

Despite the fact that China is the most populous country in the world, the Chinese Government reportedly spent only $450,000 on lobbying in 1991 and 1992. Chinese Government and private companies together spent approximately $2 million in the first half of 1996, only a fraction of the multimillion dollars spent by other countries.[31]

Although many foreign governments and companies have increased attempts to promote their interests in the United States, they are forbidden by federal law to influence the *electoral* process in the United States. Federal law bans (1) foreign contributions to political campaigns and (2) campaign expenditures paid for by foreign entities.[32]

A key issue raised in connection with the China Plan was whether the Chinese Government had proposed or undertaken to promote its interests in the United States by legal and proper means, or

whether its activities may have amounted to illegal Chinese Government interference in the 1996 election process.

THE CHINA PLAN

Events leading up to the China Plan

From 1949 to the early 1970s, the Chinese Government maintained only sporadic diplomatic relations with the United States. In the 1970s, the Chinese and U.S. governments began to strengthen and expand diplomatic ties and subsequently completed a diplomatic exchange in 1979.[33]

Evidence indicates that prior to 1995, the Chinese Government approach to promoting its interests in the United States was focused almost exclusively on using traditional diplomatic levers such as official summits and meetings with high-level Executive Branch officials.[34] In these meetings, Chinese Government officials often negotiated with U.S. officials by using the appeal of China's huge commercial market.[35] U.S. companies were also known to lobby the U.S. government on issues that benefited both the companies and China.[36] In the 1990s, the news media reported on the increase of U.S. companies lobbying for favorable trade policies regarding China.[37] This became known as the "New China Lobby" and consisted of "representatives of business groups with trade and investment interests in China, including AT&T, General Motors and Boeing."[38] In addition, prominent Americans were reported to be involved in promoting increased economic relationships with China, the most notable being Henry Kissinger, who has maintained business ties to the Chinese company CITIC. Others included George Shultz, Cyrus Vance, Lawrence Eagleburger Jr., and Brent Scowcroft.[39] The New China Lobby apparently urged U.S. officials to uphold Beijing's trade privileges with the United States because American exports to China were rapidly increasing and creating American jobs.[40]

U.S. exports to China have grown from $3 billion in 1980 to $38 billion in 1994.[41] Between 1991 and 1996, U.S. exports to China increased by 90.5 percent and the U.S. Department of Commerce designated China as one of the top 10 "Big Emerging Markets" offering the largest potential for U.S. goods and services in the years ahead.[42] Total trade between the two countries had risen from $4.8 billion in 1980 to $63.5 billion in 1996, making China the fourth largest U.S. trading partner.[43] President Clinton has renewed China's Most Favored Nation's trade status each year.[44]

In light of the increased economic relations between China and the United States, foreign policy experts debate why it seems in the 1990s "that China is about to replace Japan as America's new post-Cold War bogeyman?"[45] One reason discussed was the negative American response to the Chinese Government's treatment of human rights, demonstrated by the Chinese Government's suppression of movements within China to promote democracy.[46] Another reason, from the Chinese perspective, was that "the coming to power of a China-bashing Congress is perceived as part of an increasing anti-Chinese atmosphere in Washington."[47] Evidence presented to the Committee during its investigation supports the conclusion that the Chinese Government, beginning in 1994, was con-

cerned that decisions by Congress would harm Chinese Government interests.[48]

In its relationship with the United States, China has traditionally been concerned with U.S. policy toward Taiwan. Chairman Thompson explained in his opening statement:

> Although the United States maintains no official ties with the Government of Taiwan, our diplomatic relations with the Government of China have long been influenced by our ties to Taiwan. This is largely because the Government of China considers Taiwan a rogue province and suspects it of seeking independence from the mainland.[49]

In early 1995, Taiwanese President Lee Teng-hui requested a visa to enter the United States to attend events associated with his college reunion scheduled to be held in June 1995. Following this request, some predicted that Congress would pressure the President to permit Taiwan's President Lee to visit the United States.[50] And, in fact, in March 1995, Congress passed a resolution calling for the Administration to grant the visa to President Lee.[51] President Clinton subsequently agreed to grant the visa. In June 1995, news reports stated that President Lee had made a "triumphal first private visit" to the United States, which included attending events in New York hosted by his alma mater, Cornell University.[52]

The Chinese Government immediately protested the decision to grant President Lee a visa. The Chinese Government, working through traditional diplomatic channels, suspended ongoing treaty negotiations and recalled its ambassador to the United States.[53]

Information about the China Plan

At the same time, Chinese Government officials developed a set of proposals to promote the Chinese Government's interests with Congress and the American public, particularly Chinese Americans. The proposals, which have become known in the media as the China Plan, were prompted by the Chinese Government's surprise that Congress had successfully lobbied the Administration to grant a visa to President Lee. The Chinese Government was aware that President Clinton initially had been opposed to the visa and concluded that the influence of Congress over foreign policy and other decisions was more significant than it had previously determined. When formulating its plan, Chinese Government officials also acknowledged that, compared to other countries, particularly Taiwan, it had little knowledge of, or influence over, policy decisions made in Congress.

The plan was formulated in Beijing and was provided to Chinese Government officials in the United States. The plan instructed Chinese officials in the United States to increase their knowledge about members of Congress and increase diplomatic contacts with members of Congress, the public and the media. The plan also suggested ways to lobby Congress.

The China Plan, as proposed by Chinese Government officials, was clearly designed to gain influence with the U.S. Congress and the American public. During its investigation, the Committee was informed during a closed hearing that the China Plan was designed to study and make decisions on how to work with members of Con-

gress.[54] As set forth in the non-public information provided to the Committee to date, it was unclear whether the China Plan proposed funnelling campaign contributions to Congressional elections, but it was clear that it was not aimed at influencing the 1996 presidential race.[55]

Implementation of the China Plan

The Committee also investigated how the Chinese Government may have implemented the China Plan. As proposed, the China Plan suggested activities that are legal in the United States as well as activities that could be illegal, depending on how they were implemented. As noted above, it is legal for foreign governments to promote their interests in the United States through lobbying, public relations and other political activities, as long as the individuals conducting these activities are official diplomatic representatives of the foreign government or have registered under the Foreign Agents Registration Act. However, individuals acting on behalf of foreign governments may violate U.S. law if they lobby or conduct political activities without registering under that Act or if they attempt to influence U.S. elections through campaign contributions.

Legal activities

The Committee received evidence that the Chinese Government implemented at least some of the legal proposals contained in the plan. The Chinese Government took steps to gather public information about specific members of Congress and to otherwise increase its lobbying of Congress by such means as inviting more members of Congress to visit China. The Committee learned that Chinese Government officials increased cultural exchanges with Chinese Americans, and the Chinese Government expressed concern that the majority of Chinese Americans, particularly those living in California, supported Taiwan.[56]

The Committee also learned that the Chinese Government created a special "legislative working group" in Beijing, entitled The Leading Group on the U.S. Congress. The Committee was informed that the Leading Group included high-level Chinese Government officials and was similar to other committees within the Chinese Government that pursue policy initiatives, such as the Chinese Government's Leading Group on Foreign Affairs.[57] Public information confirms that the Chinese Government has a variety of "leading groups" as part of its Government structure and that many of the groups contain high-level Chinese Government officials.[58] The Committee was also informed that the Leading Group on the U.S. Congress apparently was a shell organization. Public information confirms the formation of the Leading Group on the U.S. Congress, with some diplomats and scholars stating that the group attempted to promote its interests with lawmakers and the American public, but was not effective.[59]

Other information obtained by the Committee suggests that Chinese Government officials held meetings to discuss how to implement the China Plan and to consider how to raise money to implement the proposals.

Illegal activities

The Committee did not receive sufficient information from its non-public investigation to conclude that the China Plan, as implemented, resulted in illegal activity connected to U.S. federal elections. However, the Committee did receive sufficient information to suggest that illegal activities may have occurred on the state level.

During a closed Committee hearing held on September 11, 1997, agency officials informed the Committee that the information they had to date demonstrated that the China Plan had been implemented by Chinese Government officials by lobbying Congress, encouraging increased public relations with Chinese Americans, and possibly becoming involved in political activities at the state level. The agencies reminded the Committee that the information given to the Committee, while representing all the information that was then available, should not be considered complete. However, the agencies testified that the information at that time did not include information that any illegal activities had occurred on the part of the Chinese Government in relation to congressional or presidential elections.[60] The agencies also cautioned the Committee that there could be violations of law if U.S. companies or persons were lobbying on behalf of China's interests, as opposed to their own, but did not register under the Foreign Agents Registration Act.[61]

As Senators Glenn and Lieberman concluded upon review of the China Plan evidence:

> [T]he information shown to us strongly suggests the existence of a plan by the Chinese government—containing components that are both legal and illegal—designed to influence U.S. *congressional* elections.
>
> [I]t is not clear from the evidence that the illegal aspects of the plan were ever put into motion.[62]

As is evident from the events leading up to the formulation of the China Plan, the contents of the plan itself, and current information regarding its implementation, Chinese Government officials designed the China Plan to promote the Chinese Government's interests with Congress and the American public. There was insufficient information presented to the Committee to conclude that the China Plan resulted in illegal activity by the Chinese Government in relation to the 1996 federal elections.

Individuals under investigation and the China Plan

Information obtained by the Committee suggests that Chinese Government officials discussed ways to use "intermediaries" to implement the China Plan. Chinese Government hoped to use the influence of individuals in the United States by encouraging U.S. companies with interests in China to lobby for pro-Beijing trade policies and by encouraging Chinese Americans to promote pro-Beijing policies in the press and with Congress.[63]

The Committee explored the possibility that the Chinese Government may have used other individuals to promote Chinese Government interests in the United States. During the Committee's public investigation, a number of individuals were alleged to have participated in a variety of political activities, including making or arranging for political contributions to federal elections that were

possibly funded from sources in Asian countries. The individuals included John Huang, Maria Hsia, Ted Sioeng, Charlie Trie, Johnny Chung, James Riady, and Yogesh Gandhi.

During the Committee's closed investigation, the Committee sought any nonpublic information available on these individuals. During a closed Committee hearing on July 28, 1997, Committee Members took testimony from the Executive Branch agencies regarding the non-public information available on this topic. One Member asked, "Is there any evidence that some of these people may have been intermediaries for the China plan or for PRC money [to the 1996 federal elections]?" A senior executive official answered in the negative, based on the non-public information available at the time of the hearing in late July, 1997.[64]

Ted Sioeng

After the closed hearing in late July 1997, additional information was provided to the Committee in September and November of 1997. The information concerned certain activities of Ted Sioeng, an Indonesian businessman who has family members living in California and business interests in China. The Committee learned that Chinese government officials in California were aware of, and possibly encouraged, Sioeng's purchase of a Los Angeles-based newspaper. Sioeng purchased the *International Daily News* in 1995 and succeeded in having the paper report from a pro-Beijing perspective.[65] There was also information suggesting that Sioeng met with Chinese officials in 1995 and 1996.

Sioeng also may have been involved in directing or funding contributions to American political entities and campaigns. The public information obtained by the Committee suggests that Sioeng personally directed contributions to Republican California officials in 1995.[66] According to public information, Sioeng was involved in these contributions,[67] but the source of the contributions is difficult to determine.[68] The non-public information suggests that approximately half of the just over $100,000 used for these contributions may have come from unknown sources in China.[69] According to public information, one of the officials, Republican California State Treasurer, Matt Fong, has returned the $100,000 he received from Sioeng.[70]

The Committee's public investigation of Sioeng's activities also explored contributions to federal entities in 1995 and 1996 made by Sioeng's daughter, Jessica Elnitiarta, or by companies Elnitiarta legally controls. Elnitiarta is an American citizen and businesswoman living in Los Angeles who contributed $50,000 to the National Policy Forum, an arm of the Republican National Committee, and $250,000 to the Democratic National Committee.[71] Elnitiarta informed the DNC and this Committee that she had made the contributions to both the NPF and the DNC and that she used appropriate funds to do so.[72] Bank records obtained as part of the Committee's public investigation suggest that the origin of the funds contributed to the NPR and the DNC could not be conclusively determined, but that the funds contributed to the DNC did derive either from Elnitiarta's personal account or from the accounts of domestic business interests she controlled.[73]

The Committee's non-public investigation did not provide sufficient information regarding whether Elnitiarta's contributions to the NPF or the DNC were directed by Sioeng or were derived from unknown sources in China. Based on all the information before the Committee, however, including the information regarding Sioeng's apparent contacts with Chinese Government officials, the Minority believes that these activities warrant further investigation, including whether Sioeng directed any of the contributions to state officials or federal parties or entities. For a full discussion of the public information regarding Sioeng's activities, see Chapter 7 of this Minority Report.

The Committee received non-public information mentioning a few other individuals scrutinized in its public investigation: John Huang, Maria Hsia and the Riadys.

John Huang

Regarding John Huang, one piece of non-public information that mentioned his name was factually incorrect based on other known information, and the other contained an unsubstantiated hearsay speculation gathered in 1997 after Huang's campaign finance activities were well-publicized. For a discussion of the Committee's public investigation of Huang, see Chapter 4 of this Minority Report.

Maria Hsia

Regarding Maria Hsia, the Committee received non-public information connecting some activities she undertook while an immigration consultant in the state of California in the early to mid-1990s to Chinese Government officials. This information did not involve her activities with respect to fundraising, and there was no information presented to the Committee during its investigation that connected Hsia's fundraising activities to the Chinese Government. In an affidavit submitted to the Committee, Hsia strongly objects to this allegation, outlines her ties to Taiwan and the U.S., and describes her activities while an immigration consultant in California.[74] In light of the incomplete investigation of the Committee on this issue, the Minority believes that the Committee lacks sufficient information about Hsia to endorse or rebut these serious allegations. The fact that the Majority emphasizes these allegations throughout its Report without putting the allegation in context or addressing this information is troubling. For a discussion of the Committee's public investigation of Hsia, see Chapters 4 and 21 of this Minority Report.

The Riadys

Regarding Mochtar and James Riady, there was no non-public information presented to the Committee that provided relevant information not already uncovered in the Committee's public investigation. The Committee's public investigation, including hearing testimony by an expert witness called by the Majority in July, 1997, covered the Riady's business dealings throughout the world, including dealings within China and with the Chinese company China Resources.[75] Public information confirms that the Riadys have a multi-million dollar international business that does busi-

ness within China and with China Resources.[76] According to public information, China Resources, while being a trading and investment company owned by the Chinese Government with subsidiaries involved in hundreds of joint ventures, also allegedly has some relationship with Chinese Government intelligence officials.[77] The non-public information provided to the Committee to date, however, does not support the conclusion that the Riadys' business dealings consist of foreign spying or other similar intelligence activities. For a discussion of the Committee's public investigation of the Riadys, see Chapter 4 of this Minority Report. For a response to the Majority's allegations regarding these individuals, see Part 8 of this Minority Report.

Intermediaries: Relation to the committee's public investigation

Despite numerous searches and documents produced by the Executive Branch agencies, the non-public information presented to the Committee to date suggests that the political activities of one individual, Ted Sioeng, may possibly be linked to Chinese Government officials or the China Plan.[78] The non-public information received by the Committee to date, however, is insufficient to conclude that Sioeng participated in federal political contributions to the National Policy Forum or the Democratic National Committee made by his daughter or her companies in 1995 and 1996 or that those funds were derived from the Chinese Government or other sources in China.

One of the problems confronted by the Committee when examining the role of potential fundraising "intermediaries" in closed sessions was the use of the term "foreign agent." In popular culture, the term "foreign agent" suggests that an individual is participating in illegal foreign spy activity. As used by the Executive Branch, however, the term also describes individuals who conduct legitimate activities in the United States on behalf of other countries. This broader definition of "agent" used in the Committee's non-public information resulted in misleading allegations.

Notwithstanding the allegations that derived from misleading information provided to the press, the non-public information presented to the Committee does not support the conclusion that the fundraising activities in the 1996 federal election cycle investigated by the Committee during its public investigation were connected to Chinese Government officials or to the China Plan. The agencies were careful to note, however, that their investigations are ongoing.

It is also important to note that the Committee received information during its public investigation that raised troubling questions of private individuals using foreign funds to make contributions to state officials and federal entities, including Matt Fong, the National Policy Forum, and the Democratic National Committee. Although the *non-public* information presented to the Committee to date does *not* provide information tying these private individuals' *federal* fundraising to any foreign government, the public information presented to the Committee in open session did raise questions regarding the source of a number of those contributions and the activities of a number of individuals. Again, it is important to note that the goals of this chapter are (1) to clearly distinguish between conclusions based on non-public versus public information obtained

by the Committee and (2) to set forth conclusions based only on the non-public information reviewed by the Committee to date. Despite the insufficiency of the non-public information on fundraising matters, the *public* information regarding the fundraising activities of certain individuals is troubling and is discussed elsewhere in this Minority Report. The public information is also available for public review and analysis.

Political contributions to Federal elections

Another issue raised in connection with the China Plan was whether there was non-public evidence showing that Chinese Government officials had used Chinese Government funds, directly or indirectly, to make political contributions to federal elections in the United States. (The information obtained by the Committee regarding state elections is discussed above in relation to Sioeng's activities with state officials in California.)

There was evidence that the Chinese Government, by setting forth its proposals, was attempting to influence U.S. *congressional* decisions and elections, but there was insufficient information to conclude that the China Plan, as proposed or as implemented, involved Chinese Government political contributions to congressional campaigns. During a closed hearing of the Committee held on July 28, 1997, senior Executive Branch officials knowledgeable about the information were questioned about the effect of the China Plan on congressional elections. Senator Glenn asked whether the documents provided to the Committee to date discussed only activities surrounding Congress. The officials responded affirmatively.[79] However, based on testimony during the July 28, 1997 closed hearing, as well as additional testimony during a September 11, 1997 closed hearing, there was no evidence that the Chinese Government had actually made illegal campaign contributions to members of Congress.[80]

The Committee also investigated whether the information provided to the Committee suggested that the China Plan, as proposed or as implemented, involved Chinese Government political contributions going to the 1996 *presidential* election. The debate on this issue began on July 8, 1997, when Chairman Thompson concluded that the China Plan may have "affected the 1996 Presidential and State races."[81]

As set forth above, the Committee already had learned that the China Plan, as proposed, was not aimed at the Executive Branch or the presidential race. The Committee nonetheless considered whether Chinese Government officials had taken steps to arrange placing money into the presidential election, or whether it took any actions at all that may have "affected" the 1996 presidential race. During the Committee's closed hearing on July 28, 1997, Senator Glenn asked the Executive Branch agencies:

> Is there any indication that the 1996 Presidential race may have been affected by the Chinese plan?[82]

The agencies' officials responded in the negative, with the understanding that the response was based on the information available at the time and that the available information could not represent

a complete picture of any issue under investigation.[83] The Chairman then followed up on Senator Glenn's questions by stating:

> If I may follow up on one point for clarification. You were asked about any evidence affecting the '96 Presidential campaign. . . . I believe you said you had no evidence from your . . . investigation. Do you have evidence from your . . . investigation or can you tell us?[84]

A senior Executive Branch official responded negatively again.[85]

On July 28, 1997, the information presented to the Committee clearly did not support the conclusion that the China Plan affected the 1996 congressional or presidential races, either through illegal means, such as Chinese Government funded political contributions. In the following months, the Committee received additional non-public information, but that information regarded possible Chinese "intermediaries" and is discussed above. The information and conclusions on the issues regarding political contributions to federal campaigns and, ultimately, the conclusion about any effect the Chinese Government may have had on those federal elections, remain the same.[86]

Political contributions: Relation to the committee's public investigation

In its public investigation, the Committee received evidence of foreign funds from businessmen in a variety of Asian countries coming into the American political system from 1993 to 1996. In particular, the Committee received public information that the DNC returned approximately $3 million in political contributions, a portion of which was determined to derive from foreign funds. These events raised troubling questions that are addressed elsewhere in Part 1 of this Minority Report. During its closed proceedings and investigation, the Committee did not receive non-public information tying these fundraising activities in the 1996 federal election cycle to the China Plan or the Chinese Government.

INFORMATION NOT PURSUED BY THE COMMITTEE

Although the Committee's gathering of non-public information focused on the China Plan and the Chinese Government, the Committee received information surrounding the 1996 federal election cycle that the Committee decided not to pursue, as follows:

- Although the Committee discovered that the China Plan was aimed at influencing Congress and discovered that specific steps had been taken to influence Congress, the Committee did not pursue this information in order to determine what activities may have occurred regarding specific members of Congress.
- The Committee received numerous documents suggesting that other Asian governments had developed plans to promote their interests in the United States. These plans proposed taking actions similar to those contained in the China Plan, including lobbying, using intermediaries, and encouraging ethnic Americans to contact U.S. officials. The Committee did not pursue this information or attempt to determine whether the plans were implemented.
- The Committee received documents suggesting that several non-Asian governments also had plans to promote their interests in

the United States. Many of these plans were similar to the China Plan, while others set forth more detailed activities to gain influence in the United States. The Committee did not investigate these issues.

• The Committee received information that intelligence agents of a foreign country attended a Republican presidential fundraiser in 1995. This information was discussed by the Committee, but the issue was not pursued.

CONCLUSION

During the Committee's public investigation, evidence was presented that established that a portion of the $3 million in contributions that were returned by the Democratic National Committee derived from foreign funds. The public evidence also established that some of the funds came from private individuals or companies in a number of Asian countries and that the funds may have been used to provide access to DNC events. The public evidence received by the Committee is discussed in detail in Chapters 3 through 8 of this Minority Report. The public information, in conjunction with the non-public information that China and other countries proposed plans to influence the political process raised legitimate questions of whether any foreign government funds were used to make political contributions during the 1996 election cycle. In light of the Committee's focus on the Chinese Government, the Committee examined that issue, but the nonpublic information presented to the Committee during the course of its investigation did not support the conclusion that the funds from a variety of Asian countries were connected to the Chinese Government. In addition, the nonpublic information does not support the conclusion that the China Plan, or its implemention, was directed at, or affected, the 1996 presidential election. Ultimately, the China Plan and the allegations derived from the Committee's review of nonpublic information were found to be of minimal significance to the issues investigated by the Committee.

FOOTNOTES

[1] *New York Times,* 1/2/97; *Washington Post,* 3/13/97; *Time* 3/97.
[2] This chapter has been reviewed by Executive Branch agencies to ensure that it does not contain classified information. During that review, the Executive Branch agencies informed the Committee that their review of both the Majority and Minority chapters on this issue did not include any position regarding the conclusions reached by the Majority or the Minority.
[3] Chairman Thompson, 7/8/97 Hrg., p. 2.
[4] Chairman Thompson, 7/8/97 Hrg., p. 4.
[5] Chairman Thompson, 7/8/97 Hrg., p. 4.
[6] Chairman Thompson, 7/8/97 Hrg., p. 2.
[7] Chairman Thompson, 7/8/97 Hrg., p. 1.
[8] Chairman Thompson, 7/8/97 Hrg., p. 2.
[9] Chairman Thompson, 7/8/97 Hrg., p. 4.
[10] Chairman Thompson, 7/8/97 Hrg., p. 4.
[11] Chairman Thompson, 7/8/97 Hrg., p. 4.
[12] Chairman Thompson, 7/8/97 Hrg., p. 4.
[13] Chairman Thompson, 7/8/97 Hrg., p. 4.
[14] Senator Glenn, 7/8/97 Hrg., p. 19.
[15] Senator Levin, 7/8/97 Hrg., p. 47.
[16] Senator Levin, 7/8/97 Hrg., p. 47.
[17] Senator Levin, 7/8/97 Hrg., p. 47.
[18] Joint Statement by Senator John Glenn and Senator Joseph Lieberman, 7/15/97.
[19] Senator Durbin, 7/8/97 Hrg., p. 82.
[20] Senator Durbin, 9/9/97 Hrg., pp. 146–47.
[21] Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.* (1997).
[22] Foreign Agents Registration Act, 22 U.S.C. 611(c).

[23] Foreign Agents Registration Act, 22 U.S.C. 623; 611(d).
[24] Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 *et seq.* (1997).
[25] Congresional Research Service Issues Brief, China-U.S. Trade Issues, 1/23/98, pp. 7–8.
[26] Emerging Asia; *Changes and Challenges,* Asian Development Bank Publication 010297, 1997, p. 33.
[27] Emerging Asia; *Changes and Challenges,* Asian Development Bank Publication 010297, 1997, p. 33.
[28] Emerging Asia; *Changes and Challenges,* Asian Development Bank Publication 010297, 1997, P. 33.
[29] *South China Morning Post,* 11/3/93; *New York Times,* 7/1/93.
[30] *The Hill,* 6/27/97.
[31] Department of Justice data provided to the Committee; *New York Times,* 3/14/97; *New York Times,* 7/9/97; *South China Morning Post,* 8/15/93.
[32] Federal Election Campaign Act, 2 U.S.C. 441e; Federal Election Commission regulations, 11 C.F.R. 110.4.
[33] *Political Handbook of the World,* 1997, Eds. Banks, A. Day, Al. and Miller, T. CSA Publications, Binghamton, NY, p. 168.
[34] Closed Committee Hearing, 7/28/97 Hrg., p. 5.
[35] Closed Committee Hearing, 7/28/97 Hrg., p. 5; see e.g., *Boston Globe,* 3/24/97.
[36] *New York Times,* 3/14/97; *Boston Globe,* 3/24/97.
[37] *Business Times,* 5/19/94; *The Economist,* EIU Ltd., 2/8/93.
[38] Senator Glenn, 7/9/97 Hrg., pp. 153–156; *Business Times,* 5/19/94.
[39] *Boston Globe,* 3/24/97.
[40] *The Economist,* The Economist Intelligence Unit, Ltd., 2/8/93.
[41] *Business Times,* 2/7/95.
[42] Congressional Research Service Issue Brief, *China-U.S. Trade Issues,* 1/23/98, pp. 12–13.
[43] Congressional Research Service Issue Brief, *China-U.S. Trade Issues,* 1/23/98, p. 1.
[44] *New York Times*, 3/9/97; *Washington Post*, 3/20/97; *Star Tribune*, 3/22/97; *Los Angeles Times*, 3/23/97 and 3/25/97; *Houston Chronicle*, 3/27/97; *Financial Times*, 10/27/97.
[45] *Business Times*, 2/7/95; *New York Times*, 6/6/96P; *Chicago Tribune*, 8/27/96; *New Republic*, 7/31/95; *Boston Globe*, 1/7/96; *Pittsburgh Post-Gazette*, 3/31/96.
[46] See, e.g., *Washington Post*, 3/1/97.
[47] *Business Times*, 2/7/95; *New York Times*, 6/6/96; *Chicago Tribune*, 8/27/96; *New Republic*, 7/31/95; *Boston Globe*, 1/7/96; *Pittsburgh Post-Gazette*, 3/31/96.
[48] Closed Committee Hearing, 7/28/97, pp. 6–7.
[49] Chairman Thompson, 7/8/97 Hrg., pp. 2–3.
[50] *Washington Post*, 3/31/95; *Financial Times*, 3/8/95; *Daily Yomiuri*, 3/28/95; *South China Morning Post*, 3/24/95.
[51] H. Con. Res. 53, passed 3/29/95; *see also* S. Con. Res. 9, 3/6/95; H. Con. Res. 33, 3/6/96.
[52] *Washington Post*, 6/11/95; see also *Los Angeles Times*, 6/8/95; *Washington Post*, 6/10/95.
[53] *Houston Chronicle*, 8/25/95; Senator Thompson, 7/8/97 Hrg., p. 3.
[54] Staff Briefing, 7/24/97.
[55] Closed Committee Hearing, 7/28/97, p. 41.
[56] Closed Committee Hearing, 7/28/97, p. 7.
[57] Closed Committee Hearing, 9/11/97.
[58] *South China Morning Post*, 8/21/96 (generally); *South China Morning Post*, 11/5/97 (Leading Group on Foreign Affairs); *Washington Post*, 3/11/97 (head of the Leading Group on Foreign Affairs is also involved in "discussions about how China might improve relations with American lawmakers."); *British Broadcasting Corp*., 7/8/94 (Leading Group on Financial Affairs); *Japan Economic Newswire*, 11/16/95 (Chinese Government's Leading Group on Taiwan Affairs includes intelligence official); *South China Morning Post*, 1/7/97 (Leading Group on Military Affairs); *Japan Economic Newswire*, 11/30/95 (Leading Group established to oversee the 1999 handover of the Portuguese colony to mainland China); *Xinhau News Agency*, 3/28/95 (Leading Group established on Mining Resources).
[59] *Christian Science Monitor*, 3/13/97. This group has also been referred to as "The Leading Group on U.S.Congressional Affairs.'
[60] Closed Committee Hearing, 9/11/97.
[61] Closed Committee Hearing, 9/11/97.
[60] Joint Statement by Senator John Glenn and Senator Joseph Lieberman, 7/15/97.
[63] Staff Briefing, 8/5/97.
[64] Closed Committee Hearing, 7/8/97, P. 54.
[65] Staff interview with David Ma, 8/24/97; Staff interview with Jessica Elnitiarta, 6/19/97; *Los Angeles Times*, 5/18/97.
[66] Matt Fong deposition, 9/19/97, pp. 14–19, 29, 30 & 35–37.
[67] Matt Fong deposition, 9/19/97, pp. 14–19, 29, 30 & 35–37.
[68] See Chapter 7 of this Minority Report.
[69] Closed Committee Hearing, 9/11/97.
[70] Matt Fong deposition, 9/19/97, pp. 66–67.
[71] Memorandum from Steve Hendershot, Special Agent detailed to the Senate Investigation, entitled "Jessica Elnitiarta Record Review," 8/22/97; Staff interview with Jessica Elnitiarta 6/19/97; Letter from Thomas McFish, counsel to Jessica Elnitiarta, to the Committee, 6/18/97; *Los Angeles Times*, 7/4/97; *Newsweek*, 3/10/97.
[72] Staff interview with Jessica Elnitiarta, 6/19/97.
[73] See Chapter 7 and supporting citations.
[74] Declaration of Maria Hsia, 2/23/98. Hsia received a Committee subpoena on May 19, 1997 that requested her to provide testimony regarding her campaign finance activities in the United States. In response, Hsia asserted her Fifth Amendment rights and did not provide such testimony. The allegations regarding Hsia's alleged connections to the Chinese Government ap-

peared several months later, in November of 1997. When these allegations were made, Hsia requested the opportunity to provide information to the Committee about these issues and on February 23, 1998, she submitted a sworn declaration to the Committee.

[75] Thomas Hampson, 7/15/97, Hrg. pp. 67–71.

[76] Thomas Hampson, Hrg., 7/15/97; *Washington Post*, 7/18/97; *Newsweek*, 2/24/97.

[77] *Washington Post*, 7/17/97; *Newsweek*, 2/24/97; *Financial Times*, 8/21/93; *Time*, 5/5/97; *Washington Post*, 7/18/97; *Business Wire*, 1/7/98; *Xinua* Wire Service, 11/10/92.

[78] Closed Committee Hearings, 7/28/97 and 9/11/97; Closed briefings, 11/7/97, 12/5/97, 1/22/98.

[79] Closed Committee Hearing, 7/28/97, pp. 43–44.

[80] Closed Committee Hearing, 7/28/97, pp. 4, 30, 32, 69.

[81] Chairman Thompson, 7/8/97 Hrg. pp. 2–3.

[82] Closed Committee Hearing, 7/28/97, p. 44.

[83] Closed Committee Hearing, 7/28/97, p. 44.

[84] Closed Committee Hearing, 7/28/97, p. 46.

[85] Closed Committee Hearing, 7/28/97, p. 46.

[86] The only closed hearing on the China Plan that was recorded or transcribed was the one held on July 28, 1997. The other hearings were not transcribed, but are supported by briefing papers submitted by the agencies.

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PART 1 FOREIGN INFLUENCE

Chapter 3: National Policy Forum

Early in the investigation Chairman Thompson divided the hearings into two "phases" and focused the first phase on the issue of foreign money and foreign influence in the 1996 elections. There was evidence of foreign money going to both the Republican National Committee ("RNC") and the Democratic National Committee ("DNC'), but there was no evidence that foreign money influenced any policy decisions of the Clinton Administration or that it had any bearing on the outcome of the 1996 presidential election. To the extent that foreign money may have influenced the 1994 Congressional elections, there is evidence with respect to money funneled to the Republican National Committee through the National Policy Forum ("NPF").

Starting in 1993, Haley Barbour, the chairman of the RNC, carried out a scheme to collect foreign money by channeling the funds through the National Policy Forum, a tax-exempt organization controlled by the RNC. The RNC did this by arranging for a foreign businessman to put up collateral for a bank loan to the NPF. Shortly after the NPF received the loan, it transferred more than $2 million to the RNC which, in turn, channeled the money into the 1994 congressional races around the country. The NPF subsequently defaulted on the bank loan—freeing up still more money for the RNC in 1996.

While the evidence shows that foreign money in this case did not affect U.S. policy or the 1996 presidential election, it does suggest that foreign money played an important role for the RNC in the mid-term elections of 1994.

FINDINGS

(1) RNC Chairman Haley Barbour and the RNC intentionally solicited foreign money for the NPF.

(2) The NPF was an arm of the RNC and, as the Internal Revenue Service concluded, was not entitled to tax-exempt status as a social welfare organization under section 501(c)(4) of the U.S. tax code.

(3) Barbour solicited Ambrous Young, a foreign national, and Young agreed to provide the collateral for a loan to NPF for the purpose of helping Republican candidates during the 1994 elections.

(4) The evidence before the Committee strongly supports the conclusion that Barbour and other RNC officials knew that the money used to collateralize the NPF loan came from Hong Kong. Barbour's testimony that he did not know about the foreign source of the loan collateral was not credible.

(5) As a result of NPF's default on the loan, the RNC improperly retained $800,000 in foreign money during the 1996 election cycle.

INTRODUCTION

During the Committee's investigation into the 1996 election, which entailed 31 days of public testimony, the Minority was allowed to present witnesses on only three days. In that period, the Minority was able to demonstrate how the RNC solicited and bene-

fitted from foreign corporate money channeled through a Florida shell corporation to collateralize a bank loan to the National Policy Forum—a Republican National Committee-created "think tank." The proceeds of the loan went to the RNC. (Although this was not, technically speaking, a loan guarantee, it had the same effect. All parties involved in the transaction called it a guarantee, and that term is frequently used in this chapter for the sake of convenience.[1]) As Senator Glenn noted in his opening statement on July 8, the first day of the Committee's hearings, "This story . . . is the only one so far where the head of a national political party knowingly and successfully solicited foreign money, infused it into the election process and intentionally tried to cover it up."[2] The testimony with respect to NPF supports Senator Glenn's statement.

The loan transaction may have constituted an illegal foreign contribution to the Republican National Committee. Ambrous Young, a Hong Kong businessman who had relinquished his American citizenship, transferred funds from Young Brothers Development (Hong Kong) to a U.S. company called Young Brothers Development (USA). This foreign money was used to provide collateral for a loan to the National Policy Forum from a U.S. bank. The loan proceeds were then transferred to the RNC which, in turn, used the money to fund Republican congressional campaigns in 1994. The evidence before the Committee shows that Haley Barbour, who was chairman of both the RNC and the NPF, solicited the loan guarantee, knew that the money was coming from a foreign source, and intended that the funds be used on behalf of Republican candidates. Some testimony suggests that Barbour intended from the very outset that the loan guarantee would be absorbed by his Hong Kong-based benefactor upon default by NPF.

The Minority's investigation of the National Policy Forum was hampered by a lack of cooperation from both witnesses and lawyers for the NPF. Although the Committee deposed 14 people, some individuals, such as former NPF President Daniel Denning, simply refused to answer a significant number of appropriate, substantive questions. Others, including Barbour, refused to be deposed until a few days before the hearings commenced. The lawyer for the NPF maintained that the subpoena issued on April 9 was invalid, and he refused to comply with it even after an order was issued by Chairman Thompson on July 3. The Majority never enforced the order.[3]

The documents received by the Committee were obtained almost entirely through voluntary production by individuals associated with Young Brothers, who fully cooperated with the investigation. Ambrous Young submitted to a voluntary deposition in London. His U.S. lawyer, Benton Becker, and his Washington representatives, Richard Richards and Steve Richards, voluntarily offered their testimony to the Committee. Becker also voluntarily appeared at the Committee's hearings. Additionally, at the instruction of Ambrous Young, Becker made numerous documents relevant to the loan transaction available to the Committee, briefed the Majority and Minority staffs on the history and significance of the documents, and made YBD personnel available to Committee staff upon re-

Footnotes at end of chapter.

quest. The Committee's investigation of the National Policy Forum was immeasurably enhanced by the cooperation it received from Ambrous Young, his counsel, and others associated with Young Brothers Development.

HALEY BARBOUR

Haley Barbour chaired the Republican National Committee from January 1993 until January 1997. A few months after becoming RNC chairman, Barbour founded the National Policy Forum; he chaired it while he was RNC chairman. Although Barbour did not oversee the NPF's day-to-day operations, he played an important role in its political activity, its fundraising, and its expenditure of funds.

Barbour was deposed by the Minority on July 20, 1997, and he testified voluntarily before the Committee on July 25. He denied knowledge of the origin of the funds used to guarantee the loan, disputed the view that the NPF was an arm of the RNC, and claimed that no one ever intended that the proceeds of the Young Brothers Development loan guarantee would be used in election campaigns. Barbour's version of events is contradicted at several key junctures by numerous witnesses as well as by documents obtained by the Committee.[4]

AMBROUS YOUNG

Ambrous Young was born and raised in mainland China but moved to Taiwan at an early age, adopting Taiwanese citizenship. In 1969, following his marriage to a U.S. citizen, Young became a U.S. citizen, but retained his Taiwan citizenship. He relinquished his U.S. citizenship in late 1993 or early 1994.[5] By the 1980s, Young was a very rich man and a supporter of the Republican Party, as were his three sons. In the mid-1980s, Young became friendly with the then-RNC chairman, Richard Richards, who became an adviser and business associate.

In 1991, Alex Courtelis, the chairman of the RNC's "Team 100" donor program, approached Young about investing in real estate in Orlando, Florida. Courtelis owned several shopping centers in north Florida and he knew that Young was interested in making a major investment in the United States. He proposed that Young buy part of the Riverwalk Shopping Center in Orlando for approximately $13 million.[6] Young formed a Florida corporation, Young Brothers Development ("YDB (USA)"), to be the purchasing vehicle. Young's lawyer, Benton Becker, a former counsel to President Gerald Ford, was appointed an officer and director of the company, while Richard Richards, who served as Young's Washington representative, was designated president and chairman. The corporation was funded with $2.7 million transferred from its Hong Kong parent corporation, Young Brothers Development ("YBD").[7]

The purchase of the shopping center fell through due to conflicting appraisals of the property's worth. Most of the $2.7 million was transferred back to Hong Kong, but, as Becker testified, "some funds were retained by the Florida corporation to pay for a commitment Mr. Young has made to Mr. Courtelis during Mr. Young and Mr. Courtelis's discussion on the shopping center purchase."[8]

Courtelis had asked Young to become a member of Team 100, the Republican organization that required at least a $100,000 contribution to the party to join. Young decided that the newly formed corporation, YBD (USA), should purchase the membership so that his sons and Richards could participate in Team 100-sponsored events. Courtelis directed that two checks be written: one for $75,000 to the Republican National State Election Committee, and a second for $25,000 to the Florida Republican Party. Over the course of the next two years YBD (USA) issued checks totaling nearly $50,000 to various Republican entities. All of this money was supplied by the Hong Kong parent corporation. Acknowledging that this was foreign money being used to finance U.S. election activity, the RNC eventually returned these checks in 1997.

Young currently manages YBD as an international holding company for businesses ranging from aerospace to macadamia nuts in several countries around the globe, including China, Italy, and Australia.

ORIGIN OF THE NATIONAL POLICY FORUM

In 1993, Barbour, working with Donald Fierce, his friend, business partner, and RNC chief strategist, created the National Policy Forum as a "think tank" for the exchange of Republican ideas. The organization applied to the Internal Revenue Service for tax-exempt 501(c)(4) status, which would have prohibited it from engaging in partisan or primarily political activity. According to the testimony of several witnesses, Barbour touted the creation of NPF as a plank in his platform when he ran for the chairmanship of the RNC, stating that he believed that the Republican Party had failed to generate new ideas that could be integrated into a Republican ideology.[9] In June 1993, Barbour announced that Michael Baroody, a prominent Republican, would be NPF's first president. Barbour himself was the chairman of NPF as well as the RNC, and he arranged for the RNC to provide NPF with several hundred thousand dollars in start-up money.[10]

Baroody was apparently committed to creating a genuine think tank. He set about implementing what he believed to be Barbour's vision of holding participatory conferences around the country on a variety of public policy issues ("the Forum"). He hired a large staff and began identifying conference sites and participants. However, it appears that, almost immediately, Baroody and Barbour began to clash over the operations of NPF. Baroody was interested in making the conferences open—even bipartisan—events where there would be a legitimate exchange of ideas. Barbour, on the other hand, appears to have wanted to use NPF to strengthen the Republican Party's base and to give the party's supporters an opportunity to participate in formulating a national Republican policy platform. On at least one occasion, when Baroody suggested that a Democratic office holder participate in one of the conferences, Barbour objected.[11] Nevertheless, Barbour has characterized NPF as "the most participatory public policy institution ever," and he claimed 10,000 people attended forums held in more than 30 states.[12]

THE BARBOUR-BAROODY SPLIT

An even more contentious issue between Baroody and Barbour developed over the question of how to fund the Forum. Baroody felt that the Forum should embody American values and American issues and therefore believed foreign fundraising would be inappropriate. From the outset, however, Barbour wanted to explore foreign sources of fundraising. In an extraordinary memorandum, Scott Reed, the executive director of the Republican National Committee, listed "foreign" under the heading of "fundraising" as an issue to be discussed with Barbour in a meeting on June 2, 1993.[13] From the inception of NPF, its creators were contemplating raising foreign money. This memorandum, written only weeks before the announcement of the creation of the National Policy Forum, is extraordinary for another reason: The RNC executive director was making recommendations on the structure, goals, and personnel for a supposedly independent, nonpartisan organization.

According to both Barbour and Baroody, they only discussed the issue of raising money from foreign sources on one occasion. That discussion nevertheless apparently led Baroody, who resigned one year later, to characterize Barbour as having a "fascination" with foreign money.[14] Baroody testified that he never viewed a foreign contribution to the NPF as illegal, but later he recalled telling Barbour: "We could get the money; that would be easy. But it would be wrong."[15] As he explained in more detail during his testimony, he felt such a contribution would be "[i]nappropriate, unseemly, and imprudent."[16]

As the rift between Barbour and Baroody deepened, Barbour brought in a trusted ally, Daniel Denning, as NPF executive vice president in early 1994. Denning had held numerous positions in the Republican Party and the federal government and was working for General Electric before joining NPF. With Denning in place, Barbour began an aggressive fundraising campaign. W. Lyons Brown, a wealthy Kentucky businessman and Republican contributor, was tapped to be fundraising chairman. Denning, with Barbour's knowledge and presumed approval, continued to explore foreign sources of funding. Denning raised the issue of foreign fundraising with Baroody but was rebuffed, as Barbour had been before him.[17] Unbeknownst to Baroody, Denning then approached Fred Volcansek, a former Commerce Department official under President Bush, international businessman, and GOP fundraiser, to be a fundraising consultant for NPF. According to Volcansek, Denning "was consumed with the need to raise money."[18] Volcansek testified that he, Denning, and Fierce met at Fierce's northern Virginia home in the spring of 1994 to discuss foreign fundraising options. Baroody was kept out of the loop, even though, technically, Denning was his subordinate.[19]

FUNDING THE NPF

Fred Volcansek testified that at the meeting held at Fierce's home, he and the others discussed the need for funds for the "ongoing operations at the National Policy Forum" and noted that "the Republican National Committee was very interested in seeing that the National Policy Forum repaid [a loan it had outstanding with

the RNC] so that the Republican National Committee could utilize those funds in appropriate ways during the 1994 election cycle . . ."[20] In other words, Volcansek's early discussions with a top RNC official, Fierce, were about raising money for NPF to help the GOP in 1994.

According to Volcansek, they also discussed where to seek the funds and what financing vehicle made the most sense. Fierce, Barbour's confidant, first suggested raising money from foreign sources. Fierce, Denning, and Volcansek decided on three possible sources of foreign money. They also decided that they should seek a loan guarantee and not a conventional loan because a loan guarantee could be arranged more quickly. What is significant about the meeting among Denning, Fierce, and Volcansek is that the NPF president, Michael Baroody, was not aware of their plans to raise foreign money. As Volcansek testified, "I neither met Mr. Baroody then or discussed anything with him then nor have I met him to this day."[21] Indeed, Baroody first learned of the meeting at Fierce's house when he testified before the Committee on July 23, 1997.[22]

Apparently, Volcansek's first choice for raising funds abroad did not pan out. Volcansek's second choice was Ambrous Young, whom he had met through Richard Richards. Volcansek and Richards were friends who had known each other in Utah and Washington, where Volcansek often visited Richards's offices. Volcansek recommended to Barbour that he approach Young to solicit a large contribution.[23]

BAROODY RESIGNS

On June 28, 1994, Michael Baroody submitted his resignation as president of NPF to Haley Barbour. Baroody submitted both a resignation letter and a confidential explanatory memorandum.[24] While the letter only relayed Baroody's intent to resign, the memorandum, which the Committee obtained from sources other than the National Policy Forum, outlined in some detail Baroody's reasons for leaving. It is an extraordinary document. First and foremost, Baroody objected to Barbour's "fascination" with foreign money. Secondly, Baroody stated his belief that Barbour had allowed the ties between the NPF and the RNC to erase the necessary barriers between the two ostensibly independent entities. Baroody wrote: "I believe that what has happened over many months has undermined my efforts, distorted our purpose, blurred the separation of the RNC and the NPF in such a way as to conceivably jeopardize our 501(c)(4) application, and has occasioned the inexcusable, heavy-handed treatment of volunteers with the NPF." Baroody continued:

> I had understood at the outset that this would be an organization separate from the RNC. Though both would be chaired by you, they would operate distinctly. I had this understanding not only because you and others told me so, but because the deliberate decision had been made to organize the NPF under section 501(c)(4) of the Federal Tax Code. That provision requires separate operation. Espe-

> cially in recent months, it has become increasingly difficult to maintain the fiction of separation.[25]

In his testimony before the Committee, Baroody repeated some of the examples that he had provided in his letter: the overlap of staff, the partisan nature of the conferences, the NPF's increasing indebtedness to the RNC, and the general lack of autonomy that he felt.[26]

Barbour's testimony contradicted Baroody's statements. Barbour stated that the NPF "was and is a separate organization from any other organization."[27] Barbour categorically denied that the NPF was an "arm or subsidiary of the RNC." However, a number of documents contradict Barbour's assertion. For example, a memorandum obtained by the Committee from the files of Jo-Anne Coe, the former finance vice chairman of the RNC, referred to the NPF as "the Republican National Committee's 501(c)(4)."[28] Similarly, in an RNC document, Henry Barbour, Haley Barbour's nephew, referred to the NPF as an "issue development subsidiary" of the RNC.[29] A third document, from RNC Team 100 staff member Kevin Kellum, asked Barbour for his recommendation on how to distribute a $1 million pledge from gambling magnate Steve Wynn. One option calls for the entire amount to go to the RNC or Republican Party affiliates. Two alternative options provide for anywhere from $250,000 to $500,000 to go to NPF, demonstrating that for financial purposes, NPF was closely enough tied to the RNC as to warrant a significant portion of a party contribution.[30] In addition to Baroody's views, Coe's memo, Henry Barbour's memo, and Haley Barbour's actions, there is a February 21, 1997, ruling by the Internal Revenue Service denying the NPF its 501(c)(4) status because it conducted itself in a highly partisan fashion. The IRS relied in part on NPF's close relationship with the RNC in terms of overlapping directors and interconnected finances. For example, the IRS decision letter states, "[The] partisanship is exhibited in the key officers and personnel that founded and operate [the] organization." The ruling also states that the NPF "was created for the partisan objective of promoting a particular political party" and that "it operated primarily for the benefit of the Republican Party and politicians affiliated with the Republican Party."[31]

THE NPF UNDER JOHN BOLTON

After Baroody resigned, he was replaced temporarily by Daniel Denning. Ultimately, John Bolton, a former Reagan and Bush Administration official, assumed the presidency of the NPF. NPF also changed its focus from grassroots conferences to "megaconferences," where top industry officials, lobbyists, and Republican members of Congress convened to discuss issues that were often the subject of legislation pending before the U.S. Congress. In his testimony before the Committee, Barbour characterized the conferences as "serious events" where "the quality of the presentations was high."[32] The megaconferences, however, were clearly intended to help raise money for NPF, which was by now heavily in debt to the RNC. For example, a February 8, 1996, NPF memo regarding "Fundraising Projections" states:

> NPF will continue to recruit new donors through conference sponsorships . . . In order for the conferences to take place, they must pay for themselves or turn a profit. Industry and association leaders will be recruited to participate and sponsor those forums, starting at $25,000.[33]

Other evidence shows how this fundraising tactic was put into use. In March 1995, an NPF megaconference on telecommunications at which Senate Majority Leader Bob Dole and other Republicans spoke, provoked complaints from communications companies that had been asked for $25,000 donations to NPF. One newspaper reported:

> [E]ven though the $25,000 payment is not mandatory to attend, company representatives professed surprise at the size of the contribution request. "It's pretty astounding," said one invitee. "If this doesn't have 'payment for acces' (to top GOP lawmakers) written all over it, I don't know what does."[34]

Moreover, a memorandum to Bolton from two NPF employees, Grace Wiegers and Dianne Harrison, notes that $200,000 from US West was provided when NPF agreed to raise issues of concern to the company at a telecommunications megaconference.[35]

But even the megaconferences and the personal fundraising efforts of Bolton, Barbour, and Brown were not enough to keep the Forum in sound financial health. The RNC had to transfer funds to the NPF continually to help the organization meet its expenses. Between June 1993 and September 1996 the RNC made over 50 transfers of funds to the National Policy Forum for a total of over $4 million.[36] The internal RNC process for approving transfers of funds supports the view that the NPF was merely an extension of the RNC. According to the testimony of the RNC's Scott Reed, either Denning or Baroody called him to request loans from the RNC.[37] Reed rarely questioned why the money was needed; he would simply pass the request on to Jay Banning, an administrator at the RNC, who made sure that the loan documents were prepared, the money was transferred, and the general counsel's office was kept informed.[38] According to Reed, Barbour knew about the loans and did not object.[39]

It is not completely clear why NPF was so expensive to run. It is possible that the staff was being used for partisan purposes relating to the 1994 elections and the Contract with America. Such nonpartisan activity might explain why in 1994, an election year, the staff ballooned from 20 to over 50.

Even if some of NPF's staff were being used for election activities, payments to at least one consultant, Joseph Gaylord, seem hard to justify. Gaylord, a strategist and political consultant to House Speaker Newt Gingrich, was hired as a fundraising consultant for the NPF by Denning and has acknowledged that he was paid $7,500 a month. Gaylord had no written contract and had no idea how much money he raised.[40] In fact, Gaylord was never given any indication of what he was expected to raise.[41] The available evidence suggests that during the time he was a consultant to the NPF—more than a year—Gaylord raised less than half of what he was paid. Among the contributions he successfully obtained was a

$25,000 check from Panda Industries, a business associated with Asian businessman Ted Sieong. (See "Other Foreign Contributions," below.)

BARBOUR SOLICITS AMBROUS YOUNG

In the summer of 1994, Barbour decided to pursue the suggestion by NPF fundraiser Fred Volcansek that Ambrous Young be approached for a loan or loan guarantee. Volcansek provided Barbour with a set of talking points for a discussion with approach Richard Richards, Young's U.S. representative. The talking points, which Volcansek developed in concert with Fierce and Denning, encouraged Barbour to tell Richards that the Republican Party had a chance of capturing the Congress, but only if the party obtained badly needed funds. Volcansek made no distinction between the NPF and the RNC in the memorandum.[42]

Richards testified at the hearing that Barbour telephoned him and said:

> We have a problem. We at the National Committee have loaned the forum $3 million . . . of money that we can use in the campaign, but, we have got a problem. We need to be able to take it out of the forum for our purposes, and we can't take it out unless we replace it with something because the forum has overhead and other expenses. And I understand you represent a well-to-do Chinese fellow in Hong Kong who has previously been a beneficiary to the Republican Party. Would you be willing to talk to him about loaning us $3 million for that purpose?[43]

After Barbour talked with Richards, Volcansek provided Richards with a set of talking points for an approach to Ambrous Young.[44] Richards called Young and asked him if would consider making a $3.5 million contribution to the National Policy Forum. The same themes that Volcansek had supplied to Barbour were reiterated to Young. Volcansek and Richards went to Hong Kong to meet with Young and to explore further the possibility of a donation to the National Policy Forum. Young agreed to consider a contribution, and said he would meet with Barbour in Washington. As soon as Volcansek returned to Washington he worked with Denning and Fierce to set up a meeting between Young and Barbour.

On August 29, 1994, Barbour hosted a dinner at Sam and Harry's restaurant in Washington, D.C. The guests included Mr. and Mrs. Ambrous Young, Barbour, Fierce, Richard Richards, Steve Richards, Volcansek, and Denning. Barbour and Young testified that the dinner was largely a social occasion, but at some point in the evening there was some discussion of Young's potential involvement with the National Policy Forum. For instance, quoting from his interview with Young on the subject of the August dinner, Becker testified that using the proceeds of a loan to pay off the existing debt to the RNC was "freely discussed at the dinner . . ."[45] Young stated in his deposition that during the dinner he told Barbour that any loan or loan guarantee would originate from Hong Kong: "The discussion was basically Mr. Haley Barbour requested me to consider for the loan of $3.5 million and assured me

of the safe return of the loan. . . . I could not commit nor have the power to commit, but requested him to give us more information so that we can present it to the YBD (Hong Kong) board of directors for further consideration."[46] Barbour claims he does not remember any discussion of this issue but does remember offering Young the opportunity to contribute a series of articles about China policy to the Forum's publication, *Common Sense.*[47]

Following the dinner, Volcansek prepared an NPF proposal for Ambrous Young. Once again, Volcansek tried to impress upon Young the need to assist the Republican Party. As Volcansek testified, his proposal was designed to convince Young that the funds provided a "greater opportunity to enhance what the Republican National Committee was going to do in the 1994 election cycle."[48] Volcansek also stipulated in the NPF proposal that:

> Chairman Barbour is committed to continuing his fundraising efforts on behalf of the NPF's work and fully intends for the NPF to repay the loan. However, if there is any default by the NPF, he will authorize the guarantee of the RNC and ask for the Republican National Committee's ratification. As Chairman of the RNC and the NPF, he intends to be certain that neither organization defaults on its obligations.[49]

Volcansek clearly represented that the RNC was willing to indemnify the NPF and thereby indemnify Young on the loan guarantee. He claims he developed the specific language with another domestic fundraising source, whom he did not identify.[50]

In addition to presenting Young with Volcansek's NPF proposal, Barbour personally contacted Young to encourage him to make a loan. According to Young's attorney Benton Becker, the men had "numerous telephone conversations."[51] At some point during the next several weeks, Young made the decision to assist Barbour and the NPF, although he decided against a direct loan—perhaps on the advice of Volcansek, Denning, and Fierce who, as noted earlier, had decided that a loan guarantee could be organized more expeditiously than a direct loan. On September 9, Barbour was notified of Young's willingness to assist when Stephen Young, Ambrous's son, hand-delivered a letter to Barbour on the stationery of Young Brothers Development (Hong Kong). Young made clear that he "preferred to support the Republican Party under the same manner which we have done in the past if NPF's existing requirement can be obtained from other channels." He also decided to provide a guarantee of only $2.1 million and not the $3.5 million that had been originally requested. And he noted in the letter that Barbour had represented that the money was "urgently needed and directly related to the November election."[52] At this point Young asked Becker to work out the details.[53]

THE LOAN TRANSACTION

Before committing Young to any written arrangement, Becker endeavored to determine how much risk his client would assume if he provided the NPF with a loan guarantee. Working with David Norcross, the general counsel to both the NPF and the RNC, Becker wanted to know what the NPF's balance sheet looked like and

what assurances in the event of a loan default Haley Barbour was willing to offer. Daniel Denning, the chief operating officer of NPF, provided Becker with a list of fundraising pledges and commitments that reflected an increasingly robust and financially healthy organization—albeit one based on contributions that had been either promised or were expected.[54] Becker was provided records that reflected that current NPF pledges exceeded $2 million. He was told that "all committed pledges in the past had always been 100 percent honored."[55]

Even more reassuring to Becker was the letter he received from Barbour on August 30 telling him that in "the event NPF defaults on any debt, I will ask the Republican National Committee to authorize me to guarantee and pay off any NPF debts. I am confident the RNC would grant me such authority at its next meeting, provided there is valid outstanding debt of NPF to a U.S. bank or other lending institution guaranteed by a U.S. citizen or domestic corporation."[56] Becker had not asked specifically for the letter, although he had indicated to Norcross "that before Mr. Young's corporation would involve itself with this loan guarantee that we would like to see some sort of fall-back positions by the RNC in the event of a default by the NPF."[57] Becker discussed the content of Barbour's letter with Richard Richards, a former RNC chairman. Richards told Becker he considered Barbour's statements in the letter to be a firm RNC commitment to protect YBD (Hong Kong) against any loss in the event of an NPF default of its bank loan. Becker therefore considered Barbour's letter as a form of RNC indemnity for the NPF.[58] This is, of course, another strong indication that the NPF was nothing more than a subsidiary of the RNC.

Finally, Becker had asked Norcross to provide him with an independent opinion as to the legality of the transaction.[59] At Norcross's request, Mark Braden, a lawyer at the Washington firm of Baker and Hostetler, provided that opinion. Although considered an election law expert, Braden was far from "independent." He was a former general counsel to the RNC and involved with other nonprofit organizations connected to the RNC, as is discussed Chapter 12 of the Minority Report. Moreover, as Becker testified, Braden had been "given the relevant facts that formed the basis for this opinion letter" by his RNC successor.[60] Finally, Becker received Braden's "independent" opinion letter not from Braden himself, but from Norcross.[61] Braden opined that the loan guarantee transaction was entirely appropriate. He wrote, "We have been assured (and assume it to be true) that the partial repayment by NPF of such outstanding loan obligations will not be made to a political committee as defined by the [Federal Election Campaign] Act."[62]

On October 7, the structure of the loan guarantee was agreed upon and memorialized in a letter from Daniel Denning to Benton Becker and Ambrous Young.[63] Six days later, $2.1 million was wired from YDB, Hong Kong to YBD (USA) in Florida. Within 24 hours the money was wired from Florida to Signet Bank in Washington where it was used to purchase 11 certificates of deposit that were in turn used to collateralize a $2.1 million loan from the bank to the NPF. The plan was that as the NPF paid off the loan, CD's would be released by the bank. The funds from the released CD's

would be wired back directly to YBD (Hong Kong)—where the money to buy them had originated.

There are three notable aspects to the way in which the transaction was structured. First, steps were taken to conceal the origin of the funds by passing them through the Florida corporation. The money was only "parked" in the Florida account of Young Brothers Development, (USA) for several hours. YBD (USA), did not have sufficient funds of its own to purchase the CD's used as collateral.[64] Volcansek testified that "because [NPF] was a 501(c)(4) corporation, the source of those funds, whether they be foreign or domestic, was irrelevant from a legal perspective. And so, therefore, any discussions that we had on it, nobody focused on it because we didn't consider it to . . . be an issue."[65] Nevertheless, Volcansek admitted that "Yes, I remember telling Mr. Barbour, Mr. Fierce, and Mr. Denning that this money would be coming from the Hong Kong corporation through the U.S. corporation as a loan to the U.S. corporation, and that it would be put up as the collateral for the loan guarantee."[66]

Second, after NPF received the money, $1.6 million was wired almost immediately to the RNC—leading to the inescapable conclusion that Barbour, the chairman of both organizations, all along had wanted the RNC to benefit from the loan guarantee. Third, after the NPF made several of the initial loan payments, CD's were released and, at Becker's direction, the funds were wired to Hong Kong—confirming that the money was Hong Kong corporate money.

FUNDING THE CONTRACT WITH AMERICA

In his testimony before the Committee, Haley Barbour argued that the NPF could not have been a funnel to the RNC because "NPF failed to repay nearly $2.5 million the RNC loaned it over four years ago."[67] He called the notion of using the NPF to somehow circumvent the campaign finance laws "goofy."[68] His argument, of course, only makes sense if one accepts the premise that the two organizations were separate. But, as shown above, the organizations were not independent. The contribution of over $2 million in foreign money in the form of a loan guarantee to the NPF provided a critical infusion of funding to the RNC. Although in public testimony Barbour contradicted his earlier private representation that the money was needed in the 1994 elections, he did acknowledge that "the goal of the national committee, of the RNC, was that we wanted to put money into the campaigns late."[69]

Although the NPF received the loan proceeds on October 13 and immediately used $500,000 to pay off outstanding bills, the NPF's comptroller, Stephen Walker, asked Signet Bank not to disburse the remaining $1.6 million to the RNC until October 20.[70] The most likely explanation for Walker's request is that the RNC wanted to delay public disclosure of this inflow of funds to the FEC until after the November elections. October 19 was the last day of the FEC reporting period. Barbour admitted in his testimony before the Committee that he would have wanted a delay so that prospective GOP donors would continue to believe there was a need to donate.[71] When the funds were transferred to the RNC, money was sent to 21 congressional races in 16 states.[72]

The November election was a stunning success for the Republicans. They captured the Congress for the first time in 50 years. The money provided by Young Brothers contributed to that success. Barbour testified that the RNC had not needed the money, but this is belied by the RNC's bank records and by Barbour's own statements at the time. Richard Richards and Volcansek testified that the money would be used for the 1994 races.[73] Moreover, it is clear that on at least two days, had it not been for the NPF infusion of cash, the RNC soft money account would have been in the red.[74]

Following the 1994 election, Barbour wrote to thank Young for his help and scribbled at the bottom of his letter, "You're a champ."[75] A few weeks later, Young came to the United States and spent the day in Washington being escorted around Capitol Hill by Barbour. According to Young, he met with Speaker Gingrich and Senate Majority Leader Bob Dole and had his photo taken with both GOP leaders.[76] After the visit, Barbour wrote to Young, "I am delighted you were able to meet with both Senator Dole and Speaker Gingrich. They were pleased to hear your views on developments in Asia. Your discussion of the PRC leadership and how you see the next several years . . . was of great interest. . . . Your role as a key advisor on Asian policy is essential to both me and the NPF."[77]

Testimony diverges considerably on what happened next. Richards and Young remember that Barbour approached Young in Hong Kong in 1995 about forgiving the loan.[78] According to Young and Richards, Young refused Barbour's overture and demanded that the loan be repaid. Barbour claims that the issue of forgiveness was not broached at this point; that Young had considered it a possibility from the beginning—even before the loan guarantee was in place.[79] In his testimony before the Committee, Volcansek contradicted Barbour on this point: "One fact is crystal clear. When the loan was first made, it was not the intention of anyone that the certificates of deposit posted as collateral for the Signet loan to National Policy Forum would be forfeited to pay the loan."[80]

THE TRIP TO HONG KONG

In the summer of 1995, Haley Barbour travelled to Hong Kong and raised the issue of forgiveness of the loan guarantee at a meeting on Young Brothers Development's corporate yacht, "Ambrosia." In essence, Barbour was proposing that NPF default on the loan, that Young Brothers's posted collateral be forfeited, and that YBD thereafter decline to pursue any civil action for reimbursement of loss against the NPF or RNC. Barbour was travelling in the Far East on his way back from a meeting of the International Democratic Union of which he was the U.S. chairman. Accompanied by Ed Rogers, his law firm partner, and Kirk Blalock, his assistant at the RNC, Barbour claims that when he asked Young to forgive the loan, Young said he would consider it.[81] Young, however, testified that he told Barbour that the money was corporate money and that he could not act without the authority of his Hong Kong board of directors. Moreover, according to Young, he told Barbour that the Hong Kong financial authorities annually audited his company and that this kind of contribution to an American political party would raise concern.[82] The discrepancy concerning Young's answer is important because if Young is correct, Barbour was on notice—yet

again—that the money used to guarantee the loan to the NPF was Hong Kong corporate money. This completely contradicts Barbour's testimony at his deposition that he did not become aware until 1997 that the funds used to collateralize the NPF loan came from Hong Kong.[83] Indeed, the very fact that Barbour was discussing this issue on a corporate yacht in Hong Kong Harbor undermines the credibility of his testimony that he did not know the source of the posted collateral was in Hong Kong.

THE TRIP TO CHINA

Young and Barbour met again several months later when Young accompanied Barbour and Richard Richards on a trip to Beijing. According to Barbour, the trip had been planned for many months and had been rescheduled on more than one occasion. In his deposition, Barbour acknowledged that he saw it as an opportunity to lobby Young for forgiveness on the NPF loan guarantee.[84] All participants testified that no business was transacted, although Young, Barbour, and Richards all have business interests in China. Young testified that he had not wanted to go to China, but relented only after Barbour made an appeal. But Richards indicated that Young had agreed to go because it "put powder on his face" to be seen in the PRC with the chairman of one of America's major political parties.[85]

In China, the Barbour entourage met with the Chinese foreign minister in what Barbour described as a courtesy call. The meeting lasted approximately half an hour, and no substantive discussion occurred. In the evening, an official from the Foreign Ministry hosted a dinner for the delegation.[86] Again, this appears to have been a purely social affair. The next day was devoted primarily to sightseeing. Any discussion of forgiving the Young loan guarantee was apparently brief and unproductive.[87]

THE DEFAULT

During the spring of 1996 the RNC was in financial distress. Not only had it extended millions of dollars in loans to the NPF, but it had virtually subsumed the Dole presidential campaign by hiring staff and running "issue" ads on the candidate's behalf. The NPF, for its part, had missed a loan payment to Signet Bank in March. This caused serious concern on the part of Young's lawyer, Benton Becker. After discussions with RNC General Counsel Norcross and with lawyers at Signet Bank, a decision was made by NPF officials to postpone the payment—to engage in an "allonge," a banking term, whereby a missed payment is tacked onto the end of the loan schedule. This seemed to be an adequate solution, but in June the NPF again missed a payment. This time, the NPF chose not to reschedule the payment, but instead stated that it would make no further payments. NPF did not advise Becker or Young. It only advised Signet Bank, which then notified Becker that NPF had defaulted and that the collateral would be forfeited in 60 days.[88] Becker, in turn, informed Richards and Young.

Becker and Richards immediately began to try to find a solution. Richards tried to call John Bolton, the NPF president, no fewer than ten times. Bolton refused to accept his calls and never called him back.[89] Becker wrote to Norcross and suggested that perhaps

the issue of the RNC's reimbursement of YBD and its promise to "guarantee and pay off any YBD debts" could be raised by the RNC budget committee at the Republican National Convention in August.[90] Norcross agreed to have it placed on the agenda, but when the budget committee convened and the issue was raised, Bolton tabled it.[91] According to Richards, himself a past RNC chairman, the chairman chooses the membership of the budget committee and controls the agenda. Had Barbour been willing to have the issue of repayment to the NPF raised, Richards believes it would have been done. Absent Barbour's approval, the motion was tabled.[92]

By September, Richards felt completely frustrated in his attempts to settle the issue amicably. On the 17th he wrote Barbour what he now describes as an "angry" letter in which he recited the chronology of the loan guarantee, clearly stating once again that the money used for the loan guarantee was known from the outset to be Hong Kong corporate money.[93] This was at least the fifth time Barbour had been made aware that the funds supplied for the NPF loan guarantee were of foreign origin. The letter reiterates that the money had been slated to help the Republicans win the Congress in 1994.[94] In his deposition before the Committee, Richards maintained that the entire letter was accurate except for one part which he claimed was skewed by his anger—a reference to "business opportunities" in exchange for forgiveness.[95]

Barbour testified that he regarded the Richards letter as so replete with inaccuracies and misstatements that he did not take it seriously. Barbour said he believed the letter was nothing more than "a negotiating tool to put pressure on me . . . It's also why I didn't give it credibility."[96] He disputes any charge that he should have been placed "on notice" as to the origin of the money by the letter. In fact, the evidence is overwhelming that Barbour knew from the outset that the money used to collateralize the loan came from Hong Kong. Barbour's denials to the contrary are not credible.

In early November 1996, the NPF, fearing a lawsuit was imminent, agreed to settle with YBD (Hong Kong) for the $1.5 million loss YBD had sustained.[97] The funds were wired from the Republican National Committee to the NPF which, in turn, wired the money to Young Brothers Development (Hong Kong).[98] For the NPF, the fiction of Young Brothers's U.S. subsidiary seemed no longer necessary. Ambrous Young had forfeited—involuntarily—nearly $800,000. He thought he had a promise from Haley Barbour, but it was never honored. In fact, Young said he never heard from Barbour again.[99]

OTHER FOREIGN CONTRIBUTIONS

The NPF loan guarantee was not the only contribution from a foreign source received by NPF. At least one, and perhaps two additional large contributions came from foreign sources. As was the case with the NPF loan, the foreign contributions would have been legal if NPF were a legitimate nonprofit organization rather than an arm of the RNC. Because NPF was a unit of the RNC, the law's prohibition against foreign money being used for election activity is applicable.

During John Bolton's tenure as president, the NPF received a $25,000 contribution from a foreign organization known as the Pa-

cific Cultural Foundation.[100] When asked during a March 16, 1997 television interview to "tell the American people who gave hundreds of thousands of dollars to the National Policy Forum and did any of that money come from overseas," Barbour responded, "None of the money came from overseas . . . period."[101] However, Barbour might have recalled that both he and Bolton communicated with the Taipei Economic and Cultural Representative Office with regard to the contribution.[102] Barbour even personally thanked "Ambassador [Jason] He," noting that the "generous contribution" would enable NPF "to continue to develop and advocate good international policy."[103] Testifying before the Committee, Barbour admitted that he was aware that Ambassador He was the U.S. representative of the Taiwanese Government and that the Taipei Economic and Cultural Representative Office functions as the de facto embassy for the Government of Taiwan. Despite being the only contribution the Committee has discovered that is directly tied to a foreign government, the National Policy Forum never returned the contribution.[104]

Another contribution that may be of foreign origin is a $50,000 contribution to NPF from Panda Industries, Inc.,[105] a corporation associated with Ted Sioeng, a nonresident alien.[106] Companies and individuals associated with Sioeng have contributed to both Democratic and Republican candidates and to the Democratic National Committee.[107] Sioeng is reputed to have ties to Chinese officials and possible involvement in the China Plan discussed in Chapter 2 of the Minority Report.[108] The NPF contribution was made on July 18, 1995, and has been reported by the press to have been returned by NPF.[109] More information about this contribution is provided in Chapter 7.

CONCLUSION

As chairman of the Republican National Committee, Haley Barbour established and controlled a tax-exempt organization which he may have used in violation of the federal tax laws and election laws. Although the National Policy Forum claimed to be a nonpartisan, "social welfare" organization, Barbour used it initially to assist the Republican Party in policy-formation, by organizing fora where the party could receive grassroots input. The fora also helped to energize Republican activists. Barbour next used the National Policy Forum as a way to bring together powerful lobbyists and Republican policy-makers on Capitol Hill to raise money for both the Forum and for the Republican Party at large. Lastly, he used the National Policy Forum as a means to funnel money to the Republican National Committee in order to promote the Contract with America in 1994 and finance Republican campaigns in 1996. It is this last "use" on which the Committee focused its investigation.

Barbour has always maintained, correctly, that tax-exempt organizations can legally accept foreign contributions. Political parties, however, cannot accept such contributions. The critical question, then, is whether or not Barbour knew that the money he solicited from Young Brothers was foreign corporate money and whether he intended that those funds be used by the RNC for election purposes. Barbour claims that he had no knowledge of the origin of the

Young Brothers collateralized funds, that the party did not need the money, and that he never solicited the contribution with the idea that it would be used to help the Republican Party in any campaign. Barbour's version, however, is riddled with inconsistencies and contradicted by virtually every other witness with knowledge of the loan transaction.[110]

Barbour claims that he first learned in 1997 that the money used for the YBD loan guarantee was of Hong Kong origin. Barbour's testimony is contradicted by testimony and documentary evidence from Ambrous Young, Stephen Young, Fred Volcansek, Richard Richards, and Benton Becker, all of whom maintain that Barbour and/or his close advisers were aware that the YBD money used to collateralize the loan originated in Hong Kong. Ambrous Young testified that he told Barbour on two occasions that the money was from Hong Kong: at the August 1994 dinner in Washington, D.C., and in 1995 on the yacht in Hong Kong. Stephen Young hand-delivered a letter from his father to Barbour in September 1994 on YBD, (Hong Kong) stationery in which Young repeated Barbour's statement that the money was "urgently needed and directly related to the November election." Volcansek testified he informed Barbour of the origin of the money at a meeting at RNC headquarters in the summer of 1994. Richard Richards' September 17, 1996, letter, which Barbour acknowledges receiving, clearly states that the money came from Hong Kong. Volcansek and Becker also testified that key RNC officials who were close to Barbour were also aware of the source of the YBD loan guarantee: Volcansek told Fierce, an RNC strategist, even before the approach was made to Young, and Becker believes that David Norcross, the RNC general counsel, was also aware. In the face of all of this evidence, Barbour's denials are not credible. He had to know that the money guaranteeing the NPF loan originated in Hong Kong. Moreover, as noted above, evidence before the Committee shows that Barbour knew the loan proceeds would be transferred to the RNC, which would then use the funds for electoral purposes.

Barbour also is not credible on the question of forgiving the loan. Barbour testified that Ambrous Young was inclined to forgive the loan and that Young had told him this even before the loan guarantee was in place. Young flatly contradicts Barbour on this point, noting that he told Barbour on the yacht in Hong Kong that he could not forgive the loan unless he had the approval of the YBD (Hong Kong) board, because the company was subject to Hong Kong Government audits. Richard Richards was aware of the meeting on the yacht and he testified that Barbour "raised the issue of forgiveness for the first time," and not, as Barbour testified, before the loan guarantee was even in place. Documents provided to the Committee by Young and Becker clearly demonstrate that Young and counsel were angry and disappointed upon learning of NPF's default of its bank loan. Barbour also testified in his deposition that Volcansek had been a party to conversations concerning forgiveness even before the loan guarantee was signed,[111] but Volcansek flatly denied than any such conversations took place.[112] The decision to default on the loan, according to Barbour, was made by himself and NPF's president, John Bolton.[113] But Bolton

stated under oath that he was "instructed, not consulted" about Barbour's decision to default.[114]

During the hearings on the NPF, Chairman Thompson expressed on several occasions his concern over Barbour's role in securing the YBD loan guarantee. At one point, Senator Thompson remarked to Barbour: "It would seem to me that you would think, in retrospect, anyway, that all of this, plus the fact that you were heading both organizations, plus the fact that it was your platform, and the fact that you provided the seed money, would make any appearance of any foreign involvement that much more radioactive . . ."[115] The Chairman continued, "[W]hen you are sitting on a boat in Hong Kong harbor talking to a gentleman who is a resident of—a citizen of Taiwan, I mean that does raise certain other potential implications in terms of appearances."[116] Thompson concluded, "[I]t looks to me like you had a situation where this gentleman, whether he is a citizen or not, caused his company to put up some money that was lost at a time when he was thinking, anyway, that the RNC had a moral obligation to step in there and do what it could. . . . And he is holding the bag to the extent of $800,000. So legalities aside, you know a deal is a deal, and don't you think maybe you and I both ought to urge that that thing be looked at again?"[117] The Minority believes that the RNC has both a moral and a legal obligation to return the $800,000 foreign contribution.

FOOTNOTES

[1] When a loan is guaranteed, the bank can invoke the guarantee if the borrower defaults. If a third party has posted collateral, the bank can seize all or part of the collateral. Whichever approach is used, the guarantor or collateral-provider loses money if the borrower defaults.

[2] Senator Glenn, 7/8/97 Hrg., p. 22.

[3] Chairman Thompson said that he "was proud of [the] fact" that the Committee had issued a subpoena on April 9, although he never explained why he refused to enforce the order he issued after NPF failed to comply with the subpoena. Senator Thompson, 7/23/97 Hrg., p. 34. He also said that "if information comes to my attention that they or anybody else violates the order, we will take appropriate action. . . ." Senator Thompson, 7/23/97 Hrg., p. 38. He never did.

[4] See appendix A: Chart showing instances where Haley Barbour's testimony is contradicted.

[5] Barbour testified that he was aware that there was some question as to the citizenship of Ambrous Young at the time the loan was being negotiated. Haley Barbour, 7/24/97 Hrg., p. 231. Senator Torricelli raised the possibility that Young's dealings with NPF were to curry favor with the Republican leadership in Congress who, at the time, were considering tax treatment of expatriates. Senator Torricelli, 7/23/97 Hrg., pp. 152–53. Becker declined to provide any information on the matter of Mr. Young's renouncement of his US citizenship, citing attorney-client privilege. Benton Becker, 7/23/97 Hrg., p. 137.

[6] Benton Becker, 7/23/97 Hrg., pp. 40–42.

[7] Benton Becker, 7/23/97 Hrg., p. 41.

[8] Benton Becker, 7/23/97 Hrg., p. 41.

[9] Scott Reed deposition, 7/11/97, p. 22; Haley Barbour, 7/24/97 Hrg., pp. 161–6.

[10] Exhibit 263: NPF Press Release, 6/21/93.

[11] Exhibit 273: Memorandum from Michael Baroody to Haley Barbour regarding Baroody's reasons for resignation from NPF, 6/28/94.

[12] Haley Barbour, 7/24/97 Hrg., pp. 111, 113.

[13] Exhibit 258: Memorandum from Scott Reed to Haley Barbour, Michael Baroody and Ken Hill regarding NPF action, 6/2/93. Scott Reed did not testify before the Committee, although he did submit a statement. In that statement, he explained his reference to the June 2 memorandum: "At that time, American subsidiaries of foreign companies had shown an interest in contributing to the NPF. I believed at that time and believe today that the NPF legally could accept such contributions. What I did not know was Chairman Barbour's position on accepting these donations. I thought that he needed to make a policy decision and give the NPF some staff direction. That is why I highlighted this issue, among others, in my memorandum." Scott Reed statement, 7/22/97. Barbour apparently did give the staff direction on the issue: Proceed to solicit foreign money.

[14] Exhibit 273: Memorandum from Michael Baroody to Haley Barbour regarding Baroody's reasons for resignation from NPF, 6/28/94.

[15] Michael Baroody, 7/23/97 Hrg., p. 192.

[16] Michael Baroody, 7/23/97 Hrg., p. 192. Baroody also testified that he discussed the concept of foreign fundraising with Bill Brock, a former RNC chairman, U.S. senator, and NPF board

member. According to Baroody, Brock also thought it would be inappropriate to raise money abroad. Michael Baroody, 7/23/97 Hrg., p. 204. Brock was not interviewed by the Committee.

[17] Michael Baroody, 7/23/97 Hrg., p. 208.

[18] Fred Volcansek, 7/24/97 Hrg., pp. 56, 37–39. Volcansek believes he was asked to help because of his extensive international connections. Volcansek, 7/24/97 Hrg., p.58. Volcansek testified, however, that during 1995 he succeeded in raising several hundred thousand dollars from domestic sources. He made no reference to even attempting to raise money from foreign sources after recommending Ambrous Young. Fred Volcansek, 7/24/97 Hrg., p.15.

[19] When asked why, as president of the NPF, he was not kept informed of Denning's activities, Baroody replied, "I cannot answer that." Michael Baroody, 7/23/97 Hrg., p. 211.

[20] Fred Volcansek, 7/24/97 Hrg., p. 28.

[21] Fred Volcansek, 7/24/97 Hrg., p. 31.

[22] Michael Baroody, 7/23/97 Hrg., p. 248.

[23] According to Volcansek, Steve Richards had told him that Ambrous Young might be interested in supporting the National Policy Forum because he was looking around for a think tank to which he could donate. Fred Volcansek, 7/24/97 Hrg., p.33. However, Steve Richards flatly denies that Ambrous Young ever said anything about looking for a think tank or that Richards ever made such a statement to Volcansek. Steve Richards deposition, 7/22/97, p. 17.

[24] Exhibit 273: Memorandum from Michael Baroody to Haley Barbour regarding Baroody's reasons for resignation from NPF, 6/28/94.

[25] Exhibit 273: Memorandum from Michael Baroody to Haley Barbour regarding Baroody's reasons for resignation from NPF, 6/28/94.

[26] See Michael Baroody, 7/23/97 Hrg., pp. 193, 212–21.

[27] Haley Barbour, 7/24/97 Hrg., p.116.

[28] Memorandum from Jo-Anne Coe to Dole contributor Philip Anschutz, 5/29/95, DFP 004294.

[29] Exhibit 259: Memorandum from Haley Barbour, John A. Moran, and Max M. Fisher to Team 100 Members regarding Team 100 Structure and Activities, 6/10/93. In his testimony before the Committee, Barbour disavowed the memorandum and claimed that "it was written by a staff member who happened to be my nephew. . . . But he screwed up." Haley Barbour, 7/24/97 Hrg., p. 160, 161. Barbour then explained, "When I started and ran for chairman and said I thought there should be a policy institute, I was thinking it should be part of the RNC. As we went along, it became clear to me, before the National Policy Forum was founded, that that wasn't the right way to do it." Haley Barbour, 7/24/97 Hrg., p.161. During Baroody's testimony, Chairman Thompson observed, "In a 501(c)(4), you are allowed some political activity. It is not supposed to be partisan political activity, but you are allowed some. But you are not supposed to be a subsidiary of a party." Chairman Thompson, 7/23/97 Hrg., p. 25.

[30] Exhibit 327: Memorandum from Kevin Kellum to Haley Barbour regarding Stephen Wynn, CEO of Mirage Resorts, 2/23/96, R013574. Barbour was at a complete loss to provide any credible explanation as to why Kellum would be writing him such a memorandum. He testified, "It's—it looks to me like he is—and, again, I have no recollection of this . . . but it looks to me like he's recommending three scenarios." Barbour continued, "Well, I— you know, I'm seeing this for the first time, don't know if I've ever seen it before today." When Minority Chief Counsel Alan Baron reminded Barbour that the memorandum was addressed to him, Barbour responded, "And I don't—I understand that . . ." Haley Barbour, 7/24/97 Hrg., p. 157.

[31] Exhibit 353: Letter from the Internal Revenue Service to the National Policy Forum denying NPF tax exempt status, 2/21/97. The Committee obtained yet another document, Signet Bank's Commercial Credit memorandum, in which the Bank's credit analyst, responsible for assessing the creditworthiness of the NPF, concluded essentially that NPF was financially sound because it was an offshoot of the RNC. Exhibit 297: Signet Bank Commercial Credit Memorandum, 10/12/94.

[32] Exhibit 353: Letter from the Internal Revenue Service to the National Policy Forum denying NPF tax exempt status, 2/21/97; Haley Barbour, 7/24/97 Hrg., p. 15.

[33] SIG 00197. This memorandum had been provided to Signet Bank by NPF.

[34] *Daily Variety*, 3/7/95; See also, *Daily Variety,* 3/9/95; *The Village Voice,* 8/6/96.

[35] Exhibit 309: Memorandum from Grace Weigers and Dianne Harrison regarding megaconference sponsorships, 5/24/95. This memorandum should have been produced to the Committee, but it was not. Instead the Committee obtained it from another source.

[36] See Appendix B.

[37] Scott Reed deposition, 7/11/97, pp. 58, 59.

[38] Scott Reed deposition, 7/11/97, pp. 64, 66.

[39] Scott Reed deposition, 7/11/97, p. 62.

[40] Joseph Gaylord deposition, 9/16/97, pp. 16–18.

[41] John Bolton deposition, 7/15/97, p. 5.

[42] Exhibit 277: Talking points for Haley Barbour, 7/28/94.

[43] Richard Richards, 7/25/97 Hrg., p. 69.

[44] Exhibit 278: National Policy Forum proposal for Ambrous Young, 8/15/94, 00280029.

[45] Benton Becker, 7/23/97 Hrg., p. 107.

[46] Ambrous Young deposition, 6/24/97, p. 35. Becker also testified that "Mr. Richards has advised me and informed me that he, too, had conversations with people at the RNC on that matter [source of funds"]. Benton Becker, 7/23/97 Hrg., p. 164.

[47] Haley Barbour, 7/24/97 Hrg., p. 194. Young eventually did contribute to the publication. Becker testified that "the publication of the articles was not of great concern to Young." Benton Becker, 7/23/97 Hrg., pp. 44, 45.

In response to Young's claim that he told Barbour that the funds would originate from Hong Kong, Barbour testified, "[A]ll I can tell you is if he ever mentioned anything about a Hong Kong board or about Hong Kong authorities, either I didn't understand what he was talking about or I just didn't hear him." Haley Barbour, 7/24/97 Hrg., p. 143.

[48] Fred Volcansek, 7/24/97 Hrg., p. 38.

[49] Fred Volcansek, 7/24/97 Hrg., pp. 38, 39.

[50] Fred Volcansek, 7/24/97 Hrg., p. 39. According to Becker, shortly before the August 29, dinner, Young asked for his opinion about providing a loan guarantee to the National Policy Forum. Becker consulted with Richard Richards and "we were all of the opinion that the RNC should serve as a form of safety net or guarantor to Mr. Young's company. . ." Benton Becker, 7/23/97 Hrg., p. 45.

[51] Benton Becker, 7/23/97 Hrg., p. 44.

[52] Exhibit 289: Letter from Ambrous Young to Haley Barbour regarding support of the Republican Party and NPF, 9/9/94, 0040.

[53] When Senator Lieberman asked why Young, no longer an American citizen, would agree to help the Republican Party, Benton Becker testified, "Mr. Young had spent many years in Republican functions and activities, was very active in Republicans Abroad and then was active, I believe, in the Reagan years and still had an affection for the Republican Party. . . . I think Mr. Young also saw that—some possibility that at some point in time his sons, who were American citizens, would come into and control and run his business and that kind of involvement with high government officials in Washington—at least the ability to sit and have dinner with them, or lunch, would not be harmful. He uses an expression, Senator, that I had never heard before, and his expression is, "It put powder on my face." It is an expression that he tells me is of Oriental extraction, and what he meant by that is that it made him feel better and perhaps allowed him to walk among people that he would not normally be able to." Benton Becker, 7/23/97 Hrg., p. 121.

[54] Becker testified: "Based on what I saw, although approximately $2 million in debt to the RNC at the time, the National Policy Forum appeared to be taking in significant contributions, mostly from well-respected Fortune 500 companies." Benton Becker, 7/23/97 Hrg., p.46.

[55] Benton Becker deposition, 6/3/97, p. 44.

[56] Exhibit 285: Letter from Haley Barbour to Benton Becker regarding loan guarantee for the National Policy Forum, 8/30/94, 0037.

[57] Benton Becker, 7/23/97 Hrg., p. 67.

[58] Benton Becker, 7/23/97 Hrg., pp. 46–47.

[59] Benton Becker, 7/23/97 Hrg., p. 70.

[60] Benton Becker, 7/23/97 Hrg., p. 95.

[61] Benton Becker, 7/23/97 Hrg., p. 146.

[62] Exhibit 292: Letter from Mark Braden to Benton Becker regarding the loan guarantee, 10/6/94, 0065. Senator Specter pointed out, "Mr. Braden is very explicit in his understanding that it will not be paid to a political committee, and that, in fact, is what is done. . ." Senator Specter, 7/23/97 Hrg., p. 144. The money was provided to the Republican National State Election Committee ("RNSEC"), the RNC's "soft money" account. Contributions to this account are not to be used for federal election activity, although it is common knowledge and practice for both parties to ignore the law's prohibitions on the use of soft money and to spend it on federal election activity.

[63] Exhibit 293: Letter from Daniel Denning to Ambrous Young and Benton Becker, 10/7/94. It is noteworthy that the bank extended credit to the National Policy Forum because of the Forum's relationship to the RNC. Signet Bank's commercial credit memorandum states, "While NPF is a new customer to the bank, Signet has a longstanding relationship with the RNC with whom NPF shares a top-level management." The memorandum recommends "approval of credit facility as outlined above. This rating recommendation is based on the excellent collateral quality, the proven ability of Haley Barbour to generate political contributions, and the close relationship between the borrower and the Republican National Committee." Exhibit 297: Commercial Credit Memorandum, 10/12/94.

[64] Benton Becker, 7/23/97 Hrg., p. 123. According to Becker, the decision to use a collateralized loan guarantee was the bank's, because it "recognized that the financial statement of YBD (USA), absent the $2.1 million that it acquired from its parent, would not support collateralization." Becker, 7/23/97 Hrg., p. 123.

[65] Fred Volcansek, 7/24/97 Hrg., p. 42.

[66] Fred Volcansek, 7/24/97 Hrg., p. 44. Volcansek claims that the only reason the money passed through Young Brothers, Florida, was because "[the bank] felt better about dealing with a U.S. corporation." Fred Volcansek, 7/24/97 Hrg., p. 69. However, there is nothing in the documents supplied by the bank to support this view.

[67] Haley Barbour, 7/24/97 Hrg., p. 120.

[68] Haley Barbour, 7/24/97 Hrg., p. 120.

[69] Haley Barbour, 7/24/97 Hrg., p. 221.

[70] Exhibit 299: Letter from Steven S. Walker to Kevin Killoren, Signet Bank, 10/13/94, NPF 000315.

[71] Haley Barbour, 7/24/97 Hrg., p. 190.

[72] FEC Records. See Appendix C: Soft Money Transfers Out After Young Brothers Loan.

[73] See e.g., Richard Richards, 7/25/97 Hrg., p. 107; Fred Volcansek, 7/24/97 Hrg., pp. 27–28.

[74] FEC Records, post general records for RNSEC account 10/20/94—11/28/94. See Appendix D: RNC's Soft Money Account Was Negative Without Foreign Linked Funds.

[75] Exhibit 302: Letter from Haley Barbour to Ambrous Young, 11/29/94.

[76] Ambrous Young deposition, 6/24/97, pp. 50-51, 71.

[77] Exhibit 304: Letter from Haley Barbour to Ambrous Young, 1/31/95.

[78] Ambrous Young noted: "On one of his trips to the Far East [Barbour] stopped over in Hong Kong and I invited him to join me for a drink, and he asked me to consider whether I can forgive the loan. [The conversation took place] on our yacht belonging to the company." Ambrous Young deposition, 6/24/97, p. 55. Similarly, when Richard Richards was asked by counsel, "Do you recall that Mr. Barbour met with Mr. Young on Mr. Young's yacht?" Richards responded: "I understand they did, when Haley went over the first time and asked him to forgive the loan. I wasn't there. But I know I heard Haley talk about the yacht." Richard Richards deposition,

6/10/97, p. 80. Richards also testified at the hearing: "I received a telephone call from Mr. Fred Volcansek—I don't recall the date—and he told me that Chairman Barbour was going to Hong Kong, he was going to visit with Mr. Young, and at that time he was going to ask Mr. Young to forgive the loan. . . . I called Mr. Young to give him a heads-up that this may occur, and he called me after he met with Chairman Barbour and told me that Chairman Barbour had indeed asked him to forgive the loan." Richard Richards, 7/25/97 Hrg., p. 75.

[79] Haley Barbour, 7/24/97 Hrg., pp. 147–48.

[80] Fred Volcansek, 7/24/97 Hrg., p. 17.

[81] According to Barbour, "he was saying that they would make a contribution to pay off the loan. That's what I was thinking he was trying to tell me." Haley Barbour, 7/24/97 Hrg., p. 145. At his deposition, Young testified to the opposite, i.e., that Haley Barbour suggested YBD make a $2 million contribution to the RNC, which money the RNC would use to pay off the NPF loan. Young categorically refused. Ambrous Young deposition, 6/24/97, p. 59.

[82] "I said no in the manner of an apology. I explained to him that we have difficulties to do that because the YBD (USA) money, which was guaranteed under the form of certificate, deposit certificate for the Forum loan, was a loan from YBD (Hong Kong), and YBD (Hong Kong), we are facing government audit every year. Without justification, the directors of the board, who approve such loan, could face government punishment. So, therefore, I explained this cannot be done." Ambrous Young deposition, 6/24/97, p. 57.

[83] Haley Barbour deposition, 7/19/97, p. 129. At the very least, it strains credulity that Barbour was on a yacht in the middle of Hong Kong harbor with a man whose citizenship he claims not to have known and to have never felt compelled to inquire whether the money contributed to the NPF was of foreign origin. As Senator Thompson put it, "But when you are sitting on a boat in the Hong Kong harbor talking to a gentleman who is an evident of—a citizen of Taiwan, I mean that does raise certain other potential implications in terms of appearances." Chairman Thompson, 7/24/97 Hrg., p. 169.

[84] Haley Barbour deposition, 7/19/97, p. 105.

[85] Richard Richards, 7/25/97 Hrg., p. 102.

[86] Haley Barbour deposition, 7/24/97, p. 104.

[87] Haley Barbour deposition, 7/24/97, p. 105.

[88] Exhibit 333: Letter from John S. Bredin to Benton Becker regarding the promissory note and credit and security agreement, 6/4/96, 0159.

[89] Richard Richards deposition, 6/10/97, p. 50.

[90] Exhibit 340: Letter from Benton Becker to David Norcross regarding National Policy Forum's outstanding loan from the Signet Bank, 7/15/96, 0177.

[91] Richard Richards, 6/10/97 deposition, pp. 46–47.

[92] Richard Richards, 6/10/97 deposition, p. 48.

[93] Richard Richards, 6/10/97 deposition, p. 53.

[94] Exhibit 349: Letter from Richard Richards to Haley Barbour regarding the YBD loan to NPF, 9/17/96, RB 014591.

[95] Richard Richards deposition, 6/10/97, p. 70.

[96] Haley Barbour, 7/24/97 Hrg., p. 146.

[97] Signet Bank sent an interest payment of about $50,000 to YBD (HK) and copied the NPF on the transfer. NPF, in turn, deducted that amount from the $800,000 settlement it had agreed to pay YBD. Benton Becker, 7/23/97 Hrg., p. 183.

[98] See Exhibit 351: Letter from Benton Becker to the National Policy Forum regarding the dispute between the National Policy Forum and Young Brothers Development (USA), Inc., 11/11/96, 0201.

[99] Ambrous Young deposition, 6/24/97, p. 62.

[100] Haley Barbour acknowledged the contribution was foreign in a 7/3/97 memo to NPF board members. Exhibit 372: Memorandum to the National Policy Forum Board Members from Haley Barbour, 7/3/97, NPF 003388.

[101] Exhibit 374: Partial transcript of "Meet the Press," 7/13/97, replaying videotape of 3/16/97 interview with Haley Barbour. Months after the first interview, Barbour called interviewer Tim Russert to apologize for misleading Russert about the source of NPF's contributions.

[102] Exhibits 381 and 382: Memos from John Bolton to Michael Hsu, Special Assistant, Taipei Economic and Cultural Representative Office in the United States, 8/7/96, NPF 003204 and NPF 003200.

[103] Exhibit 383: Letter from Barbour to Ambassador He, 8/22/96, NPF 003203.

[104] Haley Barbour, 7/24/97 Hrg., pp. 134–35.

[105] Letter dated 6/18/97 from Thomas P. McLish, counsel, Akin, Gump, Strauss, Hauer & Feld, to Majority Counsel, Senate Governmental Affairs Committee special investigation, attachment entitled, "Tentative List of Political Contributions."

[106] Staff interview with Jessica Elnitiarta, 6/19/97.

[107] Staff interview with Jessica Elnitiarta, 6/19/97.

[108] See Chapter 2 on the China Plan and Chapter 7 on Ted Sioeng; see also *Los Angeles Times*, 7/20/97.

[109] See Chapter 2 on the China Plan and Chapter 7 on Ted Sioeng; see also *Los Angeles Times*, 7/20/97; *Newsday,* 9/14/97.

[110] See Appendix A: Comparison of Barbour's Testimony with Documentary and Testimonial Evidence of Others.

[111] Haley Barbour deposition, 7/19/97, pp. 96–99.

[112] Fred Volcansek deposition, 7/21/97, p. 95.

[113] Haley Barbour deposition, pp. 111, 139–140.

[114] John Bolton deposition, 7/15/97, pp. 66–67.

[115] Chairman Thompson, 7/24/97 Hrg., p. 167.

[116] Chairman Thompson, 7/24/97 Hrg., p. 169.

[117] Chairman Thompson, 7/24/97 Hrg., p. 170.

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PART 1 FOREIGN INFLUENCE

Chapter 4: John Huang

John Huang, a former Lippo Group executive, Commerce Department official, and DNC fundraiser, personifies a significant aspect of the fundraising problems endemic to the 1996 elections. Apparently driven by a desire to be perceived as an important fundraiser in Democratic Party circles, Huang engaged in a number of activities that were improper and possibly illegal during and prior to his tenure at the DNC. In the end, the DNC returned over $1.6 million in contributions attributable to Huang. The evidence before the Committee supports the claim that Huang engaged in improper fundraising activities. The evidence before the Committee does not support other allegations lodged against Huang, including the serious charge that he served as a spy for the People's Republic of China or any other foreign government.

FINDINGS

Based on the evidence before the Committee, we make the following findings regarding Huang's activities:

(1) John Huang engaged in a number of improper and possibly illegal activities during and prior to his service as a DNC fundraiser. These activities ranged from failing to ensure the legality or propriety of the contributions he solicited, to obtaining foreign reimbursement for a 1992 corporate contribution he directed, to possibly soliciting foreign contributions. In addition, he appears to have improperly solicited several contributions during his tenure at the Commerce Department, in possible violation of the Hatch Act.

(2) There is no evidence before the Committee that DNC officials were knowingly involved in Huang's misdeeds, but the DNC did not adequately supervise Huang's fundraising, did not adequately review the contributions that Huang solicited, and did not respond appropriately to warning signs of his improper activities. The DNC could have avoided some of Huang's misdeeds had it more closely supervised Huang's activities and had it not unwisely abandoned its previously-existing system for checking the propriety of large contributions.

(3) Huang contributed and raised substantial sums of money to benefit the DNC in order to gain access for himself and his associates to the White House and senior Administration officials.

(4) The evidence before the Committee does not establish that Huang served as a spy or a conduit for contributions from any foreign government, including the People's Republic of China. The Committee's investigation yielded no direct support for the allegation that Huang acted as either a spy or a conduit for any foreign government.

(5) The evidence before the Committee does not establish that Huang either misused his security clearance or improperly disseminated classified information during his service at the Commerce Department.

(6) The evidence before the Committee does not allow for any definitive conclusion regarding the nature of Huang's interactions with the Lippo Group during his tenure at the Commerce Department and the DNC. Huang's frequent contacts with Lippo-related

entities and his intermittent use of an office across the street from the Commerce Department to receive faxes or mail cast suspicion on Huang's activities while working for the Commerce Department. Nevertheless, the absence of specific evidence on the nature of his contacts with Lippo or the contents of the materials he received makes it difficult to draw any conclusions regarding actual misconduct or a conflict of interest within the meaning of the ethics laws governing federal employees.

(7) Neither Huang's hiring at the Commerce Department nor his receipt of a security clearance was inappropriate. At the time of Huang's hiring, all Commerce Department political appointees received interim clearances as a matter of course, a practice the Department subsequently discontinued.

HUANG'S EARLY CAREER

John Huang was born in Fujian province, China,[1] and raised in Taiwan.[2] In 1969, he came to the United States to study in the graduate business administration program of the University of Connecticut.[3] He became a naturalized U.S. citizen in 1976.[4]

During the 1970s, Huang began a career as a banker in the Washington area.[5] In late 1979, he moved to Kentucky and worked for First National Bank of Louisville.[6] Two years later, he joined Union Planters National Bank in Memphis.[7] In 1983, Huang was transferred to Hong Kong to head Union Planters's Far East representative office.[8] While in that post, he met Indonesian businessman James Riady, who was a legal permanent resident in the U.S. for many years and whose family owns the Lippo Group, an international conglomerate.

Huang first went to work for the Riadys in February 1985, when he became a vice president and director of international banking for the Hong Kong Chinese Bank,[9] in which the Riadys' Lippo Group held a large stake. Simultaneously, he served as a vice president and Far East manager of the Little Rock-based Worthen Bank, which was also partly owned by the Riady family in partnership with Stephens Inc., a major investment banking firm based in Little Rock, Arkansas. Huang reported to James Riady who was then residing in Arkansas. During Riady's tenure in Arkansas, Riady met and became friendly with then-Governor Bill Clinton.[10] Huang later said he met the Governor when he led a trade mission to Asia.[11] During business trips to Arkansas, Huang also met several people with ties to Governor Clinton, some of whom—like Huang himself—would later follow him to Washington after he was elected President.

In 1984, after running into problems with bank regulators in Arkansas, the Riadys shifted their focus to California. In 1984, James Riady acquired control of Bank of Trade,[12] a small institution that specialized in the Asian-American market,[13] and renamed it LippoBank of California.[14] Riady moved from Little Rock to Los Angeles and, in 1986, he appointed John Huang president and chief operating officer of the California bank.[15]

Huang remained with LippoBank of California until the summer of 1988, when he went to New York to become general manager of

Footnotes at end of chapter

Bank Central Asia.[16] Although it was not part of the Lippo Group, the Riadys were large investors in Bank Central Asia and, according to Huang, they managed it.[17] In January 1990, Huang moved from New York back to California to become president of USA Operations for the Lippo Group, responsible for overseeing all of Lippo's U.S. interests. He also served as vice chairman of the California bank.[18]

BACKGROUND ON THE LIPPO GROUP

The Lippo Group was founded in Indonesia by Mochtar Riady, father of James Riady and the son of immigrants from the Fujian province of China.[19] Mochtar Riady got his start in business by operating a bicycle shop in Indonesia catering to bicycle traders from his native province.[20] In 1960, he entered the banking business when he raised $200,000 in equity for a failing bank from other ethnic Chinese in Indonesia. By 1990, the Lippo Group had grown astronomically and diversified from its financial services base to manufacturing and real estate development.[21] Unlike most conglomerates, Lippo Group "is an unconsolidated federation of companies with a multibillion-dollar asset base, a second major base in Hong Kong and activities throughout the Pacific Rim,"[22] in the words of an academic study. All companies in the group are fully or partially owned and run by the Riady family.[23] By the mid-1990s, the Lippo Group was a multibillion-dollar conglomerate headquartered in Indonesia and with a second large base of operations in Hong Kong. It was active in about a half-dozen countries.[24]

In the 1990s, the Lippo Group began a major effort to invest and conduct business in China. Like many other major companies hoping to enter the Chinese market, the Lippo Group did so by entering into joint ventures with companies controlled by the Chinese government. In particular, Lippo forged a close relationship with a Chinese government-owned trading company called China Resources, Ltd. China Resources is a multi-national company based in Hong Kong whose revenues exceeded $250 million last year.[25] Despite concerns expressed by some Members of the Committee, this relationship does not signal Chinese government control of the Lippo Group.[26] Thomas Hampson, a private investigator called by the Majority to testify on the structure of the Lippo Group, testified that foreign nationals who do business in mainland China—a socialist and centralized economy—very often work with government-owned companies.[27] Indeed, numerous American corporations, including General Motors, Boeing, Coca-Cola, Eastman Kodak, and Microsoft, have entered the Chinese market through joint venture relationships with Chinese government-owned companies.[28]

The Lippo Group also has been involved in business ventures with several major American companies, including First Union Corp. and Wal-Mart Stores Inc., and with various European and Japanese concerns. One well-known American who has done business with Lippo is Pat Robertson, the television evangelist who founded the Christian Coalition. In 1995, a company chaired by Robertson teamed up with Lippo and a Malaysian real estate firm to launch a cable TV venture in mainland China.[29]

HUANG'S ACTIVITIES ON BEHALF OF THE LIPPO GROUP

Huang's professional responsibilities on behalf of the Lippo Group appear to have been threefold. First, he was responsible for overseeing LippoBank of California ("LippoBank") and three U.S. holding companies: Hip Hing Holdings, San Jose Holdings, and Toy Center Holdings. Each holding company owned one or more pieces of California real estate in varying stages of development. Although the properties generated some income from rent, all of the companies apparently operated at a net loss until 1994.[30]

Second, Huang was responsible for building the name of the Lippo Group in the U.S. and stimulating business in the Asian American community, the financial community, and the government and political communities. Third, Huang was the country liaison between Lippo Group headquarters and their U.S. contacts. James Alexander, a former LippoBank president, best described Huang's varied roles, testifying that Huang was the person who took him around to meet important clients, who escorted him when he visited Jakarta, and was the person to whom he turned when he had a bank matter that needed to be resolved. Harold Arthur, a subsequent LippoBank president, summed up by stating, "I presumed [what Huang did from day to day] was business relations and client development."[31]

To fulfill his responsibility to promote the Lippo Group, Huang engaged in a tremendous amount of networking and became active in numerous organizations, including the Asia Society, the Committee of 100, the Chinese Chamber of Commerce, the California Taiwan Trade and Investment Council, the Asian Business League, Asian American Development Enterprises, the Chinatown Service Center, the Foreign Trade Association, the Asian Pacific American Legal Center, the National Association of Chinese Bankers, the Hong Kong Association of Southern California, the Independent Bankers Association of America, and the Indonesian Cultural Association.[32] Huang also sat on two advisory state commissions: the California World Trade Commission and the California State Advisory Commission on Economic Development.[33] He was not merely a member of these organizations, he held officer positions in almost all them. For example, he was a director of Committee of 100, a bipartisan national organization of Chinese American leaders in the arts, academia, public service, business and the sciences, whose membership is by invitation only. Other members of Committee of 100 include prominent Chinese American leaders, including Yo-Yo Ma, I. M. Pei, Chang-Lin Tien and David Henry Hwang.[34]

In his capacity as country liaison for the Lippo Group, Huang oversaw visits to the U.S. by members of the Riady family and other Lippo officials, acted as a broker for potential business associates of the group, and assisted delegations visiting from Asia as requested by Group officials. In this capacity, Huang handled such events as the Lippo delegation's attendance at the 1993 Seattle ASEAN conference, the visit to Atlanta by a visiting Chinese delegation from Beijing, and the hosting of a breakfast for a second visiting delegation from Beijing.[35]

As part of his role in building the Lippo and Riady profiles, Huang was also very active in government and in politics. Between

the time he assumed the position as Director of U.S. Operations in 1990, and the time he went to the Department of Commerce in 1994, Huang oversaw the making of a number of political contributions through domestic subsidiaries of the Lippo Group, to state local and federal candidates. Huang also volunteered to raise funds, to host receptions, and to build support for candidates within California's Asian American community.

In the course of his political fundraising,[36] Huang formed relationships with members of the Asian American community who were involved in Democratic politics. In 1988, for example, he worked with Democratic activist Maria Hsia in the Pacific Leadership Council ("PLC"), "a group formed to raise money and lobby for Asian American interests,"[37] in the words of a press report. In April of that year, the PLC held a Democratic fundraising event in James Riady's Los Angeles home that raised about $110,000.[38] Huang also personally contributed $10,000 to the Democratic Senatorial Campaign Committee ("DSCC") in 1988.[39] In the fall of 1988, he hosted a fundraiser for Senator John Breaux of Louisiana, who was then head of the DSCC.[40] The following January, Huang, Maria Hsia, and other members of the Pacific Leadership Council led a trade mission to Taiwan with then-California Lt. Governor Leo McCarthy. Then-Senator Al Gore of Tennessee joined the delegation in Taiwan.[41]

In 1992, Huang volunteered to raise money for the Clinton presidential campaign in the Asian-American community.[42] Huang assisted with the organization of a fundraising dinner in October 1992 that raised $250,000 for the campaign from Southern California's Asian-American community.[43] Huang has testified that he became a fundraising volunteer because Governor Clinton "had been a friend to us since the Arkansas time, [and] we [felt] obligated to help a friend."[44]

Political contributions

As a part of his responsibilities as Lippo Group's country representative, Huang oversaw three domestic holding companies incorporated in California: Hip Hing Holdings, Toy Center Holdings, and San Jose Holdings. Each of the three companies owned real estate in California at various stages of development. Hip Hing Holdings owned a series of adjoining parcels of property in the Chinatown area of Los Angeles with an assessed value of $9.8 million.[45] In addition to its property holdings, Hip Hing Holdings was used by the Lippo Group to pay expenses associated with the Group's activities in the United States. These expenses included salaries for John Huang and other staff and consultants employed by the Group, and costs associated with hosting visiting delegations of businessmen. Employees of Hip Hing Holding would regularly send faxes to Indonesia requesting reimbursement of itemized expenses of Hip Hing Holdings and the other subsidiaries.

Records produced by Hip Hing Holdings show that on August 12, 1992, the company made a $50,000 contribution to the DNC Victory Fund. Juliana Utomo, a Hip Hing employee who handled general administration of the companies from 1994 forward, told the Committee that decision-making with regard to contributions in 1992 and 1993 rested with John Huang.[46] Utomo stated that she

did not know that the $50,000 paid to the Victory Fund was a political contribution; in fact, she stated that she did not know the purpose of the disbursement.[47] A request for reimbursement for expenses of Hip Hing Holdings specifically sought reimbursement for the DNC contribution.[48] The Committee was unable to depose or interview anyone who had actual knowledge regarding whether this contribution was reimbursed; however, in light of the fact that Hip Hing Holdings sought reimbursement for the contribution, and the fact that the holding company had not generated sufficient income in 1992 to cover the cost of such a contribution, it seems likely that the contribution was reimbursed with Lippo funds from abroad.[49] A reimbursement would likely have converted the Hip Hing Holdings contribution into a foreign contribution under FEC rules for U.S. subsidiaries of foreign companies.[50]

In September 1993, the DNC received additional contributions from Hip Hing Holdings and from two other holding companies: San Jose Holdings and Toy Center Holdings. Hip Hing Holdings and Toy Center Holdings each made $17,500 in contributions to the DNC while San Jose Holdings contributed $15,000.[51] Unlike the contribution in 1992, however, the requests for reimbursement for the months in which the contributions were made do not contain requests for reimbursements of these contributions.[52] Also, unlike the $50,000 contribution from Hip Hing Holdings in 1992, each of the companies generated sufficient rental income to support the cost of the 1993 contributions. In 1993, Hip Hing Holdings generated $35,200 in income from rental of the undeveloped property, while San Jose Holdings generated $155,979 in income, and Toy Center Holdings generated $167,000 in income.[53] Accordingly, unlike the 1992 contribution, there is no evidence that the 1993 contributions made by Lippo-related entities were reimbursed with money from abroad.

There is no evidence that the DNC was aware of the reimbursement of the 1992 contribution. Thomas Hampson also testified that, despite being an expert corporate investigator, he was unable to discover Hip Hing Holdings's 1992 income using publicly available information.[54] It appears that no one knew of the reimbursement of this contribution until the Committee's hearing. After the hearing, the DNC promptly refunded the $50,000.

James Riady and his wife Aileen were also strong supporters of the Democratic Party and President Clinton. Between August and October 1992, they contributed half a million dollars to state parties in California, Michigan, Louisiana, Ohio, North Carolina, Arkansas, and Georgia.[55] In addition, the Riadys made a $200,000 contribution to Clinton's 1993 Inaugural Committee.[56] As James and Aileen Riady were both legal permanent residents of this country at the time, they were entitled to make the contributions. However, the size and number of the contributions have led to allegations that Huang later received his position at the Department of Commerce as a favor to the Riadys. While it appears likely that James Riady was one of several individuals who supported Huang's efforts to obtain a post in the Clinton Administration, as discussed below, the Committee found no evidence that Riady or Huang targeted the specific Department of Commerce position to which he was ultimately appointed.

Prior to his employment with the Department of Commerce, Huang received a large severance package from the Lippo Group. Questions have been raised about whether this bonus was payment in advance for services it was anticipated Huang would perform while at the Department of Commerce. The reported amount of this bonus has varied widely. In February 1994, Huang received an after-tax bonus of $132,000.[57] According to the testimony of Juliana Utomo, it was the policy of the Lippo Group to pay annual bonuses in the first months of the new year and that it was fair to conclude that this bonus was Huang's 1993 annual bonus.[58] Upon his departure from the Group, Huang received a severance package including an after tax bonus of $284,000, slightly more than double his 1993 annual bonus.[59] While very generous, a study of the Lippo Group specifically notes that the Group is known for its generous bonuses of one and a half to three months' salary, a factor which helps attract qualified management. At the time of his departure, Huang, as country representative for the U.S., ranked well up in the corporate structure of the Group.[60]

Allegations were also raised regarding favorable treatment of LippoBank of California as a result of the Riadys' and Huang's political contributions. The California bank, which is very small by U.S. banking standards with about $50 million in assets, has been riddled with regulatory problems and has received three cease and desist orders from the FDIC since 1990.[61] The Committee was presented with no evidence that the bank ever sought or received assistance from regulators as a result of political contributions. At hearings, former bank President Harold Arthur and Hip Hing Holdings employee Juliana Utomo testified that the bank never sought special help or relief from recipients of Riady's political contributions or connections.[62]

HUANG'S TENURE AT THE DEPARTMENT OF COMMERCE

Huang's appointment

There was nothing improper or inappropriate in the appointment of Huang to a position at the Department of Commerce; nor were any procedures or regulations ignored or circumvented in the decision-making process that led to his placement. Moreover, as described below, Huang was recommended for an administration position by three United States Senators, several high-ranking state officials, and the Asian Community Outreach and Priority Placement components of the Office of Presidential Personnel. His placement was also in conformity with the stated desire of both President Clinton and then-Secretary of Commerce Ron Brown for the federal government to benefit from increased racial and gender diversity within the senior levels of the administration. Moreover, he was the personal choice of his immediate supervisor, Charles Meissner, the Assistant Secretary for International Economic Policy,[63] and his appointment was made with the approval or consultation of the Undersecretary for the International Trade Administration.

At the time he first sought an appointment from the Clinton Administration in 1992, Huang had over 20 years of business experience in banking and management, and much of his experience was international. As a result of his work, he had extensive contacts

within the Asian business community, both in the U.S. and abroad. Huang had also personally raised funds for the Clinton campaign in 1992, and his employer, James Riady, had contributed generously to the Clinton campaign. Huang was a typical candidate for an appointed position within a new administration.

Shortly after the 1992 election, Huang submitted his résumé to the Office of Presidential Personnel. In the documents he submitted, Huang laid out his philosophy in seeking an appointment as follows:

> Our attitude toward life should totally dwell on a concept "to serve others"—to serve others base[d] upon each individual's ability. . . . We want many good and qualified Asian Americans to answer the call to serve this country which we have all chosen to come to establish ourselves; to raise our family and to educate our children. . . . It will be an important agenda for the Administration to bring this group of resourceful people together to make further contribution to this country.[64]

Huang initially had been considered for a position with the Small Business Administration. A memorandum dated April 19, 1993, from Gilbert Colon and Maria Haley of the Office of Presidential Personnel to then-Director Bruce Lindsey stated: "It should be noted that there is another qualified candidate for this position, Mr. John Huang, a banker from California, who has handled small business and has international expertise."[65] Although Huang was not selected for this position, the Office of Presidential Personnel continued to screen his file for a potential appointment.

On October 18, 1993, Gary Christopherson, White House Associate Director for Presidential Personnel, wrote a memo to Lindsey recommending Huang for appointment as Principal Deputy Assistant for International Economic Policy at the Department of Commerce.[66] Christopherson testified that his decision to recommend Huang was based on his review of Huang's résumé and background, an analysis of the requirements of the Commerce position, and information supplied by Martha Wantanabe and Melinda Yee of the Asian Community Outreach section.[67] He also indicated that the selection of Huang was not a major cause for deliberation in an office that handled placement of three or four thousand candidates.[68]

Huang had support from a number of quarters, including state and federal elected officials.[69] In addition, Huang's name appeared on lists of potential appointees submitted to the Office of Presidential Personnel by both the DNC and the Asian Community Outreach section. As a result, Huang was placed on a list of priority candidates by the office's Priority Placement section. Christopherson testified:

> Huang was considered to be a high priority placement by the Asian community. That's how I viewed him, as a high priority placement as well. What is important to understand in this is that one of the roles I played in Presidential Personnel was to be a strong advocate of diversity coming into the administration. . . .[70]

Christopherson noted that the addition of Huang to the group of priority candidates "seemed to be a reasonable fit as a priority placement, and we were clearly looking for Asian people to get into various places—we clearly needed them in the Department of Commerce."[71] After review by Christopherson, Huang's name was included in a list of priority placements which was then forwarded to the Department of Commerce. The Office of Presidential Personnel did not have unilateral authority to make an appointment—Huang's placement had to be approved by the appropriate authorities at the department.[72]

At the time of Huang's consideration, Jeffrey Garten was the Under Secretary of the Commerce Department's International Trade Administration (the "ITA").[73] In testimony before the Committee, Garten stated that he received a list of priority placement candidates from the White House and that Huang's name was on that list.[74] Garten testified that he gave that list to Charles Meissner, one of five Assistant Secretaries within the ITA, and that Meissner selected Huang as his Principal Deputy Assistant, a position which was akin to a chief of staff.[75] Huang was selected for his position in early 1994; he began work in July 1994.

Huang apparently received the same level of review as other candidates for political appointments. He was never considered a "must-hire."[76] In fact, his application sat for over six months before an appropriate match was found for him.[77] Although perhaps not as thorough as one might wish, the process by which Huang was appointed appears to have been typical of a new administration that seeks to fill hundreds of slots in dozens of agencies as quickly and efficiently as possible.[78]

Huang's role at Commerce

The position for which Huang was hired was viewed as primarily administrative rather than policy-making. Garten testified that at the time of Huang's hiring, he and Meissner had a conversation in which they agreed that Huang "could be of use, someone who could basically handle the substantial administrative burdens which [Meissner] would not be able to handle because of his travels," but that Garten specifically voiced concerns about Huang's ability to handle matters of policy.[79] As Garten explained:

> Under Secretary Brown, we set a very fast pace. It was extremely dynamic. We were extremely focused and I felt that Mr. Huang did not have the requisite experience for policy matters. That's not to say he didn't have it for other issues. . . .[80]

During his tenure at Commerce, Huang acted as anticipated by Meissner and Garten—as a functional chief of staff for Meissner. Describing Huang's role, ITA Deputy Undersecretary David Rothkopf testified in a deposition that, "[H]is responsibility was to sort of do what Chuck [Meissner] wanted, be there when Chuck couldn't be there, handle administrative functions within IEP."[81] Over time, however, Huang did come to have some policy responsibilities, particularly for Taiwan. According to Garten, this came about because Meissner felt Huang's knowledge of Taiwan would

be useful.[82] Garten was aware of this expansion of Huang's role and did not object, so long as Huang was supervised by Meissner.[83]

Documents produced by Commerce reflect that Huang was the primary individual assigned to oversee the Dragon Gate power project in Taiwan and that he accompanied Meissner on a trip to Taiwan to discuss the project.[84] Huang also authored a "Taiwan Country Strategy" for integrating Taiwan into the Big Emerging Market ("BEM") strategy within the China Economic Area.[85] The BEM strategy was the cornerstone of the International Trade Administration policy under Garten.[86]

Documents also reflect Huang's involvement with or attendance at meetings or briefings on Vietnam, South Korea, Japan, and Singapore.[87] Huang also played a role in assisting ITA with congressional relations, another role common to the Deputy Assistant Secretary position.[88] Finally Huang performed an active outreach role, attending a diverse array of events, including embassy receptions, speaking engagements, and informational briefings with high-level foreign officials.

During the hearings there was a claim that Garten attempted to "wall off" Huang from policy matters having to do with China.[89] An allegation was made that Garten felt that Huang should not receive information pertaining to China and wanted to make sure that he did not receive such information. Although Garten testified that Huang was excluded from *policy* matters related to China, he did not testify that Huang should not receive information about China and testified that he never issued any sort of directive that Huang not receive such information.[90]

It appears that the decision to exclude Huang from China policy matters resulted from internal battles over jurisdiction and control. Garten had created an "inside team" within ITA to deal with the high-profile trading areas of Asia and, specifically, with China. As Garten testified before the Committee:

> We created a real high performance team. The only people that in my view were qualified to deal especially with China given its enormous significance and sensitivity were people that had a lot of experience in the policy area. . . . A lot of people didn't make the cut. I don't want to say [Huang] was the only one.[91]

Indeed, not even Meissner was allowed to play a role in China policy. Garten acknowledged that responsibility for China, which ordinarily would have been under the purview of Meissner and the IEP division, was handled by himself and by his deputy, David Rothkopf.[92]

The creation of the "inside team" caused a great deal of tension and resentment within various factions of the ITA.[93] Various witnesses have suggested that Meissner and the IEP division he oversaw were particularly affected and that Garten and Rothkopf had essentially removed all authority for key trading countries from the respective division heads in order to work on these high-profile issues personally.[94] This tension between Garten and Meissner is reflected in an October 4, 1994, memorandum from Garten to Meissner.[95] In the memorandum, Garten specifically noted that Huang and another Asian-American appointee "are not up to what

I need at this time. I am not running a training program so I have to be brutal in terms of getting results."[96]

The real point of the memo however, was to respond to Meissner's perception that the responsibilities of his division are being usurped. Garten stated:

> I know I have created a big problem for you particularly on Asia, but even more broadly. I am truly sorry. But the reason we have achieved such good results in the first 18 months, even though confirmations were very late is because I ignored the fiefdoms in ITA and spread responsibility to those who could handle them including David [Rothkopf]ing. . . . It works because I have flattened the structure and spread responsibility.[97]

It is clear, then, that Huang was not singled out as someone to be "walled off" from matters pertaining to China. Numerous people who otherwise would have had responsibilities relating to China—including the Assistant Secretary for IEP— were similarly "walled off" from Garten's power team. None of those individuals were in any way formally restricted from participating in, or receiving information about, countries in their official areas of responsibility.

This conclusion is confirmed by the fact that Huang was permitted to receive briefings with respect to China. Garten's decision that Huang was not to be involved in China policy did not result in an instruction that he was not to receive any information about China. Indeed, that very question was put to John Dickerson, the security officer responsible for briefing Huang:

> Senator SPECTER. Did you know that there had been a judgment made by higher-ups, by Mr. Garten, that Mr. Huang should be walled off from information about China?
>
> Mr. DICKERSON. No, I did not.[98]

When asked during his deposition if he would have changed his briefings to Huang had he been "aware that Jeff Garten had told Charles Meissner. . . that he wanted John Huang to be walled off from China issues," Dickerson indicated that, like other witnesses, he believed Garten was excluding Huang from China policy to retain personal control over those issues:

> As I started to say before, I think I would have had to have a better understanding of what Jeff Garten was talking about. My understanding of the article that I read in the press was that this was sort of bureaucratic squabbling between officials of Commerce and that I do not think the implication was that Jeff Garten thought John Huang was a person who could not be believed with intelligence information. I think it was more a foil played by Frank [sic] Garten and people directly under him to retain the policy-making decisions on some of these issues.[99]

Huang's security clearance and access to classified information

Perhaps as a result of the misimpression that Huang was excluded from information pertaining to China, another impression has been created that Huang obtained access to classified material to which he was not entitled. This, in turn, fueled speculation that

Huang was somehow passing classified material on to the Lippo Group, the Chinese government, or both. The Committee's investigation of Huang's security clearance and his access to classified information revealed no evidence that Huang gained—or even attempted to gain—access to classified information beyond that to which he was entitled in the normal course of his duties. Nor did the investigation reveal any evidence that Huang misused or compromised any of the information to which he had access.

Granting of top secret clearance

Huang was granted an interim security clearance prior to assuming his duties at Commerce. While there has been no evidence presented to the Committee that Huang even knew he had such a clearance, much less used it, this fact has been used by some to suggest that for some nefarious reason Huang was given special treatment. In fact, between January 1993 and March 1997, all political appointees to the Department of Commerce—totaling close to 240—were granted interim top secret clearances.[100]

Interim security clearances were granted on the basis of a review of the appointee's job application, his application for a security clearance, a credit check, and a check of the NCIC law enforcement database.[101] An interim clearance allowed an appointee access to classified material pending a complete background investigation.[102] The policy of granting interim security clearances to all political appointees was established in January 1993 by Steven Garmon, a career government employee and the head of the Commerce Department's Security Office. Garmon had established this policy in reaction to criticism which had been leveled at the Security Office in previous administrations over the delays political appointees had faced in obtaining their clearances and their consequent inability to attend certain meetings or receive certain information.[103]

In accordance with this policy, the Security Office, after receiving paperwork authorizing Huang's hiring in February 1994, performed a limited background check and granted an interim clearance.[104] The procedure used in the granting of Huang's interim clearance was identical to that used for all other political appointees to the Commerce Department.[105] Indeed, a memorandum regarding Huang's interim clearance which cited "the critical need for his expertise in the new Administration for Secretary Brown" was nothing more than a form memorandum containing boilerplate language and was not specifically related to Huang.[106]

Huang was never notified of this approval prior to beginning work at the agency, nor was he given a security briefing by the Security Office until assuming his position.[107] He thus could not have made any use of this interim clearance until he actually started working at Commerce.[108]

The Commerce Department made a blanket decision to grant interim top secret clearances to all political appointees with no consideration as to whether a particular appointee needed access to top secret information or whether the need for the information was so immediate that it justified the granting of an interim clearance pending a full background investigation. This procedure was largely designed to insulate the Security Office from complaints from new appointees that the lack of a clearance was interfering with

their work, but it was properly reversed by Secretary William Daley in 1997.[109]

Huang's access to classified information

Huang was the Principal Deputy Assistant Secretary for International Economic Policy. This position could have entitled him to a broad array of classified information; however, there was no evidence presented to the Committee that Huang exploited his position to gain access to information beyond that appropriate to his duties. Indeed, the record before the Committee shows that Huang declined opportunities to expand his access.[110]

Huang's predecessor at the Department of Commerce, Republican appointee Richard Johnstone, held a clearance at a higher level than Huang's top secret clearance.[111] Robert Gallagher, Director of the Office of Executive Support in the Office of the Secretary of Commerce, testified that to the best of his recollection, he was approached by Huang's supervisor, Meissner, about getting a higher level clearance for Huang because of Huang's responsibilities in filling in for Meissner when Meissner was on travel. Gallagher stated:

> I believe that Mr. Huang's superior suggested that Mr. Huang could receive a higher level of clearance and I concurred. And then I believe I probably talked to Mr. Huang about receiving that higher level of clearance and what it would entail for him to do so, how long it would take, how much paperwork was involved and how much it would cost. And at that point, I believe that Mr. Huang said he didn't think it was worth it in either time or money and so we dropped the matter.[112]

If Huang had a desire to have access to the most highly sensitive information available to the Department, a higher level clearance would have provided him with that access. Despite the suggestion of his superior and the example of his predecessor, Huang declined the opportunity.[113]

Another opportunity for Huang to increase his access to sensitive information lay in his cable profile. A cable profile is an internal document which determines the clearance level and subject matter for which an official will receive State Department cable traffic. Huang's profile indicated that he was to receive material up to the secret level. Because Huang held a top secret clearance, he could have restructured his cable profile to receive significantly more cable information. He never did so.[114]

In addition, Huang's profile called for him to receive only traffic addressed directly to him or to the office of the Principal Deputy Assistant Secretary. By contrast, Johnstone, Huang's predecessor, had established a cable profile for himself that included material relevant to all areas of IEP's business, regardless of his level of involvement in the work.[115] Johnstone based his need for this information on his desire to have general background information on all of the work of IEP.[116] This profile included all information on the General Agreement on Tarrifs and Trade ("GATT"), China, the Middle East, APEC, information on areas where travel was planned, information on individual projects of the IEP, and political

issues of the regions of IEP.[117] Although Huang could have done similarly, he never attempted to change his profile, as noted above.

While much has been made of the number of intelligence briefings Huang received, he was actually briefed far less frequently than Johnstone and other Commerce officials who received weekly briefings.[118] Huang received oral briefings from John Dickerson of the Department's Office of Intelligence Liaison ("OIL") 37 times in 14 months, an average of 2.5 times per month.[119]

Dickerson testified that the subjects of the briefings included "areas of international relations and trade that we seem to feel were his responsibility."[120] Briefings of this type took an average of 20 minutes, and the contents were largely at the discretion of the briefing officer. Huang was shown documents during briefings; however, the documents were not left with him, and he was not allowed to take notes about them. Dickerson further testified that Huang was not particularly interested in the material on which he was briefed:

> Q: During your briefings, did he ask you a lot of questions?
>
> A: I would say he asked very few questions.
>
> Q: Did he seem to be aggressively pursuing classified information?
>
> A: No, to the contrary. He was not very aggressive in that regard at all.
>
> Q: Do you have any reason to believe that he handled classified information in an improper fashion?
>
> A: I have no reason to believe that.[121]

Overall, Huang appears to have been a passive recipient of briefings provided to him as a matter of routine. He further appears to have had minimal interest in gaining access to classified information.[122] Dickerson told the Committee that had he believed Huang to be a security risk he would not have given him classified information.[123]

No evidence was presented to the Committee that Huang mishandled or compromised any classified material provided to him. Indeed, this very question was put to three security officials from the Department of Commerce:

> Q: To your knowledge, was there ever any time when he divulged any classified information that was not given to people fully cleared to receive it, or misused any of this intelligence information in any way, all three of you?
>
> Mr. DICKERSON. No.
>
> Mr. GALLAGHER. No, sir.
>
> Mr. MCNAIR. No, sir.[124]

The fact that Huang had made use of a spare office in the Washington, D.C., offices of Stephens, Inc. ("Stephens") during his tenure at Commerce was thought to support an allegation that Huang was passing classified information to the Lippo Group, the Chinese government, or both.[125] No evidence was presented to the Committee, however, to prove that Huang used the Stephens office for such purposes. Indeed, no conclusive evidence was ever presented to the Committee as to exactly what Huang did at the Stephens office.

Huang's use of the Stephens office

Stephens, Inc. is one of the largest investment banking firms in the U.S. It is based in Little Rock and has offices in Washington and other cities. Stephens has a business relationship with the Lippo Group that dates back to 1977. In the 1980s, Huang, as a Lippo employee, was involved in Lippo's dealings with Stephens. As a result, Huang has had a long personal relationship with Vernon Weaver, who headed Stephens's Washington office. It was this office, located across the street from the Department of Commerce, that Huang made use of while employed at Commerce. Indeed, many of Huang's visits to the Stephens office involved a meeting or lunch with Weaver.[126]

The Committee's investigation of Huang's use of the Stephens office focused on the testimony of two clerical employees: Paula Greene and Celia Mata. Greene worked as an administrative assistant in the Stephens office from 1993 through 1996, while Mata worked as a receptionist. Vernon Weaver was interviewed by committee staff in the early stages of the investigation, but was not later asked to give a deposition or public testimony.

According to the testimony of Greene and Mata, Stephens had a spare office that was used by visiting Stephens employees and friends of the firm. The office was not specifically set aside for Huang's use and there was no special arrangement for him to use this office.[127] The office, which contained a desk, a telephone, and a chair, was located two doors down from where Greene sat.[128] In order to enter the suite where the office was located, a visitor would have to ring a bell and be buzzed in by Mata.[129] Regular Stephens employees all had a key to the suite—Huang was never given a key.[130]

According to Greene, anyone who used the spare office had unrestricted access to the photocopier and fax machines.[131] There were no security or recordkeeping measures in place to monitor such use.[132] Green testified that anyone using the machines would have to pass two receptionists and several other offices to get to the machines.[133] No testimony was ever presented from anyone in the Stephens office who had witnessed Huang using either the photocopier or the facsimile machine.

Greene did testify that Huang used the phone in the Stephens office. The Committee subpoenaed Stephens's telephone records; however, even after analyzing the records, the Committee was unable to find a reasonable basis for attributing specific calls to Huang's use of the spare office and was unable to indentify any inappropriate calls on the records.[134]

Greene testified that Huang was the most frequent non-employee user of the spare office, visiting about once or twice a week.[135] Mata's testimony, however, was that Huang "would come, you know, once or twice every week or there would be, like, weeks where he wouldn't come."[136] She also stated that his visits would last "the most, ten minutes"[137] Not only were Huang's visits short in length, but they occurred primarily at lunchtime,[138] a time when he would have been seen by a number of people moving in or out of the office. This would hardly seem to comport with the behavior of someone who was trying to surreptitiously pass classified information to foreign contacts.

Greene testified that she would notify Huang if any packages or facsimiles came into the Stephens office for him.[139] This was done at Weaver's request.[140] Greene testified that she was specifically instructed by Weaver to speak directly to Huang if she had to notify him of a package or fax, and not to leave a detailed message if he was unavailable.[141] While it was insinuated that this was a peculiar practice (and indeed, Greene stated this was not Weaver's usual practice), Greene testified that it was her impression that Weaver merely did not want his name to "appear on the logs very frequently" in order to "avoid bad appearances." [142]

Greene stated that she would put any packages or faxes for Huang in the "in" box of the spare office. She said that she was not aware of Huang sending packages from the Stephens office, only receiving them.[143] With regard to facsimile transmissions, Greene testified that Huang received two to three such transmissions per week.[144] She was unaware, however, of the nature or source of these transmissions.[145]

The evidence received by the Committee failed to support allegations that Huang used the Stephens office to pass classified information to the Lippo Group, the Chinese government, or anyone else. Indeed, the evidence before the Committee failed to establish in any manner what Huang's purpose was in using the Stephens office. What the evidence showed was that Huang stopped by the Stephens office from time to time at lunch to visit with Weaver, to use the telephone, or to pick up packages or messages. It is possible that Huang's use of the Stephens office was for no other purpose than maintaining personal contacts. Indeed, the Committee did receive evidence that throughout his tenure at Commerce, Huang continued his personal involvement with many organizations, including the Committee of 100.[146] The evidence simply does not allow conclusive determinations to be made. What is clear, though, is that Huang's use of the Stephens office was open and obvious, not secretive as might be expected from one attempting to pass classified information.

Huang's post-Commerce clearance

The final issue pertaining to Huang's access to classified information concerns the fact that he had an active security clearance for over a year following his departure from Commerce. This fact has been used to insinuate that Huang was involved in a scheme to continue obtaining classified material. Once again, however, there is no evidence that Huang used this clearance after leaving Commerce or that he even knew that his clearance was active.[147] Indeed, the evidence establishes that due to procedures required for any use of a security clearance, Huang would not have been able to make use of the clearance even if he had attempted to do so.[148]

During his tenure at Commerce, Huang found himself in the midst of a turf battle among several factions due to the changes that Garten had made to the way the ITA conducted business. Huang, Assistant Secretary Meissner, and several other officials had been marginalized in favor of those supported by Garten.[149] After a little more than one year, Huang began to make inquiries and ultimately secured a position at the Democratic National Committee as a fundraiser.

Evidence presented to the Committee established that Meissner attempted to retain Huang as a consultant after he announced his intention to leave Commerce.[150] Such an arrangement was conceived as a way for Huang to assist Meissner during the transition period between the time he left and the time his replacement was found.[151] Before obtaining approval for the arrangement, Meissner initiated paperwork for such a consulting position, an application for a clearance through the Defense Industrial Security Clearance Office of the Department of Defense ("DISCO"). This type of clearance is generally used for government contractors.

Meissner discussed this proposed arrangement with Alan Neuschatz, Director of Personnel, and Tim Hauser, Deputy Under Secretary. Both men immediately disagreed with the idea and told Meissner that the appointment would not be approved. Meissner, however, determined to take the proposal up with more senior officials. In response, Neuschatz penned a note which was attached to the paperwork for this proposed appointment. Neushchatz described the note in deposition testimony in the following terms:

> I knew Meissner had wanted to make this appointment, and what I was saying to them here is . . . I think this issue is dead, and that's because we told him, no, we weren't going to do it. But it may not be, and the "may not be" reflects Meissner's parting shot that he was going to discuss this upstairs.
>
> So what I'm telling them is to hold on to this package for a while, or at least until the smoke clears, meaning we get absolute clear and final guidance. I didn't want to throw paperwork away that might actually be needed eventually, but I didn't think it would be needed.[152]

Meissner did, in fact, take the issue up with Will Ginsberg, Secretary Brown's Chief of Staff. Ginsberg ultimately denied the request, and Huang never became a consultant. While the consultant position was in the process of being denied, the paperwork for the security clearance that went along with the position was still going forward. An administrative assistant at IEP stated that she had walked the application for the security clearance up to the security office at the direction of Meissner prior to the final decision not to make Huang a consultant.[153] The request for the security clearance went forward in one office, while the authority to make the underlying appointment was being considered, and ultimately denied, in another. Neuschatz described this process in the following terms:

> The fact that the ITA Security Office acted without authorization, I think, reflects more their desire to support management than any intent to circumvent it.
>
> Clearly what happened was staff approached the ITA Security Office and said "Meissner . . . is going to convert Huang to a consultant and we'll need the appropriate clearance."
>
> These people, I think, in the interest of minimizing red tape and minimizing confusion, put the train on the track assuming that they had Meissner's authorization. What they could not have known was that when Meissner approached me and [Deputy Undersecretary] Tim Hauser

> who do have the authority to approve positions such as this, we turned it down cold.[154]

On December 14, 1995, the Defense Department sent a form to the Commerce Security Office indicating that Huang had been granted a clearance through the DISCO. According to the testimony of the two highest-ranking members of the Commerce Security Office,[155] a clerk filed Huang's DISCO clearance form with all other DISCO clearance forms received from the Defense Department. The form remained in the file until it was discovered in January 1997.[156]

According to the Deputy Director of the Security Office, proper procedure would have been for the DISCO clearance to have been input into the Security Office database. Due to personnel changes in the Security Office, however, some 90 days went by during which no one was inputting incoming DISCO clearances into the database. Had the clearance been input in mid-December, it conceivably would have raised issues because Huang was still on the payroll and still had a clearance. Further, had it been properly input, the Security Office would have been aware of the DISCO clearance when it was notified in January 1996 that Huang had left Commerce.[157]

In his deposition, Neuschatz stated that after learning that Huang's clearance had been extended, he investigated whether Huang had used the clearance to gain access to classified material.[158] This investigation led him to conclude that Huang had never attempted to gain such access nor could he have done so had he tried.[159] According to Neuschatz, classified document access has two components: clearance and need to know. The granting agency has to verify clearance for any request for access from outside of that agency.[160] Neuschatz told Senate investigators that for Huang to have used his clearance, a request would have to have been forwarded from the issuer, and a record would have been kept. No such request was ever found in Commerce's records. Furthermore, Huang's clearance was contingent on his contemporaneous employment in some manner with Commerce. As Neuschatz described it:

> Because the requirements for the issuance of the clearance went away with the disappearance of his job; therefore, this really was not a valid clearance once he terminated his employment with [DOC].[161]

Testimony is unequivocal that no one in ITA was notified of the clearance. In fact, there is no evidence that anyone other than the clerk who initially filed the form was aware that the clearance existed. This includes Huang. Neuschatz testified, "I have no reason to believe that Huang would have been aware of this [extension]."[162]

While the fact that Huang neither knew about nor used the clearance dispels any concern about sinister motives with respect to this episode, the fact that the security clearance was granted even though the consultancy was not reveals a failure in the Department of Commerce security screening procedures.

No evidence of espionage

While the Committee's investigation uncovered some serious shortcomings in the operation of the Commerce Department's Security Office, there was no evidence presented to the Committee that any security measures were circumvented, ignored, or compromised specifically to benefit Huang. Indeed, to the extent that these shortcomings led to the approval of Huang's clearance prior to his arrival at Commerce and to the extension of his clearance after he had departed, the evidence before the Committee shows that Huang was not even aware of these facts.

More importantly, there was no evidence presented to the Committee that Huang exploited his position at the Commerce Department to pass classified information to the Lippo Group, the Chinese government, or anyone else. Indeed, the evidence shows that Huang availed himself of considerably less information than he could have obtained in light of his position. He declined the opportunity to obtain a higher level of clearance, he declined the opportunity to broaden his access to cable traffic, and he declined the opportunity to use his intelligence briefings from the OIL to aggressively pursue classified information.

Evidence before the Committee does not allow for any conclusion with respect to Huang's continued contact with the LippoBank in California. In his deposition, James Per Lee, current President of the LippoBank California, testified that he had undertaken an internal investigation of Huang's calls to the bank that showed Huang's calls from the Department of Commerce to the bank were largely an exchange of telephone messages received for Huang by the executive secretary and that conversations with Huang lasted an average of three minutes.[163] Per Lee later publicly stated that in his investigation of the calls he saw no indication Huang was "in any way relaying messages abroad."[164] Despite being interviewed and deposed by the Committee, subpoenaed to appear for hearing, and given a date and time for testimony, less than forty-eight hours before his scheduled appearance, Per Lee's testimony was abruptly canceled.

It should also be noted that at the outset of this Committee's hearings Huang offered to come before the Committee and to testify fully about any allegations that he may have misused his position on behalf of foreign governments or corporations. While he requested limited immunity, he offered to testify without immunity with respect to matters pertaining to espionage, economic espionage, or the unlawful disclosure of classified information. Although the Minority does not conclude that Huang's offer of testimony is proof of his innocence, we do believe that in light of the lack of evidence to the contrary, his offer to testify without reservation regarding these allegations—and with all the applicable penalties of perjury attendant to such testimony—should be given some consideration. Unfortunately, the Committee did not pursue Huang's offer and, as a result, a potentially important opportunity to receive a response to these allegations was lost.

The evidence before the Committee—or more appropriately, the lack thereof—was encapsulated in the following exchange during the Committee's questioning of the CIA's John Dickerson and Robert Gallagher of the Department of Commerce Security Office:

Senator DURBIN. Gentlemen, if I can try to summarize my own view of where we have come to this point in regard to Mr. Huang, I think there are two concerns and perhaps a third. The first concern is whether or not Mr. Huang played fast and loose in his fundraising activities, especially when it came to raising foreign funds, and the second concern is whether or not he compromised our national security. . . .

I want to ask you open-ended questions, not shepherding you in any direction here, just to get your opinion based on what you knew then and what you know now. Mr. Gallagher, maybe I will start with you, and maybe Mr. Dickerson can follow.

First, is it your opinion that Mr. Huang was properly cleared to learn classified information at the Department of Commerce?

Mr. GALLAGHER. Yes, sir.

Senator DURBIN. Mr. Dickerson, is that your opinion, or do you have an opinion?

Mr. DICKERSON. That is my opinion, yes.

Senator DURBIN. Has anything come to light since this controversy has arisen to change your view on that? Mr. Gallagher?

Mr. GALLAGHER. I have seen no evidence to the contrary. No, sir.

Senator DURBIN. Mr. Dickerson?

Mr. DICKERSON. And similarly, I have seen no evidence that would indicate that.

Senator DURBIN. Now, the second thing, the second charge is that Mr. Huang while at the Department of Commerce was shown things he should not have seen for any number of reasons, his business connections, his security clearance, whatever.

Mr. Gallagher, based on what you knew then, is there any question in your mind as to what you showed Mr. Huang and whether or not what Mr. Dickerson showed Mr. Huang and whether he should have seen it?

Mr. GALLAGHER. In terms of the information that my office controls, we were 100-percent correct in what we showed him.

Senator DURBIN. Now, with all the information that has come out and all the allegations since today, do you believe there are things that Mr. Huang should not have seen at the U.S. Department of Commerce?

Mr. GALLAGHER. I think we have to distinguish between the information and allegations. All I have seen is allegations. Until I saw hard evidence of these allegations and as long as he continued to have both his need-to-know and his clearance, we would continue to brief him as we had.

Senator DURBIN. Mr. Dickerson, the same questions. Did you feel that you were showing things, did you have any suspicion in your mind, that Mr. Huang should not have seen while he worked at the Department of Commerce?

Mr. DICKERSON. No, I had no suspicions whatsoever that what I was showing him was inappropriate for him.

Senator DURBIN. And today, based on allegations and information, do you have a different view?

Mr. DICKERSON. No, I don't have a different view because I have no personal knowledge that he did anything in an unauthorized manner in the handling of this classified information.

Senator DURBIN. The third allegation appears to be that he may have misused the information which was given to him, may have compromised a source or compromised the information. As you sit there today, Mr. Gallagher, do you have any information to suggest that that is the case?

Mr. GALLAGHER. I have never been presented with any evidence to prove or disprove that allegation.

Senator DURBIN. Mr. Dickerson?

Mr. DICKERSON. I would echo what Mr. Gallagher has said in that regard.

Senator DURBIN. Now, I assume in your business, when you are sharing delicate and secured classified information that there is a counterintelligence aspect to this to determine whether or not the people that you are sharing it with are keeping it to themselves, is there not? Mr. Gallagher?

Mr. GALLAGHER. Certainly, with all intelligence, sir.

Senator DURBIN. Now, in terms of this period of time, some 13 months at the Department of Commerce, was there any evidence that the information that was being shared with Mr. Huang or anyone at the Department at that time was being compromised?

Mr. GALLAGHER. I was not presented with any such evidence.

Senator DURBIN. Mr. Dickerson?

Mr. DICKERSON. To the best of my knowledge, no.[165]

Evidence of solicitations of contributions

While there was no evidence presented to the Committee to support an allegation that Huang engaged in espionage while employed at the Commerce Department, there were indications that he may have engaged in soliciting donors to the Democratic National Committee while so employed. Specifically, Huang may have been involved in soliciting donations by Kenneth and A. Sihwarini Wynn, Mi Ahn, and Arief and Soraya Wiriadinata while employed at the Commerce Department. Although the evidence is not conclusive, it is sufficient to warrant further investigation by appropriate authorities.

Evidence before the Committee shows that on August 1, 1994, Wynn, the president of Lippoland, Ltd., and his wife each made a $5,000 contribution to the DNC in connection with an event celebrating the President's birthday.[166] The check tracking form completed by the DNC for these donations listed John Huang as the solicitor.[167] This was only one month after Huang had begun working for the Department of Commerce and almost a year and a half before he began working for the DNC. When questioned in a depo-

sition about this listing, David Mercer, DNC deputy finance director (and the individual responsible for filling out the form), testified that he did not know at the time that Huang was working at the Commerce Department.[168] He further testified that he did not recall who solicited the Wynns, nor how he received the checks from the Wynns.[169]

Slightly over a year later, on October 12, 1995, Wynn contributed $12,000 to the DNC in connection with another event.[170] This time, the DNC tracking form listed Jane Huang (John Huang's wife) as the solicitor.[171] Just before Jane Huang's name, however, is a word that has been crossed out. This word appears to be "John."[172] When questioned about this contribution, Mercer testified that he did not know if Jane Huang had solicited this contribution and further, that he "did not know the circumstances leading to this check being submitted."[173] When asked how he knew to put Jane Huang's name down as the solicitor, Mercer first stated that someone told him to, but he could not remember who it was.[174] Mercer then suggested in the alternative that he may have done so because of his recollection that the Huangs were associated with the Wynns.[175] Upon being asked why he chose to put Jane Huang's name down if his recollection was that the Huangs generally were associated with the Wynns, Mercer stated he could not recall.[176]

The DNC's listing of John Huang as the solicitor for the Wynns' August 1994 contributions, followed by what appears to be a listing of John Huang's name on the October 1995 contribution—only to be crossed out in favor of Jane Huang—tends to support the allegation that Huang was involved in soliciting contributions while a Commerce employee. Moreover, Mercer's testimony with respect to these contributions raises more questions than it answers.

Similar questions are raised with respect to a contribution by Mi Ahn. On June 12, 1995, Ahn, the president of Pan Metals, contributed $10,000 to the DNC in connection with a Presidential Gala.[177] The DNC check tracking form filled out by Mercer lists Jane Huang as the solicitor.[178] When asked in his deposition why he listed Jane Huang as the solicitor, Mercer testified that he did not have a clear recollection and that it "either [had] something to do with either sending the check or getting the check to us in some way involved or knowing Mi Ahn. . . ."[179] Asked directly if he knew Jane Huang had solicited Ahn's check, Mercer stated, "I don't know that for a fact."[180]

It appears, however, that John Huang may have been involved in the Mi Ahn solicitation. Evidence was presented to the Committee that on May 26, 1995—two-and-a-half weeks before Ahn's contribution—four telephone calls were placed between Huang and Ahn.[181] Ten days later—on June 5, 1995—two more phone calls were placed.[182] On June 6, 1995, Mercer called Huang at the Commerce Department and left the following message: "Have talked to Mi, thank you very much."[183]

When asked why he was thanking Huang, Mercer testified: "I don't know. I don't recall. It could have been he gave me her number. It could have been a number of things. I don't know particularly what I was thanking him for."[184] Again, Mercer's testimony with regard to his listing of Jane Huang as the solicitor and his inability to recall his reason for thanking John Huang leaves room

for concern about Huang's role as the possible solicitor of this contribution.

Jane Huang was also listed as the solicitor of two contributions made in November 1995 by Arief and Soraya Wiriadinata.[185] The Wiriadinatas, who were permanent legal residents at the time of their contributions, are the daughter and son-in-law of Hashim Ning, a business associate of Lippo founder Mochtar Riady. Between 1995 and 1996, the Wiriadinatas contributed about $450,000 to the DNC in multiple checks. Once again, when questioned as to how he knew to credit the two 1995 contributions to Jane Huang, Mercer stated that it was "[t]hrough an understanding prior of the Wiriadinatas having association with the Huangs."[186] Mercer could not recall, however, how he had come to that understanding,[187] nor could he recall what his understanding was as to how they were associated.[188] When asked why he didn't put John Huang down as the solicitor, Mercer testified as follows: "I don't recall why. I, you know, I don't recall. I didn't, you know—I don't. . . [sic] I don't recall. Jane could have—I could have been told that Jane was the one that brought these checks in. I don't know."[189]

Committee staff interviewed the Wiriadinatas concerning their contributions. According to Arief Wiriadinata, they first met John Huang when he came to visit Soraya's father in the hospital in the summer of 1995.[190] Huang encouraged the Wiriadinatas to support the Democratic Party at that time, although it does not appear that he directly solicited a specific contribution.[191] Indeed, the Wiriadinatas first contributions were not until November 1995.[192] According to the Wiriadinatas, the November 1995 contributions were solicited by John Huang.[193] In fact, Arief Wiridiadinata told the Committee staff that all of their contributions were made in consultation with John Huang.[194] When asked if any of their contributions had been solicited by Jane Huang, the Wiriadinatas stated that they had never met Jane Huang, nor did they believe that they had ever spoken to her.[195]

The evidence clearly indicates that John Huang played a role in the contributions from the Wiridinatas and that this role began while he was still an employee of the Department of Commerce. Moreover, the evidence also points to his having played a role in the contributions of the Wynns and Mi Ahn. These instances are all worthy of further investigation by the appropriate authorities to determine whether John Huang violated the Hatch Act, which limits certain political activity by federal employees, or other campaign laws.

Perhaps even more disturbing is the documentary evidence which shows the DNC listing Huang as a solicitor during a time when he was a Commerce Department employee. The fact that David Mercer, DNC's deputy finance director, listed Huang as a solicitor and called him at the Commerce Department, combined with Mercer's questionable recollection regarding the tracking form containing Jane Huang's name, raises serious questions about the forthrightness of Mercer, the procedures at the DNC at this time, and the level of oversight that was provided in connection with Huang's activities. Indeed, this lack of oversight proved even more problematic once Huang joined the DNC staff.

HIRING HUANG TO WORK AT THE DNC

Having perhaps become disillusioned with his position at the Department of Commerce as a result of internal power struggles within the ITA, Huang began searching for another way to serve the Administration. That search led him to the DNC. Although he had raised money for the 1992 Clinton campaign,[196] he had done so at that time as an unpaid volunteer fundraiser. The position he sought in 1995 was that of a full-time paid fundraiser. In seeking this position, Huang apparently utilized the network of contacts he had developed while working for the Lippo Group.

In his deposition before the Committee, C. Joseph Giroir, an Arkansas lawyer for the Lippo Group and a friend of John Huang, said he learned of Huang's interest to move to the DNC to raise money in the Asian-American community.[197] As he conveyed this information to then-DNC Finance Chairman, Truman Arnold, he learned that Arnold was leaving his post at the DNC. As a result, in the summer of 1995, Giroir arranged a meeting with DNC Chairman Donald Fowler to suggest that Fowler hire Huang as a fundraiser.[198] Because Giroir was viewed by the DNC as a potential contributor, DNC Finance Director Richard Sullivan attended the meeting with Fowler. In his deposition, Sullivan testified that he thought Giroir came on too strong and, for some reason, "had rubbed him [Fowler] the wrong way during their meeting."[199] Sullivan speculated that, perhaps because of this, Fowler did not want to hire Huang.[200] Fowler testified in his own deposition that he did not immediately commit to hiring Huang because the DNC did not have room on its staff for any new fundraisers at that time.[201]

On September 13, 1995, Huang, Riady, and Giroir met with Sullivan and Fowler in the Four Seasons Hotel in Washington, D.C.[202] Sullivan recalled this meeting as fairly social; it was called for Riady to get to know Fowler, since "he thought Don was a player and that they wanted to get to know each other on a social basis."[203] Fowler testified that Giroir "made it clear . . . that he would like Mr. Huang hired at the DNC."[204]

Later that same day, Huang, Giroir, Riady, and Riady's wife, Aileen, went to the White House for a visit with White House staff and the President.[205] Also in attendance was Bruce Lindsey, deputy counsel to the President. By all accounts, this visit was a social call.[206] Riady had lived in Little Rock during the 1980s and met the President during that period. Riady supported the President during his gubernatorial campaigns, during his presidential campaign, and after his election as well. Giroir testified that there was no structure to the September 13 visit; people were just talking. In fact, Giroir had no recollection of any mention of Huang going to the DNC.[207] But Lindsey recalled a discussion of the importance of the Asian-American community to the President's re-election effort and the suggestion that Huang would be well-suited to work on such an initiative at the DNC.[208]

After that visit, and because, according to Lindsey, it was his experience that most people preferred to move from politics to government, rather than vice versa, he subsequently contacted Huang to ensure that he was interested in moving to the DNC. Lindsey testified in a deposition that the President may have indicated to him

that if Huang, in fact, wanted to move to the DNC, that it would be a "good idea," but he stated that this was not a directive[209] from the President to "follow up" on the discussion.[210] Lindsey ultimately informed White House Deputy Chief of Staff Harold Ickes of Huang's interest.[211]

On September 26, 1995, Huang and Giroir also met informally with newly-appointed DNC Finance Chairman Marvin Rosen to discuss Huang's desire to move to the DNC.[212] This meeting had been arranged by Mark Middleton, a former White House staffer from Arkansas. Rosen indicated during this meeting that he would look into the idea of initiating a DNC outreach program within the Asian-American community.[213]

At the time, the DNC had employees who were responsible for political and fundraising outreach in most minority communities, including the African-American community, the Hispanic community, and women's groups. During the period that Huang was being interviewed, the DNC had an employee who was responsible for political outreach in the Asian-American community, Bill Kaneko; however, it did not yet have a staff person responsible for Asian-American fundraising. In his deposition before the Committee, Kaneko testified that he understood that Huang left Commerce to "give the Asian community an opportunity to participate in the political process."[214] Other witnesses confirm that when Huang was being interviewed by the DNC, he indicated that he was interested in Asian-American outreach generally, not just fundraising, and witnesses involved in Huang's hiring testified that they perceived Huang as capable of providing the necessary assistance to the DNC's political and fundraising outreach efforts for the Asian-American community, particularly in California.[215]

Rosen testified that Ickes subsequently asked him to formally interview Huang.[216] Such an interview took place at DNC headquarters in November 1995, with Rosen and Sullivan, who were later joined by Fowler.[217] During the interview, Huang suggested that he could help to raise money in the Asian-American community for the 1996 campaign, citing his effectiveness in raising funds during the 1992 campaign.[218] According to Sullivan, Huang felt "there was a void in terms of outreach from the national parties to the Asian-American community."[219] Fowler, Rosen, and Sullivan agreed.[220] Recognizing the untapped potential of the Asian-American community for Democratic fundraising efforts and political outreach, Fowler decided, on Rosen and Sullivan's recommendation, to hire Huang to manage the DNC's outreach efforts to this community.[221]

In negotiating his position and salary with the DNC, Huang said that he needed credibility to raise money in the Asian-American community because he was older than most other fundraisers.[222] Fowler called it "a technique to convey respect and prestige,"[223] and thought that giving Huang an elevated title would ultimately benefit the DNC.[224] They negotiated the title of Vice Chair of Finance, a title normally reserved for volunteer fundraisers who are elected as honorary officers of the DNC and do not raise money full time. While Rosen was unfazed by the title,[225] DNC General Counsel Joseph Sandler was concerned because this position did not ac-

tually exist for paid staff. Sandler ultimately acceded to the request.[226]

Salary was another concern for Huang. Seeing himself as a successful, older, more experienced person (he was 50 years old), Huang initially wanted a salary comparable to the one he had received at Commerce.[227] Sullivan testified that they decided to pay Huang a salary of $60,000 and also to give him a lump-sum, bonus-type payment at some point.[228] Huang readily accepted this arrangement; indeed, Sullivan testified that Huang did not seem all that concerned about his salary.[229]

Huang's understanding of applicable law

DNC procedures require every paid fundraiser to receive an oral briefing on campaign finance law and to familiarize himself with a written packet of information.[230] During the 1996 election cycle, the briefings were conducted by DNC General Counsel Sandler or his deputy, Neil Reiff. Reiff testified in his deposition that these briefings covered many topics, including which contributions are allowable under the law, as well as what the DNC considers appropriate or inappropriate contributions. Most importantly, Reiff said, fundraisers were told to seek advice from the general counsel's office if they had any questions about specific contributions.[231]

Sullivan testified that he was "nervous" about Huang's fundraising because Huang was inexperienced in raising money full time. Sullivan testified that he requested Huang be given a special, individualized briefing.[232] Sam Newman, director of the DNC's National Finance Council, who shared an office with Huang, testified that he recalled Huang attending one of the group briefings; Sandler had a vague recollection of this.[233] Although there is some discrepancy between the testimony of Sandler and Sullivan as to what type of briefing Huang received, there is no dispute that he was briefed on the applicable law, and, in fact, a copy of the DNC's training materials was found in Huang's files after he left.[234]

In addition to whatever type of initial briefing he may have received, Huang also received assistance from the general counsel's office following his first major fundraising event. According to Sandler, DNC Treasurer Scott Pastrick suggested that Sandler review with Huang some of the checks Huang had collected from that event. Sandler testified that he believed this suggestion was made because the Asian-American community for which Huang was responsible was a new one being tapped for funds, and therefore some of the donors would be unfamiliar to the DNC.[235] Marvin Rosen, DNC Finance Chair, also believed that this briefing was necessary because some of the contributors to that event were connected to American subsidiaries of foreign corporations. In Rosen's mind, this automatically raised a red flag and called for review, especially for contributions from a new fundraiser.[236] DNC policy required that all contributions by U.S. subsidiaries of foreign corporations be approved by the general counsel's office.[237]

Sandler testified that he did conduct such a review with Huang. Within days of Huang's first event, a February 19, 1996 fundraiser at the Hay Adams Hotel in Washington, D.C., Sandler had a 45-minute meeting with Huang during which he reviewed checks about which Huang had questions, asked Huang the citizenship

status of each individual who wrote a check, and inquired into the ownership of corporations that donated.[238] He then inquired into the basis of Huang's knowledge and was satisfied from Huang's disclosures and claims of firsthand knowledge (which, according to Sandler, is traditionally the best information on which to rely) that the checks were legal. During this meeting, Sandler and Huang reviewed the legal limits on contributions. Sandler testified that he felt comfortable that Huang was familiar with the rules he was to follow.[239]

Having received an initial briefing on the laws and procedures applicable to campaign contributions, and having gone over specific instances of concern following his first fundraiser, Huang should have known what kinds of contributions the DNC could and could not accept. In light of this training, Huang's involvement in organizing a number of fundraisers which brought in questionable—and in some cases, illegal—contributions is disturbing.

Huang's fundraisers

As was true of other fundraisers targeting ethnic communities, Huang was assigned various dates for events to organize at which the President or the Vice President would be in attendance. Once given a date, Huang would have been responsible for reaching a certain fundraising goal. During his tenure at the DNC, Huang oversaw the following fundraising events, all held in 1996:

- February 19 event at the Hay Adams Hotel, Washington, D.C.;
- May 13 event at the Sheraton Carlton Hotel in Washington, D.C.;
- July 22 event at the Century Plaza Hotel in Los Angeles; and
- July 30 event at the Jefferson Hotel in Washington, D.C.[240]

In addition, after the July 30 event, Huang continued to help raise money at events,[241] such as the President's birthday party in August 1996 at Radio City Music Hall in New York City.

February 1996 Hay Adams APALC events, Washington, DC

The first fundraising event for which Huang was responsible was actually a series of two events on February 19 and 20, 1996 at the Hay Adams Hotel in Washington, D.C. These events were held in connection with the Asian Pacific American Leadership Council ("APALC"). The APALC had been created to engage and empower Asian-Pacific Americans, give them a stronger voice in the Democratic Party, and focus on issues of concern to the community.[242] Ultimately, it was also used as the fundraising arm for this community within the DNC. Mona Pasquil testified that she was responsible for forming the APALC in late 1995. She testified that it was born out of her traveling and meeting with Asian-Pacific American leaders who recognized that there was no caucus within the DNC for this ethnic group.[243]

The events included a dinner with the President on February 19 and breakfast with the Vice President and a tour of the White House on February 20. Individuals paid $12,500 each to attend these events.[244] The Hay Adams events were organized to coincide

with a "summit" of Asian-Pacific Americans at the Mayflower Hotel in Washington, D.C. on February 24, 1996.[245]

It is estimated that around 100 people attended the Hay Adams event. By all accounts, these events were successful in bringing Asian-Americans into the DNC. Fowler testified in his deposition that he recalled the events as positive in terms of outreach to the Asian-American community. He stated that there were a number of Asian nationalities represented and that he appreciated that diversity. He said he never gave a second thought to the citizenship of these individuals.[246]

According to DNC records, the DNC raised $716,000 from this event from 50 individuals or corporations.[247] A number of these contributions turned out to be suspect, however, leading the DNC ultimately to return over $100,000 from this event.

A total of $50,000 was returned to Charlie Trie, Keshi Zhan, Yue Chu and Xiping Wang. Trie attended the event and, in fact, was the event's co-chairman. Neither Chu nor Wang attended. These contributions—which are discussed in detail in Chapters 5 and 21 of the Minority Report—were returned because of questions as to the source of the funds contributed.

Pauline Kanchanalak, a Thai businesswoman, and her sister-in-law, Duagnet Kronenberg, attended the event and contributed $35,000. Their contributions were similarly returned by the DNC when it was determined that the funds contributed by Kanchanalak were actually those of her mother-in-law (see Chapter 21).

Finally, monastics from the Hsi Lai Buddhist Temple are also recorded as having contributed $25,000 to this event. Although none attended, Maria Hsia, a longtime Democratic activist and Temple devotee, did.[248] These contributions were returned to the U.S. Treasury over questions that the monastics may have been reimbursed for their contributions (see Chapter 21).

As noted above, Joseph Sandler, DNC general counsel, testified that after the event, Huang came to see him with contributions about which he had questions. Sandler testified in his deposition that he did not recall whether any of the contributions they reviewed were returned as a result of their conversation, but Huang initiated the return of several contributions within a month of the event because of questions of citizenship of the donors.[249]

The evidence before the Committee does not establish that Huang, or any other DNC employee or official, knew at the time that any of the returned contributions had problems. Kanchanalak appeared as a successful businessperson and had a long history of contributions. Trie likewise also appeared successful. There is no hard evidence establishing Huang's knowledge of reimbursements to the monastics, as explained below and in Chapter 21 of the Minority Report.

In addition, Jessica Elnitiarta, who runs her family's real estate company, Panda Estates Investment Inc., had been contacted by Huang about attending this event. On February 10, 1996, Elnitiarta contributed $100,000 to purchase eight seats at the event. Among Elnitiarta's guests at the event were her father, Ted Sioeng, and two of Sioeng's business associates. Elnitiarta did not attend the event herself because of an unexpected illness in her

family.[250] Elnitiarta was eligible to contribute (she is a legal permanent resident), and her contributions have not been returned. (Sioeng-related contributions are discussed in detail in Chapter 7.)

May 13, 1996 Sheraton Carlton event, Washington, DC

Huang's next major event was held at the Sheraton Carlton Hotel in Washington, D.C., on May 13, 1996, attended by the President. This event was attended by approximately 100 people. Approximately $579,000 was raised at this event from 20 individuals and corporations.[251]

Over half of the money raised at this event came from one individual—Yogesh Gandhi. Gandhi, a permanent legal resident of the United States, contributed $325,000 to the DNC in exchange for 26 tickets to the event.[252] This contribution was attributed in DNC records to both Huang and Trie.[253] This contribution was ultimately returned when the DNC could not verify the source of Gandhi's funds; it was later determined that Gandhi used foreign funds from Japan supplied by an associate to pay for the contribution.[254] A detailed discussion is provided in Chapter 21.

In addition, contributions totalling $125,000 were deemed inappropriate and were returned to legal permanent residents Soraya and Arief Wiriadinata, the daughter and son-in-law of Lippo associate Hashim Ning, because the source of the funds could not be verified.[255] The Wiriadinatas are not listed as having attended the event. Their contributions are discussed in detail in Chapter 21 of the Minority Report. Charlie Trie's $10,000 contribution to this event was also returned.[256]

In all, the DNC returned $475,000 of the $579,000 raised at this event.[257]

July 22, 1996 Century Plaza Hotel event, Los Angeles

One event for which there is relatively little testimony and only a few documents is an APALC gala organized by Huang at the Century Plaza Hotel in Los Angeles on July 22, 1996. A three-page briefing paper prepared for the President, the keynote speaker at the event, shows that the DNC expected to raise one million dollars from the 700 expected attendees; this was to be a "hard money" event. Most of the attendees were from California.[258] News organizations have reported that the event was a "who's who of Asian Americans," including Ted Sioeng and James Riady.[259]

Monastics from the Hsi Lai Buddhist Temple were recorded as having contributed $30,000 to this event, although only the Temple's abbess attended.[260] These contributions have been returned as a result of questions as to whether the monastics were reimbursed for their contributions, as explained in Chapter 21 of the Minority Report. A contribution of $3,000 from one of Charlie Trie's companies was returned for insufficient information. Other contributions totalling $25,000 were returned because, according to the DNC, it was inappropriate for the DNC to have accepted such contributions, contributions were not made by the named donor, the decision to contribute was participated in by a foreign national, or simply because there was insufficient information.[261]

A total of $58,500 worth of contributions was returned by the DNC from this event,[262] which the DNC recorded as having raised $367,850.[263]

July 30, 1996 Jefferson Hotel event, Washington, DC

Richard Sullivan testified that the White House had open dates for July 1996 which were available to the DNC for events. He and Marvin Rosen offered one of these dates to Huang. According to Sullivan, he and Huang were clear that Huang should only agree to organize an event on this date if he thought he could organize another "hard" money event that would raise $400,000 to $500,000. According to Sullivan, Huang said he could meet these criteria.[264]

This event—which turned out to be the final event Huang organized—was held on July 30 at the Jefferson Hotel in Washington, D.C. It turned out to be a small gathering of individuals, many of whom were not eligible to contribute to the DNC.[265] Contrary to the instructions given to Huang for this event, most, if not all, of the contributions Huang raised at this event were large, soft-money contributions.

In addition to the President and other DNC officials, attendees at the event, many of whom brought spouses and children, included James Riady of the Lippo Group,[266] his wife Aileen, and three prominent Taiwanese businessmen: Eugene T.C. Wu, chairman of the Shin Kong Group, a conglomerate that includes Taiwan's second-largest life insurance company; Sen Jong (Ken) Hsui, president of Prince Motors Co. in Taipei and a former member of the central committee of Taiwan's Kuomintang party; and James L.S. Lin, a Taiwanese business associate of Wu.[267] Hsui, who has U.S. residency status, contributed $150,000 to the DNC which has been attributed to this event.[268]

Other contributions attributed to this event were from Jessica Elnitiarta's Panda Investments; Loh Sun International, a Los Angeles firm that imports Chinese cigarettes to the U.S.; and Edmund Pi of Hacienda Heights, California.[269] In total, this event took in $259,000[270]—far short of expectations.[271]

Neither Wu nor Lin made contributions to the DNC in connection with this event, nor did anyone else who attended this event who was ineligible to contribute. The question has been raised, however, as to why the President was dining at a DNC event with such a small group of individuals, many of whom were ineligible to contribute to the DNC. Although this event was designed as a fundraiser, videotapes of the event show that the President discussed current events and issues of ethnic diversity but did not discuss fundraising.[272] While there is nothing illegal about such an event—so long as those who are ineligible to contribute do not in fact do so—there is a legitimate issue that can be raised with respect to the perception that such an event creates. This issue could have—and should have—generally been addressed in advance through a more careful review of attendees at small dinners with the President, Vice President or First Lady and greater supervision of DNC fundraisers and the fundraising process.

Another important question is why Huang, who had promised to raise $400,000 to $500,000 in "hard" money at this event, would put together an event with only a limited number of participants,

a large proportion of whom were ineligible to contribute. Unfortunately, the Committee was unable to obtain an answer to this question from Huang. All we are left with is Sullivan's speculation that perhaps Huang was trying to impress the attendees (all of whom he knew) with his ability to arrange an intimate gathering for them with the President of the United States.[273]

With respect to this event, and all of Huang's other events, there is no evidence that either the White House or the DNC had any knowledge of any illegal contributions as a result of these events to the DNC at the time the contributions were made.

Other Huang activities

In addition to organizing fundraising events, Huang was involved in a number of other activities on behalf of the DNC that were of questionable propriety.

Hsi Lai Temple event

On April 29, 1996, Vice President Gore attended an event organized by Huang and held at the Hsi Lai Temple in Hacienda Heights, California. The Hsi Lai Temple is the largest U.S. branch of the Fokuangshan Buddhist Order, a Taiwan-based Buddhist sect. The Temple operates under an umbrella organization called the International Buddhist Progress Society, a nonprofit organization incorporated in California.[274] Approximately 100 community leaders and others from the Asian-American community had lunch with the Vice President at this event.

Criticism of the Temple event arises from three sets of allegations: that the event was a DNC fundraiser in possible violation of tax laws barring religious organizations from engaging in campaign activities; that the Temple reimbursed Temple monastics for DNC contributions in possible violation of federal election laws barring contributions in the name of another; and that the Temple used foreign funds for the reimbursements in possible violation of federal election laws barring foreign contributions. The latter two allegations are discussed in detail in Chapter 21 of the Minority Report which concludes that Temple reimbursements did take place, though without the use of foreign funds and without the knowledge of the Vice President or officials at the DNC. This section focuses on the event itself and the involvement of Huang and the Vice President.

In 1996, the Vice President routinely attended fundraisers and community outreach events organized by the DNC to motivate financial and political supporters during the campaign.[275] Documents show that the Vice President's office was involved in scheduling two possible events for the Vice President in the Los Angeles area in April 1996, one of which was supposed to be a fundraising lunch at a private restaurant and the other a community outreach event at the Hsi Lai Temple. The evidence suggests that the fundraising lunch was canceled a few weeks before it was to take place, and Huang invited the persons scheduled to attend the lunch to the Hsi Lai Temple instead.

The evidence before the Committee shows that the Temple event was not a DNC fundraiser. It was not proposed, agreed to, organized or conducted as a fundraiser. The event was proposed by the

Temple, and the Vice President agreed to it as a community outreach event. Invitations made no mention of fundraising or an admission price to attend the event. No tickets were taken or sold at the door; no campaign materials were present; neither the Vice President nor any other speaker ever solicited contributions or thanked attendees for contributing; and most of those who attended did not contribute to the DNC.

The evidence also shows, however, that Huang did use the Temple event to raise money for the DNC, both from a small number of persons who attended the event and from Temple monastics who did not attend the event. Contributions totaling $159,000 were attributed in DNC records by Huang to this event.[276] There is no evidence before the Committee, however, that the Vice President had any knowledge of Huang's activities or reason to believe that Huang used the Hsi Lai Temple event to raise funds for the DNC.

The Vice President and the Temple event

In 1996, the DNC frequently requested that the Vice President attend fundraisers and community outreach events in different cities across the country. The Vice President's office worked with the DNC to schedule dates and locations that fit into his busy schedule. Typically, the DNC would identify a city where they wanted to hold an event and then request a date from the Vice President's office to schedule it. During the early planning stages, the only details provided to the Vice President's office were cities and dates for proposed DNC events.[277] The scheduling staff would then present the DNC proposals to the Vice President for his approval. The Vice President would sign off on cities and dates, not the exact sites for events.[278] Kimberly Tilley, the Vice President's director of scheduling, testified about the general process of scheduling the Vice President at a DNC event in another city. She stated:

> . . . as an example there would be a request for the Vice President, let's say, to go to Chicago, and we—I would talk to the Vice President and say there is a request for you to go to Chicago for a DNC event and here's what's happening on your family schedule, are you okay with this, and he would sign off on that.[279]

Tilley explained that as the date drew near, the scheduling office would work on the details and often discovered that the site had been changed. She testified, "many times we would find out that it was not in Chicago. It was in Winnetka."[280]

When the Vice President attended a DNC event in a particular city, other events were generally scheduled before and after the DNC event. The other events on the Vice President's schedule would often include speeches, meetings and appearances at other locations near the DNC event.[281] The different events scheduled for a particular day would often change and not be finalized until shortly before the Vice President's trip to a city. Scheduling by the Vice President's office for April 1996 events was handled in the usual manner. Early in the planning process for April 1996, the Vice President agreed to travel to California long before the details of the trip were determined. The details, including the number of events he would attend, the cities he would visit and the sites of

each event, were determined over a period of time and were not finalized until shortly before the Vice President's trip.

Beginning in January 1996, the DNC proposed a series of fundraisers for the President and Vice President to schedule in April, May and June.[282] No specific dates or sites were identified; the DNC simply suggested in its proposed calendar a month and a city in which to hold a fundraiser. A January 2, 1996 memo from Harold Ickes to the Vice President and others included a proposal that the Vice President attend three DNC fundraisers in the month of April in Washington, D.C., Los Angeles and San Jose.[283] The event sites for the proposed cities were not identified in the DNC's proposal.

Between January 2 and February 22, 1996, the Vice President's office worked on the general DNC request to schedule fundraisers for the Vice President to attend in California in April 1996. As an example, the Vice President's ever-changing California trip included a proposal to add an event in San Francisco that was later dropped.[284] While the schedule changed often, there is no evidence that the Hsi Lai Temple was considered as a potential site for an event during the early planning stages of the Vice President's trip to California.

In March 1996, the dates of the Vice President's trip to California and the events he would attend were still not determined. Tilley received an e-mail message from one of her assistants on March 12, 1996, that showed the Vice President would travel to San Jose and Los Angeles for three days, from April 27th to the 29th, and that he could attend "some combination of possible Olympic torch event in LA, DNC fundraisers in San Jose & LA" and "Family/Private time."[285]

On March 15, Tilley sent the Vice President an electronic message asking if he would like to give a keynote address at an event in New York on "the same evening that you wanted to fly out to California overnight and then do the two fund-raisers in San Jose and L.A. while Sarah and Mrs. Gore visit colleges. . . . We've confirmed the fund-raisers for Monday, April 29th."[286] The Vice President responded that, "If we have already booked the fund-raisers, then we have to decline."[287]

While some have tried to claim that the Vice President's use of the word "fund-raisers" in this message proves that he knew the Temple event was a fundraiser, it proves only that the Vice President was planning to attend a fundraising event in Los Angeles well before the Temple event was added to his schedule and had coordinated the date with when his daughter was visiting colleges.[288] As discussed below, an invitation to visit the Temple was extended by the Temple for the first time on March 15th and was not formally incorporated into the Vice President's schedule for another month, after an evaluation by the Vice President's national security adviser. The Vice President's deputy chief of staff David Strauss testified at the Committee hearing that the confirmed "fund-raisers" referenced in the Tilley message could not possibly refer to the Temple event because that event had not yet been scheduled.[289] "There wasn't even an event scheduled at the temple on the 15th of March," Strauss said. "That occurred much later."[290] The Tilley message demonstrates that the Temple event

was a separate consideration from the DNC fundraising events that the Vice President had agreed to attend in California.

The Temple event was first proposed during a March 15th meeting between the Vice President and the head of the Temple, the Venerable Master Hsing Yun.[291] This meeting had been arranged by Huang and Maria Hsia, a fellow Democratic activist in the Asian-American community.[292] In an interview with Committee investigators, the Master said, "I only met with Gore for 10 minutes. We had a very polite conversation, then I departed."[293] Briefing papers for the Vice President state that the two "discussed Master Hsing Yun's charity work in California and elsewhere."[294] At the end of this brief meeting, the Master invited the Vice President to visit the Hsi Lai Temple in California.[295] Vice President Gore responded that he would consider it since he was expecting to be in California in late April.[296] This exchange reinforces the fact that the Vice President was already planning to visit California at the time of this meeting, and the Temple visit was a possible additional event, rather than the original reason for his visiting the area.

The evidence indicates that after the meeting between the Temple's master and the Vice President, Huang and Hsia began planning two events in the Los Angeles area for April 29, a fundraising lunch at the Harbor Village Restaurant in Monterey Park and an Asian-American community outreach event at the Temple. Although the Harbor Village Restaurant in Monterey Park has no record of a reservation for April 1996,[297] a draft invitation produced to the Committee by Hsia corroborates the planning for this event and that the organizers originally proposed two different events at two different locations for the Vice President.[298] Moreover, a March 23, 1996, letter from Hsia to the Vice President demonstrates that the Vice President was specifically told of the plans for two events. The letter to the Vice President stated:

> John Huang has asked me to help with organizing *a fundraising lunch event,* with your anticipated presence, on behalf of the local Chinese community. *After the lunch, we will attend a rally at Hsi Lai Temple* where you will have the opportunity to meet representatives from the Asian American community and visit again with Master Hsing Yun. The event is tentatively scheduled for April 29 and I am hoping you will be able to attend.[299] [emphasis added]

Further corroboration that two events were planned was provided by Charlie Woo, an attendee of the Temple event and contributor to the DNC, who told Committee staff that Huang had contacted him to attend an April event with the Vice President.[300] Woo identified this event as originally scheduled to be held at the Harbor Village Chinese Restaurant in Monterey Park. Woo said Huang called with the location change to the Hsi Lai Temple less than a month before the event and Woo was told that due to scheduling problems, there would only be this one event. Because Huang never told him otherwise, Woo said he arrived at the Temple event "with a check in my pocket" believing that he was going to a fundraiser. He said that he thought it was "weird" that there was "no mention of money at the event."[301]

At some point in early April 1996, the DNC canceled the Los Angeles fundraiser but not the community outreach event at the Hsi Lai Temple.[302] Huang contacted Richard Sullivan, the DNC's finance director, to inform him that there were problems with the proposed site for the fundraiser.[303] Sullivan testified,

> I think Maura (McManimon) and/or John said they were having problems working in the location, and then . . . subsequently, I believe John told me that the place that he wanted—that the home—I believe it was a home that he wanted to have it at—would not work with the Vice President's schedule, that he was doing things downtown and couldn't put enough time in the schedule to get out to this home—it may have been a restaurant, but I remember it as a home—and that he had to change the location. Then he came back, I think a day or two later, and said that he wanted to do it at a temple.[304]

One or two days later Huang and Sullivan discussed the Hsi Lai Temple as a possible site for a DNC event. Sullivan told Huang "you can't do a fundraiser at a temple,"[305] and Sullivan was assured by Huang that the temple event would not be a fundraiser.[306] Instead, the Hsi Lai Temple event was intended to express appreciation to past contributors to the DNC and to encourage others in the Asian American community to contribute in the future.[307] Huang told Sullivan that he "would not charge people" and that he "was going to invite people for free" to attend the "community outreach" event at the temple on April 29, 1996.[308]

On or about April 3, 1996, Sullivan informed the Vice President's office of the changes and told them that the temple event would be an "outreach event," not a fundraiser.[309] Strauss does not recall this specific conversation with Sullivan and Huang, but he testified that he had no reason to believe that he did not have such a conversation with them.[310]

The evidence before the Committee indicates that the Temple event was not actually incorporated into the Vice President's schedule until the latter half of April. Documents prepared for a scheduling meeting for the Vice President's California trip and a memorandum by Huang reflect the fact that as late as April 11th, two weeks beforehand, the Hsi Lai Temple had not been confirmed by either the White House or the DNC as the site for an event.[311]

In mid-April 1996, the Hsi Lai Temple event was characterized by some staff members as a fundraiser while others, who worked closest on the April 29, 1996 schedule, believed it was a community outreach event. In several internal communications, including e-mails and memos between staff members, the term "fundraiser" was used to describe the Hsi Lai Temple event. The director of the scheduling office, Tilley, testified, "I think that there was a certain sloppiness in the terms we were using, whether it was finance or fundraising."[312]

The scheduling office usually referred to an event from the DNC Finance Department as a fundraiser, even though it may not have been a fundraiser.[313] Tilley testified that:

> A: "There were traditional fundraisers that were ticketed events at the door. There were events that were

> community outreach like this Asian-Pacific where it was part of the DNC Finance plan, where in order for someone to be a member, there was a certain amount of money they paid to be a part of that, you know, committee or whatever they called; and then there were those people to whom they wanted to reach out to, who they hoped would become donors.
>
> Q: And would you define outreach events as different than fundraisers?
>
> A: Yes, I would.[317]

On April 11, 1996, the day of the "Preliminary California Meeting" Huang faxed a memorandum to Kim Tilley regarding a "Fundraising lunch for Vice President Gore 6/29/96 [sic] in Southern California." in which he wrote:

> Per our discussion this morning, I have furnished the following information to you regarding the *proposed event*.
>
> 1. *Proposed location*: Hsi Lai Temple, Hacienda Heights, California.
>
> This temple was established by Venerable Master Hsing Yun during 1980's with many structures including Large dinning [sic] facility . . . To show his appreciation and friendship to Vice President Gore, Master Hsing Yun would like to host this upcoming Vice Presidential event in L.A. . . .
>
> 3. Hsi Lai Temple has hosted other political events before . . .
>
> 5. . . . Please let me know if I can provide any further information. *I certainly would appreciate to know the answer asap if we can proceed on this matter*. If so, in what parameters can we do, or not do.[315]

Jackie Dycke, who worked on the April 29, 1996 schedule until mid-April, before it was reassigned to Ladan Manteghi, prepared notes for the April 11th meeting which included the following information: "DNC Luncheon in LA/Hacienda Heights: 1000–5000 head/150–200 people."[316] Dycke testified that she obtained this information for a proposed event from Maura McManimon who worked with John Huang for the DNC.[317]

The character of an event would often change during the scheduling process. Strauss was questioned during the Committee hearings about the scheduling process and he testified:

> Q: Is it common in your experience with regard to the Vice President's schedule and how it evolves that an event may be contemplated, but that over time and indeed on fairly short notice, its character could change or the event itself could be canceled?
>
> Mr. STRAUSS. That is correct.
>
> Q: Does that happen often?
>
> Mr. STRAUSS. That is correct.[318]

As of April 11, 1996, Huang, an organizer of the Hsi Lai Temple event, had not yet received confirmation that the Vice President would even be attending an event at the Hsi Lai Temple on April 29, 1996. Other documents, including an April 19th message just

ten days before the event, indicate that a decision on the Temple event was delayed pending an evaluation by the Vice President's national security advisers who approved the event but cautioned against permitting it to be characterized as one favoring Taiwan.[319] John Norris, who works in the Vice President's foreign policy office, wrote a note to Bill Wise, deputy director of the Vice President's foreign policy office, regarding the Hsi Lai Temple event. In his April 16, 1996 note, Norris wrote:

> State notes that any affair involving Taiwan involves some risk of political exploitation by people from Taiwan.
>
> State's advice is to make John Huang of the DNC responsible for managing the event to ensure the VP is not embarrassed—
>
> —the event is for the Chinese community of Southern California; it is not a "Taiwan" event;
>
> —there are no Taiwan flags or KMT symbols or other signs that would be embarrassing for the VP;
>
> —no Taiwan politician should be allowed to exploit this event.[320]

Wise wrote a hand note to Leon Feurth, the Vice President's National Security Advisor, on the bottom of Norris's April 16, 1996, note with his opinion regarding the Hsi Lai Temple site. Wise wrote:

> I think it may be difficult for the sponsors to meet the three criteria suggested by State—but they will certainly *claim* that they can.
>
> * * * * *
>
> I suspect the VP might get to go ahead since we cannot point to a *specific* problem."[321]

On April 19, 1996, Norris received an e-mail message from Robert Suettinger regarding the foreign policy ramifications of holding an event at the Hsi Lai Temple. Suettinger wrote:

> This is terra incognita to me. Certainly from the perspective of Taiwan/China balancing, this would be clearly a Taiwan event and would be seen as such. I guess my reaction would be one of great, great caution. They may have a hidden agenda.[322]

Tilley explained that the Vice President's National Security Office needed to approve the Hsi Lai Temple as an appropriate site for the Vice President to visit, based on foreign policy considerations. Tilley testified, "for an event like this, we would not have proceeded—the Vice President would not have done it if the National Security Office had not signed off."[323] In response, the Vice President's office informed the Temple that the Vice President could attend the event only if all Taiwanese national symbols were removed from the site before the event took place.[324] The Temple agreed to this condition.

Once the event was agreed to, the evidence indicates that the Vice President's staff organized it as a community outreach effort, rather than a fundraiser. When the event was officially added to the Vice President's schedule in the latter half of April, the key

scheduler responsible for the event in the Vice President's office was Ladan Manteghi who, in mid-April, had assumed responsibility for the Vice President's April 29 schedule. Manteghi testified at her deposition that she clearly understood the event to be a community outreach event and not a fundraiser.[325] She testified as follows:

> Q. Do you recall ever discussing with Kim Tilley whether or not the event at the Hsi Lai Temple—what type of an event it was?
>
> A. She and I had conversations, obviously, about the event and the type of event it would be, and it was to be an outreach event and to basically give us exposure to the Asian community and vice versa as well. You know, this was something very major for them as well as for us in the sense that this was monumental in demonstrating an ability to participate in the political process and to have the ability to vote. . . . I am an immigrant, and I know what a phenomenal sensation that is. . . . [T]hat's why this was such a great effort in terms of outreach to this community and the Vice President having an opportunity to be exposed to the community and to talk about leadership and activity. . . .
>
> Q. Did you have any conversations with John Huang or Maura McManimon or anyone with the DNC about whether this was a finance-related event?
>
> A. We had conversations, and if this were a finance event, we would have spoken in terms of dollar amounts and people's donations to participate in the event, and no such conversation ever took place, neither with John Huang nor with Maura McManimon.
>
> Q. Or with anyone else at the DNC?
>
> A. Or with anyone else at the DNC or the Vice President's Office. . . .
>
> Q. [D]o you recall if you received any documentation that talked about the Hsi Lai Temple event being a fundraiser?
>
> A. No, I do not. . . . I would have known from the advance people if, you know, there were some indication of money. In the typical setting of a fundraiser, again, somebody who would have given a significant amount of money . . . they would have an opportunity to shake the Vice President's hand separately from 150 people. But that was not the case, and I would have had a conversation with John Huang, and that didn't happen. . . .
>
> Q. Did you ever discuss with anyone . . . about if you had concerns that the event was taking place at the Hsi Lai Temple, which was a religious center?
>
> A. No, I did not, because . . . I asked the question of John to . . . explain the significance of the Temple to me, and he did, and I was comfortable with the fact that this was a place where the community congregates on special occasions . . . not only a holy place, but also a community center. . . .

> Q. And you stated earlier that after the press accounts came out you were surprised because you didn't know anything about any fundraising activities.
>
> A. That's correct. I mean, those were all accounts that came out in the press, and it was rather shocking to me.
>
> Q. Because you had been talking with John Huang prior to the event, and you had had no discussions with him about fundraising activities?
>
> A. That's correct. . . . [T]his was such a "feel good" type event, if I can really say. . . . [W]e're delving into yet another group that has been a part of Americana for so many years, and you know, these people were so excited about this event. . . .
>
> Q. So there was never a time that you believed that this was going to be a fundraiser?
>
> A. No.[326]

Despite this critical testimony from the key scheduler in the Vice President's office, the Majority refused to call her as a hearing witness, rejecting a unanimous request from Committee Democrats to have her testify.[327]

The other person on the Vice President's staff who played a key role in the Temple event was the Vice President's deputy chief of staff, David Strauss, who personally briefed the Vice President about the event, counseled him on the type of remarks that would be appropriate at the event, and actually accompanied the Vice President to the Temple event. Strauss testified unequivocally that he understood the event to be a community outreach event and not a fundraiser, and informed the Vice President accordingly.[328] Strauss testified:

> I was the person who was solely responsible for telling the Vice President what this event was. He relied on my judgment about this event. I explained to him what the event was all about, suggested to him what sort of remarks to make that would be appropriate for this event. I take full responsibility for the Vice President's knowledge about this event. He got the significant information from me and from the briefing book.[329]

The briefing book, which Strauss testified that the Vice President would have reviewed immediately prior to the Temple event, also presented it as a community outreach event and not a fundraiser.[330] Particularly compelling are the differences between the briefing materials given to the Vice President for the Temple event compared to the briefing materials given to him for a San Jose fundraiser later the same day. The briefing materials for the Temple event described it as a DNC Asian-Pacific American Leadership Council luncheon honoring Vice President Gore. Talking points prepared for the Temple event did not include any references to campaign contributions or any amounts being raised by the event, nor did they call for the Vice President to thank the participants for making a contribution.[331] Furthermore, the talking points prepared for the Hsi Lai Temple event were much longer than the boilerplate fundraising speech and covered many different issues, including ethnic diversity. In contrast, the briefing materials pre-

pared for the San Jose fundraiser specified the amount of money to be raised at the event:[332]

> This is the first San Jose-based event during the Clinton/Gore Administration, so most of the guests are new supporters of the DNC. San Jose Mayor Susan Hammer has been extremely helpful with this event as co-chair with George Marcus, the event host. Estimated attendance at the reception is 100–125 guests. *This event is raising $250,000 for the DNC.* [Emphasis added.][333]

That type of information was not included in the Temple briefing materials.

In addition, the event itself was conducted like a community outreach event and not as a fundraiser. No money was collected at the door, no campaign materials were present, and no one discussed contributions at the event. According to an audio tape of the event produced to this Committee,[334] the Vice President never made a request for contributions during his speech nor did he thank the luncheon attendees for their support.[335] He spoke instead about diversity in America.

Individuals who attended the Hsi Lai Temple luncheon on April 29, 1996, verified that the event did not appear to be a fundraiser. John Aloysius Farrell, a Boston Globe reporter, the Venerable Master Hsing Yun, and David Strauss attended the April 29, 1996, luncheon and provided consistent accounts that, based on the objective evidence at the event and the content of the Vice President's remarks, the Hsi Lai Temple event was not a fundraiser.

On September 4, 1997, Farrell provided significant confirmation that the Hsi Lai Temple event did not appear to be a fundraiser. Farrell accompanied the Vice President on the "marathon trip from Washington to California on April 29, 1996, and interviewed the vice president on Air Force II."[336] Farrell wrote:

> . . . Gore's own words and actions at the Buddhist temple, witnessed by a Globe reporter and described here for the first time, give credence to the Vice President's assertion that while he knew there was a fund-raising component to the event, he viewed it more as a good-will visit with Asian-American leaders.
>
> Although other party leaders warmed up the audience with political rhetoric, Gore's remarks were non-partisan and restrained, markedly different from the biting one-liners he offered at another fund-raiser that evening in Northern California.
>
> At the Hsi Lai Temple, Gore spoke in personal terms of his acquaintance with Hsing Yun, the venerable maser and leader of the temple and its growing worldwide congregation, and of the U.S. tradition of tolerance for immigrant cultures. Gore made no explicit pitch for contributions. . . .[337]

The Venerable Master Hsing Yun confirmed in his interview with Committee staff that fundraising was not discussed at the Hsi Lai Temple event. He stated, "In addition to Buddhists, there were also Catholic, Protestant, and Muslim friends at the event, also

some people I didn't know. . . . We did not speak about the campaign or anything about politics or donations."[338]

Strauss, who attended the event with the Vice President, explained to the Committee that the Vice President did not give a fundraising speech at the Hsi Lai Temple event. Strauss testified, "it was a very good speech, but it had nothing to do with fundraising."[339] Strauss described the Vice President's speech to the Committee:

> A: . . . typically my role for this sort of event, what I would try to do is quickly size up the situation for the Vice President. I talked briefly to Congressman Matsui who had heard the Vice President a week or so beforehand give what I called his *E Pluribus Unum* speech, and after consulting with Congressman Matsui, I suggested that considering the nature of this group, where you had Asians, Hispanics, African Americans, that that would be an appropriate set of remarks for this particular event, and in that speech, he would refer to the richness of our diversity and what a strength it is in this country and draw the comparison with Bosnia, Rwanda, Burundi, Nagorno-Karavakh. I mean, he had this very moving speech about tolerance that he would make, and that those were the remarks that he made at this particular event.
>
> Q: Did it include any request for money or any thank you for people having contributed?
>
> A: It did not.[340]

Strauss also testified that the event did not appear to be a fundraiser. The typical elements of a fundraiser or a political event were not present at the Hsi Lai Temple on April 29, 1996: there were no ticket tables, no one collected or asked for contributions, there were no political campaign posters, there was no campaign literature, nobody tried to recruit volunteers for the campaign and nobody thanked attendees for making a financial contribution.[341] Strauss concluded that the Hsi Lai Temple event was not a fundraiser:

> Q: Based on your experience and all the years that you have been doing this sort of thing and attending hundreds of fundraisers, did this appear to you to have the indicia of a fundraiser, this event?
>
> A: *I believe that I know what a fundraiser is, and this was not a fundraiser.*[342] [emphasis added]

Other attendees at the event confirm that it did not appear to be a fundraiser. Charlie Woo, mentioned earlier, told Committee investigators that there was "no mention of money at the event."[343] Mona Pasquil, DNC Western States political director and former director of Asian-Pacific affairs, testified that she saw no signs of fundraising, such as a table at the door, name tags, checks being exchanged, or solicitations for money.[344] DNC Chairman Fowler described it as an "outreach event" similar to those he attended at churches in the 1960s; not everyone who attended also contributed, and there were none of the typical trappings of a fundraiser.[345] DNC Chairman Donald Fowler testified, "[T]here were three people

who made presentations there—myself, the temple master, and the Vice President. None of the three of us made any reference to raising money, contributing money, giving money before or after."[346]

Persons associated with the Temple who helped organize the event also indicated that they did not consider the event to be a fundraiser.[347] Man-Ho, assistant to the Temple abbess, testified at the hearing that Temple personnel did not focus on fundraising during planning before the event.[348] In her deposition, she said that the guests "were not required to pay a buck for [the] luncheon. . . ."[349] She also told the Committee that she did not see anything at the event that would indicate that it was a fundraiser.[350] The head of the Temple, Venerable Master Hsing Yun, provided a statement to the Committee with consistent information.[351]

The evidence also indicates that no invitation associated with the event contained anything remotely resembling a solicitation.[352] Such solicitations are generally included in invitations to DNC fundraisers and range from a price stamped on the invitation to a card enclosed with different contribution levels.[353] The absence of any solicitation or admission price on any invitation is further evidence that a contribution was neither required nor expected, and the purpose of the event was not to raise funds.

Further, most of the attendees did not contribute.[354] For example, Ted Sioeng, his wife, daughter and two other relatives were invited by Huang and attended the event without making any contribution.[355] While DNC records attribute 42 contributions to the Temple event, 12 of which were from monastics who did not attend the event itself, and only another 15 or so were from attendees. That means of the 100 or so persons who attended the event, only about 15 contributed in connection with their attendance.[356]

The allegation has been made that the participation of John Huang and Maria Hsia in organizing the event should have told the Vice President that the event was a fundraiser, but both had previously been involved in arranging non-fundraising, political outreach events for the Asian-American community. For example, both helped organize a September 27, 1993, meeting with Asian-American leaders that was described in the Vice President's briefing papers as an Asian-American community outreach event.[357] Moreover, Hsia had been involved in the organization of only one prior fundraiser for the Vice President but had organized his 1989 trip to Taiwan with the Pacific Leadership Council which had no fundraising aspects. And as indicated above, Huang had never given any indication to anyone on the Vice President's staff that any fundraising was involved in the Temple event.[358]

Strauss addressed this issue in his testimony to the Committee. He testified emphatically that he had no knowledge that the Vice President or anyone on the Vice President's staff knew anything about the post-event fundraising activities engaged in by Huang or Hsia.[359] Strauss testified:

> Q: Prior to the time that the newspaper articles appeared in the fall of 1996, did you have any reason to believe that anybody on the Vice President's staff had heard that there was any fundraising engaged in by Ms. Hsia, by virtue of a call from Huang?
>
> A: I have no knowledge that anyone did know.

> Q: Did you ever know anything about contributions having been collected or monies having been collected prior to the April 29th event at the Hsi Lai Temple? There has been testimony that a certain amount of money was generated in advance of the event.
>
> A: I had no knowledge of that.
>
> Q: Do you have any reason to believe that the Vice President knew anything relative to this event, either prior to the event or that after the event any monies had been collected?
>
> A: I have no reason to believe that he knew anything about this.[360]

Ladan Manteghi, the scheduling staff person who put together the final details of the Vice President's April 29, 1996 schedule, confirmed that the information regarding Huang and Hsia's activities were a surprise to the Vice President's staff when they were first reported by the news media. She explained in her deposition that the scheduling staff was "meticulous" and that they "scrutinized, really, everything" to make sure that "all the i's were dotted, the t's crossed."[361] She testified:

> A: So that's where the element of surprise came in when all the accounts started coming out. It was, like, wait a minute, we really went through everything, and so how could this be? This seems really kind of off the wall. You know, from my perspective, that's how it seemed.
>
> Q: So there was never a time that you believed that this was going to be a fundraiser?
>
> A: No. By the time I received it, this was not going to be a fundraiser.[362]

There are two types of evidence suggesting that the Temple event was a fundraiser. The first involves the fact that Huang did solicit contributions in connection with the event, as discussed below, but there is no evidence that the Vice President had any knowledge of those solicitations. The second involves several internal communications—e-mails and memoranda between staff members for the Vice President—that refer to the Temple event as a "fundraiser,"[363] as discussed above. Relevant testimony included Tilley's statements regarding the "sloppiness in the terms we were using, whether it was finance or fundraising,"[364] and Strauss's testimony that the character of an event would often change during the scheduling process, making it difficult to ensure that the proper term was used.[365] In addition, Tilley testified that the Vice President's scheduling office usually referred to an event from the DNC Finance Department as a fundraiser, even though it may not have been a fundraiser.[366]

From the perspective of Vice President Gore, the Vice President's office, and the DNC, the Hsi Lai Temple event was not a fundraiser. There is no evidence before the Committee that Vice President Gore knew that contributions were solicited or received in relation to the Temple event. The information received by the Vice President regarding the event described it as an opportunity for the Vice President to meet with members of the local Asian-American community. John Huang assured DNC Finance Director Richard

Sullivan that the event was not a fundraiser, but instead would involve community outreach. Moreover, the event had none of the trappings of a fundraiser.

John Huang and the Temple event

Although the Temple event was not a fundraiser and Huang had represented that to Richard Sullivan, DNC finance director, when specifically asked, Huang did use it as an opportunity to obtain contributions to the DNC. Huang attributed $159,000 in DNC contributions to this event. Many of these contributions were from monastics at the Temple and were subsequently and possibly illegally reimbursed by the Temple. (See Chapter 21 of the Minority Report.)[367]

As mentioned above, Sullivan testified that, while he was not involved in the day-to-day planning of this event, he ensured that Huang knew that he could not hold a fundraising event at a Temple, and Huang confirmed to him that he was aware of this restriction.[368] Sullivan further testified that he facilitated a conference call between himself, Huang and David Strauss, Deputy Chief of Staff to the Vice President, to reassure Strauss that the event was not a fundraiser.[369]

It appears, however, that when the original fundraiser tentatively planned for the Harbour Village restaurant was canceled, Huang invited the guests for that event to the "community outreach" event at the Temple. Huang then apparently used the Temple event to solicit contributions despite his contrary representations to the DNC.

Man-Ho, the assistant to the abbess at the Temple, testified that at a particular meeting of monastics, the abbess told monastics that it would be all right for them to ask devotees to contribute $5,000 to come to the luncheon and have their picture taken with the Vice President. Man-Ho testified that she did not know whose idea this was, though it appears that, from other evidence, this likely was the result of direction from Maria Hsia or John Huang.[370]

On April 28, 1996, the day before the event, at the third of three meetings between Man-Ho and Huang,[371] Man-Ho handed Huang a list of names and amounts contributed prior to the event.[372] Despite Huang's representations to Sullivan and Strauss, Huang told Man-Ho that any other devotees who would like to attend the event could do so for $2,500, as opposed to the $5,000 that had been requested until then.[373]

Prior to the April 29 event, checks written out to the DNC were collected totaling $45,000.[374] In addition, some who contributed before the event also had their pictures taken with the Vice President.[375]

Man-Ho testified that on April 30, the day after the Temple event, Maria Hsia called her to say that "John Huang hoped that the Temple could contribute more money,"[376] since only $45,000 of an anticipated $100,000 had been collected. The ensuing facts of how the monastics contributed additional amounts to help Huang reach this goal are covered in Chapter 21 of the Minority Report. Man-Ho testified that she believed that the money the monastics collected was given to Huang later that day.[377]

While there is no evidence that Huang spoke directly with anyone at the Temple regarding a request for additional contributions, it is clear that Hsia communicated Huang's fundraising appeal. She also assisted the monastics, for a fee, with many immigration matters and advised them on other legal matters. Yi Chu testified that the Temple monastics had been responding to fundraising requests by Hsia since 1993. Though the amount requested was larger than previous requests, it was viewed, once again, as helping Hsia, and the Temple complied. Huang and Hsia had known each other for a long time,[378] and it is likely that Huang would have known about Hsia's relationship with individuals associated with the Temple.[379] There is insufficient evidence, however, to determine whether Huang knew that the Temple planned to reimburse its monastics' contributions to the DNC.

John H.K. Lee and the Cheong Am America contribution

Huang's involvement in obtaining a $250,000 contribution from Cheong Am America in the spring of 1996 is disturbing for a number of reasons. This incident not only involves a campaign contribution later discovered to have been paid for with foreign funds at the direction of a Korean national, it also demonstrates Huang's apparent willingness to disregard established DNC procedures for evaluating contributions.

Cheong Am America, Inc. was a joint venture between two South Korean firms that were considering constructing a large-screen television manufacturing plant in Carson, California. The two firms were the Cheong Am Group and Ateck Company. The Cheong Am Group was headed by Korean businessman John H.K. Lee, the moving force behind the joint venture. Lee was later revealed to be a convicted criminal and was subsequently indicted in Seoul in connection with this matter.[380] Ateck, a $50 million company with a history of successful manufacture of large-screen televisions, was headed by Korean businessman Young Chull Chung, whom Lee was pressing to finance the U.S. plant.[381] Their joint venture, Cheong Am America, was established in February 1996 as a U.S. subsidiary of the Cheong Am Group.[382] If the large-screen television manufacturing plant had been built, it apparently would have been the first of its kind outside of Asia.[383]

In the spring of 1996, Lee contacted Carson mayor Michael Mitoma and told him that before a final decision could be made on building the plant in Carson, Lee and his associates would like to meet with President Clinton.[384] Lee had been advised to contact Mitoma by Lucy Ham, a Choeng Am America officer and friend of Mitoma.[385] In testimony before the Committee, Mitoma said that he agreed to try to arrange a meeting for Lee by telephoning Doris Matsui, Deputy Director of the White House Office of Public Liaison in charge of Asian American issues. When Matsui failed to return his telephone messages,[386] Mitoma called the DNC at the suggestion of Ham, who was aware that an Asian American was organizing fundraising events with the President.[387] The person Mitoma talked to at the DNC was Huang.

Mitoma and Huang apparently had several discussions about a possible meeting between Cheong Am America associates and the President, including Lee's preference for a 30-minute private meet-

ing in Washington or Korea.[388] Mitoma told the Committee that the final arrangement reached was that Lee, Chung, Lucy and Won Ham, and Mitoma would attend a small fundraising dinner with the President on April 8, 1996, at the Sheraton Carlton Hotel in Washington. In exchange, Cheong Am America would make a contribution to the DNC covering five dinner tickets at $50,000 apiece, for a total of $250,000.[389] Although Cheong Am America did in fact purchase five tickets to the dinner, what actually took place was a five to ten minute meeting in a hotel reception room.[390]

Documents show that on April 8—the day of the dinner—Huang faxed DNC finance director Sullivan a two-page handwritten document, "per our conversation," stating that Cheong Am America was looking for "a large U.S. broadcasting company" for a joint venture to manufacture and market large-screen televisions, with the plant to be built in Carson. The document listed five meeting "participants," identified Lee as chairman of the Cheong Am Group in Korea, and inaccurately identified Chung as head of a Cheong Am Group "division."[391] In response to the fax, Sullivan sent a memorandum—also dated April 8—to Doug Sosnick and Karen Hancox of the White House Office of Political Affairs stating that the Carson mayor wanted "five minutes" with the President that evening "before our first dinner" to discuss the proposed plant in Carson.[392] Neither document indicated that the Cheong Am representatives would be attending the dinner itself.[393]

Mitoma told the Committee that in a phone call on the day of the dinner, Huang had hinted that it might only be possible for Lee to have a private meeting with the President and not attend the dinner.[394] Mitoma testified that he was upset by this conversation in light of the large sum of money Lee was paying for an opportunity to dine with the President. He testified that, in addition, Lee was flying into Washington from Korea for the sole purpose of attending the dinner and bringing the check with him from Korea.[395]

Mitoma told the Committee that when his party arrived at the Sheraton Carlton Hotel, they waited for about an hour in the hotel lobby before being met by Huang.[396] They were then ushered into a "side room."[397] According to Mitoma, he handed Huang the $250,000 check while they were in the lobby, prior to being taken to the side room.[398] Mitoma testified that the President arrived in the side room and a brief meeting followed. Mitoma indicated that he told the President that Lee was interested in opening a manufacturing plant that would create much-needed jobs in Carson, and that the President said that was a "very good idea" and he hoped it would happen.[399] Mitoma testified that Lee and the others then had their pictures taken with the President.[400]

While Mitoma's testimony makes clear that neither he, Lee, nor Chung advocated any substantive policy change nor requested special treatment during or after the meeting,[401] the evidence before the Committee indicates that Cheong Am America's $250,000 contribution was made for the sole purpose of obtaining access to the President. The evidence also demonstrates that Huang was an apparently willing and uncritical participant in an apparent sale of access.

The evidence also indicates that Huang apparently failed to meet his core responsibility of carefully evaluating the $250,000 con-

tribution to ensure that the DNC could properly accept it. A 1995 DNC memorandum, authored by DNC General Counsel Sandler, required all contributions from U.S. subsidiaries of foreign corporations to be thoroughly reviewed by the DNC general counsel's office before acceptance.[402] The memorandum identified four requirements for accepting such contributions: (1) the subsidiary must be incorporated and have its principal place of business in the U.S.; (2) the subsidiary must have sufficient funds from its own U.S. operations to support the contribution; (3) the subsidiary cannot be reimbursed by the foreign owners or parent corporation for its contribution; and (4) the decision to contribute must be made by U.S. citizens or permanent residents and not by foreign nationals.[403] The last paragraph of the memorandum stated the following:

> *Each situation must be examined on a case-by-case basis before any decision to accept a contribution can be made.* As we discussed, the procedure should be that you or your staff discuss the situation with Neil or myself, that DNC counsel review the above requirements with counsel or another official of the company, and that either the company confirm to us in writing that the requirements have been met or that we issue a letter to the company setting out their factual representations to us showing that these requirements have been met and confirming that on the basis of those representations the contribution is lawful.[404] [Emphasis in original.]

The evidence indicates that Huang, due to his DNC training, knew or should have known of these DNC procedures and legal requirements.[405] Mitoma testified that at one point—it is unclear whether it was before or after he had delivered the check—Huang asked him whether Cheong Am was incorporated in the United States and whether the contribution would be drawn on a bank account belonging to the U.S. corporation. Mitoma stated he responded in the affirmative after checking with Lucy Ham at Cheong Am America.[406] He testified that Huang never asked him whether any foreign national, such as Lee or Chung, was involved in the contribution decision, or whether the company was using U.S.-generated income to pay for the $250,000.[407]

According to DNC Finance Director Sullivan, when Huang gave him the $250,000 check in April 1996, he told Huang that he had expected personal contributions from Ham and her husband (who were U.S. citizens), and expressed concern about the eligibility of Cheong Am America to contribute. Sullivan testified that Huang told him that he held onto the check for two days, and Sullivan assumed, based on his conversation with Huang, that he had run the check by the general counsel's office. He said:

> I remember looking at it with him and saying, are you okay with this and have you vetted this with Sandler, and he responded, yes.[408]

Sandler testified, however, that Huang had not discussed the Cheong Am contribution with him prior to September 1996, when the DNC received information that there might be a problem with the contribution.[409]

A memorandum dated September 20, 1996, attended by Sandler and Jake Siewert, states that after learning on September 19th that there might be a problem with the contribution, the DNC immediately investigated, uncovered significant questions, and returned the funds the same day, seven weeks before the election.[410] The memorandum states:

> The DNC's fundraiser [Huang] understood that the company had been in existence in the U.S. for some months. He also was led to believe that all three of the company's principals . . . were U.S. citizens or permanent residents. . . . We learned yesterday . . . the company had no operations in the U.S. at the time the contribution was made . . . [and] one of the three principals, its chairman, John Lee, was not a U.S. citizen. The DNC's fundraiser had been led to believe that Mr. Lee was a permanent resident because he has a social security number, and had resided in Los Angeles for some time; there may have been some confusion because his son is a permanent resident. The other two principals are in fact U.S. citizens and it is our fundraiser's firm understanding that these two made the decision to contribute. However, the involvement—and presence at the fundraiser—of Mr. Lee, raises sufficient additional questions . . . that we would not have accepted the contribution had we known Mr. Lee was not a permanent resident.[411]

The memorandum admits, "In this case, the [DNC's] normal vetting process broke down."[412] Sandler also testified at his deposition that when he asked Huang about the contribution in September, Huang admitted that he "had made a mistake."[413]

The evidence is clear that, with respect to the Cheong Am America contribution, Huang apparently failed to follow the DNC's procedures for evaluating contributions from U.S. subsidiaries of foreign corporations. He did not ask all of the required questions of the company and apparently failed to consult the DNC general counsel's office. When asked by Sullivan in April if he had spoken with the general counsel's office, Huang apparently indicated that he had, even though the general counsel has testified that the first time he was contacted about the contribution was in September. While the evidence does not establish that Huang knew that foreign nationals had participated in the contribution decision and used foreign funds to pay for the contribution, the evidence does show that Huang knew that Lee had flown in from Korea for the dinner and had originally wanted to meet with the President in Korea. Given these facts, Huang should have exercised greater care in determining whether Lee was a foreign national, whether Chung, his Korean partner, had participated in the contribution decision, and whether funds from Korea had been used for the contribution.

DNC officials should have exercised more careful oversight over Huang's fundraising. However, once the DNC became aware of questions about the Cheong Am contribution, it initiated a prompt investigation, Huang admitted his missteps to Sandler, and the DNC immediately returned the funds.

June 18, 1996, DNC coffee at the White House

Another event Huang helped organize was a DNC coffee held at the White House on June 18, 1996. This was the only coffee Huang attended.[414] Thai businesswoman Pauline Kanchanalak also attended with several of her business associates who were foreign nationals and nonresidents and, therefore, ineligible to contribute to the DNC. Kanchanalak was known at the DNC as a significant contributor.[415] The Committee investigated whether Huang sold access to the President through this coffee or whether he made a solicitation at the coffee. The Committee did not receive testimony from Huang, or from Kanchanalak, who reportedly has left the country.

Also present at the coffee were Clarke Wallace, executive director of the U.S.-Thailand Business Council, which promotes trade and investment between Thailand and the United States; Beth Dozoretz, a volunteer fundraiser for the DNC, and her guests, Renee and Robert Belfer; the DNC's Donald Fowler and Marvin Rosen; and Bob Nash, Director of Presidential Personnel.

Kanchanalak was a well-established supporter of the DNC prior to the 1996 election cycle.[416] Sullivan testified that she had been giving to the DNC since at least 1991.[417] She was active in Asian-American political circles, and as an existing DNC Trustee, had attended the inaugural Asian Pacific American Leadership Council dinner with Vice President Gore on November 2, 1995.[418] Huang was put in charge of Kanchanalak's "account."[419]

In late spring 1996, Kanchanalak expressed her desire "to come and bring a couple of people to [a] coffee."[420] Sullivan testified that he initially opposed Kanchanalak's list of proposed coffee attendees because they did not serve the purpose of cultivating new contributors and appeared to be designed as an opportunity for Kanchanalak to impress her business clients.[421] Thus, unlike the many other DNC events at the White House in which both established and prospective Democratic supporters were invited, the June 18, 1996 coffee did not involve an opportunity for the President to interact with a variety of party supporters but rather appeared to be a favor for Kanchanalak. However, John Huang was insistent that her Thai guests must be allowed to attend,[422] and Sullivan and Rosen acceded.

Sullivan testified that it was his sense that Kanchanalak wanted to attend this coffee to impress her clients from the CP Group, a large Thai conglomerate, and that the DNC included Kanchanalak and her guests as a favor to her.[423] FEC records also indicate that "P. Kanchanalak" gave contributions of $85,000 on June 19, 1996, and $50,000 on July 10, 1997, and Pauline Kanchanalak's sister-in-law, Duagnet (Georgie) Kronenberg, gave $50,000 on June 19, 1996. Two contributions from attendees to this event were attributed to this coffee. For internal tracking purposes, the DNC assigns "codes" to contributions associated with particular events. Because coffees were not considered "fundraisers," they did not normally have contributions credited to them.[424]

While both the DNC and the White House both approved the list of prospective attendees, this is the very system which is to blame for the fact that this coffee occurred at all. For instance, the knowledge that a donor was "insisting" on bringing her business associ-

ates to a DNC coffee with the President should have raised a warning flag for Sullivan, who had earlier expressed concerns about Huang's fundraising.

The second allegation is of a possible solicitation at the coffee. Karl Jackson, a Republican, was President of the U.S.-Thailand Business Council with which Kanchanalak was also involved.[425] Jackson testified that he was invited to the coffee a day before it was held and was told that representatives of the council, including the chairman, would be there.[426] Jackson said he understood this to be a policy meeting with the President and was surprised when he heard "DNC" mentioned as he arrived at the White House for the coffee.[427] Jackson alleged that at the beginning of the coffee, Huang stood up and said "Elections cost money, lots and lots of money, and I am sure that every person in this room will want to support the re-election of President Clinton."[428] Jackson was contradicted by other attendees.[429]

The Committee heard public testimony from three of the nine attendees at this coffee: Jackson, Wallace, and Dozoretz. Committee staff also deposed Wallace, Dozoretz, and Robert Belfer, but not Jackson. Much of this testimony focused on Jackson's allegation.

Wallace testified that he did not consider the coffee to be a fundraiser. He said "what it appeared to be was a relationship-building type event with major donors."[430] Wallace recalled that the President introduced Huang to the group at the end of the coffee, not at the beginning as Jackson recounted.[431] Wallace testified that at that time:

> John Huang spoke and he said [to] the President, "Thank you very much for being here, Mr. President," and I think speaking more to the table, he said, "as you know," he said, "this President is the right man to lead [the] country into the 21st century, into the next millennium and I think we have one small hurdle" or something like that, "which is the elections in November and I'm sure you will do everything you can to support that, support the—everyone at this table will do what they can to support the President."[432]

Wallace has no independent recollection of Huang making any statement about "elections being expensive," although he does not contest that this may have been said.[433] Wallace testified in his deposition that he did not understand Huang to be suggesting to the coffee attendees that they themselves should contribute. Rather, Wallace testified that he interpreted Huang's remarks as follows: "Helping to either . . . raise money or help to strengthen the DNC somehow either through networking to get people to support the President or . . . networking to get people to give donations."[434]

Dozoretz has been a volunteer DNC fundraiser since 1992 and is familiar with fundraising events and how they are organized and carried out.[435] She testified that she has never been told that if she raised a certain amount of money she would be given access to the President; indeed, she said she was always told that access to the President was not dependent upon the quantity of contributions

given.[436] Prior to press accounts, Dozoretz does not recall anyone at the DNC referring to the coffees as fundraisers.[437]

Dozoretz who unlike Jackson, sat right next to Huang at the coffee, testified that Huang did not solicit the coffee guests.[438] She said that she would have remembered if Huang had solicited the coffee attendees because "he would have been soliciting people that I brought to the coffee. He would have been soliciting me, and I certainly would have remembered it, and I certainly would have left there having a clear understanding that he worked for the DNC."[439] In fact, she initially thought Huang was a member of Kanchanalak's group.[440]

Dozoretz's guest at the coffee, Robert Belfer, likewise testified he never formed the impression that he was attending a fundraiser. In his deposition, Belfer testified: "Nothing occurred in that room to lead me to understand that I was asked or expected to give money as a result of that coffee. . . . I was not asked at the coffee, nor did I hear anybody else being asked at the coffee to give money."[441] Belfer also had no recollection of Huang making any remarks during the coffee. In his deposition, Belfer testified that he, too, assumed that Huang was a member of Kanchanalak's Thai delegation, and he would have "clearly had an understanding that [Huang] was somehow not a part of this delegation if he got up and gave a fundraising pitch to the people there."[442]

Jackson is the only coffee attendee who recalls Huang making a solicitation for money. Jackson's own testimony reveals that even his version of what Huang purportedly stated was not an express solicitation. Others who attended the coffee do not support even this version of Jackson's testimony; even Jackson's subordinate at the U.S. Thailand Business Council, Clarke Wallace, does not support Jackson's recollection. It is noteworthy that over 1,000 people attended numerous coffees over two years and that Jackson, a longtime Republican, is the only attendee who claimed that there was a solicitation at a coffee.

The Pendleton Act prohibits solicitations for political contributions on federal property. Under the Pendleton Act, such solicitations are prohibited only in certain areas of the White House. This coffee occurred in the Map Room,[443] which has been expressly excluded from the prohibition on solicitations on federal property. While the alleged solicitation, even if it had occurred, might not have been illegal, it would have been improper. The preponderence of evidence before the Committee, however indicates a solicitation did not, in fact occur.[444]

Rawlein Soberano

Rawlein Soberano, is an independent consultant and also cofounder and vice president of the Virginia-based Asian American Business Roundtable ("AABR"). The AABR is a small organization that helps promote Section 8(a) contracts between its members (small, disadvantaged companies) and the federal government.[445] Soberano testified before the Committee that he met with Huang for lunch in early August 1996 to discuss potential sponsors for the annual AABR dinner banquet.[446] Soberano alleged that when the conversation turned to a discussion of the AABR's small operating

budget, Huang offered to provide the organization with $300,000.[447] He described the offer in the following terms:

> And I told him about the organization. I remembered that it was during the discussion about the budget when he mentioned—and I remember this as if it was yesterday. He said, "Perhaps we can help you out," and that's when I looked at him and said "How?" and he said categorically and plainly, "We can give you $300,000 and you can give it back to us later, and you can give 15 percent for the organization," but that is when I told him, "John, this conversation never took place."[448]

As a result of this alleged conversation, Soberano inferred that Huang was offering to provide the AABR with money that he thought may come from the DNC. Soberano testified, however, that Huang never identified either the source of the money that could be provided to the AABR or to where the money would be repaid by the AABR.[449] In both his deposition testimony and his hearing testimony, Soberano also confirmed that Huang never used the word "DNC" during their conversation.[450] Soberano also testified that he did not ask Huang any follow-up questions, nor did the two have any other discussion at all about this except for the alleged statements recounted above.[451]

The Committee was presented with no evidence to support Soberano's allegations. Soberano's calendar, which was produced to the Committee, shows no appointment with Huang on the date in question. Soberano admitted that he did not make reservations for his lunch with Huang[452] and that he knew of no one who saw the two at the restaurant.[453] Soberano also stated that following the incident, he did not tell his boss at the AABR or anyone else, including his wife, about his alleged conversation with Huang.[454]

Soberano's understanding of his conversation with Huang is subject to question. Soberano's allegation is based on his understanding of a brief comment by Huang, a man with whom he had never before had a one-on-one conversation.[455] Soberano is a registered Republican and former political appointee of the Bush Administration.[456] Soberano did not come forward with this story until six months after this alleged event. His supervisor, a Republican activist, set up a meeting with a *Washington Post* reporter without Soberano's approval to urge Soberano to levy this charge against Huang.[457] In fact, Soberano testified that he had refused to meet with reporters for many weeks and only did so after his supervisor set up an appointment without conferring with him.[458] In the Post story that resulted from this interview, his supervisor appeared on the front page although she had no involvement with or knowledge of the activities at issue.[459] Based on this evidence, the possibility cannot be ignored that Soberano misunderstood his conversation with Huang and that he was encouraged to assume a fundraising violation based on much publicized media accounts of allegations against Huang.[460]

The DNC's supervision of Huang

Richard Sullivan, former DNC finance director, testified that as early as the Sheraton Carlton event in May 1996, he was con-

cerned and "nervous" about the number of foreign nationals attending events organized by Huang.[461] Despite this concern, Sullivan stated that he did not closely monitor Huang's fundraising in the months following this event because he believed Huang was reviewing questionable contributions with DNC general counsel Joseph Sandler.[462] However, the only time Sandler reviewed contributions with Huang was after Huang's first fundraising event in February. Despite his concerns, there is no evidence that Sullivan ever raised the issue directly with Sandler or ever talked to Sandler to see if there were, in fact, any problems with the contributors Huang was soliciting.

Following the Jefferson Hotel event, Sullivan became particularly concerned about small events organized by Huang with significant numbers of non-citizens in attendance.[463] Although attendees at DNC events are often allowed to bring a guest, even if the guest is a noncitizen without permanent residence, Sullivan was worried about the impression created by an intimate DNC event with the President at which a large portion of the guests were unable to contribute because they were neither citizens nor permanent legal residents. Sullivan believed such events could invite unwanted press stories.[464]

Sullivan also felt that it was possible that Huang had set up the Jefferson Hotel dinner as a way to impress his former boss, James Riady, and the other guests with his ability to arrange an intimate dinner for them with the President.[465] Sullivan, however, apparently took no steps to stop the dinner or to expand the number of attendees. Sullivan evidently was aware of the guest list because he testified that he had run the list by Karen Hancox at the White House for her approval.[466] Sullivan also testified that after the event Marvin Rosen, the DNC finance chairman, mentioned to him that some of the attendees were nonresidents and, thus, ineligible to contribute.[467]

Although Huang had been hired to develop outreach efforts in the Asian Pacific American community, Rosen testified that he and Sullivan ultimately became concerned with Huang's failure to broaden the contributor base among this community. It appeared that Huang was inviting the same people to his events time and time again.[468] Rosen stated that the DNC was looking for new sources of money, and he and Sullivan did not feel that Huang was producing such new sources.[469] None of these concerns, however, led Rosen or Sullivan to scrutinize the contributors that Huang was bringing in, or to supervise him more carefully. Ultimately, the DNC did forbid Huang from arranging events at which the President would be in attendance.[470]

While the DNC may not have had evidence that Huang was involved in soliciting foreign contributions, it does appear that there were sufficient concerns about the nature of the events Huang was involved in to warrant better supervision of his activities by his DNC supervisors

CONCLUSION

John Huang has been a central figure of the Committee's investigation into the 1996 federal elections, and the Minority believes that this scrutiny was fully justified. Although he did not hold a

senior position in either the Democratic National Committee or any other Democratic organization, he has been linked to a large number of questionable and possibly illegal contributions. It would be impossible to conduct a serious inquiry into party fundraising without taking a close look at such an individual as well as the environment in which he operated. Who is John Huang? How was he hired as a fundraiser? How was he trained? How did he carry out his fundraising responsibilities? How well was he supervised and monitored by his superiors? The Committee examined all of those issues, and this chapter is an attempt to provide answers.

But John Huang was a subject of the Special Investigation not only because of alleged fundraising abuses. Since the fall of 1996, he has been accused—directly or through insinuation—of betraying his country, the United States, by acting as a spy for the People's Republic of China. The evidence gathered by this Committee does not support that allegation and, in some respects, seriously undermines it. The evidence shows that Huang did nothing to exploit his Commerce Department post to obtain classified information. Morever, Huang stated, through his attorney, that he was willing to testify before the Committee with a limited grant of immunity that would not have protected him from prosecution for any form of espionage or mishandling of classified information.

Although the espionage allegations were not substantiated by the Committee's investigation, the Committee did find ample grounds for concern about the way Huang conducted himself when he was employed by the Democratic National Committee. No one at the DNC appears to have condoned Huang's improprieties, but the record shows that warning signs were ignored and that the DNC failed in its responsibility to ensure that Huang was complying with internal DNC policies and the federal campaign finance laws.

FOOTNOTES

[1] John Huang SF–171 Application for Federal Employment, DOC 03AM0042.
[2] John Huang SF–171 Application for Federal Employment, DOC 03AM0042.
[3] John Huang SF–171 Application for Federal Employment, DOC 03AM0042.
[4] John Huang SF–86 Application for Sensitive Position, DOC 03AM0047.
[5] *Los Angeles Times,* 10/21/96; *Washington Post,* 5/13/97. Huang spent seven years at American Security Bank in Washington, starting as a trainee and working his way up to assistant vice president.
[6] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[7] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[8] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[9] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[10] *Newsweek,* 10/21/96.
[11] *Time,* 12/11/96.
[12] *Los Angeles Times,* 11/17/96.
[13] *American Spectator,* 12/96.
[14] *Los Angeles Times,* 11/17/96.
[15] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[16] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[17] John Huang Deposition, 10/30/96 in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[18] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL): Huang SF–171, DOC 03AM0042.
[19] Harvard Business School Profile of the Lippo Group, 1992, pp. 1–3.
[20] Harvard Business School Profile of the Lippo Group, 1992, pp. 1–3.
[21] Harvard Business School Profile of the Lippo Group, 1992, pp. 3, 7.

[22] Harvard Business School Profile of the Lippo Group, 1992, p. 1.
[23] Thomas Hampson, 7/15/97 Hrg., pp. 64–65.
[24] Harvard Business School Profile of the Lippo Group, 1992, pp. 1–3.
[25] *Time Magazine,* 5/5/97.
[26] Thomas Hampson, a private investigator called to testify on the structure of the Lippo Group testified that China Resources is used by the Chinese government as "an agent of espionage, economic military and political." However, Hampson introduced no evidence that the Lippo Group engaged in espionage, economic or otherwise, testifying that he had no information that would indicate there was any activity on the part of the Chinese Government through China Resources or through Lippo, in the United States. Thomas Hampson, 7/15/97 Hrg., pp. 71–73, 77–78. Hampson also testified that China Resources has a broader purpose, "to foster trade and to promote development to the mainland's economy. Through business ties it has established, the group seeks out technology that the country needs and buys it." Thomas Hampson, 7/15/97 Hrg., pp. 70–71.
[27] Thomas Hampson, 7/15/97 Hrg., p. 56.
[28] Thomas Hampson, 7/15/97 Hrg., pp. 80–81.
[29] *Fort Worth Star-Telegram,* 10/31/96; Thomas Hampson, 7/15/97 Hrg., pp. 76–81.
[30] Exhibit 105.
[31] Harold Arthur, 7/15/97 Hrg., p. 98.
[32] John Huang SF–86 Application for Sensitive Position, DOC 03AM0047.
[33] John Huang SF–86 Application for Sensitive Position, DOC 03AM0047.
[34] HHH 2378. Documents produced to the Committee by Hip Hing Holdings indicate that Huang was asked to join Committee of 100 in 1993. HHH 2378. His work with this organization continued through his work with this organization after he left Lippo for the Department of Commerce. See 9/22/95 Committee of 100 directory identifying Huang as Director.
[35] Hip Hing Holdings documents, HHH 3037–38, 4609, 4967–68.
[36] *Los Angeles Times,* 10/21/96.
[37] *Los Angeles Times,* 12/23/96.
[38] *Los Angeles Times,* 12/23/96.
[39] *Washington Post,* 10/18/96.
[40] *Washington Post,* 5/13/97.
[41] *Los Angeles Times,* 12/23/96.
[42] John Huang Deposition, 10/30/96, in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[43] *Los Angeles Times,* 12/23/96.
[44] John Huang Deposition, 10/30/96 in *Judicial Watch Inc.* v. *Dept. Commerce,* CA. 95–0133 (RCL).
[45] Los Angeles County, CA tax records of holdings of Hip Hing Holdings.
[46] Juliana Utomo, 7/15/97 Hrg., p. 14.
[47] Juliana Utomo, 7/15/97 Hrg., p. 53.
[48] Exhibits 101, 104: Profit and Loss statements of Lippo Group Holding Companies, HHH 0233, HHH 0236–37, CHI 0085.
[49] Exhibit 103.
[50] See legal analysis in Part 1 Overview (Chapter 1), supra.
[51] FEC public disclosure reports of contributions by Hip Hing Holdings, Toy Center Holdings and San Jose Holdings. See www.tray.com for contribution records.
[52] Lippo Group holding companies requests for reimbursement of expenses from August to December 1993, HHH 0236–37.
[53] Exhibit 105. During the July 15 hearing, Senator Thompson referred to an Advisory Opinion issued by the Federal Election Commission, the summary of which states that "in order for a contribution to be legal, a domestic subsidiary must make contributions out of net profits." Advisory Opinion 1992–16. While the Opinion holds it is proper for the particular domestic subsidiary seeking the Opinion to make contributions from its net profits, it does advise whether contributions from the net income of a domestic subsidiary operating at a loss are permissible. See legal analysis in Chapter 1, supra.
[54] Thomas Hampson, 7/15/97 Hrg., pp. 82–83.
[55] 1992 Riady contribution checks to state parties, HHH 1360, 1362–63.
[56] 1992 Riady contribution checks to the Inaugural Committee, HHH 1361.
[57] Check from Hip Hing Holdings to John Huang dated 2/3/94, HHH 5067.
[58] Juliana Utomo, 7/15/97 Hrg., pp. 39–40.
[59] Check from Hip Hing Holdings to John Huang dated 7/15/94, HHH 5184.
[60] Harvard Business School Profile of the Lippo Group, 1992, p. B4.
[61] The main issue in the cease and desist orders has been the quality of the loan assets and the balance of capital reserves relative to the loan portfolio, in part because of the poor performance of the bank prior to Lippo's purchase of it. See Harold Arthur's opening statement, pp. 12–14, 7/15/97 Hrg., p. 92. However, in 1990, the bank was found to have failed to file a number of reports of international wire transfers over $10,000 in violation of the reporting provisions of the laws meant to combat money laundering. While the FDIC referred this action to other agencies, the evidence before the Committee does not indicate that any investigation of money laundering was ever initiated against the bank.
[62] Harold Arthur, 7/15/97 Hrg., p. 145; Juliana Utomo, 7/15/97 Hrg., p. 58.
[63] Assistant Secretary Charles Meissner was a victim of the 1996 plane crash in Croatia which also claimed the life of Commerce Secretary Ron Brown, among others.
[64] EOP 002062–067.
[65] Gary Christopherson deposition, 6/4/97, p. 140.
[66] DOC Document No. 03AK0461.
[67] Gary Christopherson deposition, 6/4/97, pp. 42–46.
[68] Gary Christopherson deposition, 6/4/97, p. 47.

[69] EOP 002068, 002071, 009452, 009454, 009487.
[70] Gary Christopherson deposition, 6/4/97, p. 41.
[71] Gary Christopherson deposition, 6/4/97, pp. 50–51, 53.
[72] Gary Christopherson, 7/16/97 Hrg., p. 50.
[73] Jeffrey Garten, 7/16/97 Hrg., p. 117.
[74] Jeffrey Garten, 7/16/97 Hrg., p. 118.
[75] Jeffrey Garten, 7/16/97 Hrg., p. 119.
[76] Gary Christopherson, 7/16/97 Hrg., p. 23.
[77] Gary Christopherson, 7/16/97 Hrg., p. 49.
[78] Gary Christopherson deposition, 6/4/97, pp. 42–46.
[79] Jeffrey Garten, 7/16/97 Hrg., pp. 120–21.
[80] Jeffrey Garten, 7/16/97 Hrg., p. 120.
[81] David Rothkopf deposition, 6/2/97, p. 30.
[82] Jeffrey Garten, 7/16/97 Hrg., p. 121.
[83] Jeffrey Garten, 7/16/97 Hrg., p. 121.
[84] DOC Documents 03BA1258 and 03BA0891.
[85] DOC Document 03CC0269.
[86] DOC Document 03CC0269.
[87] DOC Documents 03AB2372, 03BA2959, 03BA2974, 03BA1754 and 03BA1755.
[88] The requests that Huang fielded from Senators and Representatives on behalf of their constituents included requests from Congresswoman Ileana Ros-Lehtinen, whose constituent, Dr. Donn J. Tilson, wanted a list of U.S. companies doing business in Ecuador (DOC document 03BA2985); Senator Daniel Moynihan, who inquired on behalf of Louis R. Soto, who wanted licensing forms for the export of tires to South America (DOC document 03BA2982); Congressman Bob Goodlatte, whose constituent, Gregory W. Feldmann, was seeking information on incentives available to companies interested in purchasing companies in Mexico (DOC document 03BA3053); Congressman John Tanner, who wanted information on crossing the border with equipment for missionary work and taking tour groups into Mexico for Dr. Ernest C. Gambrell (DOC document 03BA3050); and Senator Trent Lott, who contacted Huang on behalf of Marcus Byrd seeking assistance removing squatters on his company's land holdings in Costa Rica (DOC document 03BA2987). Additionally, Huang, Susan Blackman and Hong Phong-Pho presented a briefing to Rep. Bennie Thompson regarding Vietnam (DOC document 03AB0148).
[89] *Wall Street Journal,* 7/14/97.
[90] Jeffrey Garten deposition, 6/3/97, p. 82.
[91] Jeffrey Garten, 7/16/97 Hrg., p. 137.
[92] Jeffrey Garten, 7/16/97 Hrg., p. 122.
[93] See generally David Rothkopf deposition, 5/22/97; Timothy Hauser deposition, 6/2/97; Alan Neuschatz deposition, 5/22/97.
[94] Alan Neuschatz deposition, 5/22/97, p. 17.
[95] DOC Document 03AB0172.
[96] DOC Document 03AB0172.
[97] DOC Document 03AB0172.
[98] Senator Specter, 7/16/97 Hrg., pp. 156–157.
[99] John Dickerson deposition, 5/30/97, p. 13.
[100] Joseph Burns deposition, 5/3/97, pp. 100–101.
[101] Joseph Burns deposition, 5/3/97, pp. 99–100.
[102] Steven Garmon deposition, 5/23/97, p. 28.
[103] Steven Garmon deposition, 5/23/97, pp. 33–34. In March 1997, pursuant to an executive order doing away with interim clearances and in response to a request by Secretary Daley, the Security Office changed its policy to require a request from a supervisor before any employee, career or political, be granted a temporary clearance.
[104] In the course of the limited background check, an NCIC computer notation surfaced on John Huang. The NCIC form states that Huang was "arrested or received 8/17/72" and lists "Agency-USINS Baltimore," and "Charge—Dep Proc." When he received this information, the reviewing officer took it to his supervisor Al Buskirk. Buskirk testified that while he was unable to determine whether Huang had been arrested from the face of the NCIC form, his review of Huang's SF–171 and SF–86 revealed that Huang had married an American citizen on 8/6/72, several days before he entered the country. Based on his own understanding of the immigration process, Buskirk concluded that Huang was fingerprinted as a required step in the administrative citizenship process. Documents obtained from INS support Buskirk's supposition and confirm that Huang appeared at the INS in Baltimore on August 17, 1972, where a Record of Deportable Alien form was filled out noting his marriage. A fingerprint card in his file dated 9/5/72 indicates that the result of the FBI check was that he had never been arrested. On August 30, 1972, Huang applied for permanent resident status. No deportation proceedings were ever initiated against John Huang and he has never been arrested.
[105] Steven Garmon deposition, 5/23/97, pp. 76–77. Huang's file contained the typical form letter from the Security Office noting that: "____ is granted this waiver [of the OPM background investigation] due to the critical need for his expertise in the new Administration for Secretary Brown."
[106] Steven Garmon deposition, 5/23/97.
[107] Paul Buskirk, 7/16/97 Hrg., p. 29; staff interview with Lewis Williams, 6/12/97.
[108] Questions have also been raised about Huang obtaining classified information from outside DOC during this period. In order for an individual with a clearance to receive classified information from an outside agency, the individual's clearance must be "passed" from the Security Office of the employing agency to the Security Office of the agency granting access to the information. Whenever a clearance is "passed" to another agency, a form is filled out authorizing the clearance being passed. No such forms exist indicating Huang's clearance was passed at any time.
[109] Gordon Burns deposition, 5/23/97, pp. 101–102.

[110] Robert Gallagher deposition, 5/30/97, p. 13.
[111] Staff interview with Richard L. Johnston, Jr., 6/12/97.
[112] Robert Gallagher deposition, 5/30/97, p. 13.
[113] Robert Gallagher deposition, 5/30/97, p. 13.
[114] Staff Interview with Lewis Williams, 6/12/97.
[115] Staff Interview with Lewis Williams, 6/12/97.
[116] Staff Interview with Lewis Williams, 6/12/97.
[117] Staff Interview with Lewis Williams, 6/12/97.
[118] Robert Gallagher deposition, 5/30/97, pp. 7, 15.
[119] John Dickerson deposition, 5/5/97, pp. 6, 8.
[120] Robert Gallagher deposition, 5/30/97, p. 7.
[121] Robert Gallagher deposition, 5/30/97, p. 15.
[122] John Dickerson deposition, 5/5/97, pp. 8–9.
[123] John Dickerson deposition, 5/5/97, pp. 8–9.
[124] Senator Glenn, 7/16/97 Hrg., p. 213.
[125] Chairman Thompson, 7/17/97 Hrg., p. 4. In his opening statement, the Chairman referred to Huang's use of the Stephens office in the following terms: "He used the office of a private company for phone calls and faxes while he worked at Commerce, frequently corresponding to times when he had just received briefings on classified material."
[126] Celia Mata deposition, 8/1/97, pp. 50, 68.
[127] Paula Greene and Celia Mata, 7/17/97 Hrg., pp. 24–25.
[128] Paula Green and Celia Mata, 7/17/97 Hrg., pp. 110–111.
[129] Celia Mata deposition, 8/1/97, p. 71.
[130] Celia Mata, 7/17/97 Hrg., pp. 29–30.
[131] Celia Mata, 7/17/97 Hrg., p. 13.
[132] Celia Mata, 7/17/97 Hrg., p. 13.
[133] Celia Mata, 7/17/97 Hrg., pp. 11–13.
[134] Celia Mata, 7/17/97 Hrg., p. 119.
[135] Celia Mata, 7/17/97 Hrg., p. 21.
[136] Celia Mata deposition, 8/1/97, p. 49.
[137] Celia Mata deposition, 8/1/97, p. 54.
[138] Celia Mata deposition, 8/1/97, p. 50.
[139] Paula Greene deposition, 7/2/97, p. 42.
[140] Paula Greene, 7/17/97, p. 14.
[141] Paula Greene deposition, 7/2/97, pp. 43–44.
[142] Paula Greene, 7/17/97 Hrg., pp. 19–20; Paula Greene deposition, 7/2/97, p. 45.
[143] Paula Greene, 7/17/97 Hrg., p. 54.
[144] Paula Greene deposition, 7/2/97, p. 38.
[145] Paula Greene deposition, 7/2/97, p. 38.
[146] A Committee of 100 Directory lists Huang as a director as of September 22, 1995. Moreover, during his tenure at Commerce, Huang received phone calls from people associated with the Committee of 100. See DOC 03 AB0017, records of call received by Huang while at the Department of Commerce.
[147] Paul Buskirk Deposition, 6/3/97, pp. 80–83.
[148] Staff interview of Alan Neushatz, 3/13/97.
[149] Alan Neushatz deposition, 5/22/97, pp. 17–18.
[150] DOC Document 03AB0022.
[151] DOC Document 03AB0022. "As a former Principal Deputy Assistant Secretary for IEP, Mr. John Huang will help the Assistant Secretary for International Economic Policy during the transition time of the Principal Deputy Assistant Secretary's position in IEP. . . . The time frame for Mr. Huang's consultations on transition will not-to-exceed 30 days."
[152] Alan Neuschatz deposition, 5/22/97, p. 58.
[153] Staff Interview with Helena Malinowski, 3/13/97.
[154] Alan Neuschatz deposition, 5/22/97, p. 51.
[155] Paul Buskirk deposition, 6/3/97, pp. 68–70, 80–83.
[156] Paul Buskirk deposition, 6/3/97, p. 68.
[157] Paul Buskirk deposition, 6/3/97, pp. 80–83.
[158] Staff interview of Alan Neushatz, 3/13/97.
[159] Staff interview of Alan Neushatz, 3/13/97.
[160] Staff interview of Alan Neushatz, 3/13/97.
[161] Alan Neuschatz deposition, 5/22/97, p. 60.
[162] Alan Neuschatz deposition, 5/22/97, p. 55.
[163] James Per Lee deposition, 5/2/97, pp. 93–102.
[164] *Los Angeles Times,* 8/29/97.
[165] Senator Durbin, 7/16/97, Hrg., pp. 222–227.
[166] DNC 1276339–40.
[167] DNC 1276339.
[168] David Mercer deposition, 5/27/97, p. 14.
[169] David Mercer deposition, 5/14/97, p. 230; David Mercer deposition, 5/27/97, pp. 17–18.
[170] DNC Public Disclosure Records. See 1995 year end report.
[171] DNC 1276339.
[172] DNC 1276339.
[173] David Mercer deposition, 5/27/97, p. 31.
[174] David Mercer deposition, 5/27/97, p. 31.
[175] David Mercer deposition, 5/27/97, p. 31.
[176] David Mercer deposition, 5/27/97, pp. 31–32.
[177] DNC 1277722.
[178] DNC 1277722.

[179] David Mercer deposition, 5/27/97, pp. 8–9.
[180] David Mercer deposition, 5/27/97, p. 9.
[181] Exhibit 170.
[182] Exhibit 170.
[183] David Mercer deposition Exhibit 38, 5/14/97.
[184] David Mercer deposition, 5/14/97, p. 212.
[185] DNC 1276337.
[186] David Mercer deposition, 5/27/97, p. 33.
[187] David Mercer deposition, 5/27/97, p. 33.
[188] David Mercer deposition, 5/27/97, p. 33.
[189] David Mercer deposition, 5/27/97, pp. 33–34.
[190] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[191] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[192] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[193] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[194] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[195] Staff interview with Arief and Soraya Wiriadinata, 7/13/97.
[196] Richard L. Sullivan deposition, 6/4/97, p. 208.
[197] C. Joseph Giroir deposition, 4/30,97, pp. 75–76.
[198] Richard L. Sullivan deposition, 6/4/97, pp. 210; C. Joseph Giroir deposition, 4/30/97, pp. 109–10.
[199] Richard L. Sullivan deposition, 6/4/97, p. 219.
[200] Richard L. Sullivan deposition, 6/4/97, pp. 210–219.
[201] Donald L. Fowler deposition, 5/21/97, p. 170.
[202] Donald L. Fowler deposition, 5/21/97, Exhibit 14: Fowler's schedule listing meeting at the Four Seasons with Giroir, Sullivan as contact, 9/13/95, DNC 3020731–3027032.
[203] Richard L. Sullivan deposition, 6/4/97, p. 241.
[204] Donald L. Fowler deposition, 5/21/97, p. 170.
[205] C. Joseph Giroir deposition, 4/30/97, pp. 84–86; Nancy Hernreich deposition, 6/21/97, Exhibit 51: President's schedule, 9/13/95, EOP 02758–02760, the President's 9/13/95 schedule. Huang was not originally scheduled to meet with the President at this time. Upon arrival at the White House, Huang had to make special arrangements to be "waved" in for the visit. C. Joseph Giroir deposition, 4/30/97, pp. 86–87.
[206] Bruce Lindsey deposition, 7/1/97, p. 106–114; C. Joseph Giroir deposition, 4/30/97, p. 87.
[207] Joseph Giroir deposition, 4/30/97, p. 87.
[208] C. Joseph Giroir deposition, 4/30/97, p. 97. Huang had indicated his interest in moving to the DNC to Giroir earlier in the year. C. Joseph Giroir deposition, 4/30/97, p. 75. The Clinton campaign had not done well with this group in the 1992 election and it was acknowledged that they should endeavor to do better in the 1996 election. Donald L. Fowler deposition, 5/21/97, p. 190–191.
[209] Bruce Lindsey deposition, 7/1/97, p. 115–117.
[210] Bruce Lindsey deposition, 7/1/97, pp. 117–118.
[211] Bruce Lindsey deposition, 7/1/97, p. 124.
[212] C. Joseph Giroir deposition, 4/30/97, pp. 101–104; Marvin S. Rosen deposition, 5/19/97, pp. 129–133. See also C. Joseph Giroir deposition, 4/30/97, Exhibit 7/Marvin S. Rosen deposition, 5/19/97, Exhibit 5: Letter from Giroir to Rosen referencing a meeting of the previous day, 9/27/97, Middleton was involved because he knew Rosen. Marvin S. Rosen deposition, 5/19/97, pp. 129–130.
[213] C. Joseph Giroir deposition, 4/30/97, pp. 103–104.
[214] Bill Kaneko deposition, 4/29/97, p. 119.
[215] Harold Ickes deposition, 6/26/97, p. 115.
[216] Marvin S. Rosen deposition, 5/19/97, pp. 138–139.
[217] Rosen discussed Huang's hiring with Ickes, Middleton, Fowler, Sullivan and the President in a receiving line conversation in which the President requested the status of Huang's hiring. Sullivan received recommendations from Middleton (Richard L. Sullivan deposition, 6/4/97, pp. 216–217) and Arnold, but did not speak with anyone in the White House. Richard L. Sullivan deposition, 6/4/97, p. 249.
[218] Richard L. Sullivan deposition, 6/4/97, p. 224–225.
[219] Richard L. Sullivan deposition, 6/5/97, p. 12.
[220] Richard L. Sullivan deposition, 6/5/97, pp. 12–14.
[221] Donald L. Fowler deposition, 5/21/97, p. 171.
[222] Richard L. Sullivan deposition, 6/4/97, p. 226.
[223] Donald L. Fowler deposition, 5/21/97, p. 191.
[224] Donald L. Fowler deposition, 5/21/97, pp. 190–191.
[225] Marvin S. Rosen deposition, 5/19/97, pp. 148–150.
[226] Joseph E. Sandler deposition, 5/30/97, pp. 93–96.
[227] Huang's Department of Commerce salary was $117,927. DOC document 03CC0226.
[228] Richard L. Sullivan deposition, 6/4/97, p. 226.
[229] Richard L. Sullivan deposition, 6/4/97, p. 231.
[230] Joseph E. Sandler deposition, 5/15/97, p. 58.
[231] Neil Paul Reiff deposition, 6/20/97, pp. 55–58.
[232] Richard L. Sullivan, 7/9/97 Hrg., pp. 44–46; Richard L. Sullivan deposition, 6/4/97, pp. 226–230.
[233] Samuel Newman deposition, 7/17/97, pp. 142–143; Joseph E. Sandler, 9/10/97 Hrg., p. 13.
[234] Sullivan testified that he told Sandler of this desire for special attention for Huang. He further testified that Sandler said that he would ensure that Huang received such a briefing and that Sandler later told him that they did, indeed, have such a session shortly after Huang's arrival. Richard L. Sullivan, 7/9/97 Hrg., pp. 142–144; Richard L. Sullivan deposition, 6/5/97,

pp. 23–25. Sandler testified that he did not recall such a request from Sullivan. Joseph E. Sandler, 9/10/97 Hrg., pp. 12–14; Joseph E. Sandler deposition, 8/21/97, pp. 13–15.

[235] Joseph E. Sandler deposition, 5/30/97, pp. 100–101.

[236] Marvin Rosen deposition, 5/19/97, pp. 263–265.

[237] Neil Paul Reiff deposition, 6/20,97, Exhibit 9: Updated Legal Guidelines for Fundraising memorandum for Finance Staff from Joe Sandler and Neil Reiff, 4/24/95, DNC 1485662–145675 at DNC 145665.

[238] Joseph E. Sandler deposition, 5/30/97, pp. 100–102.

[239] Joseph E. Sandler deposition, 8/21/97, p. 17. Sandler testified that he communicated this level of comfort to either Sullivan or Pastrick.

[240] Memorandum from Richard Sullivan for Chairman Fowler re: Asian American events, 10/21/96, D 0000967.

[241] Richard L. Sullivan deposition, 6/5/97, p. 86.

[242] Briefing for the President for Asian Pacific American Leadership Council dinner at the Hay Adams Hotel in Washington, D.C., 2/19/96, DNC 0624297–308; briefing for the Vice President for Asian Pacific American Leadership Council breakfast at the Hay Adams Hotel in Washington, D.C., 2/20/96, DNC 1208377–388.

[243] Simeona Fortunata Pasquil deposition, 7/30/97, pp. 17–18.

[244] Briefing for the President for Asian Pacific American Leadership Council dinner at the Hay Adams Hotel in Washington, D.C. 2/19/96, DNC 0624297–308; briefing for the Vice President for Asian Pacific American Leadership Council breakfast at the Hay Adams Hotel in Washington, D.C., 2/20/96, DNC 1208377–388.

[245] Democratic National Committee Asian Pacific American Leadership Council Summit Participant List, DNC documents B 0001094–1099.

[246] Donald L. Fowler deposition, 5/21/97, p. 273.

[247] DNC Finance Systems Source Detail Report, Asian Dinner, 2/19/96, DNC documents D 0000968–0000973.

[248] Democratic National Committee Asian Pacific American Leadership Council Donor Participant List, DNC 1208901–902.

[249] Joseph E. Sandler deposition, 8/21/97, pp. 21–25; Sandler deposition Exhibits # 23–27, 8/21/97.

[250] Staff Interview with Jessica Elnitiarta, 6/19/97.

[251] DNC Finance System Source Detail Report, POTUS Asian Dinner, DNC documents D 0000978–980.

[252] DNC Finance System Source Detail Report, POTUS Asian Dinner, DNC documents D 0000978–980.

[253] DNC check tracking form for Yogesh Gandhi $325,000 contribution to the DNC, 5/28/96, DNC 0829404.

[254] DNC Press Release, "DNC Refunds Contributions," 6/27/97.

[255] DNC Contributions Returned Since September, 1996 (as of 11/22/96), DNC D 0000637.

[256] See DNC Press Release, "DNC Refunds Contributions," 6/27/97.

[257] See DNC Contributions Returned Since September, 1996 (as of 11/22/96), DNC D 0000637; DNC Finance System Source Detail Report, POTUS Asian Dinner, DNC documents D 0000978–980; DNC Press Release, "DNC Refunds Contributions," 6/27/97.

[258] Briefing for the President for DNC Asian Pacific American Leadership Council event at Century Plaza Hotel, Century City, California, 7/22/97, DNC documents C 0000233–235.

[259] *Los Angeles Times*, 12/21/97.

[260] Man Ho deposition, 8/6/97, pp. 202–204.

[261] DNC Press Release, "DNC Refunds Contributions," 6/27/97.

[262] DNC Press Release, "DNC Refunds Contributions," 6/27/97.

[263] DNC Finance Systems Source Detail Report, L.A. Gala, DNC documents D 0000981–996.

[264] Richard L. Sullivan deposition, 6/5/97, pp. 59–61, 66–67.

[265] *USA Today*, 2/19/97.

[266] See discussion of Riady and the Lippo Group, supra.

[267] POTUS Dinner July 30 Attendees for an event at the Jefferson Hotel, Washington, D.C., DNC documents D 0000597–598.

[268] DNC Finance Systems Source Detail Report, POTUS Asian D.C. Dinner, DNC document D 0000997. DNC National Chairman Donald Fowler testified that the DNC occasionally requests that donors write their checks to state Democratic parties who need the financial help, sometimes in lieu of a contribution to the DNC or in lieu of the DNC making a donation. Donald L. Fowler deposition, 5/21/97, pp. 352–356.

[269] DNC Finance Systems Source Detail Report, POTUS Asian D.C. Dinner, DNC document D 0000997. See *Washington Post*, 5/13/97.

[270] DNC Finance Systems Source Detail Report, POTUS Asian D.C. Dinner, DNC document D 0000997.

[271] Richard L. Sullivan deposition, 6/5/97, p. 70.

[272] White House Tape # 8.

[273] Richard L. Sullivan deposition, 6/5/97, p. 71.

[274] For more information, see Chapter 21 of the Minority Report.

[275] For more information on why the DNC considers both types of events to be important during a campaign, see Chapter 25 of the Minority Report.

[276] DNC documents # D 0000974–977.

[277] Kimberly Tilley deposition, 6/23/97, p. 22–23.

[278] Kimberly Tilley deposition, 6/23/97, p. 54.

[279] Kimberly Tilley deposition, 6/23/97, p. 47.

[280] Kimberly Tilley deposition, 6/23/97, p. 47.

[281] For example, the April 29, 1996 schedule for the Vice President included a speech at the National Cable Television Association conference, a meeting with African American community

leaders, an event at the Hsi Lai Temple, a community policing event in San Jose and a fundraiser in Los Altos Hills, California. Committee Exhibit 774, EOP 007195 to 7204.

[282] Memorandum that included a request for the President and Vice President to attend a certain number of DNC fundraisers in various cities, 1/2/96, SCGA–00270 to 291.

[283] Memorandum, 1/2/96, SCGA–00270 to 291, SCGA–00286.

[284] The early stages of trip planning were illustrated in a February 22, 1996, e-mail message to Tilley from Karen Hancox. Hancox wrote:

> The DNC has asked, once we know, to be told what cities the VP will be in CA March 8/9. They can probably use him, depending on the cities.
>
> thanks
>
> PS—POTUS is going to do SF when he is in CA March 8/9—ergo—*the DNC is dropping its SF request for the VP in April—they just need L.A. and San Jose in April.*

Exhibit 767, EOP 047839.

[285] Exhibit 1004: E-mail message from Lisa Berg to Kimberly Tilley, 3/12/96, EOP 053290.

[286] Jacqueline Dycke deposition exhibit #4, 8/8/97.

[287] Exhibit 771: E-mail message from Vice President Gore to Timberly Tilley, 3/15/96, EOP 053291.

[288] The meeting between the Vice President and Hsing was at 1:40 p.m., and the electronic message were exchanged at about 2:20 p.m. Senator Levin, 9/5/97 Hrg., p. 66–67.

[289] David Strauss, 9/5/97 Hrg., pp. 29.

[290] David Strauss, 9/5/97 Hrg., p. 27.

[291] Exhibit 1006: Vice President Gore's schedule, 3/15/96, EOP 053033–036.

[292] David Strauss, 9/5/97 Hrg., p. 62.

[293] Statement of the Venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97.

[294] EOP 892.

[295] David Strauss, 9/5/97 Hrg., p. 15.

[296] Staff Interview with Hsing Yun, 6/17/97.

[297] Letter from Diana So to FBI Agent Gayle Jacobs, 5/20/97.

[298] Invitation to DNC Asian Pacific American Leadership Council event at Harbor Village Restaurant in Monterey Park, California; the name of the restaurant is crossed out and Hsi Lai Temple is written in: SEN 00111.

[299] Exhibit 772: Letter from Maria Hsia to the Vice President, 3/23/96, SEN 01719.

[300] Staff interview of Charlie Woo, 5/30/97.

[301] Staff interview of Charlie Woo, 5/30/97.

[302] Richard Sullivan deposition, 6/25/97, p. 28.

[303] Richard Sullivan deposition, 6/25/97, p. 28

[304] Richard Sullivan deposition, 6/25/97, pp. 21–22.

[305] Richard Sullivan deposition, 6/25/97, pp. 23.

[306] Richard Sullivan deposition, 6/25/97, pp. 23–24.

[307] Richard Sullivan deposition, 6/25/97, pp. 23–24.

[308] Richard Sullivan deposition, 6/25/97, p. 24.

[309] Richard Sullivan deposition, 6/25/97, p. 31. Sullivan was able to determine that he called David Strauss on or about April 3, 1997 to notify him of the changes regarding the Los Angeles fundraiser and the Hsi Lai Temple event after reviewing an April 11, 1996 memo written by Huang that reference a phone conversation with Strauss a week earlier. EOP 000809.

[310] David M. Strauss deposition, 6/30/97, p. 92.

[311] Exhibit 1003: Vice President Gore's trip schedule, EOP 056497–499; Exhibit 1009: electronic mail from Dycke to Tilley, et. al., 4/10/96, EOP 053292; Exhibit 1010: Memorandum from Huang to Tilley re 6/29/96 [sic] fundraising lunch, 4/11/96, Bates #000809.

[312] Kimberly Tilley deposition, 6/23/97, p. 124.

[313] Kimberly Tilley deposition, 6/23/97, pp. 127–128.

[314] Kimberly Tilley deposition, 6/23/97, pp. 158–159.

[315] Exhibit 1010: Memo from John Huang to Kim Tilley, 4/11/96.

[316] Exhibit 1003: Document prepared by Jackie Dycke, 4/11/96, EOP 056497 to 99.

[317] Jacqueline Dycke deposition, 8/8/97, p. 66.

[318] David Strauss, 9/5/97 Hrg., pp. 36–37.

[319] See Exhibits 1011 (EOP 047955), 1012 (EOP document, illegible Bates stamp), 1013 (EOP 005407), a series of internal notes between and among the Vice President's foreign policy and national security staff. These evaluations of the proposed Temple event are dated April 16 and April 19, 1996.

[320] Exhibit 1012: Handwritten note from John Norris to Bill Wise, 4/16/96.

[321] Exhibit 1012: Handwritten note from John Norris to Bill Wise, 4/16/96.

[322] Exhibit 1013: E-mail from Robert Suettinger to John Norris, 4/19/96, EOP 005407. Suettinger's e-mail message was written in response to an e-mail from Norris in which he refers to the Hsi Lai Temple event as a "fundraising lunch" and he states that the "event would take place at the end of June." Mr. Norris's use of the word "fundraising lunch" was due to the fact that he did not know how to properly characterize DNC events. In response to a question posed by Senator Collins regarding Mr. Norris's e-mail Mr. Strauss stated:

> It's accurate that it's referenced as a fundraising lunch here, but you have people who have no background in how to correctly describe DNC events characterizing events here. And so the important implications of this are the foreign policy implications rather than how the event is described because the person who's describing this would have no basis for how to correctly describe a DNC event.

David Strauss, 9/5/97 Hrg., p. 78.

[323] Kimberly Tilley deposition, 6/23/97, pp. 131–132.
[324] Staff interview with Robert Suettinger, NSC Director of Asian Affairs, 6/3/97.
[325] Manteghi testified that she understood from Tilley and McManimon that this was an outreach event. Ladan Manteghi deposition, 8/26/97, pp. 31–32, 53–55.
[326] Ladan Manteghi deposition, 8/26/97, pp. 53–67.
[327] See letters from all GAC Minority Members to Chairman Thompson and from Chairman Thompson to Senator Glenn requesting and refusing, respectively, Ladan Manteghi to appear before the Committee, 9/3/97.
[328] David Strauss, 9/5/97 Hrg., pp. 30, 37, 57, 64–65.
[329] David Strauss, 9/5/97 Hrg., pp. 64–65.
[330] See David Strauss, 9/5/97 Hrg., p. 39 (indicating that the Vice President would have reviewed the briefing materials "right before the event").
[331] Exhibit 775: Briefing for Vice President Gore for Asian Pacific American Leadership Council luncheon honoring Vice President Gore, Hsi Lai Temple, Hacienda Heights, California, 4/29/96, EOP 000938 to 950.
[332] David Strauss, 9/5/97 Hrg., p. 40.
[333] Exhibit 776: Briefing for Vice President Gore for reception honoring Vice President Gore at the home of George and Judy Marcus, Los Altos Hills, California, 4/29/96, EOP 06338–40.
[334] Transcript of Vice President Gore's speech at the Hsi Lai Temple on 4/29/96.
[335] See Donald L. Fowler, 9/9/97 Hrg., pp. 27–28; Mona Pasquil deposition, 7/30/97, pp. 65–66; Man Ho deposition, 8/6/97, p. 181.

Strauss, who attended the event with the Vice President, explained to the Committee that the Vice President did not give a fundraising speech at the Hsi Lai Temple event. Strauss testified, "it was a very good speech, but it had nothing to do with fundraising." David Struass, 9/5/97 Hrg., p. 42. See David Strauss, 9/5/97 Hrg., pp. 41–42 for further details on the Vice President's speech.

[336] *Boston Globe,* 9/4/97.
[337] *Boston Globe,,* 9/4/97.
[338] Statement of the venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97, p. 3.
[339] David Strauss, 9/5/97 Hrg., p. 42.
[340] David Strauss, 9/5/97 Hrg., pp. 41–42.
[341] David Strauss, 9/5/97 Hrg., pp. 43–44.
[342] David Strauss, 9/5/97 Hrg., pp. 43–44.
[343] Staff interview of Charlie Woo, 5/30/97.
[344] Mona Pasquil deposition, 7/30/97, pp. 59–62.
[345] DNC Chairman Fowler testified as follows:

> It was not an event, a fund-raising event like many events are. There was no specifically designated sum of money required to be admitted.
>
> There was nobody at the door taking up tickets, nobody at the door receiving checks. Some people contributed prior to the time they came and some people contributed after they came. Many people who came did not contribute at all. It was, in fact, part of a political outreach that the Democratic National Committee had with the Asian community. It was a blended event, if you will, partly political and partly fund-raising.
>
> The question arises—it arose in my mind—was this appropriate? And let me say that, as my deposition indicated, I did have some apprehension about a fund-raiser in a house of worship, but I learned that with Buddhists and with people from the Asian community that a temple like that is as much a community center as it is a house of worship. And, frankly, I related that to my own experience in the '60's in the civil rights movement where much of the political activity was held in African American churches and much of what went on stemmed from the spirit and the motivation received in those churches. And I considered, when I was going through that in the '60's, that to be an appropriate activity. So, that allayed my concerns about the propriety of the fund-raising.

Donald L. Fowler, 9/9/97 Hrg., pp. 26–28.

> . . . [T]here were three people who made presentations there—myself, the temple master, and the Vice President. None of the three of us made any reference to raising money, contributing money, giving money before or after. So it did not have that aspect.

Donald L. Fowler, 9/9/97 Hrg., p. 29; see also, pp. 71–72.

[346] Donald L. Fowler, 9/9/97 Hrg., p 29.
[347] Man-Ho Shih, 9/4/97 Hrg., p. 83; Man-Ho Shih deposition, 8/6/97, pp. 136–146.
[348] Buddhist nuns, 9/4/97 Hrg., p. 143.
[349] Man-Ho Shih deposition, 8/6/97, pp. 134–37.
[350] Man-Ho Shih, 9/4/97 Hrg., pp. 137–139.
[351] Statement of the Venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97, p. 3.
[352] Man-Ho Shih, 9/4/97 Hrg., pp. 125–126. See, for example, DNC invitation to the Temple event, 000776.
[353] See, e.g., contribution levels for a DNC gala, DNC document B 0001621; contribution levels for a Democratic Business Council dinner at the Mayflower Hotel in Washington, D.C. 3/19/96, B 0000867–869.
[354] Man-Ho Shih, 9/4/97 Hrg., p. 70.
[355] Staff interview of Jessica Elnitiarta, 6/19/97.
[356] DNC Finance System Source Detail Report for Gore L.A. DNC event, DNC documents D 0000974–977; Bates # 000669–671.

[357] EOP 000965–969.
[358] Ladan Manteghi deposition, 8/26/97, pp. 54–57.
[359] David Strauss, 9/5/97 Hrg., pp. 44–45.
[360] David Strauss, 9/5/97 Hrg., pp. 44–45.
[361] Ladan Manteghi deposition, 8/26/97, p. 66.
[362] Ladan Manteghi deposition, 8/26/97, pp. 66–67.
[363] See, for example, a memorandum by Jackie Dycke, who worked on the April 29, 1996 schedule until mid-April, and described the Temple event for an April 11 scheduling meeting as a "DNC Luncheon." She testified that she obtained this information for a proposed event from Maura McManimon who worked on this event with Huang.
[364] Kimberly Tilley deposition, 6/23/97, p. 124.
[365] Q: Is it common in your experience with regard to the Vice President's schedule and how it evolves that an event may be contemplated, but that over time and indeed on fairly short notice, its character could change or the event itself could be canceled?

STRAUSS. That is correct.

Q: Does that happen often?

STRAUSS. That is correct.

David Strauss, 9/5/97 Hrg., pp. 36–37.

[366] Kimberly Tilley deposition, 6/23/97, pp. 127–128. In addition, Tilley testified:

A: There were traditional fundraisers that were ticketed events at the door. There were events that were community outreach like this Asian-Pacific where it was part of the DNC Finance plan, where in order for someone to be a member, there was a certain amount of money they paid to be a part of that, you know, committee or whatever they called; and then there were those people to whom they wanted to reach out to, who they hoped would become donors.

Q: And would you define outreach events as different than fundraisers?

A: Yes, I would.

Kimberly Tilley deposition, 6/23/97, pp. 158–159.

[367] DNC Finance System Source Detail Report for Gore L.A. DNC event, DNC documents D 0000974–977.
[368] Richard L. Sullivan, 7/9/97 Hrg., p. 91.
[369] Richard L. Sullivan, 7/9/97 Hrg., pp. 93–94.
[370] Man-Ho Shih, 9/4/97 Hrg., pp. 27, 93. Neither Huang nor Hsia's name was mentioned in connection with this request from the abbess. Man-Ho Shih, 9/4/97 Hrg., p. 93.
[371] Man-Ho Shih, 9/4/97 Hrg., pp. 30–32. These meetings were covered in more detail at her deposition, see Man-Ho deposition, 8/16/97, pp. 136–155. Man Ho testified that these contacts were for logistics planning and had nothing to do with whether the event was a fundraiser. Man-Ho Shih deposition, 8/6/97, pp. 143–145.
[372] Man-Ho Shih, 9/4/97 Hrg., p. 31.
[373] Man-Ho testified that she did proceed to invite her friend, Catherine Chen who contributed $2500. Man-Ho Shih, 9/4/97 Hrg., pp. 32–33.
[374] Man-Ho Shih, 9/4/97 Hrg., pp. 33; Yi Chu, pp. 73–74. These checks were written out of the Temple's general expense account. See Chapter 21 of the Minority Report.
[375] Man-Ho Shih, 9/4/97 Hrg., p. 38.
[376] Man-Ho Shih, 9/4/97 Hrg., p. 41.
[377] Man-Ho Shih, 9/4/97, p. 48.
[378] Howard Hom deposition, 8/27/97, pp. 23–25.
[379] Exchange between Majority Counsel and Man-Ho Shih, 9/4/97 Hrg., pp. 22–24.
[380] See, for example., *Washington Post, 4/16/97.*
[381] See, for example, *Washington Post,* 4/16/97.
[382] Cheong Am America, Inc. was incorporated in the State of California on 2/28/96. See Exhibits 807 and 810.
[383] See Richard Sullivan deposition, 6/25/97, pp. 41–59.
[384] Michael Mitoma, 9/5/97 Hrg., pp. 126–27. Mitoma was the elected mayor of Carson, a city of approximately 100,000 persons located near Long Beach, California. According to Mitoma, the unemployment rate in Carson approached 12 percent following the closure of the Long Beach Naval Shipyard and other defense-related downsizings in the early 1990s. The recruitment of Asian-based manufacturers such as Nissan. Pioneer, Kenwood and Mikasa had been an important part of Carson's strategy to decrease this unemployment rate, and Mitoma visited Lee in Seoul, South Korea, as part of this redevelopment effort. Michael Mitoma, 9/5/97 Hrg., pp. 144–45.
[385] Lucy Ham is an Asian American businesswoman who owns a Los Angeles legal services plan and had been friends with Mitoma for some time. Michael Mitoma, 9/5/97 Hrg., p. 170. Lucy and her husband, Won Ham, were both officers of Cheong Am America, Inc. Michael Mitoma, 9/5/97 Hrg., pp. 125, 146.
[386] Michael Mitoma, 9/5/97 Hrg., p. 148.
[387] Michael Mitoma, 9/5/97 Hrg., p. 127. Ham's suggestion that Mitoma call the DNC apparently was based on a suggestion of a friend of hers in the Los Angeles Asian-American business community.
[388] Michael Mitoma, 9/5/97 Hrg., pp. 128–131. In a 4/1/96 faxed message to Huang, Mitoma wrote that Lee would accept attendance at a fundraising dinner, but "still prefers private meeting before trip to Korea by the President. Is it possible to have Lee meet Clinton privately for 30 minutes in Korea when he visits instead of the private meeting in Washington? If possible let me know how what [sic] kind of fund raising would be appropriate." Faxed message from

Mitoma to Huang, 4/1/96, B 0000754. Mitoma also wrote directly to the White House requesting a private meeting in Korea with the President. Letter from Mitoma to the White House, 4/8/96, DNC 0625244. DNC Chairman Don Fowler informed Huang that such a meeting could not be arranged, writing on a copy of the Mitoma letter, "President cannot see these folks in Korea." Letter from Mitoma to the White House, 4/8/96, DNC 0625244. See also David L. Fowler deposition, 5/21/97, pp. 418–21.

[389] Michael Mitoma, 9/5/97 Hrg., pp. 128–130.

[390] Michael Mitoma, 9/5/97 Hrg., p. 141.

[391] Exhibit 805: fax cover sheet and two page document from John Huang to Richard Sullivan, 4/8/96, B 000747–49.

[392] Exhibit 806: memorandum from Sullivan to Sosnik and Hancox, 4/8/96, DNC 1143204. Sullivan testified that this memorandum was based upon conversation that he had with Huang, rather than on Huang's faxed document that he does not recall seeing at any time. Richard Sullivan deposition, 6/25/97, p. 44.

[393] The Huang and Sullivan documents differ in one important respect: the Sullivan memorandum indicates that three of the four Cheong Am officials are from Los Angeles, while the Huang document apparently was meant to convey that that the senior officials were from Seoul, Korea. This difference may have contributed to a misimpression at the DNC that Cheong Am America was an ongoing concern in Los Angeles seeking to open a new operation in Carson, California, rather than a brand new subsidiary not yet engaged in any U.S. business.

[394] Michael Mitoma, 9/5/97 Hrg., p. 134.

[395] Michael Mitoma, 9/5/97, Hrg., pp. 132–34. Mitoma told the Committee that he explicitly informed Huang at the hotel that Lee had flown in from Korea for the dinner, but never stated whether he told Huang that Lee had brought the contribution check with him from Korea. See Michael Mitoma, 9/5.97 Hrg., p. 162. The check itself provides an address in Los Angeles, and contains no indication of a foreign origin. See DNC check tracking form, DNC 0564548.

[396] Michael Mitoma, 9/5/97 Hrg., p. 137–139.

[397] Michael Mitoma, 9/5/97 Hrg., p. 139.

[398] Michael Mitoma, 9/5/97 Hrg., p. 138.

[399] Michael Mitoma, 9/5/97 Hrg., p. 154.

[400] Michael Mitoma, 9/5/97 Hrg., p. 140. Mitoma testified that after the meeting with the President he was able to persuade Lee and Chung to have dinner elsewhere. During his testimony, when asked to review documents he had not seen before, Mitoma apparently realized that there had actually been two DNC dinners occurring that evening at the Sheraton Carlton, and that the President had stopped by in between speeches at each. Michael Mitoma, 9/5/97 Hrg., p. 141.

[401] Michael Mitoma, 9/5/97 Hrg., p. 153.

[402] Exhibit 851: Memorandum from DNC General Counsel Joseph Sandler to DNC Finance Director Richard Sullivan, regarding contributions by U.S. subsidiaries of foreign corporations, 5/11/95, DNC 1683964–66.

[403] Michael Mitoma, 9/5/97 Hrg., pp. 149–150.

[404] Exhibit 951: Memorandum from DNC General Counsel Joseph Sandler to DNC Finance Director Richard Sullivan, regarding contributions by U.S. Subsidiaries of foreign corporations, 5/11/95, DNC 1683964–66.

[405] See discussion above of steps taken by the DNC to educate Huang about federal election law requirements, including regarding contributions by foreign subsidiaries of U.S. corporations.

[406] Michael Mitoma, 9/5/97 Hrg., pp. 142, 151.

[407] Michael Mitoma, 9/5/97 Hrg., pp. 142 151.

[408] Richard Sullivan deposition, 6/5/97, p. 52:9–11.

[409] Joseph Sandler deposition, 5/15/97, pp. 82–84, 91. Sandler indicated that an attorney, who had been contacted by a journalist about the Cheong Am America contribution called him to let him know what there might be a problem with the contribution. Joseph Sandler deposition 5/15/97, p. 77.

[410] Memorandum from Jake Siewert and DNC General Counsel Joe Sandler to David Eicherbaum, with copies to DNC Chairman Fowler and others, regarding the Cheong Am America contribution, 9/20/96, DNC 3111214. Joseph Sandler deposition, 5/15/97, p. 91.

[411] Memorandum from Jake Siewert and DNC General Counsel Joe Sandler to David Eichenbaum, with copies to DNC Chairman and others, regarding the Cheong Am America contribution, 9/20/96, DNC 3111214.

[412] Memorandum from Jake Siewert and DNC General Counsel Joe Sandler to David Eichenbaum, with copies to DNC Chairman Fowler and others, regarding the Cheong Am America contribution, 9/20/96, DNC 3111214.

[413] Joseph Sandler deposition, 5/15/97, p. 84.

[414] Richard Sullivan deposition, 6/4/97, p. 140. See Chapter 27, White House Coffees and Overnights.

[415] Richard L. Sullivan deposition, 6/4/97, pp. 124–126.

[416] See Clarke Wallace deposition, 8/27/97, Exhibit 18: *Ethnic News Watch* article written by Asian American Democratic activist Maeley Tom, describes a dinner party hosted by Kanchanalak and one other "major Democratic party supporter" for 50 people attending the first APEC Leaders' Forum in Seattle in November, 1993, 12/10/93.

[417] Richard L. Sullivan deposition, 6/4/97, p. 124. Sullivan said "she was very well-to-do." Richard L. Sullivan deposition, 6/4/97, p. 134.

[418] Samuel Newman deposition, 7/17/97, p. 198, referencing Newman Deposition Exhibit 3: guest list for dinner with the Vice President at the Mayflower Hotel, 11/2/95.

[419] Richard L. Sullivan deposition, 6/4/97, p. 125. Thereafter, Huang, Sullivan and Rosen discussed "working with Pauline to get her to come to the table, to make her contribution, to raise some money, when she was going to do it." Hoping that it would spur Kanchanalak on, in early 1996 the DNC invited her to a number of White House events early in 1996, (Richard L. Sulli-

van deposition, 6/4/97, p. 125) and Kanchanalak visited the White House for a coffee on January 25, a lunch on January 29, and a dinner on February 8. (White House WAVES records for Pauline Kanchanalak, EOP 002958–59.) According to FEC records, Kanchanalak and her sister-in-law, Daugnet "Georgie" Kronenberg, contributed a total of $15,000 in hard money in February, $10,000 in soft money in March, and another $10,000 in soft money on June 6, 1996.

[420] Richard L. Sullivan deposition, 6/4/97, p. 126.

[421] Richard Sullivan deposition, 6/4/97, pp. 125–130.

[422] Richard L. Sullivan deposition, 6/4/97, pp. 127–128.

[423] Richard L. Sullivan deposition, 6/4/97, pp. 133–134.

[424] Joseph E. Sandler deposition, 8/21/97, pp. 151–153.

[425] Karl Jackson, 9/16/97 Hrg., p. 4. Jackson and Quayle have a continuing relationship. For example, Quayle is affiliated with the Hudson Institute, a conservative think tank based in Indianapolis that financed a 1993 trip by Quayle and Dr. Jackson to Japan, China and Taiwan; Clarke Wallace deposition, 8/27/97, p. 134, referencing Deposition Exhibit 27: *Washington Post,* 6/20/93. Dr. Jackson is a Senior Fellow and an Associate Director of the Competitive Center of the Hudson Institute. Biography of Karl Jackson, UST 2006. Dr. Jackson also is a business partner with Dan Quayle in various enterprises, including FX Strategic Advisors, Inc. and FX Concepts, Inc. Clarke Wallace deposition, 8/27/97, p. 130, referencing Deposition Exhibit 28: *Financial Times,* 9/6/93.

[426] Jackson testified that Wallace may have called him with the invitation. Karl Jackson, 9/16/97 Hrg., p. 5. The CP Group, as explained by Jackson, "was Thailand's largest trading group, an organization that was deeply involved with business in China and elsewhere around Asia." Karl Jackson, 9/16/97 Hrg., p. 6.

[427] Karl Jackson, 9/16/97 Hrg., p. 7.

[428] Karl Jackson, 9/16/97 Hrg., p. 11.

[429] Clarke Wallace, 9/16/97 Hrg., p. 108. Beth Dozoretz, 9/16/97 Hrg., p. 119; Robert Belfer, 9/16/97 Hrg., p. 25; Clarke Wallace deposition, 8/27/97, p. 106.

[430] Clarke Wallace, 9/16/97 Hrg., pp. 110, 128.

[431] Clarke Wallace, 9/16/97 Hrg., p. 105.

[432] Clarke Wallace, 9/16/97 Hrg., p. 106–107, quoting Clarke Wallace deposition, 8/27/97, p. 54–55.

[433] Clarke Wallace, 8/27/97 deposition, p. 56; Clarke Wallace, 9/16/97 Hrg., p. 108.

[434] Clarke Wallace deposition, 8/27/97, p. 55:9–12.

[435] Beth Dozoretz, 9/16/97 Hrg., p. 156; Beth Dozoretz deposition, 9/2/97, pp. 11-12, 28. Dozoretz is a DNC Trustee and friend of the President and First Lady. Beth Dozoretz, 9/16/97 Hrg., p. 122; Beth Dozoretz deposition, 9/2/97, p. 28 Dozoretz and her husband have a history of being supporters of both Democratic and Republican candidates and party organizations. In addition to their support of President Clinton, the Dozoretz's continue to support Republican candidates including John Warner, Alfonso D'Amato, and Arlen Specter. Beth Dozoretz deposition, 9/2/97, pp. 162–63.

[436] Beth Dozoretz, 9/16/97 Hrg., p. 139.

[437] Beth Dozoretz, 9/16/97 Hrg., p. 157.

[438] Beth Dozoretz, 9/16/97 Hrg., p. 119; Robert Belfer, 9/16/97 Hrg., p. 25; Clarke Wallace deposition, 8/27/97, p. 106.

[439] Beth Dozoretz, 9/16/97 Hrg., p. 120.

[440] It was during the coffee itself that Dozoretz formed the impression that Huang might be a representative from the DNC. Beth Dozoretz, 9/16/97 Hrg., pp. 118–119.

[441] Robert Belfer deposition, 9/16/97, p. 77–78, 82. Indeed, he characterized the event as follows: "Let me suggest to you as someone who is very active in philanthropic circles, much more so than political, that one can have a multi-step process in which you engender goodwill at one event, in order to soften people up for raising money at different points in time. It doesn't necessarily make the particular event a fundraiser." Robert Belfer, 9/16/97 Hrg., p. 176, quoting Robert Belfer deposition, 9/6/97, p. 76.

[442] Robert Belfer deposition, 9/6/97, p. 25.

[443] List of expected attendees at White House coffee, 6/18/96, WH A 00097.

[444] See, for example, Senator Lieberman, 9/16/97 Hrg., p. 187.

[445] Rawlein Soberano, 9/16/97 Hrg., p. 198.

[446] Rawlein Soberano, 9/16/97 Hrg., pp. 201–202.

[447] Rawlein Soberano, 9/16/97 Hrg., p. 203.

[448] Rawlein Soberano, 9/16/97 Hrg., p. 203.

[449] Rawlein Soberano, 9/16/97 Hrg., p. 223–224.

[450] Rawlein Soberano, 9/16/97 Hrg., p. 209; Rawlein Soberano deposition, 5/13/97, p. 104.

[451] Rawlein Soberano deposition, 5/13/97, p. 104.

[452] Rawlein Soberano deposition, 5/13/97, pp. 29, 31.

[453] Rawlein Soberano, 9/16/97 Hrg., p. 211.

[454] Rawlein Soberano deposition, 5/13/97, p. 105.

[455] Rawlein Soberano deposition, 5/13/97, pp. 102–103.

[456] Rawlein Soberano deposition, 5/13/97, pp. 96, 99–100.

[457] Rawlein Soberano deposition, 5/13/97, pp. 59–60.

[458] Rawlein Soberano deposition, 5/13/97, pp. 44–45.

[459] Rawlein Soberano deposition, 5/13/97, pp. 33–47.

[460] Rawlein Soberano deposition, 5/13/97, p. 33.

[461] Richard L. Sullivan deposition, 6/5/97, pp. 62–63.

[462] Richard L. Sullivan deposition, 6/5/97, pp. 62–63.

[463] Richard L. Sullivan deposition, 6/5/97, pp. 73–77.

[464] Richard L. Sullivan deposition, 6/5/97, p. 73.

[465] Richard L. Sullivan deposition, 6/5/97, p. 71.

[466] Richard L. Sullivan deposition, 6/5/97, pp. 82–83.

[467] Richard L. Sullivan deposition, 6/5/97, p. 73.
[468] Donald L. Fowler deposition, 5/21/97, p. 273.
[469] Marvin S. Rosen deposition 5/19/97, p. 175.
[470] Richard L. Sullivan deposition, 6/5/97, p. 85.

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PART 1 FOREIGN INFLUENCE

Chapter 5: Charlie Trie

Yah Lin ("Charlie") Trie is a native of Taiwan who emigrated to the United States in 1974, when he was 25 years old. He later became an American citizen and settled in Little Rock, Arkansas, where he owned a Chinese restaurant patronized by then-Governor Clinton. A friendship developed between the two men which continued after Governor Clinton won the 1992 presidential election. Trie subsequently contributed and raised substantial sums of money for the Democratic National Committee ("DNC") and the Presidential Legal Expense Trust ("PLET"). In April 1996, President Clinton appointed Trie to the Commission on United States-Pacific Trade and Investment Policy.

The Committee investigated the source of the substantial funds raised and contributed by Trie to the DNC and the funds he raised for the PLET. The Committee was particularly interested in whether any foreign funds were involved, in light of Trie's business dealings with Ng Lap Seng (also known as Wu), a wealthy Macao businessman with ties to businesses in China. The Committee examined Trie's appointment to the Commission. The Committee also examined Trie's relationship with the Chinese government and his attendance with Wang Jun, a Chinese businessman, at a White House coffee. On January 28, 1998, the Department of Justice indicted Trie for conspiring to defraud the DNC and Federal Election Commission ("FEC") by making and arranging illegal campaign contributions utilizing foreign funds.

FINDINGS

(1) Charlie Trie contributed and raised substantial sums of money to benefit the DNC in order to gain access for himself and his associates to the White House and senior Administration officials.

(2) Trie and his businesses received substantial sums of money from abroad and used these funds to pay for some or all of the $220,000 in contributions that Trie, his family and businesses made to the DNC. The evidence before the Committee suggests that some of the contributions may have been illegal, and, in fact, Trie was recently indicted with respect to some of these contributions. Trie has pleaded not guilty. The DNC returned all $220,000.

(3) Trie and Wu used three individuals who were legally permitted to make political contributions—Keshi Zahn, Yue Chu and Xiping Wang—as conduits to make contributions to the DNC, in apparent violation of law.

(4) There is no evidence before the Committee that any DNC officials were knowingly involved in Trie's misdeeds, but the DNC did not adequately review the source of Trie's contributions and did not respond appropriately to warning signs of his improper activities.

(5) The evidence before the Committee does not establish that the government of the People's Republic of China provided money to Trie or directed Trie's actions.

(6) The Presidential Legal Expense Trust, a private trust not involved in campaigns, acted prudently and responsibly in its dealings with Trie.

(7) There is no evidence before the Committee that Trie, Wu, or anyone associated with them had any influence or effect on U.S. domestic or foreign policy.

BACKGROUND

Charlie Trie, who fled the United States in late 1996 and remained abroad until February 1998, refused to be interviewed by or cooperate with the Committee. Much of the information before the Committee concerning Trie was compiled under the direction of Jerry Campane, a special agent detailed to the Committee from the Federal Bureau of Investigation and who testified before the Committee on July 29, 1997. On January 28, 1998, the Department of Justice indicted Trie for conspiring to defraud the DNC and FEC by making and arranging illegal campaign contributions utilizing foreign funds.[1] He returned to the United States in early February to answer the charges and surrendered to federal law enforcement agents.

Trie was born in Taiwan on August 15, 1949.[2] He emigrated to the United States in 1974 and later became a United States citizen. He eventually settled in Little Rock, Arkansas, where his older sister was in the restaurant business. Trie began as a busboy and eventually became co-owner with his sister of a popular Chinese restaurant in Little Rock known as Fu-Lin which was patronized by then-Governor Clinton.[3] A friendship developed between the two men which continued after Clinton was elected President in November 1992.[4]

In 1990, Trie and his sister sold Fu-Lin, and Trie began exploring Asian business opportunities. He engaged in a variety of trading opportunities involving safe deposit boxes, chickens, cotton, and other products. Trie apparently was not successful in these business endeavors.[5] Trie also undertook efforts to facilitate business ventures between firms in Little Rock and their counterparts in China. He arranged for a number of delegations of Chinese officials to come to Little Rock in order to promote business opportunities, and he escorted Arkansas business people to China.[6]

One of Trie's attempted business ventures involved renovating the Camelot hotel in downtown Little Rock. Trie enlisted two investors in an attempt to win the bid for the project. One of the investors, a foreign national, was Ng Lap Seng (Cantonese spelling), also known as Wu Li Sheng (Mandarin spelling), a Macao[7] real estate tycoon. Although Trie and his group did not win the bid, Trie developed a business relationship with Wu that continued beyond that project.[8] In October 1992, Trie incorporated a company called Daihatsu International Trading, Inc., to pursue ventures with Asian businesses.[9] Trie later opened branch offices of Daihatsu in Washington, D.C., at the Watergate complex, as well as offices in Beijing, Taiwan, and three other Asian cities. According to witnesses interviewed by the Committee, Trie's move to Washington reflected his hope that he could capitalize on his long-term friendship with the President by bringing Daihatsu's business to Washington.[10]

Footnates at end of chapter.

The Committee's investigation determined that Daihatsu was not a profitable enterprise.[11] Although Trie claimed in one media interview to have made $1 million in 1993,[12] a Committee review of Daihatsu's corporate tax returns for 1992 through 1995 found that its gross income never exceeded $250,000, its net income was negligible, and Trie was paid a company salary of about $30,000 a year. A review of other Daihatsu records and Committee interviews with Charlotte Duncan, Daihatsu's bookkeeper, and Dewey Glasscock, Trie's accountant, also suggest that Daihatsu had meager, if any, profits. Moreover, Trie and his wife apparently had little income from other sources.[13] The bank records for accounts maintained by three additional companies incorporated by Trie—San Kin Yip (USA), Inc., San Kin Yip International Trading Corp., and America Asia Trade Center, Inc.—suggest none had either earnings or ongoing business activity.

The Committee's investigation also found, however, that from 1994 to 1996, bank records for Trie's personal and business accounts show a steady stream of wire transfers from abroad totaling about $1.4 million, including at least $900,000 from accounts maintained by Wu or Wu-controlled companies.[14] The Committee's analysis of these bank records indicate that Wu wired money from several foreign sources into three bank accounts maintained by or accessible to Trie. Trie then transferred the funds among six different domestic accounts.[15] Charlotte Duncan stated that Maria Mapili, a Daihatsu employee familiar with these wire transfers, characterized the transfers from Wu to Daihatsu as "commissions" or "loans." However, in Duncan's view, Mapili never properly explained Daihatsu's entitlement to these funds. When she was interviewed by the Committee, Duncan was unable to identify the types of business Daihatsu transacted.[16]

TRIE'S DNC CONTRIBUTIONS AND FUNDRAISING

From 1994 to 1996, Trie, his family, and his businesses contributed a total of $220,000 to the DNC.[17] During the 1996 election cycle, Trie also acted as a volunteer fundraiser for the DNC and was eventually credited with raising about $500,000 in contributions. To date, the DNC has returned all of the Trie-related contributions of $220,000 and most of the $500,000 attributed to him, making Trie—after John Huang—the source or solicitor of the second largest volume of DNC-returned contributions.[18]

Trie's DNC contributions

Trie first began making significant contributions to the DNC in 1994.[19] The records also show that in May and June 1994, Trie and his wife wrote three checks to the DNC for a total of $100,000. FEC records show that Trie, his family, and his businesses contributed a total of $127,500 in 1994, $50,000 in 1995, and $29,500 in 1996.[20]

On January 28, 1998, the U.S. Department of Justice indicted Trie and a business associate, Yuan Pei ("Antonio") Pan, for conspiring to defraud the DNC and FEC in part by making improper contributions utilizing foreign money.[21] Pan, a Taiwanese national, worked for both Trie and Wu.[22] According to the indictment, in May 1994, one of the foreign companies Pan was associated with transferred $100,000 to Trie's personal bank account, which is the

account that Trie used to make several contributions to the DNC in 1994 and 1995.[23] In October 1994, Wu wire-transferred $100,000 to the account of San Kin Yip International Trading Co., a company that Trie had just established and which then made a $15,000 contribution to the DNC later that month.[24] The indictment also cites several DNC contributions made from the bank account of Trie's Daihatsu company, but does not cite specific deposits from Wu, Pan, or related companies into this account.[25]

The indictment and the evidence before the Committee indicating that the bulk of money obtained by Trie and his companies since 1994 came from abroad raise serious questions about the legality of the $220,000 in Trie-related contributions to the DNC. The indictment charges Trie with engaging in a criminal conspiracy to defraud the DNC and FEC in part "by contributing . . . to the DNC."[26] In addition to this criminal charge, the Trie-related contributions may violate the Federal Election Campaign Act ("FECA"). For example, if Wu or Pan participated, directly or indirectly, in any of the contribution decisions involving the $220,000, the resulting contribution might violate FECA's prohibition against foreign contributions. If, in any instance, Trie or one of his companies acted as a mere conduit for a campaign contribution provided by Wu, Pan, or a related company, the resulting contribution might violate FECA's prohibition against contributions in the name of another. A third possible FECA violation involves any corporate contribution by a U.S. subsidiary of a foreign corporation utilizing foreign funds. This violation apparently occurred at least once when, in October 1994, as described above, San Kin Yip International Trading Corp., a U.S. subsidiary of a foreign corporation controlled by Wu, contributed $15,000 to the DNC just ten days after the company's incorporation and prior to its generating any income in the United States. Wu has apparently admitted to funding the $15,000 with money from abroad and a Committee analysis confirms that it appears to be an illegal foreign contribution.[27]

Aside from the 1994 San Kin Yip contribution, given the multiple bank accounts and money transfers among Trie, Wu, Pan, and related companies, the evidence before the Committee is insufficient to establish the precise source of funds for many of the $220,000 Trie-related contributions.[28] The Committee was also unable to obtain specific evidence on the role that Wu or Pan may have played in particular contribution decisions.[29] However, Campane testified that, in light of how little income was generated by Trie's business ventures, it was his opinion that the entire $220,000 was paid for with foreign funds provided by Wu or others.[30] While it is possible that Trie could show that, due to his status as an American citizen, some portion of the contributions met the requirements of federal election law,[31] Trie's flight from the United States and refusal to cooperate with the Committee's investigation cast doubt on whether that showing will be made.

In light of the troubling facts known at the time, and rather than contending it may keep a contribution until proven illegal, the DNC properly returned all of the $220,000.[32]

Trie's DNC fundraising

In addition to contributing to the DNC, beginning in 1995, Trie began to raise substantial funds for the DNC, primarily from the Asian-American community. Trie often worked with John Huang, although, unlike Huang, Trie was a voluntary, unpaid fundraiser for the DNC, rather than a paid employee.[33] Trie's fundraising efforts appear to have begun around the time of a November 1995 inaugural fundraiser for the Asian Pacific American Leadership Council ("APALC"), a newly established DNC organization which, among other functions, sought to raise funds from the Asian-American community.[34] In 1996, Huang organized several DNC fundraisers targeting the Asian-American community; Trie was active in most.

The Trie indictment charges him with conspiring to defraud the DNC and FEC in part by "channel[ing] foreign money to the DNC through the use of straw or conduit contributions"; "conceal[ing] the source of the money contributed by reimbursing conduits in cash and using multiple bank accounts;" and "caus[ing] the DNC to file false campaign finance reports with the FEC."[35] Many of the alleged conduit contributions described in the indictment appear to be associated with the DNC fundraising efforts that Trie undertook.

In February 1996, in connection with his first event as a paid DNC fundraiser, Huang organized and Trie co-chaired an APALC fundraiser at the Hay Adams Hotel in Washington. This event, which brought in about $716,000,[36] was described in the press as "an unqualified financial success" raising "much more than the party had ever raised from the Asian-American community."[37] Trie sat next to the President at the head table. Wu attended the event as Trie's guest. Included among the contributions attributed in DNC records to both Trie and Huang in connection with that event were checks totaling $25,000 from Yue Chu and Xiping Wang. These contributions are described in more detail below. Another check attributed jointly to Trie and Huang in connection with this event was for $12,500 from Keshi Zahn, which appears to be identified in the indictment as an illegal conduit contribution.[38] While Zahn maintains that she paid for this contribution with her own money, her association with Trie and Wu, involvement with the Chu and Wang checks, and bank records tracing the movement of funds over the course of a week from Trie to Zahn to the DNC provide convincing evidence that Trie and Wu supplied the funds for her contribution.[39] The DNC has returned the Chu, Wang, and Zahn contributions.[40]

In May 1996, Huang organized and Trie co-chaired a fundraiser at the Sheraton Carlton Hotel in Washington, an event which raised about $579,000.[41] Trie again sat next to President Clinton at the head table. Trie and Huang were jointly credited in DNC records with obtaining the largest single contribution at the fundraiser, $325,000 from Yogesh K. Gandhi.[42] Gandhi told the Committee in a staff interview that a friend of his from Houston had alerted him to the Asian-American fundraiser that would be taking place in Washington.[43] Gandhi said that Trie visited him at his hotel on the day of the event and suggested a contribution of $500,000 for Gandhi and an entourage of 25 individuals to attend

the dinner. According to Gandhi, he negotiated with Trie and ultimately provided a check for $325,000 in exchange for 26 tickets to the event. Since Huang received credit for the contribution, Trie presumably presented the check to Huang who passed it on to the DNC.[44] This $325,000 contribution accounts for about half of the total DNC contributions attributed to Trie's fundraising efforts. The DNC later returned the contribution after published reports that Gandhi had claimed poverty in a California legal action, and Gandhi declined DNC requests to explain the source of the $325,000. The Gandhi check is not addressed in the Trie indictment.

In July 1996, Trie assisted Huang with a DNC APALC gala fundraiser at the Century Plaza Hotel in Los Angeles.[45] President Clinton attended, and the event raised about $368,000.[46] James Riady and Ted Sioeng, businessmen from Indonesia, sat at the head table next to the President, and a number of other foreign nationals attended as guests. None of the checks attributed to Trie in connection with the event has been identified as problematic; none appears to be addressed in the Trie indictment.

In August 1996, on the day of a Radio City Music Hall fundraiser in New York City celebrating President Clinton's 50th birthday, Trie delivered to the DNC contribution checks totaling over $100,000, allegedly to help Huang who had been asked to raise hard money contributions in connection with this event.[47] Apparently, for each of these checks, DNC tracking records identified Trie as the "solicitor" and Huang as the "DNC contact."[48] After media reports began to raise questions about some of the checks, the DNC investigated and returned several due to unresolved concerns about the donors.[49] Additional questions about the checks arose when a Committee review of bank records determined that, less than two weeks earlier, on August 7, 1996, $200,000 had been wire-transferred from a bank account in Macao to a bank account in Washington, D.C., to which Trie had access.[50] The January 1998 Trie indictment charges that, on or about August 15, an unidentified co-conspirator wire-transferred $80,000 from the Trie account in Washington to a bank account in California, and that on the same day Trie's business associate, Pan, "received $80,000 in cash."[51] The indictment charges that Pan then used these funds to solicit five conduit contributions to the DNC totaling $40,000, which Pan reimbursed with cash.[52] The indictment charges that Trie also personally solicited two conduit contributions to the DNC totaling $20,000, which he reimbursed with cash.[53] While the Committee did not obtain independent evidence on these alleged conduit contributions or on Pan, the indictment and the evidence before the Committee regarding other conduit contributions involving Trie provide reason to believe that Trie was involved in a number of conduit contributions to the DNC utilizing foreign funds.

CHU AND WANG CONTRIBUTIONS

The Committee received detailed testimony about $25,000 contributed to the DNC and $3,000 contributed to the Democratic Senatorial Campaign Committee ("DSCC"), a division of the DNC. The contributors of record are Yu Chu and Xiping Wang, two women who were born in China, are related by marriage, and are both

legal permanent residents of the United States.[54] Both testified before the Committee pursuant to grants of immunity from criminal prosecution, and their contributions are further discussed in Chapter 21 of the Minority Report.

An analysis of FEC, DNC, and bank records, together with testimony from Campane, Chu, and Wang, show that on November 14, 1995, Chu wrote a check for $2,000 to the DSCC and a $1,000 check payable to Keshi Zahn. Chu testified that she provided the checks at Zahn's request and did not know at the time that she was making a campaign contribution.[55] The next day, November 15, 1995, Zahn reimbursed Chu with a check for $3,000 drawn on a joint account at Riggs Bank shared by Wu and Trie.

On February 19, 1996, again at Zahn's request, Chu wrote a check for $7,500 and a check for $12,500 payable to the DNC. Chu was told by her husband, Ming Chen, who is employed by Wu at a restaurant in Beijing, that Wu wanted to visit the White House and this money would help him "buy a ticket."[56] Chu understood that the cost was $25,000, but they had sufficient funds to provide only $20,000. They asked Chen's cousin, Xiping Wang, for the remaining $5,000. Wang made out a check in that amount to the DNC. All three contributions were reimbursed by Zahn with checks drawn on the joint account at Riggs Bank. These three contributions were later attributed to Trie and Huang in connection with the February 1996 Hay Adams fundraiser.

The evidence is convincing that Trie and Wu, with assistance from Zahn, used Chu and Wang as conduits to make $25,000 in contributions to the DNC as well as $3,000 in contributions to the DSCC. Their contributions do not appear to be included in the Trie indictment, presumably due to the immunity from prosecution granted by the Committee.

The Committee's investigation found no evidence that, at the time of the contributions, anyone at the DNC or the White House knew or had reason to know that the women were being used as conduits.[57] Both Chu and Wang are legal permanent residents who are eligible to make campaign contributions, and their checks were drawn on local U.S. banks in amounts which were substantial, but not so large as to trigger special inquiry. Neither woman had any contact with the DNC or White House; neither even understood that she was making a campaign contribution or that federal election law prohibits contributions in the name of another.[58] Neither the DNC nor the White House had access to or was aware of the bank records demonstrating the reimbursements.[59] The Trie indictment does not cite any facts suggesting that anyone at the DNC or the White House was aware of Trie's misconduct with respect to these or any other conduit contributions.[60]

DNC AWARENESS OF TRIE'S ACTIVITIES

The evidence before the Committee indicates that the DNC did not, and had no reason to, suspect that the contributions made by Trie, his family or his businesses should be investigated. Trie was an American citizen and eligible to contribute. He had the appearance of a successful businessman. He had prospered in the restaurant business in Arkansas and moved into international business ventures that drew upon his familiarity with Asian business

and culture. He maintained offices at an expensive location in Washington and several cities abroad. He was a business associate of Wu, a wealthy international businessman with successful operations in several countries. Trie pledged and produced substantial sums to the DNC. Together, these facts indicate that the DNC could reasonably have believed his contributions were legitimate and that there was no reason to investigate them.

Moreover, in late 1995, Trie gave written permission for the Federal Bureau of Investigation to investigate his background in connection with his possible nomination to a commission. The FBI concluded its work, and in February 1996, the White House legal counsel's office determined that no problems had been found that would bar his nomination.[61] The successful completion of the FBI background investigation is an additional indication that, at the time, there was little or no evidence of misconduct by Trie. A few months later, as explained below, the Presidential Legal Expense Trust informed First Lady Hillary Clinton and White House Deputy Chief of Staff Harold Ickes that Trie had raised a considerable amount of money for the Trust. In May, the Trust informed Ickes and others that it had determined that the contributions had been solicited from American citizens belonging to a Buddhist religious organization and that it was planning to return them. None of the White House officials provided this information to the DNC; Ickes has testified that he did not realize at the time that Trie was raising funds for the DNC.[62] DNC Chairman Donald Fowler has said that "[i]f we had known about the problems with Trie earlier, we could have done something."[63]

The Committee also heard testimony that Trie probably had "no particular knowledge of campaign financing laws."[64] No evidence before the Committee indicates whether Huang, who worked with Trie at times, had informed Trie about election law requirements. Trie has told the media that he was unaware at the time that U.S. companies may not use funds from abroad to pay for campaign contributions, but must generate the funds within the United States.[65] On the other hand, Trie's use of conduits for DNC contributions indicates, not only an awareness of restrictions on contributions by foreign nationals, but also a willingness to try to circumvent those restrictions. The Trie indictment alleges a "knowing" conspiracy by him to defraud the DNC; it does not charge the DNC with any wrongdoing nor does it cite any facts suggesting that the DNC or anyone at the White House was aware of Trie's misconduct.[66]

TRIE'S FUNDRAISING FOR THE PRESIDENTIAL LEGAL EXPENSE TRUST

The Presidential Legal Expense Trust ("PLET") was established on June 28, 1994, in order to collect funds to defray the costs of President Clinton's private litigation. Donations to the Trust are not election-related contributions, and they are not subject to federal election law or regulations. The Trust is a private entity governed by the legal requirements that govern private trusts in the District of Columbia, and by the trust's self-imposed guidelines.

The executive director of the Trust, Michael Cardozo, is an attorney who works at G. William Miller & Company, a financial services company in Washington, D.C. He is one of nine trustees who come from both political parties and share a wealth of legal, ethical

and government experience. The trustees were the Reverend Theodore M. Hesburgh, Nicholas de B. Katzenbach, John Brademas, Barbara Jordan, Ronald Olson, Elliot Richardson, Michael Sovern, John Whitehead, and Michael Cardozo.[67] The establishment of the trust was challenged in court, and its legality was upheld.[68] Furthermore, the Office of Government Ethics, an independent federal agency that oversees ethics issues for the executive branch, approved the trust's guidelines. The director of the Office of Government Ethics concluded on July 22, 1994, that the establishment of PLET "does not and will not violate any of the conflict of interest or gift statutes or the administrative standards of conduct provisions that are applicable to the President." [69]

There are no laws that govern the establishment and administration of a private presidential trust except for those laws that concern presidential activity and gifts to the presidents generally. Despite the absence of federal law regulating the administration of the Trust, the Trust voluntarily undertook to impose very strict guidelines regarding eligible donors and disclosure. It determined that a donor must be a "natural person" to be eligible to give. Political action committees and corporations could not contribute, nor could federal employees. The Trust would not accept donations greater than $1,000. This amount is significantly lower than the $5,000 limit on expense trust contributions for members of the House, and the $10,000 limit for Senators.[70]

Each quarter the Trustees were required to notify the President and Mrs. Clinton in writing of the names and addresses of the contributors. These quarterly contribution lists were not public.[71] The Trustees, however, were required to disclose publicly the identity of all donors to the Trust at least semi-annually.

In 1996, Charlie Trie attempted to present the Trust with at least $530,000 in contributions raised primarily from members of a religious order.[72] These contributions were controversial, although not illegal, and, as discussed below, were ultimately rejected by the Trust. None of the donations presented to the Trust is the subject of charges in the recent Trie indictment.

Trie's March 21, 1996 meeting with Cardozo

On March 20, 1996, Charlie Trie called Michael Cardozo to arrange for a meeting.[73] Cardozo, who had never heard of Trie, suggested that they discuss matters over the telephone. Trie, however, insisted on a meeting,[74] and Cardozo agreed to see him the next day.

At the meeting, Trie began by explaining that he was from Little Rock and was a friend of the President. He gave Cardozo some personal background about emigrating from Taiwan and how he came to be in the restaurant business in Little Rock. He told Cardozo that one of those restaurants was fairly close to the state capitol and was frequented by then-Governor Clinton, which explained how Trie had become friendly with him.[75]

Trie told Cardozo that he had learned about the President's growing legal bills and had heard about the Trust from Susan Levine,[76] an acquaintance of Cardozo's wife.[77] Levine had been an aide to Mack McLarty, the President's Chief of Staff, and had worked at the DNC.[78] After reading about the President's legal

bills, and learning about the Trust, Trie called PLET and was sent a fact sheet that outlined the Trust's donor guidelines.[79]

According to Cardozo, Trie then leaned down and picked up a manila envelope that was sitting against his chair. He opened it up, turned it over, and a pile of checks and money orders spilled out. Trie then said, "I have brought you about $460,000 in contributions to the Legal Expense Trust. . . . And I want to assure you that all of these people are U.S. citizens and all of them comply with your guidelines. . . . I am familiar with your guidelines and these meet your requirements."[80] Cardozo testified that Trie seemed proud that all of these contributions were from citizens.[81]

In addition to his comment that all of the donors were U.S. citizens,[82] Trie pointed out that Social Security numbers were provided on the checks and money orders.[83] Cardozo knew that having a Social Security number was not evidence of U.S. citizenship. At that point, however, his concern was less about the citizenship of the donors, and more about how the funds had been collected.[84]

Trie told Cardozo that he was not a contributor himself because he thought that he might become a federal government employee.[85] Trie also stated that he was not seeking recognition from the Clintons, but rather was raising money for the Trust out of his personal affection for them.[86]

Cardozo telephoned his assistant, Sally Schwartz, who worked in an office nearby. He wanted a witness to this discussion and wanted to make sure that Trie understood the Trust's disclosure process.[87] He asked Schwartz to bring a copy of the last financial report, a list of contributors, and a contributor guidelines sheet.[88] When she came to Cardozo's office, he told her he did not know Trie, that Trie had called to make an appointment, and had come to the meeting with these contributions.[89]

Cardozo was concerned about the contributions because PLET had received other bundled contributions, but nothing of this magnitude.[90] The money Trie brought in was between a third and a half of the total contributions to date, and the average contribution brought in by Trie was about $900 compared to between $100 and $200 for other contributions.[91]

Trie left for a lunch meeting, saying that he would return that afternoon to retrieve any defective checks so that he could get them corrected.[92] Cardozo and Schwartz then tried to organize a conference call of the trustees and began to review the checks.[93] Cardozo wanted to do this before Trie's return because "if somebody brings you an envelope or a bag with almost half a million dollars in it, you better advise the people with whom you are associated in a particular endeavor, meaning your counsel and at least the co-chairs of the trust."[94]

Investigation into the contributions

Schwartz began investigating the donations after Trie left for lunch. She initially went through the contributions and pulled out those that on their face did not meet the Trust's donor guidelines.[95] She removed some for exceeding the $1,000 limit. Some of the money orders were pulled because they did not have names or addresses.[96]

Cardozo held a conference call with trustee Nicholas deB. Katzenbach and counsel M. Bernard Aidinoff. They decided that those checks and money orders that were facially appropriate should be delivered to the bank for processing. They also decided that the Trust would follow its normal procedures of depositing the checks and "[hold] them in suspension" until the contributions were reviewed for acceptability or rejection.[97] They agreed to talk later that day, when they could reach Father Theodore Hesburgh, one of the trustees.[98]

When Trie returned from lunch, those contributions that appeared to be eligible were put into an envelope addressed to the Trust's lock box address.[99] Sally Schwartz escorted Trie to the executive banking section at a branch of NationsBank.[100] The Trust returned approximately $70,000 to Trie that day; about $380,000 in contributions from about 400 individuals were deposited.[101] According to Cardozo, about 80 percent of the contributions were in the form of personal checks and that "15 to 20 percent, at most" of these contributions were in the form of money orders, some of which were sequentially numbered.[102]

There was a second conference call that day with Hesburgh and Katzenbach[103] and subsequent calls among the trustees over the next few days.[104] The Trustees agreed that Cardozo should seek an appointment with either the President or the First Lady to verify what Trie had said about himself and his relationship with the Clintons.[105]

On April 4, 1996, Cardozo met with Hillary Clinton and Harold Ickes, the White House Deputy Chief of Staff, to brief them on the contributions and to check on Trie's assertion that he was a friend of the Clintons. At first, Mrs. Clinton did not recognize Trie's name, but later asked if he was "the guy that owns the Chinese restaurant near the [state]Capitol."[106]

Schwartz began contacting the contributors to determine which of the contributions the Trust could accept. In a memorandum dated May 9, 1996, summarizing her findings, she wrote that all of the contributors contacted identified themselves as U.S. citizens; their responses to her questions were "open, unrehearsed, credible"; and most supported the President as "a very good man" and "a man of peace" and wanted "to help the President."[107] She also found that Trie had not personally solicited the contributions, and most contributors had heard about the Trust through "meditation groups of Suma Ching Hai."

The Trustees hired an investigative firm, the Investigative Group International ("IGI'), to examine the contributions more closely.[108] Cardozo testified that the purpose was not to investigate Trie, but rather to determine whether the contributions were eligible under the Trust's guidelines.[109] He said that the Trustees determined the focus of the investigation without input from anyone at the White House. The Trust also opted not to return the checks immediately because, according to Cardozo, "the trustees have a fiduciary responsibility to receive eligible contributions to the Trust and for the most part, these appeared to be eligible contributions, at least on the representation of Mr. Trie."[110]

A meeting of the Trustees was scheduled for April 22. A few days before that meeting Trie brought additional contributions, allegedly

totaling about $179,000, to Cardozo's office.[111] Cardozo told him that the Trust was still investigating the eligibility of the first group of donations and therefore could not accept this second group.[112] Trie accepted this position.[113] At this same meeting, Trie asked Cardozo if his firm was interested in helping him market novelty products manufactured in Asia.[114] Cardozo told him that his firm provided financial services, not marketing, and could not help him in this venture.[115]

On May 17, 1996, Trie visited the PLET offices a third time and asked to meet with Cardozo. Cardozo declined, and Schwartz met with Trie.[116] Trie presented additional checks, allegedly totaling about $150,000, some or all of which may have been included in the second set of checks he had presented the prior month.[117] The Trust declined to accept any of the checks.[118]

IGI's investigation confirmed that many of the donors were members of Suma Ching Hai, a Buddhist sect based in Taiwan. The investigation also determined that the sect is controversial and that some critics have characterized it as a cult, raising questions about the voluntariness of the contributions.[119] Of the 27 contributors interviewed by IGI, many affirmed that their donation was voluntary; some claimed to have no knowledge of Ching Hai; and one stated that she had been reimbursed by Ching Hai for her contribution.[120]

The Trust's decision to reject the contributions

After receiving the IGI report in May 1996, the Trustees discussed whether to accept the contributions. Schwartz testified that usually, the Trustees took "people at their word" regarding the voluntary nature of their contributions.[121] The Trustees decided, however, that they were confronting a unique situation and that it would be extremely difficult to determine on an individual basis which of the many contributions were truly voluntary.[122] Despite the fact that many of the contributions appeared to meet the Trust's requirements, the Trustees decided to treat all of the contributions in the same manner by returning them to the donors.[123]

As a result, all of the money was returned to the donors in June 1996.[124] Letters were sent to the donors on June 26, explaining the Trust's decision and informing eligible donors of the Trust's criteria for contributions.[125] The letter included a fact sheet that had been revised to emphasize the fact that contributions had to be voluntarily made and with personal funds.[126] Some of the original donors then attempted to donate to the Trust a second time. The Trustees, however, ultimately chose not to accept even those donations.

On May 9, 1996, Cardozo, at the direction of the trustees, went to the White House to brief representatives of the Clintons about the contributions.[127] Present at the May 9 meeting were Jack Quinn, Cheryl Mills, and Bruce Lindsay of the White House Counsel's Office; Margaret Williams, the First Lady's Chief of Staff; Evelyn Lieberman, a representative from the President's office; and Harold Ickes, Deputy Chief of Staff. Cardozo informed them about the involvement of the Ching Hai sect.

Cardozo testified that by the time of this meeting, the Trustees had already tentatively decided that the Trust would not accept the funds, and Cardozo advised the people at the meeting of this deci-

sion. He did not ask for their opinion, and none was expressed. Cardozo testified that "there was never any recommendation that the funds be either accepted or rejected. They respected the independence of the trustees. They were not interfering in our decision at all."[128] Cardozo also testified: "I would emphasize that we never sought the agreement or the disagreement [of the White House]. We never sought the concurrence of the White House at all in any of our decisions."[129] When asked if anyone at the White House sought to interfere or influence the Trustees' decision-making process in any way, Cardozo answered: "Not at any time. They always respected the independence of the trustees."[130] Cardozo also testified that the First Lady made no attempt "to direct the trustees in any way."[131]

In June 1996, the Trust returned the checks and notified the White House of its decision to do so. In July, the Trust began receiving replacement contributions.[132] By November 1996, the replacement contributions totalled nearly $122,000, or more than one quarter of the original $460,000. On November 15, 1996, the Trust met with White House staff to update them on the replacement contributions and inform them that the Trust was considering returning these contributions as well.[133] Two weeks later, the Trust returned each of the replacement contributions to the individual donors. Subsequent to this action, in December 1996, the Trust received its first media inquiry about the returned donations.[134]

The Trust's change in accounting procedures

As the result of a change in accounting methods, the Trust's 1996 semi-annual report did not reflect the donations returned to Trie's contributors. Prior to 1996, the semi-annual report of the Trust stated the total contributions received and also set out the total contributions received less the ineligible contributions.[135] An accounting change was made so that the 1996 financial reports only gave the total amount of contributions accepted.[136] Under this approach, a contribution was not deemed "accepted" by the Trust until the end of the reporting period, when the Trustees had concluded that the contribution met the Trust's guidelines. According to Cardozo, the Trustees implemented this accounting change without input from anyone at the White House. The Committee had some concern that the accounting change was an attempt to hide Charlie Trie's connection to the contributions. Cardozo, in his testimony, denied that this was the reason for the change:

> I would remind you that the trust is a private trust. It has no obligation, no responsibility to make any financial information public. What it does make public is far in excess of what any of the congressional—House or Senate—legal defense funds make public.[137]

Cardozo indicated that the Trustees made this decision to keep confidential the decision to reject the funds. They felt confidentiality was needed to protect the privacy interests of U.S. citizens who had attempted to contribute and to protect the integrity of the Trust. He testified:

> We wanted to avoid sensational press coverage of the attempt by the Ching Hai contributors to contribute. . . .

> Charlie Trie was irrelevant. There were no discussions with the White House. This was a judgment that independent trustees made that it was in the best interest of the trust.[138]

Indeed, the Trust would have had no reason at this time to keep Trie's involvement a secret. The decision to change the reporting format was made in June, but press accounts raising concerns about Trie did not appear until October.

The Trust, which made its decision on a unanimous, nonpartisan basis, provided a number of valid reasons for changing the reporting format. The new presentation gave a more accurate picture of the Trust's financial condition. In addition, the Trustees were legitimately worried about protecting the privacy of those eligible donors whose checks were returned along with the ineligible donations.

Furthermore, regardless of which accounting format was used, Trie's name would not have appeared because he was not personally a donor. Nevertheless, this change had the effect of obscuring Trie's involvement, which probably would have emerged upon investigation by the media into the returned contributions. In retrospect, the accounting change created at least the appearance of trying to hide Trie's role.

Foreign funds

At the hearing, Cardozo testified that the Trust's investigation of the donations delivered by Trie found no evidence that foreign money was used to pay for the donations and no evidence of any involvement by a foreign government.[139] The Committee also asked about the role of foreign money when questioning Zhi Hua Dong, a Ching Hai member who participated in the solicitation of PLET donations during an event in New York. Dong described a number of measures taken by the sect to ensure that only U.S. citizens made donations to PLET, including at the New York event he attended, by explaining the Trust's requirements, placing red dots on the name tags of attendees who were U.S. citizens, using a separate room for discussion of the PLET donations, and asking only U.S. citizens to enter that room.[140] Dong also testified, however, that some Ching Hai members had provided pre-paid money orders to enable other members to make donations to PLET while at the event, and when these members were not repaid for those money orders, funds from the Ching Hai organization, including funds transferred from abroad, were used to reimburse them for their expenditures.[141] As explained above, money orders provided only 15 to 20 percent of the number of PLET donations delivered by Trie, which means that at least 80 percent of the contributions he delivered were unaffected by any money order controversy. In addition, the sect's reimbursement decision appears to have been an after-the-fact response to inadequate measures taken during Ching Hai's solicitation process to ensure that persons using pre-paid money orders had the information needed to pay for the money orders at a later time. No evidence was found of a premeditated plan by the sect or its members to use foreign funds for the PLET donations.[142]

Analysis

Donations to the Presidential Legal Expense Trust are not campaign contributions and are not covered by federal election laws. The Committee found no evidence linking the PLET donations delivered by Trie to the 1996 federal elections. The PLET donations are not the subject of any of the charges made in the recent indictment of Trie.[143]

The Trustees voluntarily imposed upon themselves very strict guidelines regarding donor eligibility and disclosure.[144] When confronted with the donations delivered by Trie, the Trustees spent considerable funds to hire an investigative firm to examine the eligibility of the donations. Despite the fact that the Trustees felt confident that the majority of the donations met their requirements and despite the Trust's need for donations, the Trustees opted to return all of the donations associated with the Ching Hai sect, in order to avoid even an appearance of impropriety. When the donations were returned to the donors, they were accompanied with a fact sheet that explained the eligibility guidelines of the Trust. When some of the original donors again tried to contribute, the Trustees chose to return those donations as well. The Trustees are to be commended for having acted with the utmost prudence and integrity by investigating the donations and ultimately returning all of them. They are also to be commended for scrupulously maintaining their independence from any outside influences in making these decisions.

At the hearing, some Committee members expressed concern that the investigative firm hired by the Trust did not examine Trie's role in soliciting the contributions and asked whether this limit on the scope of the IGI investigation had been dictated by the White House. Cardozo testified that no one at the White House had sought to affect the investigation or to influence the Trustees' decision in any way.[145] Cardozo also testified that once the Trustees learned about the Ching Hai association with the contributions, Trie "became irrelevant to our consideration. Our responsibility was, can we accept these contributions, are they eligible."[146] In response to questioning about why the Trust did not investigate Trie's motivations beyond Trie's representation that he was a friend of the President, Cardozo stated: "I had no conversations with anyone else other than the trustees and counsel and the Investigative Group about what Mr. Trie's motivations might have been, but I remind you the trustees' responsibilities as fiduciaries was to determine whether or not these were eligible contributions."[147] Cardozo also made the point that the Trustees were trying to limit the amount of money they were spending on the investigation because that was money that would otherwise go to reduce the President and First Lady's legal bills.[148] These explanations offer reasonable justifications for the Trust's actions and the scope of the IGI investigation.

The decision by the Trustees to change the accounting procedures, however, raises a concern that its purpose was to obscure the fact that Trie had brought in a very large sum of money which had been returned. In so doing, the Trustees arguably made it appear that the Trust had something to hide. On the other hand, Cardozo and Schwartz were concerned that the old reporting sys-

tem was flawed. Furthermore, the Trustees' desire to protect the privacy of those eligible donors whose contributions were returned was understandable given the likelihood that the media would probably have pursued the issue. With hindsight, however, given the controversy that *now* surrounds Trie (this controversy did not arise until *after* the reporting change had been made), it would have been the better course not to have changed the reporting format.

A final issue concerns the role of foreign funds. The Trust determined that most of the contributions presented by Trie were from American citizens who were eligible to contribute, knew where their money was going, and supported President Clinton. The Committee's investigation found no evidence that Trie had attempted to solicit foreign funds; to the contrary, the facts indicate that Trie had informed Ching Hai of the need for donors to be U.S. citizens and to use their personal funds to make voluntary donations. Despite his efforts, evidence was developed that foreign funds were used to reimburse some Ching Hai members who provided pre-paid money orders to donors wishing to contribute to PLET. While the Trust is not a campaign organization or subject to a legal ban on foreign funds, its guidelines explicitly reject foreign contributions. There is no evidence that Trie was aware of the use of foreign funds to reimburse some of the pre-paid money orders. Moreover, since the Trust returned all of the contributions presented by Trie, no actual violation of its guidelines occurred.

TRIE'S ACCESS TO WHITE HOUSE AND DNC EVENTS

Trie, his family and his companies contributed $220,000 to the DNC in less than two years. Trie raised an additional $500,000 for the DNC, working with John Huang. He also raised at least $530,000 for the Presidential Legal Expense Trust. One issue repeatedly raised at the Committee hearing was Trie's motivation for his actions and what, if anything, he received in return.

Although the Committee was unable to locate Trie to question him, the evidence before the Committee suggests that his contributions and fundraising efforts were intended not only to support President Clinton, but also to further Trie's private business interests. The evidence shows that, due to his contributions and fundraising for the DNC, Trie received unusual access to the White House and senior government officials and made valuable business contacts that furthered his private business interests.

In May and June 1994, Trie and his wife contributed $100,000 to the DNC. On June 30, 1994, the DNC named Trie a DNC managing trustee. In addition, Trie served as a 1994 vice chair of the DNC's Business Leadership Forum and was appointed a member of the DNC's National Finance Board.

Trie's contributions and fundraising also won him unusual access to the White House, President Clinton, and senior government officials, although he also drew upon personal friendships with individuals from Little Rock, particularly Mark Middleton.[149] White House records show that Trie gained access to the White House on at least 23 occasions from 1993 to 1996.[150] On many of these visits, Trie attended large social events such as a Christmas party, attended meetings of Asian-American organizations, or met with

Middleton who was considering business dealings with Trie and twice traveled with Trie to Taiwan in 1995.[151] On other visits to the White House or DNC fundraising events attended by President Clinton, however, Trie brought Asian business acquaintances as his guests.

For example, on June 22, 1994, Trie purchased two tables at a DNC fundraising dinner at the Mayflower Hotel in Washington for a contribution of $100,000 to the DNC. He invited as his guests a number of Chinese and Taiwanese business people and spouses, including Wu.[152] According to press reports, in June 1995, Trie brought Winston Wang, CEO of Formosa Plastics, a Taiwanese firm, to a White House coffee and photo session with the President.[153] In September 1995, Trie brought Wu and a Hong Kong banker to the White House for a tour and lunch. In November 1995, Trie brought as his guests several Asian business associates, including Wu, to an African-American Leadership Forum fundraiser in Washington. President Clinton attended, and Trie introduced him to his colleagues.[154] On February 6, 1996, as described in detail below, Trie brought Wang Jun, chairman of China International Trust and Investment Corporation ("CITIC"), the chief investment arm of the Chinese government, to a White House coffee with the President.

Senator Bennett stated at a Committee hearing that, in Asia, Trie's ability to arrange a White House tour or brief meeting with the President or another senior government official was valuable in establishing the credentials of Trie and Wu as having "very high-level contacts" in the United States. Senator Bennett also stated, "It can open a lot of doors in a lot of places in ways that American business people simply do not understand because we do not do business that way in the United States."[155]

One troubling development during the Committee investigation was the late production by the White House of records demonstrating that Trie's business associate Wu had obtained entry to the White House on ten occasions over a two-year period, from June 1994 until October 1996, primarily through his associations with Trie and Middleton.[156] One of Wu's visits was related to Trie and Wang Jun's attendance at a White House coffee on February 6, 1996, discussed below.[157] Several took place close in time to dates on which Trie or one of his companies made contributions to the DNC.[158] Wu's repeated visits is convincing evidence of Trie's ability to gain White House access for his business associates. They provide additional troubling evidence that some portion of Trie's contributions may have been made at the suggestion of or with funds provided by Wu.[159]

Another benefit tied to Trie's support of the President is his appointment to the Commission on United States-Pacific Trade and Investment Policy, discussed below.

One question that was raised repeatedly at the Committee hearings was whether, in addition to obtaining access and furthering his private business interests, Trie influenced U.S. domestic or foreign policy. Based upon his investigation, Committee investigator and FBI detailee Jerry Campane testified that he found no evidence that Trie, Wu, or anyone associated with them influenced or affected American policy in any way.[160]

The only document indicating an attempt by Trie to affect U.S. policy is a March 21, 1996, two-page letter which Trie sent to President Clinton after the President deployed aircraft carriers in the Taiwan Straits in response to a decision by the Chinese government to engage in military exercises there. The letter expresses Trie's concern that China might "launch a real war" in response to the President's action.[161] The evidence before the Committee shows that this letter, which was brought to the White House by Mark Middleton, was routinely referred to the National Security Council and received a standard reply a month later.[162] There is no evidence that the letter had any policy impact.[163] When asked if there was any evidence of involvement by the Chinese government, Campane testified there was not—the evidence instead suggested one of Trie's employees had encouraged him to send the letter and helped write it.[164]

Trie's experience in obtaining access to the White House, President, and senior government officials in large part due to his DNC contributions and fundraising is comparable in many ways to the experience of Michael Kojima under the Bush Administration.[165] Both left the restaurant business to go into international ventures. With no policy background or government experience, both caught the attention of White House officials through large campaign contributions that apparently utilized foreign funds. Both used their contributor status to gain access to the President and other government officials to further private business interests. While some might claim that Trie's access was superior, as evidenced by a greater number of White House visits, others might claim that Kojima received better treatment, as evidenced by the numerous letters written on his behalf by the Republican Party to U.S. and foreign officials requesting their assistance.[166] The sad truth is that the link between contributions and government access is a common story with a long history in both political parties.

TRIE'S COMMISSION APPOINTMENT

On June 21, 1995, President Clinton, by executive order, established a 15-member Commission on United States-Pacific Trade and Investment Policy ("the Commission"). The executive order described the qualifications for members as follows:

> Members shall (1) be chosen from the private sector . . . and (2) have substantial experience with selling agricultural products, manufactured goods, or high-value-added services to Asian and Pacific markets or be knowledgeable from their personal or professional experience about the trade barriers or their industry and government policies and practices, formal and informal, that have restricted access by U.S. businesses to Asian and Pacific markets.[167]

Trie was appointed by President Clinton to serve on this Commission in April 1996. The timing of Trie's official appointment was approximately one month after Trie presented checks to the presidential trust. The White House denies that Trie's appointment had anything to do with contributions Trie obtained for the Presidential Legal Expense Trust, and that, in fact, Trie's appointment was fi-

nalized months earlier, in 1995, and was not connected in any way to the PLET fundraising.[168]

Key documentation related to Trie's Commission appointment indicates that the appointment process did begin in 1995 and was well underway prior to Trie's first contact with PLET in 1996. For example, a memorandum dated September 21, 1995, indicates that the White House personnel office was already seriously considering Trie as a possible Commission member.[169] In a memorandum dated December 15, 1995, the White House personnel office states that "President Clinton has approved" Trie for appointment to the Commission and asks the White House legal counsel's office to "initiate a preliminary background investigation."[170] On December 31, 1995, Trie signed two documents on White House stationery. The first states that Trie "acknowledges and consents to consideration by the President of the United States for appointment or nomination to a position within the Executive Branch." The second gives Trie's "express consent for the Federal Bureau of Investigation to investigate [his] background."[171] On February 5, 1996, the White House legal counsel's office notified the White House personnel office that it had "completed its clearance review of the proposed appointments of [Trie] and James C. Morgan to be Members of the Commission on United States Pacific Trade and Investment Policy, and such appointments may proceed."[172] All of these actions took place prior to Trie's initial contact with PLET on March 20, 1996.

But even if the Trie appointment had been related to his financial support for the President through PLET, it would hardly have been an unprecedented event. For example, nine of the 27 private-sector members appointed by President Bush to the President's Export Council had been major financial supporters of the Republican Party. Similarly, after President Bush nominated Bruce S. Gelb as head of the United States Information Agency ("USIA"), Gelb acknowledged that his nomination was due to the $3 million he helped raise for President Bush's campaign.[173] Indeed, then-Commerce Secretary Robert Mosbacher protested that only 50 percent of President Bush's top fundraisers had been given plum appointments as a reward for their fundraising efforts.[174] Financial support of a president is a well traveled route to a Commission appointment. See Chapter 28 of this Minority Report.

The Commission members who served with Trie offered mixed assessments of Trie's participation. Kenneth Brody, Commission chairman, stated:

> His role wasn't extensive but he had some contributions in looking at trade policy from the standpoint of small- and medium-size companies and I think he had some participation in understanding some of the Asian countries. . . . I can't think of anything that he specifically added that comes out as a report recommendation. On the other hand, there is some flavor that he added.[175]

Clyde Prestowitz, vice chairman of the Commission, told Committee investigators that Trie eventually became a valued member.[176] Most members said that his participation was hampered by limited English abilities. Dr. Meredith Woo-Cummings recalled feeling concern for Trie, because his educational background and understand-

ing of policy issues were too limited for the purposes of the Commission. She said that she tried to engage him in discussions to little avail.[177] However, Jackson Tai, another Commission member, found Trie to be an active participant, engaged in the issues being discussed.[178] Committee investigator Campane testified that the Committee's investigative team found that Trie had no influence on the Commission's policy recommendations.[179]

Trie served on the Commission for six months, from April to October 1996. He served without pay and paid his own expenses during the Commission's trip to Asia, as all Commission members were required to do.[180]

TRIE AND WANG JUN AT THE WHITE HOUSE

On February 6, 1996, Trie accompanied Wang Jun to a White House coffee attended by President Clinton. Apparently, neither spoke during the coffee.[181] Wang Jun is a former officer in the People's Liberation Army and the son of Wang Zhen, a retired general and former vice premier of China.[182] Wang is also chairman of the China International Trade and Investment Corporation ("CITIC"), a major Chinese conglomerate.[183]

After the coffee, controversy erupted when the news media discovered that Wang was also chairman of the China Poly Group, an arms company owned by the Chinese military.[184] After the coffee, a China Poly subsidiary called Poly Technologies was identified as the source of 2,000 AK-47 assault weapons seized as the result of an investigation of an arms smuggling operation. The import of such weapons was forbidden by executive orders and a law championed by President Clinton to limit the sale of automatic weapons. Poly Technologies has alleged that the smuggling was performed by two former employees falsely using the name of a defunct Poly company.[185]

Given the tensions with the Chinese government over this incident as well as arms sales to developing countries, President Clinton stated in response to media inquiries that Wang's attendance at the coffee was "clearly inappropriate" and that he wished he had been more fully informed of Wang's background.[186]

Robert Suettinger, Director of Asian Affairs at the National Security Council, has stated that, despite Wang's title as chairman of China Poly, his role at the company is not clear. Suettinger further stated that Wang is generally associated with CITIC, and not Poly Technologies.[187]

CITIC, a $20 billion conglomerate, serves as the chief investment arm of China's central government with ministry-level status on the Chinese State Council.[188] CITIC is guided by a 13-member CITIC International Advisory Council, whose board members include prominent Americans including former Secretary of State George Shultz and Maurice Greenberg, chairman of American International Group, a major insurance firm.[189] Senator Glenn noted that former Secretary Shultz had been quoted as saying that he attended CITIC's advisory council meeting in 1996 and that he planned to attend the 1997 meeting as well.[190] CITIC companies have received more than $200 million worth of financing from the Export-Import Bank of the United States. CITIC has forged business partnerships with a variety of U.S. firms, including Westing-

house, Bechtel, and Chase Manhattan. Two months after appearing at the White House coffee, Wang hosted a dinner in Beijing attended by former President Bush and Brent Scowcroft, President Bush's former national security advisor.[191] Wang calls Henry Kissinger "a good friend."[192] During the hearing, Senator Glenn observed that Wang was "a key figure for virtually any U.S. company interested in major economic involvement in China."[193]

Descriptions of Wang as a "Chinese arms dealer" do not capture his role as an influential figure in determining American business in China and Chinese investments abroad.

Wang Jun's invitation to the White House coffee

The evidence is conflicting as to how Wang was invited to attend the White House coffee. Amy Weiss Tobe, a DNC spokesperson, has said it was done as "a favor to Charlie" Trie.[194] David Mercer, a DNC fundraiser, has testified that, in early 1996, Trie asked him if he could bring Wang to a White House coffee as his guest.[195] Mercer testified that this type of request was not unusual for Trie or other contributors to make, and that Trie often asked for guests to be invited to White House events. Mercer said that Trie did not state why he wanted Wang to be invited, nor did he say anything to Mercer about making a contribution if the request was granted.[196] Mercer testified that he agreed to submit Wang's name for consideration.

DNC Finance Director Richard Sullivan testified to the Committee that he thought the Wang invitation was extended as a favor to another DNC fundraiser, Ernest Green. Sullivan stated: "It was something, as I understood it, that was important, that Ernie had this guy in town doing business. Ernie had been a longtime supporter and it was purely as a favor to Ernie."[197] At his deposition, Sullivan had referenced both Trie and Green, describing information he had received from Mercer in a way which suggests that Green's connection to Wang may have been described by Trie rather than Green himself.[198] Mercer has testified that he never discussed the invitation with Green.[199] Green testified that he did not play any role in obtaining the invitation.[200]

Mercer has testified that it was his responsibility, for guests under consideration to receive a White House invitation through the DNC, to compile standard information on each person, including the person's profession and social security or passport identification number.[201] Mercer then prepared briefing materials which Sullivan or other DNC officials used to decide who would be invited as guests.[202]

In the case of Wang, Mercer testified that he asked Trie to provide him with Wang's resume.[203] Using the resume he received, he prepared materials describing Wang as a foreign national and chairman of CITIC. The resume did not include and Mercer was unaware of and did not include in the briefing materials any reference to Poly Technologies.[204] Faxed information at the top of the resume indicates it was faxed from Lehman Brothers's Washington office. However, Green denies that he sent it to the DNC, nor does he know why his firm sent the resume since, according to Green, neither he nor his firm played any role in obtaining Wang's invitation to the coffee.[205] Other than the fax number on the document,

no evidence was developed establishing that Green sent it. One obvious possibility is that Trie called Lehman Brothers in Green's absence and persuaded a clerical employee to fax the resume to the DNC. In any event, based on the materials Mercer provided, Sullivan testified that he discussed the Wang invitation with DNC finance chair Marvin Rosen and both agreed to propose it to the White House. Sullivan also testified that he alerted Karen Hancox at the White House to Wang's inclusion on the list and asked her to vet him, since he was a foreign national. Sullivan testified that he assumed Hancox would run Wang's name by the National Security Council, but that apparently was not done.[206]

Role of Ernest Green

Ernest Green came to the Committee's attention, not only because Sullivan said Green requested the Wang invitation but also because, on the day of the coffee, Green made a $50,000 contribution to the DNC. Questions were raised as to whether the two events were linked, and whether Wang or the Chinese government had supplied the funds for the $50,000 contribution. Green voluntarily submitted to a lengthy deposition and produced requested documents.

Green is a managing director of Lehman Brothers, an international investment banking firm.[207] He is originally from Arkansas and first achieved prominence as one of the "Little Rock Seven," who integrated Little Rock Central High School in 1957. Disney later made a movie of his life entitled "The Ernie Green Story."[208] Green received his undergraduate and master's degrees from Michigan State University, which also awarded him an honorary doctorate. In 1977, President Carter made him an Assistant Secretary of Labor and later the chairman of the African Development Foundation.[209] Green is a longtime fundraiser for the Democratic Party.[210] Green testified that he and Trie first met in the fall of 1994 at a breakfast arranged by Jude Kearney, a Commerce Department official and friend of Green, and by DNC fundraiser David Mercer who knew both individuals.[211]

According to Green, it was Trie who informed him that Wang was planning a visit to the United States in early 1996, that would include stops in Washington and New York. Trie acted as a middleman in setting up meetings between Wang and Lehman Brothers executives in both cities to discuss possible business opportunities. Trie worked with Lehman Brothers personnel to schedule a meeting in Washington on February 6 at 10:30 am, and another in New York on February 7. Green, Wang, Trie, Wu and others then met at Lehman's offices on February 6th, in Washington.[212] Green testified that it was at the end of this meeting, around noon, that Trie informed him Wang would be attending a coffee at the White House.[213] Green denied playing any role in arranging Wang's invitation to the White House. Wang and CITIC have also denied that Green or Lehman Brothers played any role in Wang's attending the White House coffee.[214] Although DNC records list Green as attending the coffee,[215] Green did not, in fact, attend.

Green has also denied any connection between the coffee and the $50,000 contribution to the DNC that Green made on the same day. According to Green, this contribution was the result of a deci-

sion made in December 1995 by himself and his wife. He testified at his deposition that, although he had raised substantial funds for the Democratic Party, he had never personally made a large contribution. Green stated that he felt obligated to make this contribution, because he was constantly asking for large sums of money from others, some of whom had asked him about his own donations.[216] He testified that, in late 1995, he and his wife resolved to make a major financial contribution of their own. Due to cash flow considerations, he said that he and his wife determined to make the contribution after he had received his annual bonus check from Lehman Brothers in January. He said they planned to contribute $50,000, because that was what Green generally sought when he solicited contributions and he thought the amount was appropriate to his status as a DNC managing trustee.[217]

Green's bank records show a deposit of $114,961.70 on February 1,[218] representing his annual bonus check from Lehman Brothers. Five days later, on the morning of February 6, Green provided a $50,000 check to the DNC. Green and Mercer agree that he gave the check to Mercer, and both have testified that they never discussed Wang's invitation to the coffee.[219] Green testified that in the latter part of February he received an additional bonus check of $54,000 because of an unrelated business deal he had brought to his firm.[220] He and his firm deny that Green's DNC contribution was reimbursed by Lehman Brothers or financed in any way by CITIC. Calling the money-laundering allegations "outrageous" and "preposterous," Green's attorney was quoted in the media saying, "No one reimbursed him for his contribution either directly or indirectly. . . . There has never been a discussion with Wang Jun about a contribution."[221] No documentary or testimonial evidence before the Committee establishes reimbursement.

When asked about DNC records crediting Trie with obtaining the $50,000 contribution in connection with the February 6 coffee, Green testified that he had never seen the records before and that "Trie never solicited a $50,000 contribution from me."[222] He testified that his wife had signed the contribution check and referenced a "fundraiser" that Green himself had organized in November 1995.[223] Mercer testified that he probably completed the check tracking form in relation to Green's donation, but does not recall whether he included the information linking the contribution to Trie and the White House coffee.[224] Mercer repeated his testimony that he had not spoken with Green about the Wang invitation. Green also told the press that he has had no contact with Wang since February 1996.[225]

Analysis

The evidence is clear that Wang was invited to the White House and met President Clinton as a favor to a DNC fundraiser. Trie spoke with Mercer and actually attended the coffee with Wang. Green's firm faxed Wang's resume to the DNC, and Sullivan based his decision at least in part on his knowledge that Green had dealings with Wang—whether or not it was Green who imparted that information. The DNC records showing Green in attendance at the coffee were in error; DNC records crediting the $50,000 contribution to Trie in connection with the coffee are also questionable,

since there is no reason for Green to have attributed his contribution to any fundraiser other than himself or to any event other than the fundraiser that Green himself had organized a few months earlier. The recent indictment of Trie makes no reference to the $50,000 contribution by Green.

There is also no evidence that Wang requested the invitation, that he spoke during the coffee, or that he made any request of the President or his staff. His attendance instead appears consistent with the analysis offered by Senator Bennett during the Committee hearing—it was a demonstration of access in which Trie showed that he and Wu had the necessary "high-level contacts" to get an audience for Wang with the President of the United States. This demonstration presumably strengthened Trie and Wu's ability to do business with Wang.

TRIE AND CHINA

One important question that the Committee sought to resolve was whether Trie had any role in the plan of the Chinese government to promote its interests in the United States. To date, the Committee has not obtained any evidence that Trie acted pursuant to this plan or on behalf of the Chinese government. In fact, no evidence regarding Trie was uncovered in the Committee's closed proceedings on the topic.

Considerable evidence was developed regarding Trie's close ties to China in the Committee's public investigation however. After leaving the United States in late 1996, he spent time in China where he gave interviews to the media.[226] He and his wife have a home outside of Beijing and own a restaurant in the city.[227] During the 1990s, Trie made frequent business trips to China and hosted Chinese delegations and officials visiting the United States. It was Trie who accompanied Wang Jun, chairman of CITIC, to the White House as noted above. At the same time, however, Trie had ties to Taiwan. He visited Taiwan, did business there, included Taiwanese business associates at White House and DNC events, and had a relationship with the Taiwan-based Ching Hai religious organization. Trie's pursuit of Taiwanese business ventures and involvement with a Taiwan-based religious organization run counter to the allegations that he acted in any way on behalf of the Chinese government. Trie also has business ties to other Asian countries, such as Indonesia.

Trie's extensive business dealings with Wu and his association with Wang do not prove that he was acting at the direction of the Chinese government. According to press reports that the Committee was unable to confirm, Wu is a member of the Chinese People's Consultative Congress in the city of Guangzhou. This organization allegedly provides economic and business advice to the Communist Party and Chinese government.[228] In addition, Wu has been described as a "business friend" of Wang and as engaged in business dealings with CITIC.[229] Some have said that it was Wu who introduced Trie and Wang.[230] Others point out, however, that Wu has a Portuguese passport and cannot fairly be described as a Chinese government official. Senator Durbin pointed out that many reputable firms have business dealings with CITIC, including Westinghouse, Chase Manhattan and J.P. Morgan.[231] Senator Glenn also

noted that many prominent Americans, including former President Bush and former Secretary of State George Schultz, have ongoing business relationships with Wang. While Trie's association with Wu and Wang, in addition to his other ties to China raise questions, the evidence does not show that Trie acted at the direction of Chinese officials.

Questions were also raised as to whether the money transfers provided by Wu to Trie could be traced to the Chinese government. Many of the money transfers came from a Macao branch of the Bank of China, which is a key financial institution in China's state banking system. The Committee heard in July, however, that Wu apparently had sufficient resources to finance all of the transfers, that he had reasons for supporting Trie financially, and that no evidence had been found linking the transfers to the government of China.[232]

Another relevant factor is that Trie authorized an FBI investigation of his background in December 1995, and that investigation found no problems that would prevent Trie's nomination to a Presidential commission. An individual seeking to hide contacts with a foreign government presumably would not have either subjected himself to such an investigation or emerged from it unscathed. The January 1998 indictment of Trie makes no reference to the Chinese government.

The evidence before the Committee to date indicates that, while the allegation of a connection between Trie and the Chinese government remains an open question, it also remains unproven.

FOOTNOTES

[1] *United States* v. *Yah Lin* ("Charlie") Trie and Yuan Pei ("Antonio") Pan, Criminal Case No. 98–0029 (U.S. District Court for the District of Columbia), 1/28/98 (hereinafter referred to as the "Trie indictment").
[2] Jerry Campane, 7/29/97 Hrg., p. 6.
[3] Jerry Campane, 7/29/97 Hrg., pp. 6–7.
[4] Jerry Campane, 7/29/97 Hrg., p. 7.
[5] Jerry Campane, 7/29/97 Hrg., pp. 7–8.
[6] Jerry Campane, 7/29/97 Hrg., pp. 8, 33.
[7] Macao is a Portuguese territory on the coast of southern China.
[8] Jerry Campane, 7/29/97 Hrg., pp. 8–9.
[9] Jerry Campane, 7/29/97 Hrg., p. 7; Trie indictment, paragraph. 2.
[10] Jerry Campane, 7/29/97 Hrg., p. 9.
[11] Jerry Campane, 7/29/97 Hrg., pp. 11–12.
[12] See NBC Nightly News, 6/24/97.
[13] Jerry Campane, 7/29/97 Hrg., pp. 11–12.
[14] Jerry Campane, 7/29/97 Hrg., p. 12. See also Trie indictment.
[15] Jerry Campane, 7/29/97 Hrg., p. 13.
[16] Jerry Campane, 7/29/97 Hrg., p. 13.
[17] Jerry Campane, 7/29/97 Hrg., pp. 10, 20.
[18] Jerry Campane, 7/29/97 Hrg., p. 5.
[19] Jerry Campane, 7/29/97 Hrg., pp. 91–92.
[20] Jerry Campane, 7/29/97 Hrg., p. 10.
[21] Trie indictment, "The Conspiracy," paragraph 14, and "Manner and Means of the Conspiracy," paragraph 15.
[22] Trie indictment, "Introductory Allegations," paragraph 5. Prior to working for Trie, Pan was employed by the Lippo Group in China. He also worked for Wu as director of Lucky Port Investments, Inc. Pan began working for Trie in August 1995, and eventually became the chief executive officer of Daihatsu and executive director of America-Asia Trade Center, Inc.
[23] Trie indictment, "Overt Acts," paragraphs 2-14, 21, 40.
[24] Trie indictment, "Overt Acts," paragraphs 15, 17.
[25] See, for example, Trie indictment, "Overt Acts," paragraphs 21, 38.
[26] Trie indictment, "Manner and Means of the Conspiracy," paragraph 15(b).
[27] Jerry Campane, 7/29/97 Hrg., pp. 15-16.
[28] Jerry Campane, 7/29/97 Hrg., p. 14.
[29] Pan was not addressed in the Committee's public hearings, although he was the subject of an October 9, 1997 hearing before the House Committee on Government Reform and Oversight.
[30] Jerry Campane, 7/29/97 Hrg., pp. 36-39.

[31] For example, Trie might be able to show that some of the foreign funds were his personal work earnings. Personal income earned abroad by an American citizen may be used for a campaign contribution, provided that no foreign national participates in the contribution decision; 2 U.S.C. §441e.

[32] The DNC's position is in sharp contrast to that of the RNC which, for example, continues to retain $215,000 from a Michael Kojima contribution that apparently utilized foreign funds. See Kojima chapter, *infra*.

[33] *Washington Post*, 12/18/96 ("Trie and Huang worked together to raise funds for the Democratic Party from the Asian American community, according to Trie. Huang 'often wanted me to help' with fundraisers, Trie said in an interview.")

[34] Apparently, both Trie and Huang attended the APALC fundraiser. Six months earlier, in May 1995, Trie and Huang had both attended an inaugural dinner for the Congressional Asian Pacific American Caucus Institute, another new organization aimed at the Asian American community. While not DNC-related, this institute may have energized Trie to join Huang's efforts to increase the political involvement of the Asian American community in Democratic politics.

[35] Trie indictment, "Manner and Means of the Conspiracy," paragraph 15 (c), (d), (i).

[36] See DNC documents No. D 0000968-0000973.

[37] *Los Angeles Times,* 12/21/97.

[38] Trie indictment, "Overt Acts," paragraph 34.

[39] Jerry Campane, 7/29/97 Hrg., pp. 17–18 and 71–72. See also Part 3 discussion of the Zahn, Chu and Wang checks.

[40] See Exhibit 62: DNC In-Depth Contribution Review, DNC 0134–145. Other checks from the Hay Adams fundraiser, attributed to persons other than Trie, were also returned by the DNC. See chapter on Huang, *supra*.

[41] See Huang DNC event summary, in Minority Report Chapter 4. See also *Los Angeles Times,* 12/21/97.

[42] See Chapter 21 which discusses the Gandhi contribution.

[43] Staff interview with Yogesh Gandhi, 3/24/97. Gandhi had originally agreed to provide a deposition, but at the beginning of the deposition asserted his constitutional rights under the Fifth Amendment and refused to provide sworn testimony. He reluctantly consented to an unsworn, untranscribed interview.

[44] Gandhi stated during the staff interview that he met Huang for the first and only time during the fundraiser when Huang approached him and thanked him for attending. Later during the dinner, Gandhi obtained a few moments with President Clinton to present him with an award.

[45] *Los Angeles Times*, 12/21/97; *New York Times,* 7/2/97.

[46] See DNC documents No. D 0000981–0000996.

[47] See *New York Times*, 7/2/97.

[48] See, for example, *Los Angeles Times*, 12/7/97, p. A1.

[49] Exhibit 62: DNC In-Depth Contribution Review, DNC 0134–145. For example, the DNC returned a $10,000 check from Kun Cheng Yeh, after the media reported "an employee [at the Los Angeles address on the check] said Mr. Yeh lived in China and had not been to the United States for several years." *New York Times*, 7/2/97. Not all the media allegations were proven correct, however; one $3,000 check was from Michele Lima who was initially identified as deceased, but was later discovered "alive and well" in Queens. *Wall Street Journal, 6/13/97.*

[50] Jerry Campane, 7/29/97 Hrg., p. 13. See also Trie indictment, "Overt Acts," paragraph 43.

[51] Trie indictment, "Over Acts," paragraphs 46–47.

[52] Trie indictment, "Over Acts," paragraph 48–51. See also *Los Angeles Times,* 12/7/97, p. A1.

[53] Trie indictment, "Over Acts," paragraphs 44–45, 52.

[54] Yue Chu, and Xiping Wang, 7/29/97 Hrg, pp.137–140.

[55] Yue Chu, 7/29/97 Hrg., p. 132. Chu stated that the check was made out to the "DSCC" and she was unaware that the initials stood for Democratic Senatorial Campaign Committee.

[56] Yue Chu, 7/29/97 Hrg., p. 134.

[57] Jerry Campane, 7/29/97 Hrg., pp. 64–65, 93.

[58] Yue Chu, 7/29/97 Hrg., pp. 132, 137, 158; Yue Chu deposition, 7/9/97, p. 63.

[59] Jerry Campane, 7/29/97 Hrg., p. 93.

[60] Trie indictment, "The Conspiracy," paragraph 14.

[61] Exhibits 664–666.

[62] Harold Ickes deposition, 6/26/97, p.158.

[63] *Los Angeles Times*, 12/21/97.

[64] Jerry Campane, 7/29/97 Hrg., p. 91.

[65] *Washington Post,* 12/18/96.

[66] Trie indictment, "The Conspiracy," paragraph 14.

[67] These trustees have been called "a blue ribbon group ... whose detachment and probity were assured." *Washington Post*, editorial, 12/18/96. The trustees are: The Reverend Theodore M. Hesburgh, C.S.C., President Emeritus of the University of Notre Dame (Co-Chair); Nicholas deB. Katzenbach, former Attorney General of the United States (Co-Chair); John Brademas, president emeritus of New York University and former Democratic Representative from Indiana; Ronald Olson, partner, Munger, Tolles and Olson of Los Angeles; Elliot Richardson, former Attorney General, Secretary of Defense, and Secretary of Health, Education, and Welfare; Michael Sovern, President Emeritus of Columbia University and former dean and professor of law at Columbia Law School; John Whitehead, former Deputy Secretary of State and former co-chair of Goldman, Sachs and Company; Michael H. Cardozo, managing director, G. William Miller and Co. and former Deputy Counsel to President Carter (Executive Director); and, until her death, Barbara Jordan, professor at LBJ School of Public Affairs and former Democratic Representative from Texas.

[68] *Judicial Watch Inc.* v. *Hillary Rodham Clinton*, 76 F.3d 1232 (D.C. Cir. 1996).

[69] Letter from Stephen D. Potts, Director, Office of Government Ethics, to Michael Cardozo, 7/22/94.
[70] Michael Cordozo, 7/30/97 Hrg., p. 91; PLET Notes to Financial Statements, 12/31/94, PT06493.
[71] Michael Cardozo deposition, 5/8/97, p. 18.
72 As discussed below, Trie initially presented the Trust with donations totalling about $460,000. The Trust immediately rejected checks with obvious problems, and deposited $380,000 into a suspense account pending assessment of the individual checks. On a second occasion, Trie attempted to present the Trust with checks which Trie indicated totaled $179,000, but the Trust declined to accept them. It is unclear whether any of the $70,000 to $80,000 in problematic checks that had been rejected on the first occasion were included in the second batch of checks. On a third occasion one month later, Trie attempted to present the Trust with checks which he indicated totaled about $150,000, but the Trust again declined to accept them. It is unclear the extent to which the second and third batches of checks overlapped; it is possible that the same checks were being offered both times. Due to the uncertainty involved, the amount of donations that Trie offered to the Trust is estimated at $530,000 ($380,000 plus $150,000).
[73] Michael Cardozo deposition, 5/7/97, p. 25.
[74] Michael Cardozo deposition, 5/7/97, p. 25.
[75] Michael Cardozo deposition, 5/7/97, p. 28.
[76] Michael Cardozo deposition, 5/7/97, p. 29.
[77] Michael Cardozo deposition, 5/7/97, p. 30.
[78] Michael Cardozo deposition, 5/7/97, p. 30.
[79] Michael Cardozo deposition, 5/7/97, p. 33.
[80] Michael Cardozo deposition, 5/7/97, p. 34.
[81] Michael Cardozo deposition, 5/7/97, p. 34.
[82] Michael Cardozo deposition, 5/7/97, p. 34.
[83] Michael Cardozo deposition, 5/7/97, p. 40.
[84] Michael Cardozo deposition, 5/7/97, p. 41.
[85] Michael Cardozo deposition, 5/7/97, p. 42.
[86] Michael Cardozo deposition, 5/7/97, p. 41.
[87] Michael Cardozo deposition, 5/7/97, p. 35.
[88] Sally Schwartz deposition, 5/6/97, pp. 21–22.
[89] Sally Schwartz deposition, 5/6/97, p. 22.
[90] Michael Cardozo deposition, 5/7/97, p. 37.
[91] Sally Schwartz deposition, 5/6/97, p. 29.
[92] Michael Cardozo deposition, 5/7/97, p. 38.
[93] Michael Cardozo deposition, 5/7/97, pp. 46–47.
[94] Michael Cardozo deposition, 5/7/97, p. 51.
[95] Sally Schwartz deposition, 5/6/97, p. 35.
[96] Sally Schwartz deposition, 5/6/97, p. 35.
[97] Michael Cardozo deposition, 5/7/97, p. 48.
[98] Michael Cardozo deposition, 5/7/97, p. 48.
[99] Michael Cardozo deposition, 5/7/97, p. 48.
[100] Michael Cardozo deposition, 5/7/97, p. 49.
[101] At the hearing, Cardozo stated that the bank reported that the deposited contributions totaled $380,000 from 409 individuals. Michael Cardozo, 7/30/97 Hrg., p. 7. See also Sally Schwartz deposition, 5/6/97, p. 40.
[102] Michael Cardozo, 7/30/97 Hrg., pp. 9, 79, 87.
[103] Michael Cardozo deposition, 5/7/97, p. 49.
[104] Michael Cardozo deposition, 5/7/97, p. 49–50.
[105] Michael Cardozo deposition, 5/7/97, p. 50.
[106] Michael Cardozo deposition, 5/7/97, p. 71.
[107] Memorandum from Schwartz to Cardozo, 5/9/96, 0078.
[108] Michael Cardozo deposition, 5/7/97, p. 84.
[109] Michael Cardozo deposition., 5/7/97, p. 53.
[110] Michael Cardozo deposition, 5/7/97, p. 51.
[111] Since the donations offered on this occasion were not accepted, no precise total was presented to the Committee. See, for example, Michael Cardozo, 7/30/97 Hrg., pp. 36–37.
[112] Michael Cardozo deposition, 5/7/97, pp. 124–125.
[113] Michael Cardozo deposition, 5/7/97, p. 125.
[114] Michael Cardozo deposition, 5/7/97, p. 125.
[115] Michael Cardozo deposition., 5/7/97, p. 126.
[116] Michael Cardozo deposition, 5/7/97, pp.188–190.
[117] Michael Cardozo, 7/30/97 Hrg., p. 43; Michael Cardozo deposition, 5/7/97, p. 192.
[118] Michael Cardozo deposition, 5/17/97, pp. 190–191.
[119] Sally Schwartz deposition, 5/6/97, p. 143. *See also* IGI Report re: Interviews with Donors to Presidential Legal Expense Trust, 12/6/96.
[120] IGI Report re: Interviews with Donors to Presidential Legal Expense Trust, 12/6/96.
[121] Sally Schwartz deposition, 5/6/97, p. 144.
[122] Michael Cardozo, 7/30/97 Hrg., p. 80.
[123] Michael Cardozo, 7/30/97 Hrg., p. 80; see also Sally Schwartz deposition, 5/6/97, p. 144.
[124] Michael Cardozo deposition, 5/7/97, p. 220.
[125] Michael Cardozo deposition, 5/7/97, pp. 214, 220.
[126] Michael Cardozo deposition, 5/7/97, p. 214.
[127] Michael Cardozo, 7/30/97 Hrg., pp. 37–38.
[128] Michael Cardozo, 7/30/97 Hrg., pp. 39–41.
[129] Michael Cardozo, 7/30/97 Hrg., p. 52.
[130] Michael Cardozo, 7/30/97 Hrg., p. 53.

[131] Michael Cardozo, 7/30/97 Hrg., p. 61.
[132] Michael Cardozo, 7/30/97 Hrg., pp. 65–66.
[133] Sally Schwartz deposition, 5/6/97, pp. 336–337.
[134] Sally Schwartz deposition, 5/6/97, p. 326.
[135] Michael Cardozo deposition, 5/7/97, p. 78.
[136] Michael Cardozo deposition, 5/7/97, p. 231.
[137] Michael Cardozo, 7/30/97 Hrg., p. 48.
[138] Michael Cardozo, 7/30/97 Hrg., pp. 48, 85.
[139] See, for example, Michael Cardozo, 7/30/97 Hrg., p. 67.
[140] Zhi Hua Dong, 7/31/97 Hrg., pp. 154–57; 177–78.
[141] Zhi Hua Dong, 7/31/97 Hrg., pp. 180–81.
[142] This conduct is in direct contrast to conduct by other tax-exempt groups associated with elected federal officials such as The Jesse Helms Center which hired a fundraiser "to undertake fundraising for the Center from non-U.S. citizens, foundations and corporations." Memorandum dated 3/9/92, from Howard Segermark to Clark Goodwin, p. 1, included in the publicly available court file associated with *Segermark* v. *The Jesse Helms Center Foundation, Inc.*, Civil Action No. 0010857-94 (Superior Court of the District of Columbia).
[143] See Trie indictment.
[144] *Washington Post*, 12/31/97.
[145] Michael Cardozo, 7/30/97 Hrg., pp. 61; 64.
[146] Michael Cardozo, 7/30/97 Hrg., p. 115.
[147] Michael Cardozo, 7/30/97 Hrg., p. 119.
[148] Michael Cardozo, 7/30/97 Hrg., p. 117.
[149] Jerry Campane, 7/29/97 Hrg., p. 90.
[150] Jerry Campane, 7/29/97, Hrg., p. 10.
[151] Jerry Campane, 7/29/97 Hrg., p. 90.
[152] Jerry Campane, 7/29/97 Hrg., p. 10.
[153] Jerry Campane, 7/29/97 Hrg., p. 10.
[154] *Los Angeles Times*, 12/21/97. White House videotapes of the event show Commerce Secretary Brown gesturing to Trie and his associates and telling the President, "This is part of the Trie team."
[155] Senator Bennett, 7/29/97 Hrg., p. 88. See also, Trie indictment, "Manner and Means of the Conspiracy," paragraph 15(g), alleging that Trie used his "membership in the DNC committees . . . to promote [his] private business activities."
[156] See WAVES records, EOP 056850–056862.
[157] See WAVES records for 2/6/96, EOP 056856, 056861–056862.
[158] See Associated Press, 7/31/97; *New York Times,* 7/31/97.
[159] Apparently, Antonio Pan, business associate of both Trie and Wu, gained entry to the White House on eight occasions between 8/95 and 10/96. See *Los Angeles Times*, 12/7/97, p. A1.
[160] Jerry Campane, 7/29/97 Hrg., pp. 58, 95. See, for example, at page 95: "Chairman Thompson. [T]here is no indication, I guess I should say, that Mr. Trie had any impact on White House policy; is that correct? Campane. That is correct."
[161] Letter from Trie to the President, 3/21/96, EOP 005325.
[162] See letter from the President to Trie, 4/26/97, EOP 029282; staff interview of Robert Suettinger, director, Asian affairs, National Security Council, 6/3/97; and staff interview of Nancy Soderberg, National Security Council, 5/30/97. Suettinger indicated that he prepared the response to Trie's letter and used standard language developed to respond to the many letters the White House received on this topic. He indicated the letter had no impact on U.S. policy.
[163] See staff interview with Robert Suettinger, director, Asian affairs, National Security Council, 6/3/97; and staff interview of Nancy Soderberg, National Security Council, 5/30/97.
[164] Jerry Campane, 7/29/97 Hrg., pp. 77–78.
[165] See Chapter 6.
[166] See Chapter 6. The Republican Party wrote numerous letters to further Kojima's private business efforts; the Committee investigation found no comparable letters written by the Democratic Party to further Trie's private business efforts.
[167] Executive Order 12964 of 6/21/95, as listed in *Federal Register*. 6/28/95, Vol. 60.
[168] *USA Today,* 7/30/97.
[169] Memorandum from Phyllis Jones to Jennifer Hillman and others regarding expanding the Commission and adding 3 new members, 9/21/95, EOP 056804.
[170] Exhibit 664, Memorandum from Winston Allen to Marvin Krislov regarding Trie's addition as a member of the commission, 12/15/95, EOP 002098.
[171] Exhibit 666.
[172] Exhibit 665, Security Clearences as of 2/14/96, EOP 015131; see also, Robert Nash deposition, 6/25/97, p. 221 (memorandum signified FBI background investigation had been completed without any outstanding issues). Nash was director of the White House personnel office.
[173] *New York Times,* 2/20/89.
[174] *New York Times*, 2/20/89.
[175] *Los Angeles Times,* 4/29/97.
[176] Staff interview with Clyde Prestowitz, 6/13/97.
[177] Staff interview with Dr. Meredith Woo-Cummings, 6/25/97.
[178] Staff interview with Jackson Tai, 6/17/97.
[179] Jerry Campane, 7/29/97 Hrg., pp. 52–53, 58.
[180] See Exhibits 670: executive order establishing the commission; Exhibit 678: letter from Nancy Adams, commission executive director, to Trie, with information on trip expenses, 2/97; and Exhibit 679: a final talley of trip expenses.
[181] See, for example, *Washington Post,* 3/16/97.
[182] Senator Specter, 7/9/97 Hrg., p. 119; *Washington Post,* 3/16/97.
[183] *Washington Post,* 12/20/97.

[184] *The Los Angeles Times,* 3/16/97.
[185] *Washington Post,* 3/16/97.
[186] Press conference held by President Clinton on 12/7/96; see also *Los Angeles Times,* 12/21/97; *Washington Post,* 12/20/97.
[187] Staff interview with Robert Suettinger, 6/3/97.
[188] *Austin-American Statesman,* 3/30/97.
[189] *Austin-American Statesman,* 3/30/97.
[190] Senator Glenn, 7/9/97 Hrg., p. 155
[191] *Austin-American Statesman,* 3/30/97.
[192] *Washington Post,* 3/16/97.
[193] Senator Glenn, 7/9/97 Hrg., p. 154.
[194] *New York Times,* 1/4/97.
[195] David Mercer deposition, 5/27/97, p. 139.
[196] David Mercer deposition, 5/27/97, pp. 139–142.
[197] Richard Sullivan, 7/9/97 Hrg., p. 124.
[198] Richard Sullivan deposition, 6/4/97, pp. 103–104.
[199] David Mercer deposition, 5/27/97, p. 140; and 6/11/97. p. 23.
[200] See, for example, Ernest Green deposition, 6/18/97, pp. 154–55.
[201] David Mercer deposition, 5/27/97, pp. 144.
[202] David Mercer deposition, 5/27/97, pp. 139, 144–49.
[203] David Mercer deposition, 5/27/97, pp. 139, 144.
[204] David Mercer deposition, 5/27/97, pp. 147–48.
[205] Ernest Green deposition, 6/18/97, pp. 169–170; 176. Green also, at first, denied having a copy of Wang's resume but was later shown documents indicating that he had faxed the resume to the Lehman Brothers' New York office and acknowledged he must have had the document.
[206] Richard Sullivan deposition, 6/4/97, pp. 105–106.
[207] Ernest Green deposition, 6/18/97, pp. 14, 271.
[208] Sara Fritz, *The Los Angeles Times,* reprinted in *The Commercial Appeal,* 3/9/97.
[209] *Arkansas Democrat-Gazette*, 9/25/97.
[210] Ernest Green deposition, 6/18/97, p. 281.
[211] Ernest Green deposition, 6/18/97, pp. 11–14.
[212] *Los Angeles Times*, 3/26/97.
[213] Ernest Green deposition, 6/18/97, p. 145.
[214] Ernest Green deposition, 6/18/97, pp. 154–55, 176–77.
[215] DNC Finance Executive Summary, 10/17/96, DNC 3081454.
[216] Ernest Green deposition, 6/18/97, pp. 194–95.
[217] Ernest Green deposition, 6/18/97, pp. 155–160.
[218] G 0017.
[219] Ernest Green deposition, 6/18/97, pp. 181–82; David Mercer deposition, 5/27/96, p. 140 and 6/11/97, pp. 22–23.
[220] Ernest Green deposition, 6/18/97, p. 165.
[221] *Los Angeles Times*, 3/26/97.
[222] Ernest Green deposition, 6/18/97, pp. 180–81, 281–82.
[223] Ernest Green deposition, 6/18/97, pp. 155–58, 163.
[224] David Mercer deposition, 6/11/97, pp. 22, 32.
[225] *Los Angeles Times*, 3/26/97.
[226] Jerry Campane, 7/29/97 Hrg., p. 85.
[227] Jerry Campane, 7/29/97 Hrg., p. 11; *Washington Post*, 12/18/96.
[228] Jerry Campane, 7/29/97 Hrg., p. 11; *Washington Post*, 12/18/96. See also Jerry Campane, 7/29/97 Hrg., p. 21.
[229] Jerry Campane, 7/29/97 Hrg., p. 21; Senator Specter, 7/29/97 Hrg., p. 42.
[230] Jerry Campane, 7/29/97 Hrg., p. 22.
[231] Senator Durbin, 7/29/97 Hrg., p. 103.
[232] Jerry Campane, 7/29/97 Hrg., pp. 27–29, 63–64, 95. Campane also described the difficulty involved in tracing money transfers beyond the borders of the United States.

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Offset Folios 2538 to 2651 Insert here

PART 1 FOREIGN INFLUENCE

Chapter 6: Michael Kojima

Michael Kojima first gained public notice as a "deadbeat dad" who failed to pay child support but gave $500,000 to the Republican Party to sit with President Bush at a fundraising dinner. His story has since gained importance as an example of a little known contributor whose large contribution should have been investigated before being accepted and should be returned now. His dealings with the Republican Party and Bush White House contradict claims that accepting foreign contributions, providing access to large contributors, and using the White House for fundraising purposes are unprecedented practices confined to one party.

FINDINGS

(1) Michael Kojima contributed substantial sums to the Republican Party in order to gain access for himself and his associates to President Bush and Bush Administration officials and the help of U.S. embassies abroad. With the help of a Republican fundraising organization, the Presidential Roundtable, and because of his status as a contributor, Kojima obtained access to U.S. embassy and foreign officials to advance his private business interests.

(2) Kojima's $500,000 contribution to the Republican Party appears to have been derived from foreign funds. As a result of his substantial contributions, Kojima was able to bring ten Japanese nationals with him to a 1992 dinner with President Bush. According to some of those foreign nationals, they provided Kojima with significant sums of money for the express purpose of facilitating their attendance at the dinner.

(3) The RNC has improperly retained $215,000 in apparent foreign funds contributed by Kojima.

(4) The Republican Party failed to conduct an adequate investigation of Kojima even when it had information that the source of the funds was questionable.

Michael Kojima is a Japanese-born, naturalized U.S. citizen. After immigrating to the United States in or around 1970, he worked as a chef in the Los Angeles area and eventually became president of a partnership called 2M Management Co., Ltd., which owned and operated several Chinese restaurants.[1] In 1987, 2M Management obtained three loans totaling $655,000 from the Bank of Trade, a financial institution later purchased by the Lippo Group.[2] In 1989, 2M Management defaulted, and the bank was unable to collect the amounts owed.[3]

In 1990, Kojima formed a California corporation called International Marketing Bureau, Ltd. ("IMB").[4] He was the president, his wife was the treasurer, and his attorney, T.J. Pantaleo, was company secretary.[5] IMB apparently never opened its own office or hired employees.[6] Documents requiring a business address used the address of Kojima's attorney's office or his wife's business, the Association for Refining Cross-Culture, a nonprofit student-exchange program.[7]

Footnotes at end of chapter.

Kojima first gained public notice when he appeared on television seated with President George Bush at the 1992 President's Dinner, a fundraising event which raised $9 million for Republican Senate and House candidates. Kojima was publicly identified as the event's largest contributor.

Kojima's $500,000 contribution provoked immediate controversy[8] due to a history of nonpayment of child support, over $1 million in unpaid court judgments owed to former wives and creditors, and his apparent lack of assets. The *Los Angeles Times* reported that one ex-wife had been searching for Kojima for five years to pay $700 per month in child support, while another had "given up searching for the purportedly poverty-stricken Kojima—until he showed up with the President."[9] A month after learning of the $500,000 donation, the Los Angeles County District Attorney's Office issued an arrest warrant for Kojima for nonpayment of child support, describing him as "America's most wanted deadbeat dad."[10]

The *Washington Post* reported that, aside from unpaid child support, Kojima had "a string of bad debt claims totaling more than $1 million from previous business ventures."[11] The *New York Times* reported that one creditor's attorney "thought Mr. Kojima had no assets," while another creditor's attorney, after learning of the Kojima contribution, felt his "'blood began to boil'. . . since Mr. Kojima had declared bankruptcy to avoid paying his debts."[12] Kojima was repeatedly described as an unknown figure in political, business, and Japanese-American circles.

The Republican Party was unable to answer questions raised about Kojima. One newspaper reported:

> When the flurry of questions arose last week, even a Republican spokesman [Rich Galen] could shed little light on Kojima's identity. . . . "One could say you should require some further proof of where the money comes from" before taking a check as large as Kojima's, he said, "but that's not the way life is." "It's a little difficult to cross-examine a man who's a major donor," Galen said.[13]

After lawsuits were filed by Kojima's creditors and two former wives to take possession of the $500,000, the Republican Senate-House Dinner Committee, which formally sponsored the dinner and accepted the Kojima contribution, deposited the $500,000 into an escrow account and consolidated the cases before a federal court in the District of Columbia.[14] After two years of litigation and an unfavorable court ruling,[15] the Republican Dinner Committee settled out of court.[16] Under the 1994 settlement, Kojima's creditors and a former wife received $285,000 plus accumulated interest, while the Republican Dinner Committee retained $215,000, which was paid into a newly created "President's Dinner 1992 Trust & Building Fund."[17]

Kojima did not participate in the litigation. In October 1992, he was briefly arrested for nonpayment of child support, but released from jail after agreeing to pay more than $120,000 in fines and payments to two former wives.[18] He then virtually disappeared from public view. Attempts by the Committee to locate him proved unsuccessful.

CONTRIBUTION HISTORY

Prior to the 1992 election cycle, Federal Election Commission ("FEC") records indicate that Kojima, his family, and businesses made occasional contributions to the Republican Party, with the largest in 1988 in the amount of $4,000 to the National Republican Senatorial Committee ("NRSC'). FEC records then show a sudden increase in the number and size of contributions during the 1992 election cycle. By the President's Dinner in April, Kojima-related contributions totaled over $600,000. After the President's Dinner and resulting controversy, FEC records show no further contributions. FEC records show no Kojima-related contributions to the Democratic Party or Democratic candidates.

The specific contributions listed in Federal Election Commission records during the 1992 election cycle are as follows:

- $5,000 contributed by IMB to the NRSC on February 19, 1991;
- $90,000 contributed by IMB to the 1991 President's Dinner, made in two payments with the first for $15,000 on April 12, 1991, and the second for $75,000 on May 24, 1991;
- $3,000 contributed by Mr. and Mrs. Kojima to the campaign committee of Senator Frank Murkowski of Alaska on October 24, 1991;
- $30,000 contributed by IMB to the NRSC on March 6, 1992, later recorded as returned on April 1, 1992 due to insufficient funds;
- $8,770 in the form of an in-kind contribution by IMB to the NRSC on April 1, 1992, for a National Museum for Women in the Arts dinner in connection with the NRSC's Presidential Roundtable Spring Forum;
- $500,000 contributed to the 1992 President's Dinner made in three payments, with the first for $200,000 on March 6, 1992, the second for $200,000 on March 16, 1992, and the third for $100,000 on April 22, 1992.[19]

KOJIMA'S ACCESS TO THE WHITE HOUSE AND OTHER PERKS

Although the Committee was unable to locate Kojima to question him, documents,[20] interviews conducted by Committee investigators,[21] and sworn depositions from the 1992 court case[22] provide detailed information about Kojima's contributions and dealings with the GOP. These materials paint a revealing picture of GOP fundraising practices during the Bush Administration and are attached as exhibits to this chapter.

The documents indicate that Kojima's primary association with the Republican Party was through the Republican Presidential Roundtable. The Roundtable is a Republican fundraising organization which requires an annual contribution of $5,000.[23] A 1992 brochure for prospective members states:

> Designed especially to promote one-on-one personal relationships, the Presidential Roundtable allows members to participate in the development of policy as well as help forge close friendships with Washington's top decision-makers. . . . [G]atherings often include receptions with the President or Vice President and always include meet-

> ings with Republican Senators, Cabinet Officers, senior White House officials and select leaders of our national and international political and business communities.[24]

Member benefits included two Washington policy fora each year in which, the brochure states, members can discuss issues "directly with U.S. Senators, Administration officials and major business leaders," and attend "receptions and private dinners held in premier restaurants, exclusive clubs, historic locations and even in Senators' homes."[25] Also provided were "Ambassador Club" trips abroad "to bring top American businessmen and women together with their counterparts in Europe and Asia." The brochure states that, during a 1991 trip to England, Roundtable members met with "Members of the British Cabinet, Members of Parliament, the American Ambassador to Great Britain and various lords and ladies who hosted private dinners at their estates."

During the 1992 election cycle, the director of the Roundtable was Lisa DeGrandi, an experienced Republican fundraiser who previously worked in the Reagan White House and for the RNC.[26] Her immediate supervisor was the finance director of the National Republican Senatorial Committee, Albert Mitchler.[27]

When interviewed by Committee staff, DeGrandi recalled that Kojima was already a Roundtable member when she was hired in 1989. She remembered his requesting and her providing a number of letters to assist him with his private business dealings. She told Committee investigators that, "because Kojima had given a great deal of money to the [Republican Presidential Roundtable], it was important for her to do what she could "to keep him happy" in order to maintain his membership." She indicated that "it was not uncommon for many of the individual [Roundtable] members to use their memberships to market themselves and/or their businesses."[28]

DeGrandi confirmed that she signed letters of support from the Republican Presidential Roundtable on behalf of Kojima addressed to U.S. embassy officials, foreign officials, and even heads of state. She estimated sending "15–20" such letters,[29] of which the Committee has obtained copies of over a dozen, including: two letters from DeGrandi to the U.S. ambassador to Japan dated June 7, 1991 and March 6, 1992; three letters to officials at the U.S. Embassy in Tokyo dated June 7, 18, and 20, 1991; a letter to the chief secretary of Hong Kong dated August 8, 1991; a letter to the Hong Kong chief secretary dated August 8, 1991; a general letter of support with no specific addressee dated August 12, 1991; a letter to a member of the Japanese Parliament dated October 15, 1991; a letter to the U.S. consul general in Hong Kong dated October 15, 1991; a letter to the U.S. Consulate in Hong Kong in the fall of 1991; a letter to the prime minister of Japan dated March 9, 1992, and a letter to Deng Xiaoping, leader of the People's Republic of China, dated March 9, 1992.

The letters use stationery containing a circular logo at the top resembling the presidential seal and an italicized heading on the left naming Presidents Bush, Reagan, and Ford as "honorary members." The text generally begins with the statement, "I am writing on behalf of Mr. Michael Kojima, President of International Marketing Bureau," and describes him as "one of the executive mem-

bers of the Presidential Roundtable, a business advisory group to President George Bush and the administration." Many of the letters describe a specific business venture, such as a Hong Kong airport project, that Kojima was pursuing. The letters then ask for a meeting or alert the recipient that Kojima would be contacting them. Many invoke President Bush by name, stating that Kojima has met or would be meeting with the President or indicating that a copy of the letter was being forwarded to the President. In the two March 9 letters addressed to foreign leaders, DeGrandi wrote that Kojima will be carrying a "message from the President of the United States that he will share with you upon your meeting him."

Other documents indicate that DeGrandi's efforts played a key role in Kojima's obtaining meetings with top U.S. officials. An internal State Department cable dated June 15, 1991, for example, from the State Department in Washington to the U.S. Embassy in Tokyo regarding Kojima cites his GOP connections:

> Lisa DeGrandi of the Republican National Committee asked for followup on her fax to you dated June 7. . . . The Committee is eager to assist Mr. Kojima in getting an appointment with Ambassador Armacost (Ms. DeGrandi sent a letter directly to the Ambassador as well.).

A meeting took place at the embassy on June 24, attended by Kojima, his business associate, and two senior embassy officials. A memorandum drafted by Embassy personnel summarizing the meeting begins: "This appointment was set up by Ms. Lisa DeGrandi, Director of the Presidential Roundtable (see attached correspondence). We met first with Mr. Kojima alone at his request. He explained his close ties with the Republican Party and the importance of this project to Republican Party campaign financing." A memorandum drafted by Embassy personnel summarizing a March 19, 1992, meeting attended by Kojima, his business associates, and U.S. Ambassador to Japan Michael Armacost, begins the same way: "This appointment was set up by Ms. Lisa Degrandi, Director of the Presidential Roundtable (see attached correspondence)." DeGrandi herself has been quoted as saying, "If I hadn't helped him, [Kojima] wouldn't have gotten his calls returned." [30]

The documents identify nine meetings between Kojima and U.S. officials facilitated by DeGrandi. Six were at the U.S. Embassy in Tokyo on June 24 and 26, July, September 30, and October 4, 1991, and March 19, 1992. One was at the U.S. Consulate in Hong Kong in the fall of 1991; another with the U.S. ambassador to the United Kingdom at the ambassador's residence in London on September 25, 1991; and one with U.S. Treasury officials in Washington, D.C., in March 1992. An Associated Press article by Michael Hirsh and Yuri Kageyama on May 15, 1992, describing Kojima's foreign business dealings and contributions to the Republican Party, includes this statement from a U.S. official in Hong Kong:

> When President Bush's people say give this guy the time of day, we give him the time of day. We did our best and got him the meetings he wanted. . . . We called and set up appointments for him and for the group. He probably

> couldn't have gotten through the door without the consulate.[31]

The letters, faxes, and telephone calls provided by the Republican Presidential Roundtable on behalf of Kojima to further his private business interests have no logical explanation other than Kojima's contributor status.[32] The fact that the Roundtable wrote letters to two foreign leaders and invoked President Bush's name to encourage a private meeting with Kojima illustrates the lengths to which GOP fundraisers went in 1992 to assist large contributors.

THE BUSH WHITE HOUSE AND FUNDRAISING

The documents also illustrate the GOP's use of the White House and access to the president and other senior government officials for fundraising purposes.

Kojima's $500,000 contribution to the 1992 President's Dinner, five times larger than any previous contribution he had made, is one of the largest contributions to a political party by an individual ever recorded by the FEC. Documents related to the making of this contribution demonstrate GOP fundraising practices at the time.

A sworn deposition provided by the executive director of the 1992 President's Dinner, Elizabeth Ekonomou,[33] describes her interactions with Kojima. Ekonomou testified that she was first introduced to him by DeGrandi at an October 1991 lunch at the Watergate Hotel. She said that she met Kojima, his wife, and two associates who did not appear to speak English. She testified that Kojima indicated at that lunch that he was interested in contributing to the 1992 Dinner and "talked about his participation in the neighborhood of $300,000."[34] Apparently because of the size of his pledge,[35] Kojima was made a "co-chairman" of the 1992 Dinner, one of about two dozen persons given that title by the Dinner Committee.

On February 1, 1992, invitations to the 1992 President' Dinner went out in a mass mailing over President Bush's signature. The cover letter, signed by President Bush, states in part:

> Together, we will join with Vice President and Mrs. Quayle, Republican dignitaries, and key supporters, like you, to raise the funds necessary to elect more Republicans to the U.S. House of Representatives and to the United States Senate. . . . Barbara and I look forward to seeing you. . . .

The invitation included a separate sheet listing ticket prices. It indicates that individuals may purchase a dinner ticket for $1,500 or tickets for a ten-person table for $15,000, while corporations were required to pay $2,000 for a single ticket and $20,000 for a table.

The invitation also included a document entitled "Benefits for Tablebuyers." This document states that a tablebuyer is entitled to attend a "Private Reception hosted by President and Mrs. Bush at The White House" or a "Reception hosted by The President's Cabinet." In addition, a tablebuyer is entitled to attend a "Luncheon hosted by Vice President and Mrs. Quayle" and a "Senate-House Leadership Breakfast hosted by Senator Bob Dole and Congressman Bob Michel." The tablebuyer also has an "Option to request a Member of the House of Representatives to complete the table of

ten. With purchase of a second table, option to request one Senator or one Senior Administration Official."

A similar document entitled "Benefits for Tablebuyers and Fundraisers," was sent by the dinner committee to the co-chairmen of the dinner. It lists a range of benefits for the most successful fundraisers. Fundraisers who sell "two tables" receive the same benefits as tablebuyers plus attendance at a "Reception with Senator Bob Dole at U.S. Capitol." Fundraisers who raise "$92,000 and above" receive a "Photo Opportunity with President Bush." "Top Fundraisers" are promised all of the listed benefits plus the "Opportunity to be seated at a head table with The President or Vice President based on ticket sales." The document warns, "Note: Attendance at all events is limited. Benefits based on receipts."

Of all the documents examined by the Committee, this document contains perhaps the most explicit offers of access in exchange for large contributions. It states outright that fundraisers receive "[b]enefits based upon receipts." It states explicitly that seating with the President will be "based on ticket sales." It offers GOP fundraising receptions at government facilities including the White House, the Vice President's Residence, and the U.S. Capitol. It promises fundraisers access to the most senior Republican officials including the President, Vice President, cabinet officers, and the Senate and House minority leaders. "Tablebuyers" are given the option of requesting a Member of Congress or "Senior Administration Official" to sit at their tables. The offer of access to important government officials in exchange for contributions could hardly be more blatant.

The documents also demonstrate how these fundraising strategies were employed by the Republican Party to encourage large contributions. On February 5, 1992, a memorandum to Kojima from the dinner chairman, former Senator Howard Baker of Tennessee, promised a meeting with the President for attending an event devoted to making fundraising calls for the dinner:

> The White House has just confirmed Monday, March 9th on The President's schedule for a special meeting with The 1992 Dinner Deputy and Co-Chairmen. As in past years, we will gather for a Strategy Session in which we will make some recruiting calls and hear updates from the House and Senate. It would be very helpful if, in preparation for this meeting, you would put together a list of individuals you would like to contact that day . . . [P]lease clear your calendar for this unique opportunity to work together to reach our goals. I look forward to seeing you on March 9th.

A similar memorandum, dated February 5, from Senator Baker to another dinner co-chairman, James R. Elliott, is even more explicit: "I would like to invite you to join the [dinner co-chairmen] for this meeting with The President." [36]

A followup letter dated February 19, 1992, from Senator Baker to Kojima, expresses thanks for "agreeing to serve as a Co-Chairman by pledging $300,000 to The 1992 President's Dinner. I look forward to seeing you on March 9." A similar letter dated February 19, was sent to Elliott.

On February 21, the Dinner Committee sent the first in a series of weekly memoranda from Senator Baker to the dinner co-chairmen reporting on fundraising and urging additional contributions. Entitled "Finance Report," the February 21 memorandum states:

> With just 67 days until April 28th [the date of the dinner], we have reached a critical point in our fundraising efforts. It is essential that you make your recruiting calls now so there is time for the commitments to be fulfilled. . . . I hope I'll be seeing you in Washington on March 9th. . . .

A February 28 "Finance Report" from Senator Baker to the dinner co-chairmen states: "There are only 60 days until April 28th! . . . I would like to see all Co-Chairmen on board before the March 9th Strategy Session so they will be able to attend the meeting. This is an opportunity to show strong support for President Bush when we report our progress to him at the end of the day of calls."

Kojima made his first contribution to the Dinner on March 6, three days before the White House meeting. The check from his company, IMB, is for $200,000. March 6 is also the date of a letter from DeGrandi of the Republican Presidential Roundtable to the U.S. ambassador to Japan requesting a meeting for Kojima. The letter states, "As also a Co-Chairman of the President's Dinner, Mr. Kojima met with the President regarding a balance between the United States and Japan and working to a new world order. Mr. Kojima will be meeting with the Prime Minister while in Japan and at that time he has requested to meet with you." This letter has a handwritten notation on it, "Has he called?" The requested meeting between the ambassador and Kojima took place two weeks later, on March 19.[37]

President Bush's public schedule confirms that on March 9, he met "in the Roosevelt Room with members of the National Republican Senatorial and Congressional Committee[s] to discuss the President's Dinner."[38] A "Tentative Agenda" for the March 9th Strategy Session also cites this White House meeting:

> 10:30 a.m. "Briefing and Strategy Session" with Dinner Chairman Senator Baker at the Hay Adams Hotel
> 12:30 p.m. "Lunch with the Vice President and Cabinet Members" at the hotel
> 2:30 p.m. "Strategy Session (Part II)" at the hotel
> 3:30 p.m. "Depart for the White House"
> 4:00 p.m. "Meeting with the President" at "The White House"

Clearly, the dinner committee used the promise of a White House meeting with the President, as well as a luncheon with the Vice President and Cabinet members, to convince the individuals serving as its co-chairmen to fly to Washington and spend several hours making telephone fundraising calls to potential contributors.

Kojima apparently not only attended the March 9 strategy session and White House meeting with the President, he also visited DeGrandi at the Republican Presidential Roundtable and obtained letters on his behalf to the leaders of Japan and China. The two letters, each dated March 9, contain the identical sentence: "I met

with Mr. Kojima while he was here in Washington, D.C. before he met with President Bush at the White House." Both also state that Kojima has a "message from the President of the United States that he will share with you upon your meeting him."

On March 13, the dinner committee sent another "Finance Report" to its co-chairmen. The memorandum states: "One hundred tables were sold last Monday at the Strategy Session, making it the most successful ever. . . . In order to insure reaching our goals, it is still necessary to keep recruiting. However, it is also time to start turning pledges into receipts."

On March 16, Kojima signed a second IMB check contributing $200,000 to the dinner. His wife, Chiey Nomura Kojima, sent the check to the dinner's executive director, Ekonomou, with a cover letter stating that "we have provided a check in the amount of $200,000 to support Bush administration for re-election," even though dinner contributions were supposed to be used to elect Republican Members of Congress rather than to re-elect President Bush.

On March 20, the dinner committee issued its weekly Finance Report to the co-chairmen. The memorandum states: "I want to remind you that the individual who raises the most money in actual *receipts* by Friday, April 24 will have the honor of saluting President Bush with a special toast during The Dinner. As of today, the following are in contention for the toast to The President: "1. Mike Kojima—Receipts $400,000 . . . ." [Original emphasis.]" The memorandum lists six other individuals as well, but none has "receipts" approaching $400,000.

The March 27 Finance Report states: "32 DAYS AND COUNTING! We are at $5.7 million in pledges and receipts. Keep on working. Remember that the top fundraisers and their spouse or guest will be invited to sit at the head tables."

On April 1, 1992, FEC records indicate that IMB made an in-kind contribution of $8,770 to the NRSC for a National Museum for Women in the Arts dinner in connection with a Presidential Roundtable Spring Forum.[39] A February 27 letter offering tickets to the Spring Forum for $265 per person or $530 per couple states: "The day concludes with our reception and dinner with President Bush at the historical National Museum for Women in the Arts." President Bush's public schedule confirms that he and his wife attended.[40] DeGrandi recalled that Kojima sponsored the event by paying for the museum rental,[41] and a handwritten note from Kojima's wife states that she and her husband "sponsored and hosted it."[42] The documents do not indicate whether Kojima sat at the head table with the President or offered a toast.

On April 3, the dinner committee sent its weekly Finance Report to the co-chairmen. The memorandum states: "With only 25 days until The Dinner, now is the critical time for us to focus on turning pledges into receipts. The toast and headtable standings are shaping up as follows:

	Receipts	Pledges/Receipts
1. Mike Kojima	$400,000	$450,000
2. Bill Schreyer	258,000	877,500

	Receipts	Pledges/Receipts
3. Carl Lindner	250,000	250,000

The memorandum lists 11 names in all.

The next two Finance Reports, dated April 10 and 17, also provide prospective "Headtable seating arrangements" based upon actual receipts. The April 10 report lists Kojima, with $400,000 in receipts, as the fourth and final fundraiser to be seated with the President. However, the April 17 report—the final report before the dinner—shows Kojima as having dropped in the "standings" and lists him as being seated at the Vice President's table.

A fax and memorandum dated April 20, 1992, from Ekonomou to Kojima, also place him at the Vice President's table. Entitled, "Dinner and Special Events Attendees," the memorandum states: "Thank you for the list of individuals planning to attend The Dinner and the Special Events that day. Because of their intimate nature, the two receptions where it is not appropriate for your photographer to accompany you are the Oval Office Reception and the Headtable Reception. As of today, it looks as if you and your wife will be seated at The Vice President's Headtable. This leaves 23 guests . . . to be seated at your 3 tables. We have placed Senator and Mrs. Murkowski at table #1 and Senator and Mrs. Seymour at table #2, which brings your total attendees to 27. If you would like a VIP at your 3rd table, please let us know."

On April 22, 1992, Kojima signed a third check for $100,000 made out to the President's Dinner. Unlike the first two checks, this contribution was not from an IMB account, but from Kojima's personal account. His total contribution of $500,000 was the largest from any individual at the dinner; his competing fundraisers had raised their sums from more than one source.

As a result of his last-minute contribution, Kojima and his wife were seated at the head table with President Bush.[43] Kojima was listed in the dinner program as one of 24 deputy chairmen and co-chairmen of the event. The program describes the dinner as "the single largest fundraising event in history for Republican House and Senate candidates." Television coverage showed the President greeting Mrs. Kojima with a kiss on the cheek when joining the table.[44] Kojima's contribution was also widely reported, leading to the lawsuits filed by his past wives and creditors.

The facts surrounding the 1992 Republican President's Dinner provide important information about GOP use of the White House to encourage fundraising. The Dinner invitations explicitly promise a White House reception with the President and First Lady in exchange for contributions. Dinner co-chairmen who made fundraising calls for the dinner met with the President in the White House's Roosevelt Room and lunched with the Vice President and Cabinet members. Top fundraisers attended a special, exclusive reception in the Oval Office.

Videotapes of the March 9 meeting in the Roosevelt Room and the April 28 Oval Office reception likely exist, and the Minority made requests to view the videotapes. The Majority, however, refused to support these requests on the ground that such events were outside the scope of an investigation into the 1996 elections. But evidence documenting the Bush Administration's use of the

White House to facilitate fundraising is critical to evaluating whether the Clinton Administration's use of the White House was in line with precedent.[45]

GOP CLAIMED NO DUTY TO INVESTIGATE

One issue examined by the Committee during its hearings is to what extent parties have an obligation to investigate persons offering large contributions. The Republican Party provided its views when Kojima's $500,000 contribution became public and questions arose regarding his status as a debtor and "deadbeat dad" who may have lacked the financial resources for such a large donation. The Republican Party responded that it had no duty to investigate or verify his contribution.

Rich Galen, spokesman for the Republican President's Dinner, told the press at the time, "There's no requirement in practice or in law that a political organization or charitable organization get any kind of statement from a donor as to the origins of the money."[46]

Deposition testimony provided a year later by Ekonomou, an experienced Republican fundraiser and the Dinner's executive director, establishes that GOP fundraisers believed they had no obligation to investigate any contributor or contribution. Ekonomou stated under oath:

> Q. Did the Dinner Committee do any kind of background search or verification regarding its top fundraisers?
>
> A. No.
>
> Q. Do you believe that the Dinner Committee has responsibility to do any kind of background verification or search about its fundraisers or top fundraisers?
>
> A. No.
>
> Q. In light of your experience and the concern that was raised in you after revelations of Mr. Kojima's outside activities, you continue to have no belief that the Dinner Committee has any kind of obligation to do any verification of the background of its top fundraisers?
>
> A. I do not believe that the President's Dinner has any obligation to get background information on its top fundraisers.[47]

Jan Baran, legal counsel for the dinner committee and also longtime legal counsel to the RNC and other Republican Party organizations, put it even more forcefully in 1993 legal pleadings filed with the U.S. District Court for the District of Columbia:

> [P]olitical organizations such as the [Republican Dinner] Committee must be able to receive and use contributions. If they were required to investigate all contributors and establish a pedigree for all contributions, their First Amendment protected activities would be seriously handicapped. . . . The Federal Election Campaign Act of 1971, as amended, imposes no burden upon political organizations to investigate the solvency of contributors.[48]

The unequivocal position of the dinner's legal counsel, executive director, and spokesman is powerful evidence that, in the years prior

to the start of the 1996 election cycle, GOP fundraisers believed they had no legal obligation to investigate either contributors or suspect contributions. This position is clearly relevant to understanding the actions of fundraisers during the 1996 cycle who also failed to investigate particular contributions and to evaluating the propriety of those actions.

The documents do show, however, that as media inquiries about Kojima intensified in the period before the April 28 dinner, the dinner committee made one attempt to obtain more information about Kojima and the source of his funds. A memorandum dated April 24, 1992, to Senator Baker from Ekonomou and Galen provides this account:

> Chuck Babcock of the *Washington Post* has called numerous times, over the past two days, regarding the donations of Mr. Kojima. Mr. Kojima is listed as one of the largest donors to The Dinner in the FEC report which was filed on April 15. . . .
>
> Babcock has been unable to find out any information regarding Mr. Kojima which raised his interest. . . .
>
> He had the *Post's* Los Angeles bureau check Secretary of State documents in California and found the only reference to a "Michael Kojima" one who was a chef and owned, at one time, a series of restaurants.
>
> His further research indicated that the address listed as the headquarters of International Marketing Bureau was also the address of one of the restaurants owned by the Michael Kojima he could find. . . .
>
> His specific concerns . . . "How do you know whether these checks come from the assets of his corporation or whether they are the result of laundered money?'
>
> This question raised our concerns to the point where we placed a call to Mr. Kojima and asked him about his business.
>
> Mr. Kojima, in a phone conversation with Rich and Betsy said:
>
> (1) His business is "international marketing";
>
> (2) He has clients in "various countries" including: The USA, Japan, Hong Kong and Israel;
>
> (3) He is involved in "organizing consortiums" for "national projects" such as airports and telecommunications systems. . . .
>
> (4) We specifically asked him the source of funds which are represented by the checks he has sent. He was asked if they were from corporate proceeds or "from individuals who had chosen to donate to The Dinner." His specific answer was that the checks were "corporate assets, my own corporation assets."
>
> We feel much more comfortable now, having spoken to Mr. Kojima:
>
> —That we have taken reasonable steps to ensure the funds he has sent to The Dinner are from a legitimate source;
>
> —That he understood the nature of our concerns; and,

—That he answered our questions with no hint of evasion.[49]

This memorandum indicates that, prior to the dinner, the Republican dinner committee knew that Kojima was engaged in international business, that the business address he had provided for IMB was the address of a California restaurant, and that the lack of ready information about him and his business had raised concerns that he lacked the funds to make a $500,000 contribution and might be "laundering" money for someone else.

When the press raised these red flags, the dinner committee's senior personnel telephoned Kojima to ask him about the funds used for his contribution. He responded that he was using corporate funds, yet the day before the committee had received his personal check for $100,000. They also failed to ask him whether he or his company, whose business was international marketing, was utilizing foreign funds. In addition, despite having a list of 23 persons that Kojima was inviting to the dinner as his guests, including at least ten foreign nationals, the dinner committee never asked Kojima if he was using funds supplied by his guests to finance the $500,000.

FOREIGN FUNDS

If the Republican Dinner Committee had asked, it might have discovered the evidence that emerged in early 1997 indicating that the Kojima contribution was being financed, in whole or in part, with foreign money.

Kojima brought 23 guests to the 1992 President's Dinner.[50] In a July 7, 1997, broadcast and subsequent materials posted on its website, CBS News revealed that these guests included ten Japanese citizens who flew in from Tokyo for the dinner.[51] Five were Japanese businessmen, three of whom stated, according to CBS News, that they had paid Kojima significant sums of money to attend the President's Dinner. For example, Shuuichi Nakagawa told CBS said that he attended the dinner as a Kojima guest and that Kojima asked him for hundreds of thousands of dollars. Takashi Kimoto, a real estate company owner, reportedly stated that he "KNOWS his money went to the GOP."[52] [Original emphasis.]

CBS News also released a document apparently provided by one or more of the Japanese businessmen. Printed in English and Japanese, the English version appears on IMB letterhead, is entitled "Receipt," and is addressed to Tsunekasu Teramoto, a person known to work with Kojima and IMB.[53] The next line of the document is the word "Participant:" followed by a blank line. The text states: "Your Participation for 1992 President's Dinner will be the minimum requirement of donation at one Hundred Seventy-Five Thousand (US $175,000) U.S. Dollars." The document instructs the money to be remitted to IMB, providing the location and number of a specific bank account, which is the same bank account number that appears on the two IMB checks providing $400,000 to the Republican Dinner Committee. Below the remittance instructions is a blank signature line over: "Michael Kojima, Co-Chairman." If authentic, the document suggests that Kojima was using his status as a co-chairman of the President's Dinner to obtain huge sums of

money from foreign sources in exchange for arranging attendance at the dinner.

Given Kojima's apparent lack of assets, the explanation offered by the Japanese businessmen for the source of Kojima's $500,000 contribution, their attendance at the President's Dinner, and the English/Japanese receipt bearing IMB's specific bank account number are, together, strong evidence that the Kojima contribution utilized illegal foreign funds. Yet, despite requests from the Minority, the Majority refused to allow Committee investigators to interview any of the Japanese businessmen or investigate their allegations.

The Majority also refused to issue a subpoena for bank records associated with IMB or Kojima bank accounts, which might have established the deposit of foreign funds into these accounts. Some of these bank records were produced in connection with the 1992 court case. The signature card for the IMB account at Sumitomo Bank of California, for example, shows that the account was opened in November 1990, with three authorized signatories: Kojima, his wife, and his attorney. But no monthly bank statements for the IMB account were produced in connection with that case.

Other records were produced in connection with Kojima's personal account at the Bank of California, which was the account used to write the third check to the President's Dinner for $100,000. These records show that the account was opened on February 20, 1992, that Mr. and Mrs. Kojima were the only authorized signatories, and that an initial deposit was made of $1,000. Monthly bank statements show that no further activity took place in the account until April 1992, when three deposits were made in a four-day period. The first was for $24,381 on April 20; the second was a wire transfer of $200,000 on April 23; and the third was a wire transfer of $164,631.90 on April 24.

Four checks were then written over a three-week period in April and May 1992. The first, for $8,100, paid on April 24, may have been for the museum rental bill associated with the Spring Forum dinner. The next, for $100,000, was the contribution to the President's Dinner. The third check, also for $100,000, represented a contribution to Harvard University.[54] The fourth check, for $175,000, withdrew the bulk of funds from the account on May 11, 1992. No further activity took place until the account was closed in July, five months after it was opened. None of the documents from the 1992 court case indicate where the two April wire transfers originated. A Committee subpoena might have established whether those wire transfers deposited foreign money into the Kojima account, but the Majority denied Minority requests for subpoenas to obtain the necessary bank records.

The Majority's justification—that the 1992 Kojima contribution was too old for Committee investigation—is contradicted by the fact that the Majority not only investigated but held hearings on a $50,000 contribution to the Democratic Party by Hip Hing Holdings that was made in August 1992, and for which Hip Hing Holdings later sought reimbursement from sources in Indonesia.[55] The Kojima contribution is from the same year and ten times larger—potentially the second largest single infusion of foreign funds into either party, exceeded only by the loan transaction involving the

National Policy Forum, RNC and Hong Kong funding, described in an earlier chapter. It is also relevant that, while the Democratic Party returned the $50,000 Hip Hing Holdings contribution, the Republican Party has continued to retain $215,000 from Kojima. Its retention of these funds means that the Republican Party is holding almost a quarter of a million dollars in likely foreign funds.

One other set of facts raises questions about the dinner committee's own suspicions regarding the Kojima funds. Kojima originally contributed $500,000 to the Republican Senate-House Dinner Committee to elect Senate and House candidates in 1992. The 1994 settlement agreement, however, re-directed the funds, depositing them into a new dinner committee account called a "Trust & Building Fund." Section 441e of the Federal Election Campaign Act prohibits foreign contributions to local, state, or federal candidates, but is silent on whether foreign funds may be contributed to parties to conduct non-candidate-related activities, such as constructing office facilities. Did the Republican Party re-direct the Kojima funds from a candidate to a non-candidate account in order to better its chances for retaining the funds in case they were later deemed foreign? How else can the complex 1994 transaction creating a new account solely for the Kojima funds be explained?

FAILURE TO CONDUCT A FEDERAL INVESTIGATION

On June 9, 1992, Common Cause asked Attorney General William Barr to request appointment of an independent counsel to investigate "whether criminal violations of federal law [had] occurred in connection with The President's Dinner." Common Cause raised two sets of possible violations, each involving a co-chair of the dinner. With respect to Kojima, Common Cause stated:

> Published reports indicate that Kojima was heavily in debt, that [IMB] may not have had $500,000 to contribute and therefore that the $500,000 may in fact have come from unidentified contributors. The published reports . . . raise serious questions of violations of 2 U.S.C. 441(f) (prohibiting contributions made in the name of another) and 2 U.S.C. 434 (requiring disclosure of the source of contributions).

Two weeks later, on June 24, 1992, John C. Keeney, deputy assistant attorney general for the criminal division, sent a one-page letter to Common Cause. He stated without further explanation:

> We have determined that there is no basis to seek appointment of an Independent Counsel. . . . Moreover, we find no personal or Department of Justice conflict of interest which requires the appointment of an Independent Counsel.

As far as the Minority has been able to determine, no criminal investigation of the Kojima contribution took place outside of this two-week period.

The Minority is also unaware of any FEC investigation of the Kojima contribution, although it is possible an investigation was initiated without any public notice and is still underway.[56]

The absence of any significant civil or criminal federal investigation of the Kojima contribution may have sent the message that even a contributor with a questionable background may contribute hundreds of thousands of dollars to a political party, and no federal inquiry will follow. The FEC and Justice Department's apparent inaction in the Kojima matter may have been perceived as giving a green light to the no-questions-asked fundraising that followed in the 1996 election cycle.

CONCLUSION

At the start of the Committee's investigation, the Majority supported efforts to investigate the Kojima contribution, issuing document requests to the State Department and Lippobank, among others. But the Majority later reversed course, refusing to support obtaining additional documents, interviews, or public testimony about Kojima.

Yet the facts and documents surrounding Kojima's $500,000 contribution provide information of great relevance to the Committee's investigation into the 1996 elections. This contribution is potentially one of the largest foreign-funded contributions to either party. The Kojima case establishes clear precedent for a political party using the White House and access to senior government officials to encourage fundraising. In a two-year period, due to his contributor status, Kojima met President Bush on five occasions, including at an Oval Office reception; met with Vice President Quayle twice; met Cabinet members at an intimate lunch; and met multiple times with U.S. ambassadors and senior embassy personnel. The Kojima case is a precedent for large contributors bringing foreign nationals as their guests to fundraising events attended by the President. The Kojima case also demonstrates the lengths to which GOP fundraisers went to assist large contributors in furthering their private business interests—even attempting meetings with foreign leaders. The Kojima case demonstrates the belief in the fundraising community that the law imposed no legal obligation on them to investigate any contributor or contribution, even when questions were raised. The Kojima case also demonstrates the Republican Party's continuing belief that it has no obligation to return suspect funds.

In short, the Kojima case offers proof that campaign finance abuses are a bipartisan problem with a long history.

FOOTNOTES

[1] Kojima's employment history is described in documents contained in files associated with *1992 Republican Senate-House Dinner Committee* v. *Carolina's Pride Seafood, Inc.* Civil Action No. 92–1141 (D.D.C), and *Bank of Trade* v. *2M Management Co., Ltd.,* No. C697606 (California Superior Court, Los Angeles County).

[2] The first loan was made on 3/3/87 for $80,000 to finance new restaurant franchises; the second loan was on 4/14/87 for $250,000 to finance interior construction of a new restaurant at a shopping mall; and the third was on 4/14/87 for $325,000 to buy out other shareholders in certain restaurants. Kojima personally guaranteed repayment along with his partner and the founder of 2M Management, Margaret Wong.

[3] *Bank of Trade* v. *2M Management Co., Ltd.,* No. C697606 (California Superior Court, Los Angeles County); *1992 Republican Senate-House Dinner Committee* v. *Carolina's Pride Seafood, Inc.,* 858 F. Supp. 243, 246 (D.D.C. 1994) (The bank obtained creditor's judgment against Kojima for $586,000 on 12/31/90.)

[4] Certified statement by California Secretary of State, 5/20/97. The certification states that IMB was incorporated on 6/27/90, suspended for nonpayment of taxes from 8/3/92 until 5/24/93 and from 4/1/94 until 4/18/94, and listed on 5/20/97 as an active California corporation.

[5] IMB's Statement By Domestic Stock Corporation, 6/17/91; signature card for IMB bank account at Sumitomo Bank of California, 11/90.

[6] Committee investigators were unable to locate any IMB office. See also *Washington Post,* 5/8/92 (IMB "operates out of his lawyer's office, and phone messages are taken by an answering service.") and *Los Angeles Times,* 5/8/92 (IMB "is run out of the office of his wife's student exchange program. . . . Nowhere in the two-room office is there any evidence of a marketing company.").

[7] See, for example, IMB incorporation documents (attorney's office and wife's office address used), IMB checks and bank records at Sumitomo Bank of California (wife's office address used), and FEC contribution records (attorney's office address used).

[8] See, for example, Associated Press, 4/29/92; *Los Angeles Times,* 4/29/92; *Chicago Tribune,* 4/30/92; *Orlando Sentinel Tribune,* 5/7/92; *Washington Post,* 5/8/92; and *St. Louis Post-Dispatch,* 5/9/92.

[9] *Los Angeles Times,* 5/9/92.

[10] *New York Times,* 10/11/92; *Los Angeles Times,* 10/11/92; *New York Times,* 10/18/92; and *Daily News,* 10/15/96.

[11] *Washington Post,* 5/8/92.

[12] *New York Times,* 5/9/92.

[13] *Los Angeles Times,* 5/8/92.

[14] *The 1992 Republican Senate-House Dinner Committee* v. *Carolina's Pride Seafood, Inc.,* (D.D.C.), Civil Action No. 92–1141.

[15] 858 F. Supp. 243 (D.D.C. 1994).

[16] Judgment by Consent, Civil Action 92–1141 (9/6/94).

[17] Judgment by Consent, Civil Action 92–1141 (9/6/94). FEC records show that the Fund was established on 9/20/94 as a new non-federal account of the Dinner Committee. Statement of Organization, FEC ID No. C00261719; and 1992 President's Dinner, Report of Receipts and Disbursements, Schedule B, Itemized Disbursements, 10/94, p. 1.

[18] *People* v. *Kojima,* Los Angeles Municipal Court, Case Nos. 92R25264 and 92R00618, Reporter's Transcript of Proceedings on 10/15/93. See also *Dallas Morning News,* 10/11/92 ("Kojima, 51, . . . was arrested in the Salt Lake City Airport as he prepared to board a plane. . . . He had eluded investigators for four months, moving frequently and living under assumed names, officials said.") and *Los Angeles Times,* 10/11/92.

[19] Although FEC records indicate that all three contributions to the 1992 President's Dinner were made by IMB, the final payment of $100,000 was drawn on Kojima's personal bank account, and was held in the 1992 court case to be a personal expenditure. 858 F. Supp. 243, 249.

[20] Documents analyzed by the Minority include records from the 1992 court case; FEC contribution and enforcement records; records collected by Common Cause regarding the 1992 President's Dinner; records provided by the State Department and Lippobank in response to Committee document requests; documents provided in connection with Committee interviews; and other materials.

[21] Committee investigators conducted a number of interviews, prepared eight formal interview reports, and summarized several investigative efforts. In several instances, interviewed persons voluntarily provided documents.

[22] Depositions in the 1992 court case were provided by the Republican Dinner Committee's executive director Elizabeth Ekonomou, comptroller Christopher Ward, and assistant treasurer Trudy Matthes Barksdale.

[23] 1992 Presidential Roundtable brochure.

[24] A letter dated 6/22/90, from Presidential Roundtable co-chairman Senator Don Nickles to prospective members, describes it this way: "Working with the Republican members of the United States Senate, the Presidential Roundtable operates much like a private club—a club whose members meet, talk, and dine with some of the most important people in the world. . . . It is an exclusive political organization, a unique business forum, and a special social club combined."

[25] The brochure also lists benefits related to the 1992 Republican National Convention in Houston, including a "private tour" of the NASA Space Center "hosted by Senators from the Committee on Commerce, Science and Transportation." A brochure photograph is captioned: "Secretary Richard Cheney briefs the Roundtable Members on Defense issues at the Pentagon." Both are examples of U.S. government facilities being used to encourage GOP fundraising.

[26] Committee investigators interviewed DeGrandi at length and prepared two interview reports dated 6/4/97 and 7/3/97.

[27] Staff interview with DeGrandi, 6/4/97, p. 1.

[28] Staff interview with DeGrandi, 6/4/97, p. 4.

[29] Staff interview with DeGrandi, 6/4/97, p. 4.

[30] DeGrandi, Lisa. "A Staffer's Own Story," www.eveningnews.com/lisadegrandi.html, p.3.

[31] See also *Los Angeles Times,* 5/18/92: "In October, theForeign Commercial Service at the U.S. Consulate in Hong Kong did get a letter from the Presidential Roundtable introducing Kojima, a consulate spokesman said Sunday. . . . A week later, Kojima asked the consulate to set up appointments with the Hong Kong airport authorities. The consulate obliged, and Kojima met with airport officials, but did not land a contract, the spokesman said."

[32] A 10/1/91 memorandum prepared by an Embassy official, for example, summarizing a 45-minute meeting with Kojima, states the following: "Mr. Kojima explained that he is trying to assemble a consortium for the Hong Kong Airport project and needs introductions to Japanese banks to secure funding. We explained that [the commercial office of the U.S. Embassy in Japan] is primarily concerned with promoting exports of U.S. goods and services, and is not positioned to make introductions to Japanese banks. We also indicated that Mr. Kojima's list of consortium members showed little participation by U.S. firms." In other words, the embassy was being asked to further Kojima's private business interests even when they involved obtaining business for foreign, not American, firms.

[33] This deposition was provided on 4/8/93 in connection with the 1992 court case.

[34] Elizabeth Ekonomou deposition, 4/8/93, pp. 35–36.

[35] See letter from Dinner Chairman Howard Baker to Kojima, thanking him for "agreeing to serve as a Co-Chairman by pledging $300,000," 2/19/92.

[36] This memorandum, as well as other internal documents related to the President's Dinner became publicly available in connection with an FEC enforcement action against Elliott. See *In re Cherry Communications Inc.,* MUR No. 3672.

[37] FEC records also indicate that on March 6, IMB contributed $30,000 to the NRSC, but one month later this contribution was returned due to insufficient funds.

[38] 28 Weekly Comp. Pres. Doc. 477 (3/13/92).

[39] NRSC/Nonfederal Schedule A for Itemized Receipts, p. 16.

[40] 28 Weekly Comp. Pres. Doc. 584 (4/3/92).

[41] DeGrandi interview report, 6/4/97, p. 6.

[42] Letter from Chiey N. Kojima to Dr. Hausman of the John F. Kennedy School of Government, enclosing a copy of the dinner menu with a thank you to the Kojimas printed at the bottom, 4/4/92.

[43] The Court in the 1992 court case describes the sequence of events this way: "The flurry of notices to contributors like Michael Kojima exhorted them to increase donations. Kojima, apparently taking the notices to heart, contributed another $100,000 to the 1992 Committee via a personal check . . . Kojima then qualified to sit at the President's table." 858 F. Supp. 244.

[44] CBS Evening News footage re-broadcast on July 7, 1997.

[45] In October, Committee Chairman Thompson was reported by the press as disagreeing with "the notion that possible [campaign-finance] misdeeds by President Clinton and his aides are no worse than those of the Reagan and Bush administrations. . . . "We have a scandal going on in Washington, D.C., now that is not like anything we've seen before," he said. "We have seen unprecedented amounts of money flow into the White House.'" Associated Press, 10/18/97.

[46] Column by Lars-Erik Nelson in *San Diego Union-Tribune,* 5/14/92.

[47] Elizabeth Ekonomou deposition, 4/8/92, pp. 102-103.

[48] Pleading filed by Baran on July 22, 1993, on behalf of the Republican Senate-House Dinner Committee. The Court subsequently disagreed, found Kojima insolvent, ordered a portion of his $500,000 contribution paid to his creditors, and authorized additional discovery into IMB's solvency. 858 F. Supp. at 249. The Republican Committee then settled the lawsuit, keeping $215,000 and releasing $285,000 plus interest to Kojima's creditors. Judgment by Consent, Civil Action 92–1141 (9/6/94). The Republican Committee also moved and the court agreed to vacate its published decision, so that no precedent would be set requiring political committees to surrender contributions from insolvent contributors. Motion filed by Republican Committee 8/30/94; court order filed 11/8/94.

[49] This memorandum is referenced in the Court decision, 858 F.Supp. at 245, n. 5, and is available in the public file associated with the 1992 court case.

[50] See 4/20/92 fax and memorandum to Kojima from Ekonomou, described acknowledging receipt of a list of 23 guests. Ekonomou had this guest list prior to calling Kojima on April 24.

[51] CBS News has reprinted several photographs of Kojima's Japanese guests at the President's Dinner on its website at www.eveningnews.com/moneytrail2.html.

[52] While Kojima's guest list for the dinner has not been produced to the Committee, Kimoto's name does appear in a State Department document summarizing a 3/6/92 meeting between Kojima and the U.S. ambassador to Japan. The document lists Kimoto as a participant at the invitation of Kojima, thereby providing evidence that the two were engaged in business dealings in the month before the President's dinner.

[53] Teramoto, for example, attended meetings with Kojima and U.S. embassy personnel, and is listed on embassy documents summarizing the meetings. His name also appears in correspondence between Mr. and Mrs. Kojima and Harvard University, including a 3/10/92 letter from Mrs. Kojima which describes Teramoto as Kojima's "Japan agent.'

[54] In the spring of 1992, in addition to contributing $500,000 to the President's Dinner, Kojima made three contributions to Harvard University totalling $205,000. Committee investigators conducted interviews and obtained documents in connection with this matter, including copies of the checks used to make the contributions. Two of the checks, both dated March 5, 1992, are written on IMB's account at Sumitomo Bank of California. One gave $100,000 to the Institute for Social and Economic Policy in the Middle East at the John F. Kennedy School of Government; the other contributed $5,000 to the University's general fund. The third check, dated May 1, 1997, was drawn on Kojima's personal account at the Bank of California and contributed another $100,000 to the Institute.

The documents and staff interview reports dated 5/29/97 and 6/3/97 with Institute Director Leonard Hausman indicate that Kojima invoked his status as co-chairman of the President's Dinner to establish his credentials with Harvard. The 5/29 report states that the director called a person from the "Republican party in Washington, D.C." who confirmed "that Kojima was a significant contributor to the Dinner, that he was a Dinner co-chairman and that he was indeed going to sit at the head table with the President and Mrs. Bush. [The director] concluded that if the G.O.P. thought enough of Kojima . . . [to] sit him with the President, then Harvard could accept Kojima's money as well." The director indicated that "[i]n return" for his contribution, Kojima "desired to be appointed to the Board of Directors for the Institute." He recalled receiving letters of recommendation "from Japanese legislators or officials urging [him] to appoint Kojima to the Board of Directors," but did not do so. Harvard University did, however, arrange for Kojima to meet with senior university personnel and invited him to participate in a Harvard symposium. Kojima, in turn, invited the director to the President's Dinner, and he attended as one of Kojima's 23 guests. These incidents demonstrate Kojima's use of his status as a dinner co-chairman to win entry into other circles and the Republican Party's ready assistance to further his personal interests.

[55] See, for example, Juliana Utomo, 7/15/97 Hrg., pp. 9–12.

[56] The FEC did initiate, in October 1992, a civil investigation of the other dinner co-chair named in Common Cause's request for an independent counsel, James R. Elliott. That investigation, MUR 3672, concluded in 1996 when the FEC released a conciliation agreement in which Elliott and his company, Cherry Communications, Inc., agreed to pay a $150,000 civil penalty for violating 2 USC 441b(a)'s prohibition against corporate contributions.

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PART 1 FOREIGN INFLUENCE

Chapter 7: Ted Sioeng

Ted Sioeng, an Indonesian-born businessman who is not a U.S. citizen or a legal resident, and other members of the Sioeng family, who are U.S. legal permanent residents, contributed to both Republican and Democratic organizations during the 1990s. Sioeng has longstanding relationships with business interests in the People's Republic of China ("PRC") and owns a pro-PRC newspaper in California. The circumstances surrounding the Sioeng family's donations paint a disturbing picture of fundraisers from both political parties assiduously courting an individual (Sioeng) who, because of his status as a foreign national, has no ability to make or direct legal contributions under U.S. election laws.

Ted Sioeng and his family vigorously deny acting on behalf of the Chinese government or pursuant to any plan to illegally influence U.S. elections. Sioeng initially agreed to cooperate with the Committee's investigation of the allegations involving him and his family, and his daughter Jessica Elnitiarta—a legal permanent resident of the U.S.—provided a voluntary interview. After apparent leaks to the press of information provided in this interview, however, Sioeng's attorney advised against additional voluntary interviews. When the Committee issued a subpoena for the deposition testimony of Jessica Elnitiarta, her counsel refused to comply, invoking her Fifth Amendment right not to offer self-incriminating testimony. As a result, much of the following information was pieced together from sources other than Sioeng or his family.

Based on the evidence before the Committee, we make the following findings with respect to political contributions from Sioeng and related persons:

FINDINGS

(1) The evidence before the Committee strongly suggests that Ted Sioeng, a foreign national, was directly or indirectly involved in a number of contributions to Democrats and Republicans.

(2) Matt Fong, California State Treasurer, did not exercise appropriate diligence in personally soliciting and receiving $100,000 in contributions from Sioeng and a $50,000 contribution to NPF from a Sioeng-owned company. Fong has since returned the $100,000 he received; NPF has reportedly returned the $50,000 it received.

(3) The evidence before the Committee does not allow for any conclusion as to whether Sioeng served as a conduit for contributions from any foreign government, including the Government of China.

(4) Sioeng's contributions enabled Sioeng and his associates to gain access to senior figures in both the Democratic and Republican parties, including President Clinton, Vice President Gore, and House Speaker Gingrich.

TED SIOENG'S BACKGROUND

News accounts of the development of Ted Sioeng's far-flung business empire portray him as an entrepreneur who has relied heavily on partnerships with Chinese government-sponsored enterprises and licensure agreements. According to several accounts, Sioeng's

first business ventures in the 1960s involved the production of foam rubber in Indonesia.[1] In the early 1970s, as China began to open to outside investment, Sioeng began selling used cigarette-making equipment to tobacco companies in China's Yunnan Province.[2] Later, Sioeng also sold to China medical, toy, and other manufacturing equipment acquired in the U.S. and Canada.[3] In the early 1980s, a Chinese provincial government granted him a license to sell a cigarette brand popular in China, Hongtashan (Red Pagoda), in non-Chinese markets.[4] Sioeng manufactured the cigarettes in Indonesia and distributed them in Asia and, later, the United States.[5] Sioeng has also established a joint venture with the Chinese government in Singapore.[6]

In 1987, Sioeng's wife, Sundari Elnitiarta, acquired an immigration visa and moved to Los Angeles with their five children.[7] One of their daughters, Jessica Elnitiarta, is particularly active in Sioeng's business affairs and is a legal permanent resident of the U.S. Sioeng himself never acquired permanent resident status, although he appears to have spent a substantial amount of time in the United States.[8] During the 1990s, the Sioeng family created or acquired numerous businesses in the United States, including a part ownership of Grand National Bank in Santa Ana, California, and a real-estate development company, Panda Estate Investments, which owns numerous properties in the Los Angeles area.[9] In almost all cases, Sioeng has provided his adult children and/or their spouses with the money to purchase these businesses.[10]

SIOENG'S CONNECTIONS TO CHINA

Although not an ethnic Chinese, Ted Sioeng was raised in Indonesia by ethnic Chinese parents and is strongly attached to China. "His appearance is not Chinese, but he speaks Chinese, he practices Chinese culture and he most certainly has a Chinese heart," reports Daniel Gu, president of UCLA's 1,000-member Chinese Students and Scholars Association.[11] Sioeng readily agrees with this assessment and has been quoted as saying, "I don't have a drop of Chinese blood in me, but I have a Chinese heart."[12]

As Sioeng cultivated his business interests in China during the 1970s and 1980s, he made gifts to Chinese government officials and helped to finance community projects, such as schools.[13] Many observers have noted that the Chinese government cultivates allies by awarding them lucrative concessions. "China is very good at using people," says one prominent Chinatown businessman in Los Angeles. "They give businessmen some kind of special privilege or business advantage so that these people work for China."[14] Even joint ventures with putatively "private" enterprises in China raise the specter of government involvement. "You have a situation where public and private investment are not all that clear," says Benjamin Ellman, professor of Chinese history at UCLA. "There are very, very few purely private enterprises."[15] Or as another longtime chronicler of the Chinese-American community put it, "Right now it is very hard to say which money is from the government and which money is private."[16]

Footnotes at end of chapter.

Capitalizing on his reputation as "a spokesperson for state-enterprise entities from the mainland," Sioeng has cultivated numerous business partners who have benefited from their relationship with him and his relationship with the People's Republic of China.[17]

Since he began investing in the United States in the late 1980s, Sioeng has emerged as a leader of the Chinese-American community in Los Angeles. He has provided generous financial assistance to the numerous mutual-aid associations that have formed in Los Angeles to assist new Chinese immigrants from the mainland, including the Southern California Cantonese Association, the Southwest China Association of Southern California, and the Southern California Teo-Chew Association.[18] In October 1996, he held a festival in honor of China's National Day.[19] Sioeng also chaired a made-for-TV event called "Welcome Home Hong Kong Spectacular "97," which was to be broadcast as part of the official handover ceremonies on Hong Kong. To that end, the event was filmed by camera crews from the state-controlled China Central TV.[20]

In 1995, Sioeng's daughter, Jessica Elnitiarta, purchased the Monterey Park-based Chinese-language newspaper, the *International Daily News.* The paper's ultimate parent company is Sioeng's Group, a holding company owned by Sioeng's daughter Jessica Elnitiarta, her four siblings, and their mother, with Elnitiarta holding the largest share.[21] Elnitiarta is also the sole director and officer of Sioeng's Group, as well as the sole director of the company that directly owns the paper, Chen International Publications.[22] Elnitiarta admits, however, that her father was the one who approached her with the idea of purchasing the newspaper and, as with many of the other businesses owned by the Sioeng family, he transferred the monies used for the purchase from overseas.[23] In addition, Sioeng continues to pour money into the paper to subsidize its unprofitable operations.[24]

Prior to the purchase by Sioeng's family, the IDN had offered intermittent support for Taiwan.[25] After numerous complaints during the ensuing year from the Chinese Consul General in Los Angeles, Feng Shusen, Sioeng installed a new editor from New York and the paper is now "breathlessly pro-Beijing" with respect to issues like Taiwan and human rights.[26] The paper runs releases issued by Beijing's state-controlled news media and offered "lavish" praise for former Chinese leader Deng Xiaopeng upon his death, including the banner headlines: "HEAVEN, EARTH AND MAN GRIEVED TOGETHER"[27] and "THE SUCCESS DENG MADE IN CHINA SHOULD BE THE MODEL FOR ALL MANKIND."[28] David Ma, a noted pro-democracy activist in the Los Angeles area, relates that *International Daily News* reporters were provided with the names of persons to contact for quotes after Deng's death, and that Ma's name was left off that list because of his criticisms of the Chinese government.[29] The paper has also played up events such as the visit of Chinese Navy vessels to Los Angeles in 1996. Sioeng's lawyer argues that the switch in editorial philosophy to a more pro-Chinese bent is actually just good business sense designed to appeal to a growing immigrant Chinese population, but the paper continues to lose substantial sums of money each year.[30] Moreover, Sioeng sells only 500–600 cases of cigarettes a year in the United States despite having been one of the *International*

Daily News's biggest advertisers for a number of years.[31] It seems untenable, therefore, to claim that Sioeng's expenditure of $3 million to purchase a money-losing newspaper was solely motivated by a desire to facilitate cigarette advertisements.

THE "CHINA PLAN" AND TED SIOENG

During its investigation, the Committee received non-public information regarding a Chinese Government plan to promote the Chinese Government's interest in the United States during the 1996 election cycle.

The China Plan followed China's concerns about signs of Taiwan's successful lobbying of Washington, expressed most visibly in the period when the United States granted permission in June 1995 for the Taiwanese president to enter the country for an informal visit to Cornell University, his alma mater. In response, Chinese officials hoped to advance Chinese interests in in the United States by lobbying Congress and increasing contacts with American lawmakers, the media and ethnic Chinese Americans. One aspect of the China Plan included increasing contacts with both Congress and state legislators. Although there was insufficient evidence that the China Plan was implemented by illegal means, some of the non-public information received by the Committee related to Sioeng's activities in the United States. See Chapter 2 of this Minority Report.

According to public information derived from a news article, in late 1994 or early 1995, funds from China were wired to an Asian-owned bank in Los Angeles where the Chinese consulate has its accounts.[32] Shortly thereafter, some money was transferred to another tiny Asian-American bank in California, Grand National Bank, where it was deposited into the account of the Hollywood Metropolitan Hotel.[33] The Sioeng family is a part-owner of Grand National Bank and the owner of the hotel.[34] These published reports invited intensive scrutiny of the circumstances surrounding the Sioeng family's political contributions.

THE SIOENG FAMILY'S CONTRIBUTIONS TO MATT FONG IN APRIL 1995

Matt Fong, a Republican, is California's State Treasurer and has announced his candidacy for the United States Senate. He voluntarily agreed to be deposed by the Committee concerning contributions he received from the Sioeng family in 1995. Fong first met Sioeng in 1988 at a rally for Julia Wu, the Republican candidate for the Los Angeles Community College's governing body.[35] Fong understood Sioeng to be a supporter of Wu and was introduced to Sioeng by Wu herself.[36] Over the next few years, Fong encountered Sioeng regularly at various community fundraisers for cultural centers that helped first-generation immigrants.[37] According to Fong, Sioeng and his family were generous contributors to these organizations and Sioeng frequently served as a co-chair or host of these events.[38] At these events, Fong also met other members of the Sioeng family, including his sons, daughters, son-in-laws and his wife.[39] However, Fong could not recall any names of the Sioeng family besides that of Jessica Elnitiarta, one of Sioeng's daughters.[40] In 1994, during his campaign for state treasurer, Fong held a $1,000-per-ticket fundraising event at the Biltmore Hotel in Los

Angeles. Jessica Elnitiarta attended the event and donated $2,000.[41]

After Fong's election as state treasurer in the fall of 1994, his campaign had a deficit of approximately $200,000.[42] During the last quarter of 1994, Fong received a $100,000 contribution from the owner of the San Diego Chargers, Alex Spanos, accompanied by a request that Fong use the contribution to "challenge" the Chinese-American community to match it.[43] Fong presented this "challenge" directly to Sioeng, among many others, during an event in late 1994 or early 1995.[44] Significantly, Fong has no recollection of Jessica Elnitiarta being present at the time that this challenge was presented to Sioeng.[45] In response, Sioeng indicated a willingness to help, but did not commit to any specific dollar amount.[46]

Fong saw Sioeng again during one of the numerous Chinese New Year events in the first quarter of 1995 and reminded him of his previously stated willingness to help. Sioeng again offered a nonspecific promise of assistance.[47] Numerous follow-up phone calls from Fong and Steve Kinney, Fong's "fundraising strategist," secured Sioeng's agreement to make a donation.[48] Fong made arrangements with Sioeng to visit Sioeng's offices and pick up the check.[49] Fong testified that Sioeng asked him during this meeting about the legal restrictions on campaign contributions.[50] Fong informed Sioeng that, under California state law, the contribution had to be from a U.S. citizen, a green-card holder, or a U.S. company with assets generated in the United States.[51] (Fong related that Sioeng or his daughter, Jessica Elnitiarta, had raised these same issues about restrictions on campaign contributions on previous occasions.)[52] Sioeng then went into another part of his office and returned with a check for $20,000 in an envelope.[53] Sioeng promised Fong at that meeting that "more help will come" and, indeed, a separate check for $30,000 arrived about a week later.[54] Contrary to Fong's account, however, recent press reports allege that Sioeng wrote both checks in front of Fong and simply postdated the second check so that he could replenish his account to cover the amount.[55]

Both of these checks, totaling $50,000, were written from the account of "San Wong Sioeng,"[56] which is Ted Sioeng's Chinese name. Fong claims that he did not believe that these two contributions came from Ted Sioeng himself, but that they came from either one of his sons or son-in-laws.[57] Fong explained that in the context of earlier discussions about the rules for raising funds, Sioeng indicated that his daughters and sons owned independent businesses.[58] When Fong was actually soliciting support from Sioeng, Sioeng remarked that his children "all have companies here and we're all very successful."[59] Fong also indicated that Sioeng was generally very supportive of his children getting involved in the political arena and making financial contributions.[60] Based on these statements from Sioeng, Fong claimed it was "always my understanding that the support I was going to be getting was from his family."[61]

Fong's attempts to disavow knowledge that Ted Sioeng personally contributed $50,000 to him is unpersuasive. Fong personally solicited Ted Sioeng and challenged him—not his children, only one of whom he could even name—to match the $100,000 donation by

Spanos. Pursuant to that challenge, Ted Sioeng—not his children—promised to assist Fong. Fong admits that Sioeng himself was the subject of follow-up contacts to secure the contribution.[62] Fong went to Sioeng's offices and was personally handed a check by Sioeng along with a promise that "more help will be coming." The check named only Sioeng as the account holder. In addition, the thank-you letter from Fong's campaign was sent to Ted Sioeng.[63] Jessica Elnitiarta told the Committee in her interview that she had no knowledge of either the $20,000 or $30,000 contribution at the time they were made.[64] Indeed, the circumstances so clearly point to Ted Sioeng as the source of these contributions that if, as Fong claims to have believed, the checks were actually from the account of a family member, a reasonable person would question whether Sioeng was directing a family member to make contributions—a practice prohibited by law.[65]

The $50,000 in contributions made in April 1995 were, in fact, drawn from the personal account of Ted Sioeng, a non-U.S. citizen who did not have permanent residence status and was, therefore, ineligible to contribute. Again, it is the Minority's view that Fong had every reason to suspect that this was a contribution from an individual not eligible to contribute to his campaign.

THE SOURCE OF SIOENG'S APRIL 1995 CONTRIBUTIONS TO FONG

The public evidence examined by the Committee including Sioeng's banking records, presents evidence that these contributions may have been funneled through Sioeng by persons unknown. On April 28, a check was written from Sioeng's account for $30,000 payable to Matt Fong.[66] That same day, a check for $30,000 from the Grand National Bank account of an individual named Glenville A. Stuart was deposited into Sioeng's account.[67] A check of publicly available databases indicates that Stuart is the proprietor and sole employee of a small grocery store, Sunset Market and Liquor, in Long Beach, California.[68] The Committee was unable to uncover additional information concerning Stuart. These circumstances raise concerns about the true source of at least $30,000 of the $50,000 donated to Fong by Sioeng.

FONG ARRANGES FOR SIOENG TO MEET SPEAKER GINGRICH

Approximately two months after the April 1995 donations, Fong met Sioeng at another community event.[69] Fong was scheduled to travel to Washington in mid-July on state treasurer business and asked Sioeng if he would like to meet House Speaker Newt Gingrich.[70] In response, Sioeng asked Fong: "Who is Speaker Gingrich?"[71] When Fong explained that he was the speaker of the Congress, Sioeng asked: "What's the Congress?"[72] Notwithstanding Sioeng's apparent lack of knowledge about U.S. politics, Fong reminded Sioeng of his previously stated desires to increase the political involvement of himself and his family and that the Republican Party was trying to reach out to the Asian-American community.[73]

According to Fong, Sioeng said that he was scheduled to be in New York at around the same time and asked if his son-in-law, who would be traveling with him, could also meet Speaker Gingrich.[74] Fong then asked Steve Kinney, his campaign pollster in 1994, to contact Gingrich's office to arrange a meeting.[75] Kinney

had long been Gingrich's top advance person for California and, because of these ties, he served as the primary liaison between Fong and the Speaker's office.[76] Fong credits Kinney for having him serve on Newt Gingrich's National Strategies Group,[77] a panel that advises Representative Gingrich on domestic policy.[78]

As described by Fong, the resulting meeting in Representative Gingrich's office on July 12 was brief and inconsequential. Fong and Sioeng were given a tour of the office and Representative Gingrich spoke generally to Sioeng "about empowerment and about getting involved in the community and being Republicans."[79] The Speaker also posed for photographs with Sioeng.[80]

THE SIOENG FAMILY'S CONTRIBUTION TO THE NATIONAL POLICY FORUM

According to Fong's deposition testimony, shortly after the Gingrich meeting in July 1996, Steve Kinney asked Fong whether the Sioeng family would be interested in supporting any of the Speaker's activities.[81] Fong advised Kinney to go ahead and ask.[82] Some time later, Fong recalls that Sioeng or Jessica Elnitiarta, he cannot recall which, asked his advice about whether they should support the speaker.[83] Fong responded, "The speaker is a friend, and supporting the speaker on my behalf is a good idea."[84] During her interview with the Committee, Jessica Elnitiarta interpreted this conversation as an actual solicitation by Fong on behalf of the National Policy Forum ("NPF"), a Republican Party think tank. She acknowledged that the suggestion to give to NPF may have come from Kinney.[85] Fong testified that he did not know until after 1995 that the Sioeng family contributed $50,000 to the NPF when he read about it in news accounts.[86] According to later news reports, however, Fong's wife received a 10 percent commission from NPF on the contribution from the Sioeng family, which Fong reported on his 1995 statement of economic interest.[87] When questioned about NPF, Elnitiarta stated that she didn't care to what "department" the check went, indicating that she viewed it as a donation to the Republican Party.[88]

Also in July 1996, Kinney was organizing a fundraising trip to California by Speaker Gingrich, including a non-fundraising "outreach event" for Asian-Americans at the Beverly Hills Peninsula Hotel.[89] At Kinney's request, Fong provided a suggested list of "political Asian Republican leaders that should be invited from the community" that included the Sioeng family.[90] Kinney invited Jessica Elnitiarta "and [her] family."[91] The event was attended by Ted Sioeng, Jessica Elnitiarta, and one of Jessica's sisters.[92] On July 18, having secured an agreement from Jessica Elnitiarta to contribute to the NPF, Kinney stopped by the Hollywood Metropolitan Hotel (owned by the Sioeng family) to pick up the check, which is dated July 18.[93] Elnitiarta provided Kinney with a $50,000 check from the account of Panda Industries, an export-import business.[94] Elnitiarta serves as the president of the company, but Ted Sioeng is the sole owner.[95] The day after this $50,000 contribution to the NPF, at the "non-fundraising" event organized by Kinney, Sioeng sat next to Gingrich at the Beverly Hills event.[96] Sioeng's meeting with Speaker Gingrich was described in a story on page one of the *China Press,* a Chinese language newspaper in Alhambra, Califor-

nia. The story included two photos of the luncheon, including one showing Sioeng seated next to the Speaker, and related Sioeng's comments at the meeting that "he was very honored to have the opportunity to introduce his family members, as well as other business friends to Gingrich."[97] Sioeng, whom the *China Press* article identified as a "consultant" to the Chinese provinces of Jilin and Yunan, also reportedly invited Representative Gingrich to visit those two provinces.[98]

An examination of the bank records underlying the $50,000 contribution to the NPF raises troubling questions about the actual source of the funds. The day before Jessica Elnitiarta donated $50,000 to the NPF, the Panda Industries account had a balance of only $1,300. That same day, Ted Sioeng wrote a check for $50,000 from his personal account into the account of Panda Industries.[99] These transfers raise the fair inference that Sioeng both directed and was the real source of the NPF donation.

NPF President John Bolton testified at his deposition that Joseph Gaylord, a fundraiser for Speaker Gingrich who had accompanied him on the California trip, directed that $5,000 be subtracted from the $50,000 contribution and paid as a commission to another person whose name Bolton could not recall.[100] Steve Kinney testified that he received a 10 percent commission for the monies he raised for NPF[101] and Joseph Gaylord also recalled that Kinney had called him during this time to specifically inquire whether he would receive a 10% commission on contributions he solicited for the NPF.[102] Subsequent press reports, however, indicate that Fong's wife, Paula Fong, also received a 10 percent commission on Elnitiarta's NPF contribution.[103] Bolton testified that he also asked an NPF employee to question Gaylord about Panda Industries, and that Gaylord responded by describing it as a "Hollywood entertainment company."[104] When asked about this testimony, Gaylord testified that he had no understanding about the nature of Panda Industries and that he had no recollection of being asked by anyone to supply such information.[105] Kinney emphatically denied that Gaylord had ever questioned him about the nature of Panda Industries.[106] These conflicting accounts raise serious questions about the adequacy of NPF's vetting procedures, at the least. Although Kinney testified that he had solicited Elnitiarta for additional contributions besides the one to NPF, his counsel instructed him not to discuss these additional solicitations.[107]

THE SIOENG FAMILY'S CONTRIBUTION TO MATT FONG IN DECEMBER 1995

During the remainder of 1995, Fong continued to solicit the Sioeng family whenever he encountered them at community events. Specifically, Fong recalls soliciting both Ted Sioeng and Jessica Elnitiarta at a reception in Pasadena, California.[108] Shortly before a badminton tournament co-sponsored by the Sioeng family, Jessica Elnitiarta contacted Fong and requested a congratulatory letter from Speaker Gingrich.[109] Fong contacted Kinney, who was able to secure the requested congratulatory letter from the speaker within a tight deadline.[110] Fong attended the tournament, saw the Sioeng family there and again solicited them for additional contributions.[111] Subsequently, Fong received a check for $50,000,

dated December 14, 1995, from the account of Panda Estates Investment, Inc., a real estate development company owned by the Sioeng family.[112] Fong denies any connection between the congratulatory letter and the subsequent donation from the Sioeng family,[113] but Jessica Elnitiarta told Committee staff that she gave the $50,000 "in appreciation" for the letter.[114]

Again, the bank records underlying this donation raise troubling questions. On the day that Elnitiarta wrote this $50,000 check to Matt Fong, there was only $14,000 in the Panda Estates Investments bank account.[115] Four days later the December 14 check cleared, presumably producing an overdraft in the account.[116] The following day, December 19, Elnitiarta's aunt, Yanti Ardi, made a telephone transfer of $50,000 from her personal account into the Panda Estate Investments account.[117] For her part, Yanti Ardi, a non-citizen living in the Los Angeles area, would not have had sufficient funds to transfer the $50,000 to the Panda Estate Investments account but for a December 11 wire transfer from Pristine Investments Ltd of Hong Kong, a wholesale clothing company with uncertain ties to Sioeng's business empire.[118] Between September 5, 1995 and January 6, 1996, Yanti Ardi received approximately $2.6 million in wire transfers from Pristine Investments.[119] Sioeng's attorneys refused to answer questions about Pristine or other companies in Asia that made large transfers to Sioeng-related accounts.[120]

In April 1997, articles appeared in *Newsweek* and the *Los Angeles Times* that raised questions about the source of the Sioeng family contributions to Fong. In response to these articles, Fong's campaign organization wrote letters addressed to Sioeng and "San Wong Sioeng" insisting on verification within 24 hours "of the fact that these contributions were made with your personal funds and not those of any other person or entity."[121] Upon receiving no reply to these letters within the prescribed time period, Fong returned a total of $100,000 in contributions from the Sioeng family. At no time since has Fong received any information from any member of the Sioeng family concerning the source of those contributions.[122]

JESSICA ELNITIARTA'S CONTRIBUTIONS TO THE DNC

In 1996, Jessica Elnitiarta contributed a total of $250,000 to the Democratic National Committee and attended several DNC-sponsored events. These contributions appear to have been arranged by John Huang, who first met Sioeng and Elnitiarta in 1995 at a Chinese community event.[123] The available information concerning these donations is sketchy and further investigation by other entities may be appropriate.

The Hay Adams fundraiser

According to Elnitiarta, Huang telephoned her in January 1996 regarding a Chinese New Year event, the Asia-Pacific American Leadership Council Dinner, being sponsored by the DNC in Washington, D.C., at the Hay Adams Hotel. Elnitiarta invited her father, Sioeng, on her own and is not aware of any conversations between Huang and Sioeng regarding this event.[124] On February 10, 1996, Elnitiarta wrote a check for $100,000 from her personal account to the DNC in order to secure eight seats at the event, which were

priced at $12,500 each.[125] At that time, Elnitiarta's account had a balance of approximately $10,000. On February 22, $200,000 was transferred into Elnitiarta's account from Yanti Ardi's account.[126] Ardi's account, in turn, had received a wire transfer of over $500,000 from the Hong Kong bank account of Pristine Investments Ltd. on February 12, 1996.[127] Prior to that transfer, Ardi's account held only approximately $3,000.[128] Unlike the $30,000 donation to Matt Fong and the $50,000 donation to the NPF, however, these transfers are not in the same amount of the contributions, do not occur as closely in time to the contribution, and Elnitiarta herself (who holds a power of attorney over Ardi's account) most probably effectuated the transfer from Ardi's account to her own. These transfers, therefore, are not as strongly suggestive of contributions in the name of another. Elnitiarta invited her father, her sister Sandra Elnitiarta, Sandra's husband, Didi Kurniawan; her brother, Yopi Gatot Elnitiarta; and two of Sioeng's business associates.[129] Elnitiarta and her husband were also planning to attend, but did not due to their son's unexpected illness.[130]

Hsi Lai Buddhist Temple event

Huang invited Elnitiarta to the Hsi Lai Buddhist Temple event held in Hacienda Heights, California, on April 29, 1996. (See Chapter 21.) Elnitiarta claims he invited her because she had missed the Hay Adams event due to her son's illness.[131] Elnitiarta explained to Committee staff that one of her sisters, Laureen Elnitiarta, is a Buddhist and wanted to attend the event for that reason.[132] Elnitiarta attended the event with her sister, Laureen, Sioeng and his wife, and another family member, Sioeng Fei Man.[133] Sioeng sat with Vice President Gore during the event.[134] The Sioengs were not solicited for a contribution in connection with this event and did not make one.[135]

Sheraton Carlton Hotel event

Elnitiarta was contacted again by Huang and invited to attend an event in May 1996 at the Sheraton Carlton Hotel in Washington, D.C.[136] She, in turn, invited her father and five others to the event.[137] In a fax to "Uncle Huang," Elnitiarta informed John Huang that in addition to her father, six other Chinese executives would come to the dinner. One was Guo Zhong Jian, an officer of the China Construction Bank. One of four major banks run by Beijing, China Construction last September became the first Chinese bank since the laws were tightened after the BCCI scandal in 1991 to win a federal license to do business in the U.S.[138]

Elnitiarta made no contributions at the event, but Huang told her that he would collect a contribution check from her the next time he was in Los Angeles.[139] On July 12, Elnitiarta wrote a $100,000 check to the DNC from the account of her real estate company, Panda Estates Investment, Inc.[140] This is the same account used by Elnitiarta for her December 1995 contribution of $50,000 to Matt Fong.[141] At the time the check was cashed, the Panda Estates Investment account had a small negative balance.[142] The monies used to cover this check came from Panda Estates domestic rental income and Elnitiarta's transfer of $60,000 from Ardi's account on July 26, 1996.[143] Ardi's account, in turn, could

not have financed the $60,000 transfer without the benefit of a deposit of approximately $1.6 million from the Hong Kong account of R.T. Enterprises, Ltd.—another business with ties to Sioeng. In addition, Panda Estates Investment, Inc. appears to have generated sufficient domestic revenues to cover the political contributions drawn from that account. The Minority's examination of the bank records of Panda Estates Investment, Inc., shows that the company enjoyed a rental income of over $900,000 from approximately mid-1995 through 1996. Nevertheless, the Committee was unable to satisfactorily resolve the ultimate question of what role, if any, was played by Sioeng himself in directing the contribution.

Century City event and subsequent $50,000 contribution

As with the previous fundraisers, Elnitiarta was contacted by Huang about attending a DNC dinner to be held in the Century City area of Los Angeles on July 22.[144] Elnitiarta brought her father, and Sioeng brought a business partner from Hong Kong, Lam Kwok Man.[145] Sioeng was seated at the head table next to President Clinton at the event.[146] At Huang's urging, Elnitiarta also agreed to be responsible for filling an additional five to six tables.[147] These additional invitees did not pay for their seats.[148] According to Elnitiarta, Huang did not press her for a contribution at the time of the event.[149] On July 29, Elnitiarta wrote a check to the DNC for $50,000 from the same Panda Estates Investment account that had funded her July 12 DNC contribution.[150] At this time, the Panda Estates Investment account did not contain sufficient funds to cover the contribution.[151] However, on August 1 and August 6, Elnitiarta made transfers totaling $47,000 from a different account maintained by Panda Estate Investment, indicating that Panda Estates Investment had sufficient funds to cover the contribution.[152] The FBI agent assigned to analyze the Sioeng bank records concluded that all of the transfers from Panda Estates Investment's other account was "supported by normal account activity" except for the $60,000 transfer from Yanti Ardi's account discussed above.[153]

Huang's internal documents link this $50,000 donation from Panda Estates to a small fundraiser held on July 30, 1996, at the Jefferson Hotel in Washington, D.C. that featured President Clinton and was attended by the following individuals: James Riady; Taiwanese businessman Eugene T.C. Wu, chairman of the Shin Kong Group, a conglomerate that includes Taiwan's second-largest life insurance company; James J.S. Lin, a Taiwan businessman and associate of Wu's; and Sen Jong ("Ken") Hsui, the president of Prince Motors Co. in Taipei and a U.S. citizen.[154] Each of these attendees also brought their wives and children.[155] DNC officials projected that the dinner would raise $500,000, but of the attendees, only Hsui was legally permitted to make donations.[156] According to Huang's records, Hsui contributed only $150,000 and the remaining amount was credited to individuals who had not attended the event, including Elnitiarta's $50,000 donation from the Panda Estates account and an August 2 donation of $131,000 from Laurie M. Jonsson, the president of a Seattle shipping company.[157] When interviewed, Jonsson disavowed any knowledge of Huang or the Jefferson Hotel dinner and said she gave $100,000 to become

a designated trustee of the DNC's Women's Leadership Forum and the other $31,000 for general purposes.[158] Elnitiarta also stated that she had no knowledge of the Jefferson Hotel event.[159] It appears to the Minority that, for reasons unknown, Huang was crediting unrelated contributions from some donors to the Jefferson Hotel event.

CONCLUSION

The Committee found clear evidence that Sioeng, a foreign national, contributed to Republican California State Treasurer Matt Fong, who returned the contributions two years later. The Committee also found evidence that suggests that Sioeng may have participated in directing political contributions made by his daughter Elnitiarta to both the National Policy Forum and the Democratic National Committee, although it was unable to reach any definitive conclusions on this issue. In addition, our examination of the bank records surrounding the contributions to both Fong and the NPF has raised serious questions about the ultimate source of the contributions made in those instances. The Minority believes that further investigation by law enforcement authorities into these issues is clearly warranted.

Regardless of the source of the contributions, the contributions by the Sioeng family present a stark picture of how quickly substantial contributions can be translated into personal access to elected policy makers. The Committee found no evidence, however, that any member of the Sioeng family sought to exploit the access they were afforded to lobby on any particular issue or to receive any favor other than *pro forma* letters of support or congratulations.

FOOTNOTES

[1] *Business Week*, 8/11/97.
[2] *Business Week*, 8/11/97.
[3] *Business Week*, 8/11/97.
[4] *Los Angeles Times*, 5/18/97.
[5] *Los Angeles Times*, 5/18/97.
[6] *Los Angeles Times*, 5/18/97.
[7] *Business Week*, 8/11/97.
[8] INS records.
[9] *Business Week*, 8/11/97.
[10] Staff interview with Jessica Elnitiarta, 6/19/97.
[11] *Los Angeles Times*, 5/18/97.
[12] *Los Angeles Times*, 5/18/97.
[13] *Los Angeles Times*, 5/18/97.
[14] *LA Weekly*, 7/4/97.
[15] *LA Weekly*, 7/4/97.
[16] *LA Weekly*, 7/4/97.
[17] *LA Weekly*, 7/4/97 (quoting Anthony Chieng, a "prominent Chinese-American attorney.')
[18] *LA Weekly*, 7/4/97.
[19] *Newsweek*, 4/28/97.
[20] *Newsweek*, 4/28/97.
[21] Staff interview with Jessica Elnitiarta, 6/19/97.
[22] Letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97
[23] Staff interview with Jessica Elnitiarta, 6/19/97; Letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97.
[24] Letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97.
[25] *Los Angeles Times*, 5/18/97.
[26] *LA Weekly,* 7/4/97; Newsweek, 4/28/97; Newsweek, 6/9/97.
[27] *Business Week*, 8/11/97; Newsweek, 3/10/97.
[28] *Newsweek*, 4/28/97.
[29] Interview with David Ma, 8/24/97.

[30] *Los Angeles Times*, 5/18/97.
[31] Interview by FBI detailee with Nancy La, 5/25/97; letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97.
[32] *Newsweek*, 4/28/97.
[33] *Newsweek*, 4/28/97.
[34] *Newsweek*, 4/28/97.
[35] Matt Fong deposition, 9/19/97, pp. 7–8.
[36] Matt Fong deposition, 9/19/97, p. 8.
[37] Matt Fong deposition, 9/19/97, pp. 8–9.
[38] Matt Fong deposition, 9/19/97, pp. 8–9.
[39] Matt Fong deposition, 9/19/97, p. 9.
[40] Matt Fong deposition, 9/19/97, p. 10.
[41] Matt Fong deposition, 9/19/97, pp. 14–15.
[42] Matt Fong deposition, 9/19/97, p. 25.
[43] Matt Fong deposition, 9/19/97, p. 29.
[44] Matt Fong deposition, 9/19/97, p. 29.
[45] Matt Fong deposition, 9/19/97, p. 36.
[46] Matt Fong deposition, 9/19/97, p. 30.
[47] Matt Fong deposition, 9/19/97, pp. 30–31.
[48] Matt Fong deposition, 9/19/97, p. 54.
[49] Matt Fong deposition, 9/19/97, p. 33.
[50] Matt Fong deposition, 9/19/97, pp. 34–35.
[51] Matt Fong deposition, 9/19/97, p. 34.
[52] Matt Fong deposition, 9/19/97, p. 53.
[53] Matt Fong deposition, 9/19/97, p. 36.
[54] Matt Fong deposition, 9/19/97, pp. 35–37.
[55] *Los Angeles Times*, 2/26/98.
[56] Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Mr. San Wong Sioeng, requesting information on legality of contributions, 4/21/97 (copies of contribution checks dated 4/20/95 and 4/28/95 attached); Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Panda Estates Investment, Inc., requesting information on legality of contributions, 4/21/97 (copy of contribution check dated 12/14/95 attached).
[57] Matt Fong deposition, 9/19/97, p. 23.
[58] Matt Fong deposition, 9/19/97, pp. 38–39.
[59] Matt Fong deposition, 9/19/97, p. 39.
[60] Matt Fong deposition, 9/19/97, p. 39.
[61] Matt Fong deposition, 9/19/97, p. 39.
[62] Matt Fong deposition, 9/19/97, p. 33.
[63] Matt Fong deposition, 9/19/97, p. 23.
[64] Staff interview with Jessica Elnitiarta, 6/19/97.
[65] 2 U.S.C. § 441(e) (prohibiting a foreign national from participating directly or indirectly in a contribution decision).
[66] Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Mr. San Wong Sioeng, requesting information on legality of contributions, 4/21/97 (copies of contribution checks dated 4/20/95 and 4/28/95 attached).
[67] Check from Glenville A. Stuart to Sioeng San Wong for $30,000, 4/28/95, and Grand National Bank miscellaneous credit slip acknowledging deposit. [GNB 1280500063]
[68] Report from Dun's Market Identifiers on "Sunset Market and Liquor."
[69] Matt Fong deposition, 9/19/97, p. 44.
[70] Matt Fong deposition, 9/19/97, pp. 44–45.
[71] Matt Fong deposition, 9/19/97, p. 45.
[72] Matt Fong deposition, 9/19/97, p. 45.
[73] Matt Fong deposition, 9/19/97, p. 45.
[74] Matt Fong deposition, 9/19/97, p. 45.
[75] Matt Fong deposition, 9/19/97, p. 49.
[76] Matt Fong deposition, 9/19/97, p. 47.
[77] Matt Fong deposition, 9/19/97, p. 47.
[78] *Los Angeles Times*, 4/22/97.
[79] Matt Fong deposition, 9/19/97, p. 48.
[80] Matt Fong deposition, 9/19/97, p. 48.
[81] Matt Fong deposition, 9/19/97, p. 50.
[82] Matt Fong deposition, 9/19/97, p. 50.
[83] Matt Fong deposition, 9/19/97, p. 55.
[84] Matt Fong deposition, 9/19/97, p. 55.
[85] Staff interview with Jessica Elnitiarta, 6/19/97.
[86] Matt Fong deposition, 9/19/97, pp. 49, 54–55.
[87] *Los Angeles Times*, 2/25/98.
[88] Staff interview with Jessica Elnitiarta, 6/19/97.
[89] Matt Fong deposition, 9/19/97, p. 50; Steve Kinney deposition, 9/23/97, p. 11.
[90] Matt Fong deposition, 9/19/97, p. 51.
[91] Steve Kinney deposition, 9/23/97, p. 19.
[92] Steve Kinney deposition, 9/23/97, p. 19.
[93] *Los Angeles Times* , 7/4/97.
[94] Staff interview with Jessica Elnitiarta, 6/19/97; letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97.
[95] Staff interview with Jessica Elnitiarta, 6/19/97; letter from Thomas P. McLish, counsel for Elnitiarta, to Majority counsel-Special Investigation, 6/18/97.

[96] Memorandum from Steven E. Hendershot, FBI agent, to Senate Investigating Team re: "*China Press* newspaper article of 7/22/95," 7/23/97.
[97] Memorandum from Steven E. Hendershot, FBI agent, to Senate Investigating Team re: "*China Press* newspaper article of 7/22/95," 7/23/97.
[98] Memorandum from Steven E. Hendershot, FBI agent, to Senate Investigating Team re: "*China Press* newspaper article of 7/22/95," 7/23/97.
[99] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[100] John Bolton deposition, 7/10/97, pp. 66–67.
[101] Stephen M. Kinney deposition, 9/23/97, pp. 22–23.
[102] Joseph Robert Gaylord deposition, 9/16/97, p. 35.
[103] *Los Angeles Times*, 2/25/98.
[104] John Bolton deposition, 7/10/97, pp. 67–68.
[105] Joseph Robert Gaylord deposition, 9/16/97, pp. 42–44.
[106] Stephen M. Kinney deposition, 9/23/97, p. 23.
[107] Stephen M. Kinney deposition, 9/23/97, p. 26.
[108] Matt Fong deposition, 9/19/97, pp. 60–61.
[109] Matt Fong deposition, 9/19/97, p. 62.
[110] Matt Fong deposition, 9/19/97, pp. 62–63.
[111] Matt Fong deposition, 9/19/97, pp. 61–62.
[112] Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Mr. San Wong Sioeng, requesting information on legality of contributions, 4/21/97 (copies of contribution checks dated 4/20/95 and 4/28/95 attached); Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Panda Estates Investment, Inc., requesting information on legality of contributions, 4/21/97 (copy of contribution check dated 12/14/95 attached).
[113] Matt Fong deposition, 9/19/97, p. 63.
[114] Staff interview with Jessica Elnitiarta, 6/19/97.
[115] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[116] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[117] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[118] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[119] Wire of $1 million to Yanti Ardi GNB account no. 240417614 from Pristine Investments Ltd., 9/5/95 [GNB 002970-2972]; Wire of $928,432.17 to Yanti Ardi's GNB acct no. 240417614 from Pristine Investments Ltd. [GNB 003000]; Wire of $150,000 to Yanti Ardi's GNB acct no. 240979814, 12/11/95 [GNB 002888 & 002890]; Wire of $595,283.35 to Yanti Ardi's GNB acct no. 240417614, 1/3/96 [GNB 003030].
[120] In addition to the monies received from the Sioeng family, published reports indicate that Fong received at least $24,000 from sources suspected of channeling contributions to the DNC. *Los Angeles Times*, 4/22/97. In 1995, for example, records show that Fong received $4,000 from two officers of the Lippo Group that were arranged by John Huang. *Los Angeles Times*, 4/22/97. Fong acknowledges asking Huang for help during his campaigns for treasurer and for controller and while he served on the Board of Equalization, but denies that he asked Huang for any assistance since the 1994 election cycle. Matt Fong deposition, 9/19/97, p. 68.
[121] Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Mr. San Wong Sioeng, requesting information on legality of contributions, 4/21/97 (copies of contribution checks dated 4/20/95 and 4/28/95 attached); Letter from William R. Turner, Treasurer, Matt Fong for State Treasurer, to Mr. Ted Sioeng, Panda Estates Investment, Inc., requesting information on legality of contributions, 4/21/97 (copy of contribution check dated 12/14/95 attached).
[122] Matt Fong deposition, 9/19/97, pp. 66-67.
[123] Staff interview with Jessica Elnitiarta, 6/19/97.
[124] Staff interview with Jessica Elnitiarta, 6/19/97.
[125] Staff interview with Jessica Elnitiarta, 6/19/97; Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[126] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[127] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[128] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[129] Staff interview with Jessica Elnitiarta, 6/19/97.
[130] Staff interview with Jessica Elnitiarta, 6/19/97.
[131] Staff interview with Jessica Elnitiarta, 6/19/97.
[132] Staff interview with Jessica Elnitiarta, 6/19/97.
[133] Staff interview with Jessica Elnitiarta, 6/19/97.
[134] Staff interview with Jessica Elnitiarta, 6/19/97.
[135] Staff interview with Jessica Elnitiarta, 6/19/97.
[136] Staff interview with Jessica Elnitiarta, 6/19/97.
[137] Staff interview with Jessica Elnitiarta, 6/19/97; *Los Angeles Times*, 7/4/97.
[138] *Newsweek*, 3/10/97.
[139] Staff interview with Jessica Elnitiarta, 6/19/97.
[140] Staff interview with Jessica Elnitiarta, 6/19/97.
[141] Staff interview with Jessica Elnitiarta, 6/19/97.

[142] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[143] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[144] Staff interview with Jessica Elnitiarta, 6/19/97.
[145] Staff interview with Jessica Elnitiarta, 6/19/97.
[146] *Los Angeles Times*, 7/4/97.
[147] Staff interview with Jessica Elnitiarta, 6/19/97.
[148] Staff interview with Jessica Elnitiarta, 6/19/97.
[149] Staff interview with Jessica Elnitiarta, 6/19/97.
[150] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[151] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[152] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[153] Memorandum from Steven E. Hendershot, FBI agent, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.
[154] POTUS Dinner July 30 Attendees [DNC 000597]; *Los Angeles Times*, 2/7/97.
[155] POTUS Dinner July 30 Attendees [DNC 000597]; *Los Angeles Times*, 2/7/97.
[156] *Los Angeles Times*, 2/7/97.
[157] *Los Angeles Times*, 2/7/97.
[158] *Los Angeles Times*, 2/7/97.
[159] Staff interview with Jessica Elnitiarta, 6/19/97.

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PART 1 FOREIGN INFLUENCE

Chapter 8: Jay Kim

In July 1997, Representative Jay Kim (R-Ca.) and his wife, June Kim, pled guilty to numerous violations of federal campaign finance laws arising out of his 1992 and 1994 campaigns. The violations were part of a scheme which funneled over $230,000 in illegal corporate funds, some of which were directed by foreign nationals, into Representative Kim's campaigns—the largest amount of criminal campaign violations ever committed by a member of Congress.[1] Five corporations pled guilty to making the illegal contributions, and Representative Kim's campaign treasurer, Seokuk Ma, was convicted of soliciting and accepting illegal contributions. Some of these violations occurred well after the Kims became aware that they were targets of a federal investigation. Federal prosecutors have reportedly argued that Representative Kim should receive jail time for conduct that was "substantial, prolonged, deceptive and serious."[2]

Based on the evidence before the Committee, we make the following findings regarding this matter:

FINDINGS

(1) The Kims appear to have continued some of the same troubling practices during the 1996 election cycle that laid the foundation for the criminal misconduct in the prior two election cycles, including using a campaign treasurer with no knowledge of federal election law and instructing the treasurer to sign blank checks and blank Federal Election Commission forms.

(2) The evidence before the Committee suggests that June Kim's recently-disclosed book deal with a South Korean publishing company may be an attempt to inappropriately channel foreign money to the Kims.

THE KOREA TRADERS CLUB

In July 1992, the Korean-American community of Los Angeles was reeling from the effects of the riots that had devastated many neighborhoods in the city earlier that year. In many instances, angry mobs of looters had targeted Korean-owned businesses and many of the victims felt that they had not received adequate protection or attention from the city. Against this backdrop, an association of businesspeople called the Korea Traders Club of Los Angeles met on July 16, 1992, to discuss the recently-announced candidacy of Jay Kim, a prominent Southern California businessman and member of the Korean-American community.[3] Kim attended the meeting and was the featured speaker.[4] Although many of the attendees supported his candidacy, the foreign nationals in the group could not legally direct contributions to his campaign and corporate funds could not be used under any circumstances to make direct contributions. Faced with these obstacles, the members of the club devised a scheme to make illegal campaign contributions "in a manner that would prevent them from being detected by the U.S. Government."[5] Following the meeting, club Chairman

Footnotes at end of chapter.

Byung Joon Lee, who had presided at the meeting, sent a letter to members of the club summarizing and confirming the plan devised at the meeting.[6] The plan provided for the member companies to make their contributions to the Kim campaign under the names of individual employees who were United States citizens or permanent residents.[7] These employee "conduits" would then be reimbursed for their contributions.

Five U.S. subsidiaries of corporations headquartered in Seoul, South Korea, eventually pled guilty to making contributions pursuant to this scheme and paid fines totaling $1.6 million.[8] In early September 1992, for example, three top managers of the Daewoo Corporation, including the vice-president/general manager, received a total of $5,000 from the Daewoo Corporation and immediately made campaign contributions in the same amount to the Kim campaign committee.[9] Collectively, these five corporations and their foreign national employees made over $27,000 in illegal campaign contributions to Representative Kim's 1992 election campaign.

KIM'S CONTRIBUTIONS FROM HIS OWN BUSINESS IN 1992

In addition to the $27,000 in illegal corporate/foreign national contributions, Representative Kim also funneled at least $83,000 worth of goods and services from his company, Jay Kim Associates, into his campaign from March 1992 through July 1993.[10] According to press reports, these illegal contributions included company payments for numerous mailing, printing, telephone, photocopying, entertainment, and travel costs of the campaign.[11] In addition, the campaign reportedly received free office space in the company's headquarters, and benefitted from the services of several company employees who worked half-time for the campaign while being paid entirely from company funds.[12] Questions were also raised about Representative Kim's continuing receipt of a full-time salary from the company even after he was elected.[13]

When first confronted with these specific allegations, Representative Kim blamed any improper campaign expenditures on the company's financial chief, Fred Schultz, who also served briefly as campaign treasurer.[14] "If I've done anything wrong, I believe it's his fault," Representative Kim said. "It's his job to make sure I don't make a mistake."[15] Four years after this statement, as discussed in more detail later in this chapter, Representative Kim has failed to ensure that his campaign is served by qualified campaign treasurers. This lapse invites serious skepticism about whether his future campaign finances will be conducted in accordance with the law.

THE KIMS' ACCEPTANCE OF CORPORATE FUNDS

Both Representative Kim and his wife, June Kim, have acknowledged that they knowingly accepted illegal corporate contributions during the 1992 campaign and concealed the nature of those contributions in the election reports they filed with the Federal Election Commission ("FEC').[16] Misreporting was sometimes accomplished simply by omitting a donor's corporate designation, such as. "inc." from the names of contributors reported to the FEC.[17] In addition, the Kims pled guilty to knowingly accepting illegal contributions from Korean Air Travel ($1,000), Daewoo Electronics ($5,000),

Rocket Electric Company, Inc. ($1,000), Pusan Pipe America, Inc. ($3,000), and Samsung America, Inc. ($10,000).[18]

June Kim also accepted a $12,000 check that she knew to be from a corporate account. Although the writer of the check, David Chang of Nikko Enterprises, had intended to donate $5,000 to President Bush, $5,000 to Sen. Alphonse D'Amato (R-NY), and only $2,000 to Representative Kim, June Kim filled in her own name as the payee and deposited the entire amount into her personal account.[19] Representative Kim began listing the money from Chang as a "personal loan" on his financial disclosure reports in 1994 after FBI agents visited Chang's office.[20] However, when David Chang contacted Representative Kim to determine why he had not received a thank-you letter for his contribution, Representative Kim denied receiving any contribution from Chang.[21] After Representative Kim learned that FBI agents had questioned Chang about the contribution, he encouraged Chang to describe it as a loan.[22] The "personal loan" from Chang does not appear on Representative Kim's latest financial disclosure statement.[23] Representative Kim has admitted knowing that this was an illegal corporate contribution.[24] The Kims" admissions as to the illegal nature of the corporate contributions made by Pusan, Rocket Electric, and Nikko brought to $43,000 the total amount of illegal corporate contributions made during the 1992 campaign.

ACCEPTANCE OF FUNDS FROM FOREIGN NATIONALS

Representative Kim also admitted accepting a $50,000 loan from a Taiwanese national named Song Nien Yeh in May 1992, and depositing the loan proceeds into his personal bank account. Four days later, Kim wrote a $50,000 personal check from that same account to his campaign committee.[25] The next month, following the same pattern, he arranged for a $30,000 loan from another Taiwanese national. Kim's wife deposited these funds into their personal joint checking account.[26] Four days later, June Kim wrote a personal check from that same account for $25,000 to Kim's campaign committee.[27]

June Kim also personally laundered two illegal contributions, each in the amount of approximately $9,000 (in excess of contribution limits) from Jaycee Kim, a businessman and father-in-law of Kim's son.[28] From September 15, 1992 and continuing to on or about January 24, 1997, at least one (and sometimes all) of these illegal loans, totaling $84,000, were misreported by the campaign committee as personal loans from Jay Kim to the campaign.[29]

To put these amounts of illegal contributions into perspective, Representative Kim received $346,218 in contributions for his initial 1992 primary race, which he won by 898 votes, or two percent of the total votes cast.[30] Of that total, $146,010 of the contributions were illegal.[31] These illegal contributions constituted the approximate difference between Representative Kim's fundraising and that of his two closest rivals.[32] In recommending that Representative Kim serve time in prison for these violations, the prosecutor argued that "[t]he election results might have been different if defendant Jay Kim had not had the illegal and unfair advantage of these campaign contributions."[33]

ALLEGED VIOLATIONS DURING THE FEDERAL INVESTIGATION

Remarkably, the illegal activities of the Kims continued even after they knew they were under investigation for possible election law violations, and after the FBI had seized records from Jay Kim Engineering as part of the inquiry. For example, in October 1993, June Kim has admitted that she knowingly accepted a total of $14,000 from Amko Advertising Inc. had first been deposited with Samas Telecom, the business owned by Representative Kim's campaign treasurer, and then used by June Kim to reimburse various individuals for making seemingly legal campaign contributions.[34] In January 1994, June Kim knowingly accepted illegal corporate contributions totaling $5,450 from the following seven corporations: Haitai America, Inc. ($1,000), Bacco, Inc. ($500), Korean Federation of Los Angeles, Inc. ($500), Sun Princess Cosmetics, Inc. ($2,500), Dong-A America Corp. ($150), Universal Market Supply Corp. ($600), and Tiger Contract Services, Inc. ($200).[35]

THE CONVICTION OF KIM'S FORMER CAMPAIGN TREASURER

In his trial in early 1997, Seokuk Ma, Representative Kim's campaign treasurer during 1994 and 1995, candidly admitted that he had violated several election laws, but claimed that he did not do so knowingly because he had received no training or instruction on how to discharge the responsibilities of a campaign treasurer. Although the culpability of Representative Kim in appointing Ma to the position of campaign treasurer was not addressed during Ma's trial, the record of that proceeding produced ample evidence that Representative Kim adopted an attitude of reckless disregard for the legal problems that political fundraising activities inevitably present.

Ma's trial testimony paints a picture of a moderately successful businessman who emigrated to this country in 1971 and was very active in the affairs of the Korean-American community in Southern California.[36] Ma became involved in numerous charitable fundraising activities, but had never participated in political fundraising until a friend asked for his assistance in staging an October fundraiser for Representative Kim's 1992 campaign.[37] Ma met Representative Kim for the first time at that fundraiser, which surpassed expectations, and was later asked to serve as a volunteer fundraiser.[38] Ma testified that he was unwilling to say no to such a prominent member of the Korean-American community, acceded to Representative Kim's request and assisted in organizing two or three additional fundraising events over the next year.[39] During this entire time, Ma had no familiarity with U.S. election laws and turned all proceeds from such fundraisers over to June Kim, whom Ma understood to be "the person in charge of financial matters for the Kim campaign."[40]

In April 1994, as Representative Kim was preparing to make his first run for reelection, his campaign office presented Ma with an FEC document designating him as campaign treasurer and asked him to sign it. As Ma describes it, this was not a momentous occasion for him: "[T]hey bring this one sheet of paper with a blank. They want me to sign, so I sign it."[41] Ma received no special training or instruction of any kind with respect to FEC regulations or

federal election law.[42] Correspondence from the FEC addressed to the campaign treasurer, including guides explaining federal campaign laws, was never forwarded to Ma.[43] During this time, June Kim presented at least two totally blank FEC disclosure forms to Ma for his signature. These FEC disclosure forms were filled in by campaign staff and later filed as the April 15, 1994, and December 2, 1994, reports from the Kim campaign.[44] When asked why he had signed these forms in blank when his signature constituted a verification that the contents of the document were accurate, Ma explained: "I respecting congressman very much. He's a very successful man. And also Mrs. Kim is Congressman Kim's wife. They asking me do something like that, I cannot refuse because I trusted them. Our culture is very different to explain, but . . . if I say no, it's kind of insult to them . . ."[45] Ma also explained that, although he technically had authority over Representative Kim's campaign account, June Kim invariably only presented him with blank checks to sign.[46] As Ma testified, "always a blank check, 20 stack of blank check they gave to me, want me to sign it, I sign it."[47]

Ma also testified that he had used $14,000 from his own business to reimburse individuals whom he had asked to make contributions to Representative Kim.[48] Based partly on Ma's testimony, June Kim pled guilty to knowingly accepting these same illegal contributions, as well as illegal contributions from other sources.[49] Although both individuals sought to evade U.S. election law, the outcomes were not the same. As Ma noted in his deposition, "I tell the truth, that's what happened. So I got that count also. My case that's the felony; her case that's the misdemeanor."[50]

POSSIBLE ELECTION LAW VIOLATIONS DURING THE 1996 CYCLE

Ma testified during his trial that he violated election laws as recently as 1996 by reimbursing his secretary and her husband for contributions to the Kim campaign.[51] When asked about these revelations of recent election law violations, Ma explained that the pressure for money continued even after he was replaced as the campaign treasurer in 1995. "I heard a lot of times every time campaign fund is not enough, campaign fund is not enough, all the time I hear from both Jay Kim and June Kim. I feel like—feel guilty, I trying to help them. So I had $1,000 donation 1996 election, so my limit, my limit is $1,000, so I trying to help the last time, so I used my secretary name and her husband."[52] This account of the unrelenting pressure being placed on Ma to come up with additional contributions is especially damning when one considers that June Kim knowingly accepted at least $14,000 in illegal contributions from Ma in 1994.

June Kim had removed Ma as campaign treasurer when she learned that he was being investigated by the FBI with respect to election law violations.[53] Then, in 1996, with a federal investigation ongoing, both she and her husband continued to pressure this same individual to arrange additional contributions. Ma conceded that June Kim had personally received the checks in question and that she knew Ma's secretary, but he claimed that June Kim would not know that they would be unlikely to be able to afford such contributions.[54] Nevertheless, his testimony in this regard is perhaps even more revealing than any attribution of direct knowledge. Ma

testified that "[O]h, she knows my secretary, but like she has ability contributing that $500 or not, June Kim don't know. Actually, she don't care."[55] Ultimately, the jury rejected Ma's defense and required him to accept responsibility for his actions in violating federal election laws. Although, as detailed above, the Kims pled guilty to certain misdemeanor violations, it appears to the Minority that they have yet to accept responsibility for the role they played in fostering an atmosphere in which so many violations could occur.

KIM'S COMMITMENT TO COMPLIANCE WITH U.S. ELECTION LAWS

According to one press report, Representative Kim once characterized U.S. election laws as "stupid" and compared violations to "jaywalking."[56] Later, in a brief, written statement released to the press upon the announcement of his guilty plea last August, Representative Kim remarked that "[w]ith many lessons learned, it is time to move forward."[57] Based on the depositions of his current campaign staff conducted by the Committee, it appears that few lessons have, in fact, been learned. Most notably, the Committee deposed his current campaign treasurer, Moon Jae Lee. Lee is a grocery store operator and a friend of Seokuk Ma who has served as Representative Kim's treasurer since approximately February 1995.[58] When June Kim indicated to Ma that she wished to replace him as campaign treasurer because of the FBI investigation, Ma testified that she asked him, "You have any friends, anybody, maybe can sign, just like [you]?"[59]

June Kim's search for someone who would "sign just like" Ma appears to have been successful. Moon, who agreed to assume the non-paying title as a favor to both Ma and Kim,[60] candidly related that his *only* duties as Representative Kim's campaign treasurer are to sign batches of blank checks from the campaign account presented to him by either Mrs. Kim or the campaign's sole staffer at the present time, assistant treasurer Inyoung Brazil.[61] Moon does not receive or review the bank statements for the campaign account and has only visited the campaign office twice during his tenure as campaign treasurer.[62] All of the campaign's financial records and finance reports are the responsibility of Brazil, a campaign staffer who works only part-time during non-election years.[63] Neither Lee nor Brazil could offer any explanation of why the responsibilities of the campaign treasurer were so narrowly defined.[64] Lee does not sign FEC disclosure reports for the campaign,[65] but Ma testified that Lee had told him that June Kim had asked Lee to sign a blank FEC disclosure report.[66] According to Ma, Lee refused this request.[67] Lee, for his part, denied that June Kim had ever made this request of him.[68]

Minimal as they are, Lee testified that he has grown tired of his duties as campaign treasurer (he appeared before grand juries both in 1995 and early 1997) and that he has indicated to both June Kim and Representative Kim since early 1997 that he would like to resign from the position.[69] According to Lee, his meeting with Representative Kim in the spring of 1997 expressed his desire to resign was the first and only time he had met Representative Kim during the more than two years as his campaign treasurer.[70] A replacement could not be found and Lee was asked to continue as

treasurer while the search continues.[71] The Kims' insistence on giving campaign treasurers the authority to sign campaign checks without providing them with any real responsibility to ensure that such authority is properly exercised is extremely disturbing given the long history of election law violations and the imminence of the 1998 elections.

THE KIMS' BOOK DEAL

Although questions of inappropriate remuneration from book deals generally raise questions of ethical violations rather than election law violations, circumstances surrounding the Kims' consecutive book deals with South Korean publishing houses raise troubling questions about whether foreign business or governmental interests are seeking to funnel money to support Representative Kim personally. These concerns are heightened by the testimony of Jane Chong, a former Kim campaign treasurer, that Representative Kim had planned a trip to Korea in 1993 during which he intended to raise substantial amounts of money.[72] Chong testified that the trip was canceled only after a *Los Angeles Times* series reporting on Representative Kim's 1992 election law violations was published in July 1993.[73]

The year after the cancellation of the South Korean fundraising trip, Representative Kim secured a lucrative contract for his book *I'm Conservative*.[74] The Congressman's book was written in Korean and published by a small, Seoul-based publishing company.[75] In August 1995, Representative Kim filed a financial disclosure form that revealed that he had been required to refund $132,298 in book "proceeds" pursuant to a May 15 Ethics Committee decision.[76] Although the House ethics decision in question is not public, the House ethics manual specifies that for income to be valid "a book must be published by an established publisher pursuant to a usual and customary royalty agreement."[77] According to a Korean specialist at the Library of Congress, the amount of "proceeds" reported by Representative Kim would suggest that his book was extremely successful in South Korea, which has a relatively small book market by American standards.[78]

Later in 1995, June Kim's own memoirs, *There Is An Opportunity,* were published in Korea by Hantutt Publishing Co., another small, Seoul-based company that is listed in a publishing directory as specializing in finance and technical books.[79] Representative Kim's financial disclosures reveal that his wife has earned between $125,000 and $1.05 million from this book deal. Seokuk Ma, however, stated in his deposition that he had heard only negative reactions to June Kim's book from inside Korea.[80] Since the ethics restrictions are less onerous with respect to books published by the spouse of a member, these circumstances raise troubling questions about whether this second, lucrative book, published by a relatively unknown Korean company, without apparent experience in marketing political memoirs is actually a second attempt to channel funds inappropriately to the Kims. Such actions may represent a criminal attempt to circumvent U.S. laws which prohibit foreign political contributions. Given the potential seriousness of the alleged wrongdoing, investigation of these issues by the House Ethics Committee,

the Department of Justice and the Federal Elections Commission is also merited.

CONCLUSION

The Minority's investigation of Representative Kim was conducted by Minority staff and uncovered evidence of foreign contributions and systemic inadequacies in complying with federal election laws—both of which are issues that were highly relevant to the Committee's investigation. It is revealing that the Committee confined its investigation of foreign money to allegations concerning the Democratic administration.

FOOTNOTES

[1] *Washington Post*, 2/7/98.
[2] *Washington Post*, 2/7/98.
[3] Plea and Sentencing Agreement, p. 5, *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340, 3/26/96.
[4] Plea and Sentencing Agreement, p. 5, *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340, 3/26/96.
[5] Plea and Sentencing Agreement, p. 5, *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340, 3/26/96.
[6] Plea and Sentencing Agreement, p. 5, *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340, 3/26/96.
[7] Plea and Sentencing Agreement, p. 5, *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340, 3/26/96.
[8] *Associated Press*, 8/1/97.
[9] *United States* v. *Daewoo International (America) Corporation*, No. CR 96–340 (C.D. Ca.), Plea and Sentencing Agreement, p. 6, 4/12/96.
[10] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 8, 7/31/97.
[11] *Los Angeles Times*, 7/14/93.
[12] *Los Angeles Times*, 7/14/93.
[13] *Los Angeles Times*, 7/14/93.
[14] *Los Angeles Times*, 7/14/93.
[15] *Los Angeles Times*, 7/14/93.
[16] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 9, 7/31/97.
[17] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 9, 7/31/97.
[18] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 11, 7/31/97.
[19] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 9, 7/31/97; Los Angeles Times, 8/19/97.
[20] *Los Angeles Times*, 8/19/97.
[21] *Los Angeles Times*, 8/19/97.
[22] *Washington Post*, 2/7/98.
[23] *Los Angeles Time*, 8/19/97.
[24] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 9, 7/31/97.
[25] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 10, 7/31/97.
[26] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 10, 7/31/97.
[27] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 10, 7/31/97.
[28] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 10, 7/31/97.
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[30] *Washington Post*, 2/7/98.
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[32] *Washington Post*, 2/7/98.
[33] *Washington Post*, 2/7/98.
[34] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 11, 7/31/97.
[35] *United States* v. *Jay C. Kim, et al.*, Plea Agreement, p. 11, 7/31/97.
[36] Trial transcript (Direct of Seokuk Ma), pp. 8–11, *United States* v. *Seokuk Ma*, No. CR 96–1141(B) –R, 4/11/97.
[37] Trial transcript (Direct of Seokuk Ma), pp. 8–11, *United States* v. *Seokuk Ma*, No. CR 96–1141(B) –R, 4/11/97.
[38] Trial transcript (Direct of Seokuk Ma), pp. 12–16, *United States* v. *Seokuk Ma*, No. CR 96–1141(B) –R, 4/11/97.
[39] Trial transcript (Direct of Seokuk Ma), pp. 17–20, *United States* v. *Seokuk Ma*, No. CR 96–1141(B) –R, 4/11/97.
[40] Trial transcript (Direct of Seokuk Ma), pp. 23–24, *United States* v. *Seokuk Ma*, No. CR 96–1141(B) –R, 4/11/97.
[41] Trial transcript (Direct of Seokuk Ma), pp. 57–58, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[42] Trial transcript (Direct of Seokuk Ma), pp. 58, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[43] Trial transcript (Direct of Seokuk Ma), p. 59, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97; *Los Angeles Times,* 4/10/97.

[44] Trial transcript (Direct of Seokuk Ma), p. 58, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97; *Los Angeles Times,* 4/10/97.
[45] Trial transcript (Direct of Seokuk Ma), pp. 62–63, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[46] Seokuk Ma deposition, 9/19/97, p. 10: "June Kim called me, sign the check, blank check, campaign check, without any contents. I just sign it. She bring 20 sometimes or 40. I sign it."
[47] Trial transcript (Direct of Seokuk Ma), p. 58, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[48] Trial Transcript (Cross/Redirect of Seokuk Ma), p. 13, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[49] *United States* v. *Jay C. Kim, et al.,* Plea Agreement, p. 9, 7/31/97; Seokuk Ma deposition, 9/19/97, p. 43: "That's why I tell the truth; that's why she got that guilty."
[50] Seokuk Ma deposition, 9/19/97, p. 43.
[51] Trial transcript (Cross/Redirect of Seokuk Ma), p. 14, *United States* v. *Seokuk Ma,* No. CR 96–1141(B) –R, 4/11/97.
[52] Seokuk Ma deposition, 9/19/97, p. 25–26.
[53] Seokuk Ma deposition, 9/19/97, p. 13: "[T]he reason for June Kim change me, title as treasurer, because at that time I investigated by the FBI. He asking me questions. So I talk to June Kim, 'Oh, yes, I talk with the FBI.' and then since that time, she—in her mind, she's going to change me."
[54] Seokuk Ma deposition, 9/19/97, p. 30.
[55] Seokuk Ma deposition, 9/19/97, p. 30.
[56] *Los Angeles Times,* 2/7/98.
[57] *Los Angeles Times,* 8/1/97.
[58] Moon Lee deposition, 10/1/97, pp. 7–9.
[59] Seokuk Ma deposition, 9/19/97, p. 13.
[60] Moon Lee deposition, 10/1/97, p. 29.
[61] Moon Lee deposition, 10/1/97, pp. 11–12.
[62] Moon Lee deposition, 10/1/97, pp. 12–14 & 30.
[63] Inyoung Brazil deposition, 10/1/97, pp. 8–15.
[64] Inyoung Brazil deposition, 10/1/97, pp. 19–20.
[65] Inyoung Brazil deposition, 10/1/97, p. 17.
[66] Seokuk Ma deposition, 9/19/97, p. 19.
[67] Seokuk Ma deposition, 9/19/97, p. 19.
[68] Moon Lee deposition, 10/1/97, pp. 14–16.
[69] Moon Lee deposition, 10/1/97, pp. 23–25.
[70] Moon Lee deposition, 10/1/97, pp. 23–26.
[71] Moon Lee deposition, 10/1/97, p. 25.
[72] *City News Service of Los Angeles,* 4/10/97.
[73] *City News Service of Los Angeles,* 4/10/97.
[74] *The Hill,* 8/6/97.
[75] *The Hill,* 8/6/97.
[76] *The Hill,* 8/6/97.
[77] *The Hill,* 8/6/97.
[78] *The Hill,* 8/6/97.
[79] *The Hill,* 8/6/97.
[80] Seokuk Ma deposition, 9/19/97, p. 32.

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PART 2 INDEPENDENT GROUPS

Chapter 9: Overview and Legal Analysis

FINDINGS

(1) Independent groups, including tax-exempt organizations, corporations and unions, spent large sums of money to influence the public's perception of federal candidates and campaigns and the outcome of certain elections in 1996.

(2) During the 1996 election cycle, tax-exempt organizations spent tens of millions of dollars on behalf of Republican and Democratic candidates under the guise of issue advocacy, in violation of the spirit and possibly the letter of the tax code and election laws. Despite their election-related activity, none of these organizations registered with or disclosed their activities to the FEC. Moreover, because of restrictions in the tax code with respect to such tax-exempt organizations, these organizations may have violated their tax status.

(3) Although many groups conduct activities that influence the public's perception of federal candidates and campaigns, they either are not required, or do not, register with or disclose their activities with the FEC.

OVERVIEW OF FOLLOWING CHAPTERS

One of the striking differences between the 1996 elections and prior elections was the prominent role played by groups that never registered with the Federal Election Commission (FEC) as campaign organizations.[1] These groups included tax-exempt charities, social welfare organizations, labor unions and corporations. Some groups ran television ads attacking candidates, conducted direct mail and telephone bank operations targeting voters, distributed voter guides, increased voter turnout, advised campaigns, and attended weekly meetings discussing candidates and campaign strategy. These groups spent millions of dollars on activities designed to affect the outcome of federal elections in 1996, yet none disclosed their contributions or expenditures to the public or acknowledged that federal campaign laws applied to their operations.

The Committee hearings provided an invaluable opportunity to examine the role of these groups during the 1996 election cycle. The hearings could have examined, in a systematic way, whether national political parties used these groups to circumvent federal contribution limits and disclosure requirements; whether the persons directing the organizations deliberately evaded federal election law requirements or abused an organization's tax-exempt status; and whether the relevant federal election or tax laws require strengthening. Instead, the Majority failed to conduct a vigorous investigation, rejected Minority requests to hold hearings on specific groups, and left the legislative issues largely unexamined.

One key difficulty was the refusal of many groups to cooperate with the Committee's investigation.[2] Some simply asserted that they had never engaged in election-related activity and were outside the scope of the Committee's investigation. Others claimed

Footnotes at end of chapter.

that the First Amendment protected them from inquiry. The vast majority of subpoenaed groups refused, in whole or in part, to respond to Committee requests for interviews and documents. Faced with widespread resistance, the Majority lacked the political will to enforce the subpoenas issued, compel document production and deposition testimony, or hold public hearings and confront the groups. It settled instead for four days of hearings in which academics and public interest organizations discussed the problem generally and urged campaign finance reform.[3]

Despite the absence of a vigorous investigation and in-depth hearings, available evidence demonstrates that a number of independent groups engaged in partisan, election-related activities in 1996, that some of these groups coordinated their activities with a political party or candidates, and that additional investigation by the U.S. Departments of Justice and Treasury and the FEC is warranted. The evidence also demonstrates that legislation is needed, not to halt election-related activities by independent groups, but to bring their efforts within the existing legal requirements for contribution limits and disclosure.

1996 election-related activities

During the 1996 election cycle, both parties benefited from the expenditures and activities of independent groups. The most visible example is televised ads. A study conducted by a nonpartisan organization, the Annenberg Public Policy Center, estimated that, during the 1996 election cycle, independent groups spent between $67 and $82 million on televised ads that split about evenly in their support of the two parties.[4] Almost 90 percent of these ads named specific candidates.[5] Groups like the AFL–CIO, Citizen Action, Citizens for Reform, and Citizens for the Republic Education Fund each spent millions of dollars on these televised ads.

While both parties benefited from the activities of independent groups, the evidence before the Committee indicates that the Republican National Committee ("RNC") organized and financed independent group activities to a much greater extent than did the Democratic National Committee ("DNC") during the 1996 election cycle. For example, FEC records indicate that, in 1996, the RNC gave nearly $6 million to tax-exempt organizations,[6] or 30 times more than the DNC which gave less than $185,000.[7] Documents produced by the parties indicate that, while both asked supporters to make contributions to sympathetic groups, the RNC explicitly planned to raise millions of dollars for certain pro-Republican groups and actually collected and delivered specific checks to them.[8] Documents produced to the Committee also indicate that the Republican Party worked to identify, on a national and regional level, the groups most likely to help Republican candidates win office;[9] instructed its candidates to develop formal "coalition plans" with sympathetic groups;[10] and distributed a "coalition building manual" to help them do so.[11] No comparable manual, memoranda or any other evidence before the Committee indicates this level of effort by the Democratic Party. The evidence before the Committee also suggests that the RNC undertook a wide variety of specific election-related activities with independent groups, including joint issue advocacy efforts, joint polling and joint election strategy ses-

sions; the evidence does not support a similar level of coordination between the DNC and independent groups sympathetic to Democratic candidates.[12]

The following chapters describe the parties' interactions with independent groups, the 1996 election-related activities of a few of the most active organizations, and a brief description of allegations involving other groups. Because the Committee did not hold hearings or enforce its document and deposition subpoenas, the available information is limited, and many unanswered questions remain. However, the types of campaign activities undertaken, the unmistakable signs of coordination with political parties and candidates, and the millions of dollars involved provide overwhelming evidence that independent groups were significant players in the 1996 election cycle.

On the Republican side, the following chapters chronicle how the RNC developed plans and worked with outside groups to affect the outcome of the 1996 elections; Americans for Tax Reform used $4.6 million in RNC soft dollars to conduct a direct mail and telephone bank operation in 150 Congressional districts countering anti-Republican ads on Medicare; Triad Management formed and directed two tax-exempt organizations to run over $3 million in televised ads attacking Democratic candidates; and the Christian Coalition spent at least $22 million and distributed 45 million voter guides before election day, manipulating the information in those guides to favor Republican candidates. On the Democratic side, the chapters examine the AFL–CIO's $35 million televised ad and get-out-the-vote efforts; Ickes' recommendation that Warren Meddoff contribute $1 million to specified pro-Democratic groups; the Teamsters' contribution-swapping schemes with other independent groups and attempt to involve the DNC; and contributions directed by Democratic officials to Vote Now '96.

Corporations, unions and other independent groups are legally permitted to participate in federal election activity if they comply with federal requirements for contribution limits and disclosure. The complaint with these groups in the 1996 election cycle is that they sought to affect election outcomes, while evading the contribution limits and disclosure requirements that apply to other entities engaged in campaign activities. It is this evasion of the law, and the resulting erosion of public confidence in the federal campaign finance system, that has made the election activities of independent groups such a serious concern.

LEGAL ANALYSIS

Some of the activities engaged in by independent groups during the 1996 election cycle raise issues invoking both federal election law and federal tax law. While some of the campaign restrictions set out in these laws are clear, other provisions provide insufficient guidance on what conduct is lawful, while ambiguities in other provisions may hinder criminal prosecutions and civil enforcement actions in this area. As with the provisions banning foreign contributions, legislation is needed to strengthen and clarify the laws applicable to independent groups engaged in campaign activity.

Categories of independent groups

The groups examined include a variety of organizations whose common denominator is a claim of independence from any political party, candidate or campaign committee, and a refusal to report contributions or expenditures to the Federal Election Commission.

Two types of groups that raised considerable concern during the 1996 elections are charitable and social welfare organizations exempt from taxation under section 501(c) of the Internal Revenue Code.[13] Historically, these organizations have not engaged in significant election activity due to constraints in federal tax law.

Section 501(c)(3) exempts from taxation organizations organized and operated for "religious, charitable, scientific . . . educational" and similar purposes. Unique among 501(c) tax exempts, donors to 501(c)(3) charitable organizations are allowed to deduct from their federal income tax a portion of their donations. The statute explicitly prohibits these charitable organizations from engaging in any campaign activity, stating that the exemption covers only an organization "which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."[14] In addition, the statute prohibits section 501(c)(3) charitable organizations from operating for the benefit of any private interest, including a political party.[15] Conferring such a private benefit violates the organization's tax exempt status and provides grounds for denying or terminating an exemption.[16] Examples of charitable organizations active during the 1996 election cycle are Vote '96 and the Americans for Tax Reform Foundation.

Social welfare organizations are exempt from taxation under section 501(c)(4) of the Internal Revenue Code. To qualify for this exemption, social welfare organizations must engage in activities that promote "the common good and general welfare of the people of the community."[17] The implementing regulation states, "The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office."[18] This regulation has been interpreted as prohibiting social welfare organizations from engaging in campaign activity as their primary pursuit, but allowing them to engage in it as a secondary pursuit.[19] Any campaign activity engaged in must be nonpartisan, so that the organization does not confer a private benefit on a particular political party.[20] In contrast to charitable organizations under section 501(c)(3), donations to 501(c)(4) organizations are not deductible by the donor. Examples of 501(c)(4) organizations active during the 1996 election cycle are Americans for Tax Reform and Citizen Action. Others, including the National Policy Forum and Christian Coalition, presented themselves as 501(c)(4) organizations, despite the fact that during the 1996 election cycle their applications were still pending before the IRS.

Two other types of independent groups are labor unions and corporations. Both are prohibited under 2 USC 441b from making campaign contributions or expenditures except through a separately established political committee or segregated fund that registers with the FEC, complies with contribution limits, and discloses its contributions and expenditures.[21] Campaign restrictions

on corporations have been part of federal law for 90 years, while restrictions on unions have been in place for more than 50 years.[22] The Supreme Court has repeatedly upheld their constitutionality.[23] Despite this history, the advent of the soft money and issue advocacy loopholes led to an explosion in corporate and union spending and activism during the 1996 election cycle.[24] Two examples in the 1996 election cycle are the AFL–CIO and Triad Management.

Each of these four types of groups—charitable and social welfare organizations, unions and corporations—has social and economic objectives apart from electioneering. They are not campaign organizations like the RNC, DNC, candidate committees, and corporate and union PACs, which register with the FEC under 2 USC 431(4) for the purpose of influencing federal elections and which file under section 527 of the federal tax code for groups organized and operated for the purpose of influencing elections.[25] But all four have become increasingly important players in federal elections.

Disclosure

RNC chairman Haley Barbour announced at a press conference on October 29, 1996, "Disclosure of contributions and expenditures, shining the bright light of public scrutiny, is the fundamental principle underlying our campaign finance laws."[26] During the 1996 election cycle, however, many independent groups never disclosed their election-related activities, contending primarily that they were engaged in issue advocacy efforts outside the jurisdiction of federal election laws. Efforts by the media to investigate televised ads attacking candidates on the eve of election day, sponsored by groups with unfamiliar names and no readily available spokesperson, were time-consuming and often unsuccessful.[27] Even after a year-long Senate investigation, due to the absence of FEC reports and the groups' defiance of Senate subpoenas, this Committee has limited information about their 1996 election activities.

The initial legal analysis is to determine, on a case-by-case basis, whether any of these groups violated federal election law disclosure requirements. The issues include whether a particular group qualified as a political committee under 2 USC 431(4) subject to the reporting obligations in 2 USC 434(a); or whether the group made "independent expenditures" expressly advocating the election or defeat of a clearly identified candidate subject to the reporting obligations in 2 USC 434(c). While straightforward in some respects, these federal disclosure requirements contain many ambiguities that render enforcement uncertain and difficult. These provisions would clearly benefit from legislation clarifying when groups must register as political committees and what expenditures qualify as independent expenditures, including better statutory tests to distinguish between candidate versus issue advocacy. Another possible approach is legislation which, rather than improving the tests for distinguishing candidate versus issue advocacy, would instead require greater disclosure of issue advocacy efforts that name candidates or take place close in time to federal elections.[28]

Coordination

Another relevant legal inquiry concerns coordination, specifically whether any of the independent groups was coordinating its efforts

during the 1996 election cycle with a political party, political committee or candidate. In *Buckley* v. *Valeo,* 424 U.S. 1, 47 (1976), the Supreme Court held that "expenditures placed in cooperation with or with the consent of a candidate, his agents, or an authorized committee of the candidate" are to be treated "as contributions subject to the limitations" on contributions in federal election law. The Court held that this approach was necessary to "prevent attempts to circumvent the Act through prearranged or coordinated expenditures amounting to disguised contributions."[29] The Court explicitly upheld disclosure requirements directed to independent groups—"individuals and groups that are not candidates or political committees"—for expenditures on "communications that expressly advocate the election or defeat of a clearly identified candidate," and for coordinated political expenditures "authorized or requested by a candidate or his agent."[30]

Twenty years later, in *Colorado Republican Federal Campaign Committee* v. *FEC,* 116 S.Ct. 2309 (1996), the Supreme Court reaffirmed this approach. The Court stated that *Buckley* upheld the constitutionality of contribution limits "that apply both when an individual or political committee contributes money directly to a candidate and also when they indirectly contribute by making expenditures that they coordinate with the candidate."[31] The Court distinguished between "coordinated" and "independent" expenditures, holding that only coordinated expenditures are limited by the Federal Election Campaign Act ("FECA").[32] The Court also rejected the proposition that party expenditures should be treated, without exception, as having been coordinated with the party's candidates, holding instead that a party has a constitutional right to make independent expenditures and must be given an opportunity to demonstrate the absence of candidate coordination with respect to a particular party expenditure.

Section 441a(a)(7)(B)(i) of FECA states that, for purposes of applying the law's contribution limits, "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidates."

The significance for independent groups is twofold. First, if an independent group coordinates expenditures with a political party, campaign committee or candidate, its expenditures must be considered contributions subject to FECA's contribution limits and disclosure requirements. Second, if the independent group hides its coordinating activity, the group opens itself up to the charge that it is hiding contributions and deliberately circumventing federal contribution limits and disclosure requirements.

The issue of what actions constitute coordination is still largely unresolved. New regulations, ongoing litigation and FEC enforcement actions are tackling a variety of questions in this area. For example, in March 1996, the FEC issued new regulations which state in part that a corporation or union distributing candidate voting guides to the general public "shall not contact or in any other way act in cooperation, coordination, or consultation with or at the request or suggestion of the candidates."[33] *In Clifton* v. *FEC,* 114 F.3d 1309 (1st Cir. 1997), the First Circuit struck down the part

of the regulation that completely prohibited oral contact with a candidate as overly restrictive and without statutory authorization.[34] The court held that, while it "readily accept[s] that the government has an interest in unearthing disguised contributions,"[35] contacts such as simply asking a candidate for his or her position on an issue are not enough to establish coordination:

> [E]xpenditures directed by or 'coordinated' with the candidate could be treated as contributions; but 'coordination' in this context implie[s] some measure of collaboration beyond a mere inquiry as to the position taken by a candidate on an issue.[36]

The FEC is currently engaged in drafting regulations on coordination, but has yet to issue them.

A few FEC enforcement actions provide further guidance. In July 1996, for example, the FEC brought an enforcement action in federal court alleging that the Christian Coalition had coordinated expenditures during the 1990, 1992 and 1994 election cycles with federal House, Senate and Presidential candidates and their campaigns, thereby, *inter alia,* making illegal corporate contributions in violation of 2 USC 441b.[37] The complaint cited coordinated expenditures made by the Christian Coalition for voter identification and get-out-the vote efforts, the preparation and distribution of voter guides, and public communications expressly advocating the election or defeat of clearly identified candidates. To date, no court has ruled on the merits of this complaint. The FEC has also settled two enforcement actions against independent groups for coordinating their actions with candidates, obtaining conciliation agreements in which each group admitted violating FECA. One action was brought against Americans for Tax Reform ("ATR") in 1986 for coordinating with candidates on the timing and distribution of media advisories related to ATR's Taxpayer Pledge Program.[38] Another was brought ten years later, in 1996, against the Hyatt for Senate campaign committee and Hyatt Legal Services corporation for using a campaign media adviser to re-write television commercials broadcast by the corporation.[39] These two settlements were not tested in court.

A key legal issue now being litigated is the question of whether the Supreme Court holdings on coordination are limited to coordinated expenditures which expressly advocate the election or defeat of a candidate or whether they extend to expenditures for issue advocacy. On September 25, 1997, several federal election law experts testified before the Committee that, while the law is unsettled on this point, their view was that the Supreme Court holdings did extend to issue advocacy.[40] Lawrence Noble, the FEC's general counsel, testified that it is the FEC's position that issue advocacy paid for by an independent group and coordinated with a candidate may result in a contribution to the candidate, if the issue advocacy contains an "electioneering message."[41] He testified that an issue ad with no electioneering content would not be affected by FECA, using the example of an ad broadcast by the Red Cross and coordinated with a candidate in which the candidate urges the public to join a blood drive.[42] He testified that, in the view of the FEC, coordinated issue ads which fall short of expressly advocating the

election or defeat of a candidate, but which do convey an electioneering message benefiting the candidate, result in a contribution. He said that the FEC was currently involved in litigation to determine if this position is correct. A second witness, former FEC Chairman Trevor Potter, testified that "whether it is express advocacy, or issue advocacy, or anything else, it is relevant to ask in the case of a nonparty organization whether the spending . . . was, in fact, directed and controlled by the candidate."[43] Both Noble and Potter testified that a different legal analysis would apply to coordination involving only a party and its candidate—and not an independent group—due to a longstanding legal presumption that coordination between a party and its candidates is permissible and appropriate.[44]

Given the lack of certainty, clarifying legislation on the types of actions that should be considered coordination and how coordinated issue advocacy should be treated would provide needed guidance and clear statutory authority to FEC enforcement efforts.[45]

Once coordination is established between an independent group and a political party, political committee or candidate, a coordinated expenditure becomes a contribution subject to the contribution limits in FECA. For example, if the expenditure were made by a corporation or union, the resulting contribution could be a violation of law—FECA's ban on corporate and union contributions. Alternatively, if coordination were not established, the expenditure could nevertheless qualify as an "independent expenditure" under 2 USC 431(17) subject to disclosure under 2 USC 434(c).[46] Expenditures or contributions exceeding $1,000 during a calendar year could trigger requirements that a group register with the FEC as a political committee and comply with disclosure requirements in 2 USC 434(a).[47]

Coordination by an independent group with a political party, political committee or candidate is not, in and of itself, improper or illegal. But coordinated expenditures resulting in a contribution trigger requirements for the independent group to comply with relevant contribution limits and disclosure requirements. Coordinated expenditures without this compliance can constitute misconduct.

Circumvention

A third legal issue focuses on coordination undertaken by political parties, specifically, whether a political party or campaign coordinated with independent groups on issue advocacy spending during the 1996 elections. Political parties are required by the FEC to pay for their issue advocacy efforts with a mix of hard and soft dollars.[48] The FEC determined in 1995 that, in a presidential election year, a political party must pay 65 percent of the cost with hard dollars that meet FECA contribution limits and disclosure requirements. The FEC reasoned that issue ads sponsored by a political party are either administrative expenses or generic voter drive efforts designed to "urge the general public to register, vote or support candidates of a particular party or associated with a particular issue,"[49] In the case of issue advocacy paid for by an independent group but coordinated with a political party, the questions that must be asked are, not only whether the independent group has violated federal contribution limits and disclosure requirements as

discussed above, but also whether the political party deliberately circumvented federal hard money requirements by having the independent group serve as the nominal sponsor. For example, the chapter on Americans for Tax Reform describes a multi-million dollar issue advocacy effort on Medicare which was nominally sponsored by ATR, but coordinated with the RNC and paid for with an RNC soft money donation of $4.6 million. If the RNC had sponsored the Medicare effort directly, it would have had to use hard dollars for 65 percent of the cost; it instead financed the ATR-sponsored effort entirely with soft dollars.

Third party contributions

A fourth issue involving independent groups arose when the Committee received evidence indicating that both political parties suggested to supporters that they make contributions to sympathetic groups. Although pending campaign finance reform measures such as S. 25, the McCain-Feingold bill, would outlaw this practice, there is currently no statutory or regulatory provision that explicitly prohibits a political party from suggesting that a person make a contribution to an independent group, such as a charitable or social welfare organization. The suggestion alone, without more, does not establish a coordinated expenditure, unreported contribution, or circumvention of election law limits and disclosure requirements.

If, in addition to the fact that a contribution was recommended, evidence is found that the political party controlled the timing of the contribution or made the contribution contingent upon the recipient taking action at the suggestion of, or in concert with, the party or a candidate, it is possible that coordination occurred and compliance with contribution limits and disclosure requirements was required.

Violations of tax law

A fifth set of issues involves federal tax law. Charitable and social welfare organizations exempt from taxation engaged in a number of election-related activities during the 1996 election cycle. An initial legal analysis is whether any of these groups violated their tax-exempt status by engaging in partisan political activity and conferring benefits on a particular political party. For social welfare organizations under section 501(c)(4), an additional question is whether campaign activities were a dominant or secondary pursuit. A third question is whether any of these groups made false statements to the Internal Revenue Service in violation of 26 USC 7206, for example by indicating in an application for tax exempt status that the organization had not spent and did not plan to spend any money attempting to influence elections.[50] While the statutory restrictions on campaign activity are clear for charitable organizations under section 501(c)(3), social welfare organizations under section 501(c)(4) must rely on a number of regulatory interpretations that would benefit from legislation clarifying the campaign restrictions applicable to them.

Another concern that arose during the course of the Committee's investigation involves the problems associated with obtaining accurate information about an organization's tax exempt status. While

section 6104 of the tax code makes available to the public successful applications under section 501(c) and related IRS materials, no similar public disclosure requirement applies to organizations whose applications are pending or ultimately rejected. The evidence before the Committee indicates, for example, that the National Policy Forum ("NPF") held itself out and operated as a 501(c)(4) social welfare organization for four years, from 1993 to 1997, while its application was pending before the IRS. The IRS decision letter ultimately rejecting the NPF application describes the standards used for granting 501(c)(4) status, as well as the results of an IRS investigation into NPF activities. This information is as important to the public as materials associated with successful 501(c) applicants, particularly since during the four-year period the NPF application was pending, NPF held itself out to the public as a 501(c)(4) tax-exempt organization as allowed by law. The same issues apply to the Christian Coalition, whose application for 501(c)(4) status has been pending for seven years. The public has a right to know during these long periods of time the basis for an organization's application, its status, and the IRS' evaluation of the applicant. To solve the problem, section 6104 could be amended to authorize the release of the same information for all 501(c) applications, rather than just for the successful ones. Alternatively, section 501(c) could be amended to prohibit organizations from holding themselves out as charities or social welfare organizations until their application for that status is actually approved by the IRS.

A related legislative concern involves indications by some organizations whose application for 501(c)(4) was rejected that they will instead claim tax exemption under section 527 of the tax code.[51] Section 527, as explained earlier, exempts from taxation groups organized and operated primarily for the purpose of influencing elections. The failed 501(c)(4) applicants apparently intend to argue that they operate to influence elections through the use of issue advocacy, rather than candidate advocacy. In this way, the groups apparently plan to avoid payment of taxes under section 527, while also avoiding the disclosure requirements in federal election law that otherwise subject campaign organizations to public scrutiny. Their aim, apparently, is to engage in election-related activities without paying taxes and without disclosing their activities to the IRS, FEC or public. This plan may succeed since, currently, section 527 grants a tax exemption without any required filing or public disclosure—it does not have a requirement similar to section 501 that organizations file formal applications for the exemption or annual information returns; it does not require through section 6104 public disclosure of applications or annual returns (since none is filed); and it does not require organizations claiming the exemption to meet the disclosure requirements of the Federal Election Campaign Act. Corrective legislation could amend section 527 to limit the availability of the tax exemption to organizations that have registered with the FEC or the equivalent state body as a political committee. Legislation could also require organizations claiming the exemption to file applications and annual information returns under section 527 in the same manner now required under section 501. These filings would strengthen the ability of the IRS to detect tax avoidance and false statements.

FOOTNOTES

[1] On the first day of the Committee's hearings, Senator Glenn named misuse of independent organizations as a key concern that needed to be investigated. 7/8/97 Hrg. p. 20. Senator Torricelli stated that the "single greatest change in the political culture of the 1996 elections . . . was the use of non-profit, tax-free organizations." 7/8/97 Hrg. p. 98.

[2] See Chapter 40.

[3] See hearings on September 23, 24, 25 and 26, 1997.

[4] See Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report Series No. 16 (9/16/97), p. 7. The Center estimated that parties and independent groups together spent between $135 and $150 million on issue ads. Since the two parties together spent about $68 million on issue ads, that leaves the total for independent groups alone between $67 and $82 million. See also *Washington Post,* 2/9/97, which estimated total election-related spending by independent groups at $70 million.

[5] Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report Series No. 16 (9/16/97), p. 7.

[6] According to FEC records, in 1996, the RNC gave $4.6 million to Americans for Tax Reform; $650,000 to the National Right to Life Committee; and $600,000 to American Defense Institute which later returned the funds.

[7] According to FEC records, in 1996, the DNC gave $117,500 to the National Coalition of Black Voter Participation; $20,000 to the African American Institute; $10,000 to the Stonewall Gay and Lesbian Club; $10,000 to the Congressional Black Caucus; and $4,000 to the Hispanic Caucus.

[8] See, for example, undated document produced by the RNC entitled "Soft Money Fundraising Strategy," R003215, indicating that the RNC would raise "miscellaneous revenue" totaling $7.7 million for Americans for Tax Reform, National Right to Life Committee and American Defense Institute; Exhibit 2400: memorandum from RNC finance chair Jo-Anne Coe to RNC chairman Haley Barbour and other RNC officials, regarding the delivery of checks to these organizations; an undated document produced by the RNC, 10/17/96, R021609, analyzing whether contributions to five tax-exempt organizations are tax deductible and whether they would have to be reported to the public; an undated document, DFP004244, which lists four pro-Republican tax-exempt organizations and indicates for each organization a large dollar figure which, when added together, total $15.1 million. See also Chapter 10.

[9] See for example, Exhibit 2365: memorandum from RNC director of campaign operations Curt Anderson to RNC chairman Haley Barbour, entitled "Group of 12, or Council of Trent, or Whatever," 3/4/96, R006050.

[10] Exhibit 2363: memorandum from RNC director of campaign operations Curt Anderson to RNC chairman Haley Barbour, 4/23/96.

[11] Exhibit 2367, Coalition Building Manual, authored by Curt Anderson.

[12] See following chapters.

[13] Subsection 501(c) authorizes an exemption from taxation for over two dozen types of organizations.

[14] See 26 U.S.C. 501(c)(3) and 26 CFR 1.501(c)(3)–1; *Association of the Bar of the City of New York* v. *Commissioner,* 858 F.2d 876 (2d Cir. 1988), (even insubstantial political activity endangers an organization's exemption under section 501(c)(3)).

[15] 26 USC 501(c)(3) and 26 CFR 1.501(c)(3)–1(d)(1)(ii) ("it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests"); *American Campaign Academy* v. *Commissioner,* 92 T.C. 1053 (1989) (organization operated for the benefit of Republican organizations or candidates does not qualify for tax exemption under section 501(c)(3)).

[16] *American Campaign Academy* v. *Commissioner,* 92 T.C. 1053 (1989) (organization operated for the benefit of Republican organizations or candidates does not qualify for tax exemption under section 501(c)(3)); *Regan* v. *Taxation with Representation,* 461 U.S. 540 (1983) (tax exemption is a privilege that can carry severe restrictions).

[17] 26 USC 501(c)(4); 29 CFR 1.501(c)(4)–1.

[18] 26 CFR 1.501(c)(4)–1.

[19] Rev. Rul 81–95, 1981–1 Cumulative Bulletin 332. The statute states that, to qualify for a tax exemption under 501(c)(4), an organization must be "operated exclusively for the promotion of social welfare" (emphasis added). The implementing regulation, 26 CFR 1.501(c)(4)–1(a), states that, "[a]n organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community" (emphasis added). It is this regulatory language that is cited as permitting 501(c)(4) organizations to engage in campaign activity as a secondary pursuit.

[20] See IRS decision letter disqualifying National Policy Forum from tax exemption under section 501(c)(4) due to partisanship, 2/21/97; Chairman Thompson, 7/23/97 Hrg. p. 225 ("In a 501(c)(4), you are allowed some political activity. It is not supposed to be partisan political activity, but you are allowed some. But you are not supposed to be a subsidiary of a party."). See also endnotes 15 and 16, supra.

[21] 2 USC 441b(a). Unions and business organizations such as a Chamber of Commerce may also be exempt from taxation under section 501(c)(5) or (6) of the Internal Revenue Code, but their exemption does not carry any prohibition against campaign activity. Unlike charitable and social welfare organizations, campaign restrictions on unions and corporations are contained in federal election law, not federal tax law.

[22] See, for example, Tillman Act of 1907, prohibiting corporate campaign contributions. Campaign restrictions on unions date from 1943. Congressional Research Service Report No. 90–199A, "Campaign Financing & Corporate Expenditures: Analysis of Austin v. Michigan State Chamber of Commerce" (4/10/90).

[23] See, for example, *FEC* v. *Massachusetts Citizens for Life,* 479 U.S. 238 (1986); *Austin* v. *Michigan State Chamber of Commerce,* 494 U.S. 652 (1990).

[24] See Part 4 on soft money and issue advocacy, infra.

[25] 26 USC 527(e).

[26] "Haley Barbour, Chairman of the Republican National Committee, Discusses Democratic National Committee Refusal of Pre-Election FEC Report," Presidential Campaign Press Materials, Federal Document Clearing House, Inc., 10/29/96.

[27] See, for example, *Arkansas Democrat-Gazette,* 10/24/96; Kansas City Star, 10/27/96; *Fresno Bee,* 11/3/96; *Wall Street Journal,* 2/5/97; *Washington Post,* 3/9/97.

[28] See S. 25, the McCain-Feingold bill, which proposes a number of legislative remedies to this problem; statement by Senator Carl Levin of Michigan, Congressional Record, 10/6/97, pp. S10409–16. See also Part 4 on issue advocacy, infra.

[29] 424 U.S. at 46.

[30] 424 U.S. at 80.

[31] 116 S.Ct. at 2321.

[32] See, for example, Parts II and III of the prevailing opinion. Some Justices suggested, in *dicta,* that parties should be able to make unlimited coordinated expenditures with their candidates, but no ruling was made by the Court on that issue. See, for example, opinion by Justice Kennedy.

[33] 11 CFR 114.4(c)(5).

[34] The court also struck down a requirement in the regulation that the voting guides provide substantially equal space and prominence to each candidate.

[35] 114 F.3d at 1314.

[36] 114 F.3d at 1311 (citations omitted).

[37] *FEC* v. *Christian Coalition,* Civil Action No. 96–1781 (D.D.C.), 7/30/96.

[38] FEC MUR 3975. See also chapter 11 discussing Americans for Tax Reform.

[39] FEC MUR 3918.

[40] See, for example, *Buckley* v. *Valeo,* 424 U.S. 1, 80 (1976), discussed above, in which the Supreme Court identified two separate categories of expenditures by independent groups which could constitutionally be subjected to disclosure requirements: express advocacy communications, and expenditures coordinated with candidates. By mentioning coordinated expenditures in a separate category, apart from express advocacy communications, the Court implied that coordinated expenditures which do not reach the threshold of express advocacy may qualify as candidate contributions subject to contribution limits and disclosure requirements.

[41] Lawrence Noble, 9/25/97 Hrg., pp. 34–40.

[42] Lawrence Noble, 9/25/97 Hrg., p. 38.

[43] Trevor Potter, 9/25/97 Hrg., p. 36.

[44] Lawrence Noble and Trevor Potter, 9/25/97 Hrg., pp. 35–36, 39–40. Potter testified that the FEC had traditionally "presumed all party spending was coordinated with candidates" and had deemed coordination between the two irrelevant, concentrating instead on determining whether specific party expenditures were generic party-building efforts that could not be attributed to individual candidates or candidate-specific spending subject to contribution limits. 9/25/97 Hrg., p. 22. See also legal analysis provided in Part 5, *infra.*

[45] S. 25, the McCain-Feingold bill, proposes a number of legislative remedies to clarify what actions constitute coordination and result in contributions subject to FECA.

[46] 2 USC 431(17) defines an "independent expenditure" 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 unauthorized committee or agent of such candidate."

[47] See 2 USC 431(4); *Buckley* v. *Valeo,* 424 U.S. 1, 79 (1976); *Akins* v. *FEC,* 101 F.3d 731 (D.C. Cir. 1996).

[48] FEC Advisory Opinion 1995–25.

[49] FEC Advisory Opinion 1995–25.

[50] See, for example, item 15 on IRS Form 1024, "Application for Recognition of Exemption Under Section 501(a)."

[51] See, for example, *Roll Call,* 10/20/97, p. 1.

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PART 2 INDEPENDENT GROUPS

Chapter 10: The Republican Party and Independent Groups

One of the striking differences between the 1996 elections and prior elections was the prominent role played by so-called "independent groups" that were not registered with the Federal Election Commission as political organizations. Typically, these groups ran campaign ads under the guise of "issue advocacy." By operating in that fashion, they were able to circumvent federal restrictions on campaign financing. Evidence before the Committee shows that the Republican National Committee closely coordinated with several ostensibly independent groups, channeled millions of dollars (from the RNC and from Republican donors) to such groups, and even established front organizations.

Additionally, a number of conservative groups acted as fronts for Republican donors, enabling the donors to circumvent the campaign finance laws. Many of these purported to be grassroots organizations but were actually shell organizations established by professional fundraisers for the purpose of running attack ads.

Several of the organizations mentioned in this chapter are discussed at greater length in other parts of the Minority Report. The purpose of this chapter is to examine how purportedly independent groups have served as fronts or proxies for the Republican National Committee and/or Republic donors.

FINDINGS

(1) The Republican Party financed and participated in election-related activities by tax-exempt organizations, in part to evade the limits of federal election laws and to use the organizations as surrogates for delivering the Republican Party's message.

(2) The RNC directly funded, for purposes that benefited the Republican Party, a number of tax-exempt organizations that were supposed to operate in a non-partisan manner.

(3) The RNC also solicited, collected and delivered third-party funds to tax-exempt organizations for election-related activities to benefit the Republican Party.

(4) The RNC instructed and helped Republican candidates to coordinate their campaign activities with independent groups.

INTRODUCTION

A significant number of nonprofit organizations that claimed to be nonpartisan played an active role in the 1996 elections, spending millions of dollars on behalf of political parties or specific candidates. These groups were not registered with the Federal Election Commission as political organizations and most of them claimed to be "social welfare" or charitable organizations, registered with the Internal Revenue Service as either 501(c)(4) or 501(c)(3) tax-exempt entities.

The Republican National Committee had close ties to several of these groups. It coordinated with a number of them and often provided financial support—directly or by raising money from conservative donors. The RNC and the independent groups were able to engage in these activities by exploiting the two most important

gaps in the campaign finance laws: the soft-money loophole and the issue-advocacy loophole.

The federal campaign finance laws clearly state who is allowed to contribute to candidates and how much money those donors are allowed to give and require candidates to identify individuals who contribute in excess of $2,000 to the Federal Election Commission.[1] Although the rules seem clear-cut, they are easily circumvented. The biggest loophole is by way of so-called "soft money," which can be contributed in unlimited amounts to the political parties and can even be contributed by corporations, which are barred from making contributions to specific candidates. Although soft money is only supposed to be used on behalf of state-level candidates or for generic, party-building purposes (such as get-out-the-vote drives), it has become routine for both major parties to spend these funds in ways that benefit specific candidates (see Chapter 23).

Issue advocacy is the second most significant loophole. As long as ads avoid using "express advocacy" terms like "elect" and "defeat," the advertisers have been able to argue successfully that they are not running campaign ads—even if the ads are obviously intended to benefit specific candidates. When an ad falls into the "issue advocacy" category, the campaign finance laws do not apply: Vitually anyone can contribute money to independent groups to pay for such ads, there are no limits on how much money a donor can give, and there is no disclosure of the donor's identity. Thus, many organizations that run "issue ads" are not required to or do not register with the Federal Election Commission as political organizations, despite running television ads attacking candidates, conducting mail and telephone operations targeting voters, and spending millions of dollars on activities which affect election outcomes.

Although the issue-advocacy loophole was exploited on behalf of both Democratic and Republican candidates, the evidence before the Committee indicates that there were some major differences. Whereas the Democratic National Committee does not appear to have engaged in extensive coordination with independent groups, evidence before the Committee shows that the Republican National Committee actually established two nonprofit groups and that it engaged in a high level of coordination with several others. Documents produced to the Committee indicate that the Republican Party worked to identify, on a national and regional level, the groups most likely to help Republican candidates win office; instructed its candidates to develop formal "coalition plans" with sympathetic groups; and distributed a "Coalition-Building Manual" to help them do so. In addition to general organizational and planning efforts encouraging Republican candidates to coordinate their campaign efforts with independent groups, the RNC undertook a wide variety of specific election-related activities with particular organizations, including joint mailings, joint issue advocacy efforts, joint media events, and joint polling.

The contrast between the DNC and RNC is even sharper on the financial side. Federal Election Commission records show that the DNC contributed less than $185,000 to nonprofit groups in 1996. The RNC, by contrast, contributed close to $6 million (of which

Footnotes at end of chapter.

$600,000 was returned) to nonprofits in the weeks before the November election. The RNC also raised millions of dollars for "independent" groups from major Republican Party donors, sometimes actually collecting and forwarding donors' checks to the recipient organizations.

By using outside groups as proxies and surrogates, the RNC was able to foster the impression that independent, "grassroots" organizations were backing the party's agenda and its candidates. The RNC was also able to circumvent federal campaign finance laws by channeling "soft money" to outside groups which, in turn, used the funds for issue advocacy. If the RNC had conducted the same activities itself, it would have been obliged under FEC rules to use a mixture of soft dollars and hard dollars. In short, the Republican Party worked with and financed nonprofit organizations as part of an organized effort to circumvent the campaign finance laws.

Many of the conservative organizations investigated by the Committee were organizations that purported to be independent, grassroots groups. However, the Committee found that several such groups were created mainly, or exclusively, for the purpose of running attack ads. Donors who contributed to such groups were able to spend money on behalf of political candidates without limit and without disclosure. Professional fundraisers played a key role in setting up and running such organizations.

Several of the conservative groups mentioned in this chapter are discussed at length in subsequent chapters of the Minority Report, notably Americans for Tax Reform, the Christian Coalition, and Triad Management Services. The purpose of this chapter is to examine how such groups have served as fronts for the Republican Party and/or Republican donors, thus operating as mechanisms to circumvent the federal campaign finance laws.

RNC TIES TO INDEPENDENT GROUPS

Coalition plans

Haley Barbour, a long time Republican lobbyist, became chairman of the Republican National Committee in January 1993 and served a four-year term. Throughout his tenure, Barbour encouraged Republican candidates to work closely with conservative organizations, which are referred to in RNC documents as "coalition" groups.

During Barbour's tenure, the party urged Republican campaigns to develop coalition plans to organize the campaign's ties to such groups as the National Right to Life Committee, the Christian Coalition, and the National Rifle Association. Coalition plans served many purposes, the principal one being to convince voters that "independent" groups were supporting GOP candidates. A "Coalition-Building Manual," issued in 1994, notes that "what we say about ourselves is suspect, but what others say about us is credible."[2] The manual was prepared by the National Republican Senatorial Committee ("NRSC"), a division of the RNC.

When messages come from a third party, there are other advantages, not mentioned in the NRSC manual:

- If a Republican candidate runs hard-hitting attack ads, he can be accused of negative campaigning. When a third party

runs such ads, the Republican candidate can disavow any responsibility—and can even denounce the advertiser—while, at the same time, benefitting from the attack ads. Perhaps the best-known example of this was the Willie Horton television ad in the 1988 presidential campaign. The ad, which attacked Democratic nominee Michael Dukakis, was widely criticized because of perceived racial overtones.[3] But the Bush campaign averted blame, because the ad was run by an independent group.

• Republican contributors are able to avoid limits on campaign contributions by donating to ostensibly "nonpolitical" groups engaged in issue advocacy. Since these donations are not classified as campaign contributions, corporations, which are forbidden to contribute to candidates, are free to donate; there are no limits on the size of contributions; and donors can hide their identities.[4]

RNC documents provided to the Committee show that the RNC worked to identify, on a national and regional level, the groups most likely to help Republican candidates win office; instructed its candidates to develop formal "coalition plans" with sympathetic groups; and distributed the NRSC's Coalition-Building Manual to help its candidates coordinate their campaign efforts with outside organizations.

On March 4, 1996, Curt Anderson, RNC political director and head of campaign operations, sent a memo to RNC Chairman Haley Barbour entitled, "Group of 12, or Council of Trent, or Whatever."[5] In it, Anderson wrote:

> You had asked us in Atlanta to come up with ideas for a group that would encompass the leadership of the base Republican coalition. . . . Membership should be restricted to groups that actually have troops in the field that they can motivate, activate, and deliver, or groups that have a track record of expending significant resources to do the same.

Anderson then listed possible members for a coalition composed of the leaders of pro-Republican outside groups. Although the list is heavily redacted, it includes Americans for Tax Reform ("ATR'), the National Right to Life Committee ("NRTLC"), the Christian Coalition, and Citizens for a Sound Economy. That this list was compiled for campaign purposes is demonstrated by some of the descriptions of possible members. For example, the memorandum proposes as a member, the Christian Coalition's "national field director [who] works with campaigns and the actual field organization."[6]

It appears that approximately 40 individuals were later reviewed by Barbour, Anderson, RNC co-Chairman Evelyn McPhail, RNC Communications Director Edward Gillespie, and RNC chief strategist Donald Fierce. Their support for, opposition to, and comments on each of the proposed persons are tallied on an undated, two-page document produced by the RNC to the Committee.[7] Two persons had unanimous support: Ralph Reed of the Christian Coalition and Wayne LaPierre of the National Rifle Association. Republican officials considered working with several other individuals, including representatives of ATR, NRTLC, the United Seniors Association, the U.S. Chamber of Commerce, GOPAC (House Speaker Newt Gingrich's "leadership PAC"), the National Federation of

Independent Business, the Republican Governors Association, NRCC, NRSC, and a person from "Tobacco." (The NRCC—which stands for the National Republican Congressional Committee—is, like the NRSC, part of the Republican National Committee.) Anderson urged that the coalition include "only folks with troops in the field." Fierce agreed, suggesting that the group "only include people who have large coalitions that are organized that can help us." Fierce also suggested keeping the group "small enough so you can have confidential conversations."[8] Because no RNC official provided testimony to the Committee on these issues, it is unclear whether this evaluation process resulted in a formal coalition of pro-Republican group leaders which the RNC used to coordinate campaign efforts.

Several Republican candidates took the RNC's advice and worked closely with independent groups. As Anderson noted in an April 23, 1996, memo:

> Today, most of our campaigns lead off with their coalition plan when you meet them.
>
> We no longer treat coalition planning as if it is an ancillary activity, or a quaint way of getting well meaning but ignorant people involved.
>
> We teach [in the RNC's campaign management college] that campaigns must include both a thematic and tactical approach to including the combined efforts of every coalition group that they can conceivably appeal to. We additionally demand that each campaign have a senior person—campaign manager, deputy, etc.—who has line item responsibility for the execution of the coalition plan.
>
> Every state party Victory '96 plan is required to have a coalition component.
>
> Every Regional Field Representative is in the process of putting together the definitive list of the 5 top reachable coalition groups in each state, and their approximate size . . . [Redacted] will be on this list for most states, as will the [redacted], and [NRTLC]. Christian Coalition will make the list in about ½ of the states.
>
> At virtually all of our field meetings we have put together day long meetings in which we bring the decision makers from the biggest coalition groups. We generally spend an hour with each of them comparing notes on races . . .
>
> I should add at this point, that while [redacted] did do some work in the OR race, both Dave Hansen and Wes were *very* frustrated at their unwillingness to think outside the lines and consider expanding their activities in the way that some of the other groups did.
>
> While it has always been true that our coalition groups need direction on how they can best effect the outcome of elections, many of the larger groups are becoming increasingly sophisticated in their approach and they employ competent professionals who know how to make things happen.[9]

This exchange between the two top RNC officials in charge of the 1996 campaign operations leaves no doubt that the RNC deliberately planned for its candidates to coordinate with sympathetic independent groups to affect the outcome of elections.

The memorandum also illustrates the RNC's attempt to use only certain groups that clearly supported Republican candidates and that the RNC distrusted truly independent endeavors, even by conservative organizations. Barbour had made the same point in an urgent memorandum to "Republican Leaders," dated March 5, 1996, warning against "independent expenditure campaigns."[10] Barbour wrote:

> As we approach the time when it may become clear who our nominee will be, it is crucial our supporters do not get suckered into participating in any "independent expenditure" campaigns that purport to be helping the Republican nominee for president. . . . First, the party (the RNC and our state party organizations) are allowed to run issue and generic party advertising, and we have a sizeable (though it needs to be bigger) budget for that. We are scheduled to begin in April. Second, the party can coordinate our generic advertising with anybody, but an independent expenditure group is not allowed to coordinate or consult with the nominee's campaign or the party. It must be truly independent. That means it is not only unaccountable, but could actually turn out to be a loose cannon saying something very different from what the message should be.[11]

The evidence before the Committee shows that the RNC not only instructed its candidates to develop formal coalition plans, it provided them with the NRSC's "Coalition Manual,"[12] which contained instructions on *how to coordinate* their campaign efforts with outside groups. The 29-page manual, which was written by Anderson when he worked at the NRSC, states that coalition groups can:

> Contact their members on your behalf—and at no cost to you—using mail, phones, even earned media
>
> Make their membership lists available to you so the campaign can contact them with a message directly from the candidate
>
> Register new voters
>
> Provide a source of campaign volunteers to complement the campaign operation
>
> Increase the turnout of their members . . .
>
> Publicly endorsing your candidacy, allowing you to use their endorsement in your campaign materials included in your advertising and mail
>
> Private endorsement in the groups' "internal media" (e.g. newsletters, meetings, phone trees, mailings)
>
> Providing surrogate speakers for your campaign
>
> Generating public attacks on the Democrat opponent . . .
>
> Direct mail solicitation of their membership for contributions to your campaign
>
> Provide contributor lists to your campaign
>
> Host fundraising events among their constituents.[13]

The manual also provides a list of specific organizations that "have been the most active in encouraging their constituents to support Republican candidates." [14] The manual states that this list excludes groups that "do not really engage in voter contact" and notes that additional information can be obtained on what specific groups "have done in previous campaign cycles." [15] The groups are divided into two categories, "those who endorse candidates and those who do not." [16] In discussing the groups that do not endorse candidates, the manual states that "[s]ome groups will bend their rules for specific candidates," while others will nevertheless "communicate favorable and unfavorable messages about candidates to their members." [17] For example, the manual classifies the Christian Coalition as a group which does not endorse candidates, while noting that the Coalition conducted "some of the most effective and hard-hitting mail and phone programs last cycle." [18]

Still other documents demonstrate the RNC's deliberate coordination with carefully selected outside groups. For example, an undated internal RNC memorandum entitled, "Outreach, Auxiliaries, Coalitions," states:

> The five coalition organizations that have distinguished themselves and we have to pay special attention to are: National Rifle Association, National Right to Life Committee, National Right to Work Committee, National Federation of Independent Businesses, Christian Coalition.[19]

A March 6, 1996, RNC memorandum to Anderson is entitled "Coalitions" and lists specific independent groups categorized by issue areas.[20] Although the contents of the document were heavily redacted by the RNC before it was produced to the Committee, one entry that did remain describes "Family issues." That entry states: "Christian Coalition/Eagle Forum/Pro-Life groups/in-state PACs. In this community alone, there are probably two dozen different organizations. What we ask them to do would be very different than what we ask pro-gun groups to do."

Coordination during the 1996 election cycle

During the 1996 campaign cycle, RNC officials also met frequently with representatives of "independent" conservative groups to compare notes about campaign strategy and tactics. One important venue for information exchange was the headquarters of Americans for Tax Reform, a nonprofit organization headed by Grover Norquist, a Republican activist with close ties to Speaker Gingrich (see Chapter 11). Norquist hosted weekly meetings at the headquarters of ATR where representatives of conservative organizations met with Republican candidates, operatives, and party officials. Republican Party officials attended these Wednesday meetings along with 50 to 70 conservative activists at a time. At the meetings, discussions took place concerning specific candidates, races, and election strategy.[21]

The RNC also undertook a wide variety of specific election-related activities with particular organizations. These activities included joint polling, joint mailings, joint issue advocacy efforts, and joint media events. An RNC internal memorandum dated March 30, 1996, to the RNC's Evelyn McPhail describing a "Seniors Pro-

gram" illustrates the type of coordination undertaken.[22] (Some of the seniors groups mentioned in the memo are discussed in Chapter 15 of the Minority Report.) The memorandum states:

> We had a great meeting w. Haley. He was extremely supportive and wanted us to "go all the way" with this. . .
>
> 3/25–3/27 Meetings with Coalition Groups
>
> U.S. Seniors— . . . Interested in developing political strategy as to where and how we reach senior voters in key states. I think they want to do the mail for the campaign effort.
>
> 60 Plus— . . . They give awards to "senior friendly" members of congress and publicize them. . .
>
> Seniors Coalition— . . . They were very interested in sponsorship of our conference. They offered to help take on some financial obligations as well. They asked us to determine where we think they should do their next poll (Kellyanne has done research in CA & FL on how Medicare and senior issues are playing). They indicated a willingness to give us some input into the questions asked as well. Per Judy, I discussed this with Wes Anderson and he recommended we suggest Illinois, based on the fact that it is a key battleground state which leans slightly Democratic, and could provide for a good sample.[23]

This memorandum alone provides evidence that the RNC engaged in joint mailings, joint media event, and joint polling with independent groups.

RNC funding of independent groups

The RNC not only coordinated with conservative groups, it provided them with millions of dollars of financing—further undermining these organizations' assertions that they are "independent" and "nonpartisan." An organization that receives financial help from the Republican Party is, of course, less likely to stray from the party line. Moreover, the practice of financing independent groups enabled the RNC to circumvent limits on how soft money can be spent, as noted elsewhere in this chapter.

The RNC's practice of donating party money to conservative organizations did not begin in the 1996 election. In 1990, the RNC contributed $64,000 in seed money to the Christian Coalition, which had been founded the year before by religious broadcaster Marion G. ("Pat") Robertson, a former Republican presidential candidate. The Christian Coalition holds itself out as a "nonpartisan" organization, and yet it spends millions of dollars on behalf of Republican candidates (see Chapter 14).

In 1992, the National Republican Senatorial Committee contributed to the American Defense Institute, a 501(c)(3) charitable organization that conducts get-out-the-vote drives among retired and serving military people. After the donation became public, ADI was criticized for accepting Republican funding of an allegedly nonpartisan voter registration effort.[24] (The Democratic Party has also provided support to get-out-the-vote organizations, as discussed elsewhere in the Minority Report.)

Also in 1992, the NRSC contributed to the National Right to Life Committee, a 501(c)(4) organization.[25] Like other recipients of RNC contributions, the NRTLC claims to be nonpartisan, but it is closely associated with the National Right to Life PAC, a political action committee that is a major donor to Republican candidates. (During the 1996 campaign, for example, nearly all of the PAC's $180,000 in political contributions went to Republican candidates.[26]) While the National Right to Life PAC donates "hard money" to Republican candidates, the National Right to Life Committee helps some of the same candidates through "issue advocacy" activities.

In 1994, the NRSC contributed $175,000 to the National Right to Life Committee during the week before the November election.[27] A few months later, Senator Phil Gramm of Texas, then chairman of the NRSC, told the *Washington Post* that the party made this donation because it knew the funds would be used on behalf of several specific Republican candidates for the Senate. Senator Gramm, in the *Post*'s words, said that he had "made a decision. . .to provide some money to help activate pro-life voters in some key states where they would be pivotal to the election."[28] He later told the newspaper that the money had only been given because the NRTLC's "message conformed to the Republican message."[29]

RNC funding of independent groups in the 1996 election cycle

During the 1996 election cycle, the Republican National Committee provided an unprecedented amount of money to "independent" groups. It also arranged for Republican donors to contribute millions of dollars to such groups.

An undated document produced by the RNC analyzes whether contributions to six tax-exempt organizations, including Americans for Tax Reform, the National Right to Life Committee, American Defense Institute, and the City of San Diego, would be tax-deductible and whether they would have to be reported to the public.[30] (San Diego hosted the Republican National Convention in August 1996.) Another undated RNC document lists five tax-exempt organizations, providing for each its address, telephone and fax numbers, contact person. The RNC document also states for each group whether it has section 501(c)(3) or (c)(4) tax-exempt status, whether contributions to the group are tax-deductible, followed by a large dollar figure.[31] The listed organizations and corresponding dollar amounts are:

- ATR—$6 million;
- NRTLC—$2 million;
- ADI—$700,000;
- the City of San Diego—$4 million; and
- the United Seniors Association—$2.4 million.

The figures, when added together, total $15.1 million.

Another RNC document prepared during the 1996 campaign is entitled "Soft Money Fundraising Strategy"[32] and it suggests various ways in which soft money could be raised for the party, including direct mailings to corporations and solicitations by members of Congress and business leaders.

The most intriguing part of the document is a section headed "Miscellaneous Revenue." This section appears to outline a plan for the RNC to raise several million dollars from corporations and

wealthy individuals. The document proposes that "Haley," "Newt," "Team 100," "V96" (possibly the GOP's Victory '96 fundraising committee), and a "cigarette company," among others, assist in the fundraising. Four tax-exempt organizations are identified as possible recipients of the funds raised and includes, along with the amounts of money they were apparently slated to receive:

- Americans for Tax Reform—$6 million;
- National Right to Life Committee—$1 million;
- American Defense Institute—$700,000; and
- the City of San Diego—$4 million.

Because no RNC official provided testimony to the Committee about RNC fundraising practices, the precise meaning of these documents remains unclear. When viewed together, however, they suggest explicit planning, research, and fundraising goals by the RNC in an organized effort to provide millions of dollars in financing to the named organizations. The facts suggest that the RNC took steps to execute these fundraising plans.

RNC contributions and fundraising help in 1996

Shortly before the November 1996 election, the RNC made transfers of nearly $6 million to groups mentioned in the "Soft Money Strategy" document. The RNC gave $4.6 million to Americans for Tax Reform, $650,000 to the National Right to Life Committee, and $600,000 to the American Defense Institute.[33] This direct payment to tax-exempt organizations is an unprecedented amount. It is roughly 30 times the DNC's donations to tax-exempt organizations in all of 1996,[34] and it dwarfs all prior party transfers to tax-exempt groups in the 20 years the Federal Election Campaign Act has been on the books. Prior to 1996, no party had given even $1 million to a tax-exempt organization. Apparently, the transferred funds consisted entirely of soft money paid over the course of the two months before election day.

ADI returned the $600,000 in late October. Months later, when a reporter asked ADI President Eugene B. ("Red") McDaniel why the donation was returned, he said that "we didn't want to be controversial and we had funding from other sources."[35] He failed to mention that the "funding from other sources" had been arranged by the RNC. (Not only was McDaniel's statement to the press suspect, so was an ADI document relating to the return of the donation. A $600,000 check from ADI to the RNC, dated October 25, 1996, includes the notation on the memo line: "Repayment of loan."[36])

RNC Chairman Haley Barbour raised $500,000 for ADI from Philip Morris and collected checks totalling $510,000 from other donors, according to an internal RNC document discussed below. ADI's McDaniel has confirmed to the press that ADI did, in fact, receive $500,000 from Philip Morris and that Barbour "could have" helped solicit it.[37] McDaniel also apparently provided to the press a copy of an October 1996 letter from Jo-Anne Coe, the RNC's deputy finance chair, enclosing six checks from prominent Republicans totalling $530,000.[38] This letter has not been produced to the Committee by the RNC. The checks identified in the letter apparently exactly match the checks described in the October 17 memorandum, with the addition of one new check for $100,000 from an RNC

finance chair.[39] The letter reportedly asks McDaniel to "[p]lease send an acknowledgment to each individual as well as a receipt for their use in claiming deductions on their tax returns."[40]

The evidence indicates that the RNC steered about $1 million to ADI, which is roughly the same amount that of money ADI spent on its entire voter turnout effort, according to an estimate by McDaniel.[41] These facts suggest that the RNC essentially provided the funding for ADI's entire voter effort in the 1996 elections. McDaniel told the press that his organization was "apolitical" and "had asked for money from both parties," but received funding only from the RNC. "Asked why the RNC provided him with so much financial support, McDaniel said, "Maybe they think it helps them."[42] McDaniel did not explain why ADI allegedly asked the RNC for funding, but then later returned it. One possible explanation is that ADI returned the $600,000 to the RNC—after receiving $530,000 in checks from prominent Republicans delivered by the RNC finance chair—to avoid public disclosure of the RNC's role in financing ADI's allegedly nonpartisan effort with partisan dollars.

ADI was just one of several "independent" groups whose contributions had apparently been organized by the RNC. On several other occasions, RNC officials solicited donors and, at times, even forwarded checks to the recipient groups.

In the weeks leading up to the November election, the RNC arranged for pro-Republican donors to give large donations to three groups listed in the "Soft Money" document:[43] Americans for Tax Reform, the National Right to Life Committee, and the American Defense Institute. The RNC's role in these donations is made clear in a memorandum dated October 17, 1996—and marked "confidential"—from Jo-Anne Coe, the RNC's deputy finance chair, and addressed to three other RNC officials: Chairman Haley Barbour, Sanford McAllister, and Curt Anderson. In the memo, Coe discusses her efforts to forward a number of checks from third parties to ATR, NRTLC, and ADI.[44] With respect to ADI, Coe states that "the following checks for ADI are en route to me," listing five checks which "will bring the total for ADI to $510,000—plus the $500,000 Haley obtained from Philip Morris."[45]

The RNC also collected and delivered checks from third parties to Americans for Tax Reform and the National Right to Life Committee. The October 17 memorandum from Coe to Barbour, McAllister, and Anderson describes Coe's intention to forward a $100,000 check from businessman Carl Lindner to ATR and a second $100,000 check from Lindner to NRTLC.[46] Two letters written by Coe on October 21—which, unlike the ADI letter, were produced to the Committee—indicate that these checks were delivered.[47] The first letter is addressed to Grover Norquist, president of ATR, and the second to David O'Steen, executive director of NRTLC. Each states that a $100,000 check from Lindner to the organization is enclosed. Coe also states in each, "Glad to be of some help. Keep up the good work." According to bank records produced to the Committee, ATR deposited a $100,000 check on October 23.[48] Since no NRTLC bank records were obtained by the Committee, the evidence is not conclusive that NRTLC received and deposited the

$100,000 check, but there is currently no reason to believe otherwise.

The evidence before the Committee suggests that the RNC was not merely collecting and delivering checks to ATR, NRTLC, and ADI, it may have also been using the checks as leverage to persuade the three organizations to cooperate or participate in certain activities. The October 17 memorandum from Coe to Barbour, McAllister, and Anderson asks the three RNC officials for a quick response to several questions about the checks being forwarded to the three organizations "so I can put this project to bed."[49] The "project" itself is not described in the memorandum; however, a second document may provide additional information. It is an October 21, 1996, memorandum from Coe to Barbour. This memorandum states:

> As soon as we meet and hopefully come to some resolution on the joint state mail project, I will forward these checks to the three organizations. In the meantime, I am respectfully withholding delivery of the checks until we have the opportunity to discuss this matter.[50]

Could the "joint state mail project" be the "project" referred to in the October 17 memo from Coe to Barbour? The fact that the RNC finance director was "respectfully withholding" checks to "three organizations"—presumably ATR, NRTLC, and ADI—may be evidence that the RNC was attempting to use the checks as leverage to persuade these organizations to participate in a "joint state mail project." Unfortunately, because Coe, McAllister, Anderson, and other top RNC officials refused to provide testimony to the Committee, the questions raised by these documents remain unanswered. (Barbour did testify, but his testimony was limited to issues surrounding the National Policy Forum, a nonprofit set up by the RNC. The Minority sought to question him later about other issues, but was unsuccessful.)

Despite unanswered questions, the evidence before the Committee establishes that the RNC provided, both directly and indirectly, millions of dollars to independent groups in the last two months before the 1996 election. The RNC's direct payments to three of these groups exceeded $5 million. The evidence suggests that the RNC intended to and perhaps succeeded in directing another $10 million in undisclosed third-party contributions to five groups. In the absence of Committee enforcement of its document and deposition subpoenas, however, the extent to which the RNC obtained contributions for pro-Republican independent organizations and what it received in return for this fundraising remain unexplored.

Circumventing campaign finance laws

Although RNC officials refused to submit to questioning by the Committee, there have been published reports in which party officials commented on RNC "donations" to nonprofit groups. For example, Barbour, as noted below, described the donations as simply contributions to "like-minded" organizations.

In fact, the Committee has found that millions of dollars channeled to "independent" groups were used on behalf of Republican candidates during the weeks leading up to the November 1996 elec-

tion. Americans for Tax Reform—the largest recipient of RNC funds—received $4.6 million, as noted above. ATR used this money to conduct a massive "issue advocacy" campaign aimed at helping the Republicans. With Republican Party money, ATR sent 19 million pieces of mail to voters and arranged for telemarketers to make four million telephone calls. ATR also paid for a television commercial attacking then-Representative Robert Torricelli (NJ), a Democratic candidate for the Senate. (see Chapter 11)

By operating through surrogates like ATR, the RNC was able to circumvent federal campaign finance laws. When a political party broadcasts issue ads, it is required to pay for them with a combination of hard dollars and soft dollars. If an outside group runs such ads, there are no such restrictions—even if the funding comes from the RNC. Thus, the RNC was able to use 100 percent soft money to pay for ads by outside groups. By channeling money to outside groups and having them run issue ads, the RNC was able to conserve precious hard dollars and circumvent federal restrictions on how soft money can be spent.

Shortly before the November election, Barbour acknowledged, in effect, that the RNC's contribution to Americans for Tax Reform made it possible for the party to circumvent the campaign finance laws. At an October 1996 press conference, Barbour was asked about the RNC's $4.6 million transfer to ATR and he made the following statement:

> You'll see in our FEC report . . . that we've made contributions to a number of organizations that are like-minded, share our views, promote our ideas. . . . [W]hen we do advocacy, no matter what we do, we typically have to pay for it, either totally with FEC dollars or a mixture of FEC and non-FEC dollars. . . . [W]e often find ourselves in the position where we cannot match up non-FEC funds with enough FEC funds. So, when we came to that point, we decided we would contribute to several groups who are like-minded and whose activities we think, while they're not specifically political, we think are good for the environment for us.[51]

Barbour's benign description of the RNC as simply supporting like-minded groups is overshadowed by his admission that it was the RNC's shortage of "FEC funds," or hard money, to match its "non-FEC funds," or soft money, that led to its giving excess soft dollars to groups to undertake activities "good" for the Republican Party. This explanation is close to an admission that the RNC gave soft money to independent groups primarily to circumvent federal election requirements that parties use hard money in federal campaigns.

THE RNC'S FRONT ORGANIZATIONS

One problem with outside groups is that they cannot always be controlled, as Barbour noted in the March 5, 1996, memo mentioned earlier. One solution, is to channel money to independent groups, with the understanding that the recipient will follow the party line. During Barbour's tenure, the RNC also used an even

bolder tactic: It actually established two nonprofit organizations that served as arms of the Republican Party.

The National Policy Forum

In May 1993, four months after Barbour became RNC chairman, he launched the National Policy Forum as a "think tank" to develop conservative ideas and policies[52] (see Chapter 3). The NPF applied to the Internal Revenue Service for tax-exempt status as a 501(c)(4) organization, asserting in its application that it was a nonpartisan, social welfare organization.

Contrary to what the NPF told the IRS, the NPF was, in fact, an arm of the Republican National Committee—created by RNC officials, chaired by Barbour, and operated in such a way that its work dovetailed with the RNC's. Perhaps most importantly, the NPF relied heavily on the party for financial support, receiving millions of dollars in gifts and loans from the RNC. (For these and other reasons, the IRS eventually denied the NPF's application for 501(c)(4) status.[53]).

Although the NPF was not involved in running issue-advocacy ads, it did provide services to the party related to political campaigning. The NPF's main activity was organizing "forums" where Republican officials and others could discuss various public policy options and where Republican donors were able to meet with members of the GOP congressional leadership. In addition, the NPF conducted focus groups and commissioned public opinion surveys which were useful to the party's strategic planning. In fact, the RNC's chief strategist, Donald Fierce, was a founding board member of the NPF.[54]

One of the most intriguing aspects of the NPF is its fundraising operation, which was clearly intertwined with the RNC's efforts. On several occasions, prospective donors were told they could support the party by giving to the NPF. Major donors to the RNC were also told that one of the benefits of donating was the chance to attend NPF forums.

The close connection between NPF and RNC fundraising can be illustrated with two examples.

• In July 1995, a company controlled by the family of Ted Sioeng, a businessman from Indonesia, donated $50,000 to the National Policy Forum (see Chapter 7). The next day, Speaker Gingrich attended a luncheon in Beverly Hills hosted by Sioeng. When Committee staff asked Sioeng's daughter about the donation, she indicated that she viewed it as a donation to the Republicans. "I don't care what department" the money goes to, she said.[55]

• Stephen Wynn, chairman and chief executive officer of Mirage Resorts, Inc., a major casino company in Las Vegas, is the subject of an internal RNC memo obtained by the Committee.[56] This memo discusses a $1 million pledge from Wynn and suggests three possible ways in which the money could be allocated. It says that Wynn could give some of it in the form of soft money to the RNC and some of it in the form of a donation to the NPF. The proportions could be changed, depending, in part, on Wynn's desire for anonymity (since the NPF donations would not be disclosed).

Coalition for our children's future

While there is no doubt that the National Policy Forum was a tool of the RNC, it was, at least, a "real" organization, with an office and a large staff. The same cannot be said of another RNC creation: Coalition for Our Children's Future ("CCF"), a nonprofit organization founded in May 1995.[57] Although its name suggested that it was a grassroots organization of concerned citizens, CCF was, in fact, established and controlled by RNC officials.

In 1995 and 1996, CCF ran a series of "issue ads" on such subjects as Medicare and the balanced budget, as discussed in Chapter 13 of the Minority Report. In August 1995, CCF received a $500,000 donation from the National Republican Congressional Committee, part of the RNC.[58] Additional money for the issue ads was raised by RNC Chairman Barbour and Speaker Gingrich. Among the donors were major Republican contributors, including large corporations. The Republican party therefore financed these ads but because the ads were run by CCF, the RNC was able to create the illusion that the message was coming from an "independent" organization of concerned citizens, rather than from a national political party. Moreover, if the RNC had run the ads itself, it would have been obliged to pay for them with a mixture of hard and soft money.

The Coalition for Our Children's Future was also one of several nonprofit groups active in the 1996 campaign that served as vehicles for Republican donors who wanted to influence elections.

FRONTS FOR CONSERVATIVE DONORS

The RNC was not alone in using "independent" groups as fronts to circumvent the campaign finance laws. Several Republican donors contributed money to nonprofit organizations that ran purported "issue ads" aimed at helping specific Republican candidates win election in 1996. These nonprofits were typically put forth as "grassroots" organizations but several were, in fact, established for the main—or sole—purpose of running political ads under the guise of issue advocacy.

CCF's attack ads

Shortly before the November 1996 election, Coalition for Our Children's Future received a large contribution from an anonymous donor and used the money to run a series of ads attacking Democratic candidates for the Senate and House of Representatives. (It also operated on the state level—attacking Democratic candidates for the Minnesota House of Representatives.)

When witnesses knowledgeble about CCF's ad campaign were deposed by the Committee, they testified that all the funds came from a single donor, but they refused to identify the donor. The Committee later obtained evidence suggesting that the "sole donor" was actually an entity called the Economic Education Trust.

The Economic Education Trust was established by Washington lawyer Benjamin Ginsberg, who is outside counsel to the National Republican Senatorial Committee and a former general counsel to the RNC. Ginsberg arranged for several individuals involved in the attack ads to sign confidentiality agreements forbidding them to re-

veal the identity of the donor. According to a press report, Ginsberg "said it was done [this way] to protect aided politicians from charges of quid-pro-quos if they also helped the donors."[59] This seems to be an admission by Ginsberg that the trust, by funding CCF, was really making de facto campaign contributions.

The Economic Education Trust was also a major donor to two tax-exempt organizations controlled by a company called Triad Management Services ("Triad"), which is discussed in Chapter 12 of the Minority Report.

Triad's attack ads

Triad is a for-profit business established in the Washington area in 1995 by Carolyn Malenick, a former fundraiser for Oliver North, a figure in the Iran-Contra scandal and, in 1994, an unsuccessful candidate for a Senate seat in Virginia.

Triad managed two tax-exempt organizations whose names suggested they were large, grassroots organizations: Citizens for Reform and Citizens for the Republic Education Fund. In fact, both entities were shell companies with no offices, no employees, and no members. They were established in the spring of 1996 for the sole purpose of running attack ads—under the guise of "issue advocacy"—to help Republican candidates win election to Congress.

Triad officials refused requests by the Committee to identify its donors, arguing that the donations did not constitute campaign contributions. In fact, there is overwhelming evidence that these so-called "issue ads" were but one tool in a carefully orchestrated campaign to spend money on behalf of specific Republican candidates without adhering to federal election laws.

Although Triad would not disclose its donors, the Committee has been able to identify some of them through a review of bank documents. The records show that several Triad donors had contributed the legal maximum in "hard dollars" to candidates who benefited from ads run by Triad's tax-exempt organizations. This is further evidence that the ads were de facto campaign ads—and that the "donations" to the tax-exempts were de facto campaign contributions.

By operating through Triad, these donors were able to avoid complying with federal rules limiting the size of campaign contributions and requiring disclosure of those contributions.

Triad's donors

Triad's largest donor appears to be the family of Robert L. Cone of Elverson, Pennsylvania, former chairman of Graco Children's Products,[60] a privately held company in which the Cone family held a large stake until it was sold in 1996. The Committee found that Cone and members of his family had, on many occasions, made the maximum legal contributions ("maxed out") to candidates who benefitted from the Triad-orchestrated attack ads.

The second largest donor to Triad's tax-exempt groups appears to be the Economic Education Trust which, as noted above, also contributed to Coalition for Our Children's Future. The Committee has developed circumstantial evidence suggesting that the Economic Education Trust was funded in whole or in part by Charles and David Koch, the controlling shareholders of Koch Industries of

Wichita, Kansas,[61] as discussed in Chapter 12 of the Minority Report. For example, many of the candidates who benefited from attack ads run by Triad's tax-exempts and by CCF received thousands of dollars in campaign contributions from Charles Koch, David Koch, and/or their company's political action committee. (The Kochs were also active fundraisers: David Koch raised money for Bob Dole, the Republican presidential nominee, and served as vice chairman of the Dole campaign.)

Koch Industries, a major oil company with annual revenues of nearly $30 billion, has been described as the second largest privately held company in the United States.[62] The Koch brothers are major political donors and have contributed millions of dollars to public-policy and lobbying groups of various kinds, as discussed in an endnote to this chapter.[63]

The Committee has been unable to confirm that the Kochs funded the Economic Education Trust. On September 30, 1997, the Minority staff wrote to Charles Koch asking for his assistance with the investigation and he received no reply. When journalists contacted Koch Industries, spokesmen declined to say whether or not it had funded Triad's "issue advocacy" campaign. Benjamin Ginsberg, the lawyer who set up the Economic Education Trust, also declined to identify the donor or donors who funded the trust.[64] Although it is impossible to say who funded the Economic Education Trust, it is clear that the donor (or donors) went to great lengths to avoid exposure—channeling money through at least two layers of shell companies. It is noteworthy that similar techniques were used to obscure the money trail in the Iran-Contra case and that a few individuals involved in Iran-Contra or with its principal architect, Oliver North, were later involved in Triad's or CCF's questionable "issue advocacy" activities during the 1996 campaign.[65]

CONCLUSION

The evidence collected by this Committee shows clearly that there were really two campaigns conducted during the 1995/96 cycle. There was an "overt" campaign and a "covert" campaign.

In the "overt" campaign, all contributors—whether they were individual donors or political action committees—revealed their names, their occupations, and the size of their donations to the Federal Election Commission. All donors to specific candidates were subject to strict limits on how much they could give.

In the "covert" campaign, the rules were utterly different. In this parallel campaign, there was no disclosure and there were no limits on how much money could be contributed. Tax-exempt "issue advocacy" groups and other conduits were systematically used to circumvent the federal campaign finance laws.

Although the secret donors in the covert campaign were invisible, they had a powerful impact. These anonymous contributors poured millions of dollars into House, Senate, and presidential campaigns. In many cases, the secret donors financed massive advertising blitzes in the closing weeks of the campaign—boosting certain candidates and undermining their opponents. There is every reason to believe that these de facto campaign contributions determined the outcome of some of the close races.

The secret flows of money used to pay for these attack campaigns severely undermine our campaign finance laws and corrupt the electoral process. What is particularly disturbing is that Republican Party officials were, in many cases, witting participants, sometimes using party money to finance these schemes and were, by and large, unwilling to cooperate with the Committee's exploration of these important issues.

FOOTNOTES

[1] Rosenberg, Lisa. *A Bag of Tricks: Loopholes in the Campaign Finance System*. Washington, D.C.: The Center for Responsive Politics, 1996: "Labor unions have been barred from contributing to candidates since 1943. In addition, the post-Watergate campaign finance law caps individual contributions at $25,000 per calendar year, and permits individuals to give no more than $20,000 to a national party, $5,000 to a political action committee (PAC), and $2,000 to a candidate. (Contributions of up to $1,000 each for primary and general elections are permitted.)" *See also*, 2 U.S.C. 434(b)(3)(A) (1977).

[2] Coalition Building Manual, Overview section, R 1824.

[3] During Dukakis's tenure as governor of Massachusetts, Horton, a convicted murderer, was released from a state prison on a weekend furlough program. He then raped a Maryland woman and attacked her fiance. Horton is black and his face was featured prominently in the television ad. His victims were white. Many observers felt the Republican ad was racist.

[4] The RNC's *own* donations to outside groups were reported to the Federal Election Commission but the donations *raised* by the RNC from Republican donors were not disclosed.

[5] Exhibit 2365: Memorandum from RNC political director and head of campaign operations Curt Anderson to RNC chairman Haley Barbour, regarding "Group of 12, or Council of Trent, or Whatever," 3/4/96, R006050.

[6] Exhibit 2365.

[7] Untitled and undated document tallying support for, opposition to and comments by RNC officials on proposed members in a coalition of independent group leaders, R021559–60.

[8] Untitled and undated document tallying support for, opposition to and comments by RNC officials on proposed members in a coalition of independent group leaders, R021559-60.

[9] Untitled and undated document tallying support for, opposition to and comments by RNC officials on proposed members in a coalition of independent group leaders, R021559–60.

[10] Memorandum, from RNC chairman Haley Barbour to "Republican Leaders" on "Independent Expenditure Campaigns," 3/5/96, R028572–73.

[11] Memorandum, from RNC chairman Haley Barbour to "Republican Leaders" on "Independent Expenditure Campaigns," 3/5/96, R028572–73.

[12] Exhibit 2367: Coalition Building Manual, authored by Curt Anderson, R01821–49.

[13] R01823.

[14] R01841.

[15] R01841.

[16] R01841.

[17] R01841, R01845.

[18] R01847.

[19] Exhibit 2353: undated memorandum from "Blaise" to "Pat," regarding "Outreach, Auxiliaries, Coalitions," R51299–30.

[20] Exhibit 2362: memorandum dated 3/6/96 from "Hopper" to RNC political director and head of campaign operations Curt Anderson, regarding "Coalitions," R056245.

[21] See Chapter 11. See also, for example, Drew, pp. 1–6, 14, 33, 82–88, 167–69.

[22] Exhibit 2364: Memorandum from "Howard & Phil" to "Evelyn and Judy" regarding the "Seniors Program," 3/30/96, R033753–54.

[23] Exhibit 2364: Memorandum from "Howard & Phil" to "Evelyn and Judy" regarding the "Seniors Program," 3/30/96, R033753–54.

[24] *Washington Post,* 12/10/96.

[25] See *Washington Post*, 2/12/95. After the election, the Democratic Senate Campaign Committee filed a complaint with the FEC charging the NRSC with transferring the funds to the groups to circumvent federal limits on coordinated expenditures by the Republican Party on behalf of its Senate candidate.

[26] FEC records.

[27] *Washington Post*, 12/12/95, citing FEC records.

[28] *Washington Post*, 12/12/95, citing FEC records.

[29] *Washington Post*, 12/12/95, citing FEC records.

[30] Undated and untitled document, R021609. The other two organizations are the United Seniors Association and "CCRI" the California ballot initiative on affirmative action.

[31] Document DFP004244. This document was not produced by the RNC, but was produced by the Dole for President campaign.

[32] Undated RNC document headed "Soft Money Fundraising Strategy," R 3215.

[33] FEC records.

[34] According to FEC records, in 1996, the DNC gave a total of less than $185,000 to tax-exempt organizations, including $117,500 to the National Coalition of Black Voter Participation; $20,000 to the African American Institute; $10,000 to the Stonewall Gay and Lesbian Club; $10,000 to the Congressional Black Caucus; and $4,000 to the Hispanic Caucus.

[35] *Washington Post*, 10/23/97.

[36] RNC documents provided to the Committee include a copy of a check from ADI to RNSEC for $600,000 dated 10/25/96. The memo line says: "Repayment of loan," R61404.

[37] *Washington Post*, 10/23/97.

[38] This letter is described in the *Washington Post*, 10/23/97. The six checks are from the following persons: (1) $100,000 from Jack C. Taylor, identified as founder of Enterprise Rent-a-Car; (2) $100,000 from Max Fisher, who is a longtime supporter of the Republican Party and, in 1996, honorary chair of the RNC's premier donor organization, Team 100; (3) $50,000 from a "foundation controlled by former defense secretary Donald Rumsfeld'; (4) $30,000 from "Houston oil executive Patrick R. Rutherford;" (5) $100,000 from "billionaire investor Kirk Kerkorian"; and (6) $150,000 from John Moran, a national finance chair of the RNC and head of Victory "96, one of the RNC's key fundraising committees.

[39] That check was from John Moran. See previous note.

[40] *Washington Post*, 10/23/97.

[41] *Washington Post*, 10/23/97.

[42] *Washington Post*, 10/23/97.

[43] *Washington Post*, 10/23/97. The RNC's role in funneling donors' money to "independent" groups is also mentioned in several RNC and Dole for President memos. See Chapter 11.

[44] Exhibit 2400: memorandum from RNC finance chair Jo-Anne Coe to RNC chairman Haley Barbour and other RNC officials, regarding the delivery of checks to ADI, ATR and NRTLC, 10/17/96, DFP004240. This document was produced to the Committee by the Dole for President campaign.

[45] Exhibit 2400: The five checks are identified in the memorandum as follows: $100,000 from Jack Taylor; $100,000 from Max Fisher; $50,000 from Don Rumsfeld; $30,000 from Pat Rutherford; and $100,000 from "Lincy Foundation (Kirk Kerkorian)."

[46] Exhibit 2400: Memorandum from RNC Finance Chair Jo-Anne Coe to RNC Chairman Haley Barbour and other RNC officials, regarding the delivery of checks to ATR, NRTLC and ADI, 10/17/96, DFP004240.

[47] DFP004241 & DFP004243.

[48] ATR/R00850. A second check for $100,000 was deposited on 10/28/96. Document ATR/R00854.

[49] Exhibit 2400: memorandum from RNC finance chair Jo-Anne Coe to RNC chairman Haley Barbour and other RNC officials, regarding the delivery of checks to ATR, NRTLC and ADI, 10/17/96, DFP004240.

[50] Exhibit 2402: Memorandum from RNC Finance Chair Jo-Anne Coe to RNC Chairman Haley Barbour, 10/21/96, DFP004242.

[51] "Haley Barbour, Chairman of the Republican National Committee, Discusses Democratic National Committee Refusal of Pre-Election FEC Report," Presidential Campaign Press Materials, Federal Document Clearing House, Inc., 10/29/96.

[52] NPF filed its articles of incorporation in Washington, D.C., on 5/24/93.

[53] Exhibit 353: IRS letter to NPF, 2/21/97, NPF 3375-3387.

[54] Exhibit 257: NPF's articles of incorporation.

[55] Staff interview with Jessica Elnitiarta, 6/19/97.

[56] Exhibit 327: Memo from Kevin Kellum of Team 100 to Haley Barbour re "Stephen Wynn, CEO, Mirage Resorts," 2/23/96, R 13574.

[57] Abstract of filing by Coalition for Our Children's Future with Virginia Secretary of State.

[58] FEC records.

[59] Associated Press, 11/1/97.

[60] According to bank records, Cone contributed at least $325,000 to Triad, while his brother Edward gave at least $404,000. In addition, a trust believed to be funded by the Cone family gave at least $150,000 to Triad, $400,000 to Citizens for Reform, and $200,000 to Citizens for the Republic Education Fund.

[61] In addition to the circumstantial evidence developed by the Committee, there is documentary evidence that Koch Industries gave a small amount of money to Triad: The company sent a $2,000 check to Triad on 10/29/96.

[62] *Forbes,* 10/13/97.

[63] Koch Industries is affected by governmental action in a myriad of ways, including taxation and environmental regulation. In 1995, the U.S. Department of Justice filed "a $55 million civil suit against Koch [Industries] for causing more than 300 oil spills over a five-year period," according to a report in *Business Week*, 4/1/96.

Koch Industries has also been criticized on Capitol Hill. In 1989, the company was accused by a Senate committee of stealing oil from Indian lands. *Final Report and Legislative Recommendations: A Report of the Special Committee on Investigations of the Select Committee on Indian Affairs, United States Senate, 101st Congress, 1st Session, 10/20/89,* p. 105.: "Koch Oil ('Koch'), a subsidiary of Koch Industries and the largest purchaser of Indian oil in the country, is the most dramatic example of an oil company stealing by deliberate mismeasurement and fraudulent reporting."

The same allegation is made in a *qui tam* (false claims) suit filed in 1989 on behalf of the United States Government by a company controlled by William I. Koch, a former Koch Industries shareholder and a brother of Charles and David Koch. *United States of America ex rel. The Precision Company et al.* v. *Koch Industries, Inc., et al.* United States District Court for the Northern District of Oklahoma, Civil Action No. 91–C–763–B.

Koch Industries denies the oil-theft allegations.

Since the 1970s, the Kochs have donated millions of dollars to the Cato Institute, a Libertarian think tank that promotes deregulation and tax cuts. Cato, which was founded in 1977 with financial backing from Charles Koch, has received more than $21 million from the Kochs, according to *The Nation,* 8/26/96. In 1980, David Koch was the Libertarian Party's candidate for vice president in 1980.

The Kochs have also donated millions of dollars to Citizens for a Sound Economy, a pro-business organization in Washington that promotes deregulation. Lewis, Charles and the Center for Public Integrity. *The Buying of the President.* New York: Avon Books, 1996, p. 127.

Around the time of the 1989 Senate investigation, the Kochs became major donors to the Republican party and to Republican politicians, some of whom defended Koch Industries against the oil-theft allegations:

• In late 1989, Senators Bob Dole (R-Kans.), Nancy Kassebaum (R-Kans.), Don Nickles (R-Okla.), and David L. Boren (D-Okla.), sent two letters to Senator Dennis DeConcini, chairman of the Special Committee conducting the investigation (the "DeConcini Committee"), in which they challenged the reliability of testimony given to the committee. One letter was dated October 24, the other November 2.

• On March 26, 1990, Senator Dole gave a speech on the Senate floor in which he attacked the DeConcini investigation and characterized Koch Industries as a "solid corporate citizen." Senator Dole said he was speaking on behalf of himself and Senators Kassebaum, Boren, and Nickles.

• On August 13, 1992, Senators Dole, Nickles, Kassebaum, and Boren sent a pro-Koch letter to Senator Daniel K. Inouye, chairman of the Select Committee on Indian Affairs, in which they recommended attaching an addendum to the DeConcini Committee's 1989 report that would clear Koch Industries.

[64] See Chapters 12 and 13

[65] Some of the techniques used to conceal donors to dubious "issue advocacy" groups are reminiscent of methods used to hide donors to the Nicaraguan Contras during the 1980s. In Iran-Contra, the conduits included tax-exempt corporations. In "issue advocacy" schemes of the 1990s, some of the funds used to pay for purported "issue ads" were channeled through tax-exempt corporations and secret trusts. Another parallel is that a few individuals who were involved with Iran-Contra or Oliver North were also involved in the purported "issue advocacy" activities of either Triad or Coalition for Our Children's Future.

• Fred Sacher, a California businessman, contributed an estimated $400,000 to the Contras and was also a donor to the 1994 Senate campaign of Oliver North, a central figure in the Iran-Contra affair. In 1996, he contributed heavily to Triad's tax-exempts: Bank records show that he gave $50,000 to Citizens for Reform and $150,000 to Citizens for the Republic Education Fund.

• J. Curtis Herge, a Virginia lawyer who has represented numerous conservative groups, helped to form the National Endowment for the Preservation of Liberty ("NEPL"), a tax-exempt entity which served as an illegal conduit for aid to the Contras. As a result, the head of NEPL, Carl R. ("Spitz") Channell, pleaded guilty to conspiracy to defraud the United States, a felony. Herge, who was never accused of wrongdoing, served as a trustee for Oliver North's legal defense trust. During the 1990s, Herge served as counsel to Coalition for Our Children's Future.

• Lyn Nofziger, a longtime Reagan aide, ran a public relations firm in Washington after leaving the White House staff. As a consultant to Spitz Channell, the head of NEPL, Nofziger assisted in fundraising for the Contras by arranging for some of Channell's donors to meet with President Reagan at the White House, according to a spokesman for Channell (*Chicago Tribune,* 5/5/87). In 1996, Nofziger was named director and spokesperson for a Triad-controlled tax-exempt: Citizens for the Republic Education Fund.

• Carolyn Malenick, the owner of Triad, had been a fundraiser for Oliver North's legal defense trust during the Iran-Contra prosecution. In 1994, she was finance director of his unsuccessful campaign for the Senate. She then established Triad, which used two tax-exempt corporations to run attack ads under the guise of issue advocacy.

Offset Folios 3247 to 3293 Insert here

PART 3 INDEPENDENT GROUPS

Chapter 11: Americans for Tax Reform

The conduct of Americans for Tax Reform ("ATR") in the 1996 elections provides a prime example of campaign abuses involving tax-exempt organizations. Despite a commitment to nonpartisanship in its incorporation papers, ATR engaged in a variety of partisan activities on behalf of the Republican Party during the 1996 election cycle. ATR also accepted $4.6 million in soft dollars from the Republican National Committee and spent them on election-related efforts coordinated with the RNC. The ability of ATR to act as an alter ego of the Republican National Committee in promoting the Republican agenda and Republican candidates, while shielding itself and its contributors from the accountability required of campaign organizations, underscores the need for reform of the rules governing the political activities of such organizations.

The case of ATR is also a prime example of the unwillingness of the Majority to examine improper and apparently illegal activities of the RNC and Republican-oriented entities with the same vigor and aggressiveness it demonstrated in examining the activities of the Democratic National Committee and Democratic-oriented organizations. Indeed, the refusal of the Majority to exercise the lawful authority of the Committee in the face of ATR's repeated defiance of Committee document and deposition subpoenas belies its stated commitment at the outset of this investigation to approach the issues in a balanced and bipartisan manner.

Despite ATR's noncompliance and the Committee's failure to enforce its authority to investigate ATR's activities, the Minority has been able to piece together the outline of coordinated campaign efforts between the RNC to nonpartisanship and ATR that appear to have circumvented hard and soft money restrictions, evaded disclosure requirements, and abused ATR's tax-exempt status.

FINDINGS

(1) The Republican National Committee improperly and possibly illegally gave $4.6 million to Americans for Tax Reform to fund issue advocacy efforts including mail, phone calls, and televised ads. By using ATR as the nominal sponsor of issue advocacy efforts, the RNC effectively circumvented FEC disclosure requirements and the requirement to fund 65% of the cost of its issue advocacy with hard (restricted) money.

(2) By operating as a partisan political organization on behalf of the Republican Party, Americans for Tax Reform appears to have violated its status as a tax-exempt, social welfare organization under section 501(c)(4) of the tax code.

(3) ATR's issue advocacy activity was conducted, in part, by an affiliate called the Americans for Tax Reform Foundation, which appears to be a violation of the foundation's status as a 501(c)(3) charitable organization, contributions to which are tax deductible.

BACKGROUND

ATR was established in 1985 by a group of prominent Republicans to rally support for then-President Reagan's tax reform proposals.[1] It was created as a tax-exempt corporation under section

501(c)(4) of the Internal Revenue Code.[2] Its articles of incorporation state in article 3:

> The purpose for which this corporation is organized and operated shall be to engage in such charitable, scientific, educational and political activities relating to tax reform, the promotion of tax fairness and economic prosperity as may qualify it as exempt from federal tax under section 501(c)(4) of the Internal Revenue Code.[3]

Article 6 of ATR's articles of incorporation states that ATR's purposes must be pursued without partisanship:

> The Corporation's purposes shall be pursued wholly without partisanship, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office, [nor] engage in any partisan activity.[4]

ATR has a number of affiliated organizations.[5] The oldest is Americans for Tax Reform Foundation ("ATRF") which was created in conjunction with ATR in 1985 as a tax-exempt corporation under section 501(c)(3) of the Internal Revenue Code.[6] ATRF shares office space, facilities, equipment, and personnel with ATR. ATRF's stated role is to educate the public about the need to reduce taxes and simplify the federal tax system.[7] Article 6 of ATRF's articles of incorporation states that it "shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office, nor engage in any partisan activity."

GROVER NORQUIST

Since 1987, Norquist has served as the president and guiding force of both ATR and ATRF.[8]

Norquist's activism in Republican affairs is long standing. In the early 1980s, after obtaining a degree from Harvard Business School, Norquist served as director of the National College Republican Committee, the collegiate arm of the RNC.[9] He then worked for Americans for the Reagan Agenda, a grassroots organization supporting President Reagan; the U.S. Chamber of Commerce; and Citizens for America, another grassroots organization backing the Reagan agenda.[10] After joining ATR as president, Norquist continued to engage in Republican Party activities. In both 1988 and 1992, he served as staff to the Republican Platform Committee.[11] In 1988, Norquist was an advisor to the Bush/Quayle presidential campaign.[12] Norquist has also, since the early 1980s, been a close advisor and confidant of the Republican Speaker of the House, Newt Gingrich, and is also a registered foreign agent.[13]

In *Rock the House,* a book written by Norquist on the 1994 Republican takeover of the House of Representatives, prominent Republicans praise his work on behalf of the Republican Party. Conservative radio talk show host Rush Limbaugh calls Norquist "perhaps the most influential and important person you've *never* heard of in the GOP today." (Original emphasis.) RNC Chairman Haley

Footnotes at end of chapter.

Barbour calls Norquist "a true insider." Speaker Gingrich states that Norquist "has entree at every level of the Republican Party." Journalist Michael Barone of *U.S. News and World Report* states that "Norquist is one of the few people who both predicted and worked for the Republican victories in November 1994." Norquist's inclusion of these statements in his book is evidence that he considers them accurate descriptions of his involvement with the Republican Party.

Documents produced to the Committee by the RNC demonstrate Norquist's continued involvement with the Republican Party during the 1996 election cycle. A December 6, 1994, memorandum on RNC stationery from Donald Fierce, counselor to the RNC chairman, prepared at the threshold of the 1996 election cycle,[14] is entitled "Core Working Group" and lists key personnel from the RNC, Republican Governors Association, and outside organizations sympathetic to the Republican Party, including Norquist as president of ATR. A March 4, 1996, memorandum from Curt Anderson, RNC political director, to RNC Chairman Haley Barbour,[15] states: "You had asked us in Atlanta to come up with ideas for a group that would encompass the leadership of the base Republican coalition." On that list is Norquist. An August 22, 1996, RNC media advisory states that, during the Democratic National Convention, Norquist is available to answer press inquiries as a "Republican surrogate." [16]

Other public statements also portray Norquist as actively engaged in the effort to elect Republicans to office in 1996. When Representative Bill Paxon, head of the National Republican Congressional Committee, was asked to "list the most important people or groups behind the Republicans' effort to maintain control of the House" in 1996, the first name he gave was Norquist.[17] When Speaker Gingrich held a September 1996 dinner in his so-called "Dinosaur Room" and discussed the state of House campaigns, Norquist attended.[18] For his part, when asked in 1995 how to ensure dramatic tax reform, Norquist replied, "Elect a Republican president, and it will happen." [19]

Norquist has spent the last decade becoming an increasingly important Republican Party insider, dedicated to electing more Republicans to office.[20] The facts and documents indicate that he has consistently used ATR to promote not only Republican ideas but also Republican candidates. In the 1996 election cycle, ATR's partisanship culminated in a $4.6 million contribution by the RNC, a sum which was more than four times ATR's total income the previous year.[21] ATR used this money, as well as large contributions directed to it by the RNC, to finance a range of election-related activities, including a multimillion-dollar direct mail and phone bank operation to counter anti-Republican ads on Medicare; television ads attacking Democratic candidates; media events and awards to assist Republican candidates and disparage Democratic candidates; and weekly meetings of conservative activists at ATR's offices to encourage an organized response to 1996 election concerns. ATR undertook all of these activities without registering with the FEC as a political organization, without disclosing its contributors or expenditures, and without admitting any partisan or election-related objectives.

THE $4.6 MILLION OCTOBER SURPRISE

In October 1996, the final month before the election, the RNC gave $4.6 million to ATR—the single largest dollar transfer from a national political party to a tax-exempt organization in the history of American politics.

ATR has refused to provide an accounting of how it obtained the $4.6 million from the RNC or how it spent the money. It has told the Committee that such information is outside the scope of the Committee's investigation, because "ATR has never engaged in electioneering of any sort. It has never advocated the election or defeat of any candidate for any office at any time; it has never run political advertising on any subject."[22] The facts and documents show, however, that ATR used the $4.6 million in RNC funds to finance a number of election-related efforts, including a multimillion-dollar direct mail-phone bank operation, in coordination with the RNC, to counter anti-Republican advertisements on the issue of Medicare.

For months prior to the transfer, the RNC had been objecting to television advertisements sponsored by organized labor and others criticizing the Republican Party for its positions on Medicare. The RNC claimed that the advertisements distorted the facts and that Republicans did not intend to reduce Medicare benefits. Yet, the RNC delayed spending funds to respond to those ads until October 1996. At an October 25 press conference, RNC Chairman Haley Barbour offered this explanation of the RNC's decision to delay spending:

> [W]e made the decision not to borrow money last year or early this year in order to try to compete with the unions and the other liberal special-interest groups' spending. You see, our campaigns do come into the real election season late September and October without having spent all the money . . . to match what the unions were doing. And you will see us—you are seeing now, and have been throughout the month of October, you are seeing Republicans using the resources that we've raised in voluntary contributions to finish very strong, to make sure our message is in front of voters when they are making their voting decisions.[23]

One step taken by the RNC to ensure that its message was "in front of voters when they are making their voting decisions" was to pay ATR $4.6 million from the RNC's soft money account. ATR then used the money primarily for a direct mail and phone bank operation targeting 150 Congressional districts with 19 million pieces of mail and four million telephone calls on the issue of Medicare.[24]

The ATR mailings are entitled: "Straight Talk About You, Medicare and the November 5 Election."[25] One mailing urges senior citizens to ignore "political scare tactics" involving Medicare, and states "[t]here's barely a difference between the Republican Medicare Plan and President Clinton's Medicare Proposal."[26]

These mailings were handled by the John Grotta Company, the contractor that actually managed the Medicare direct mail and phone bank effort for ATR in October 1996. This company has also run direct mail campaigns for the RNC and is owned by an individ-

ual—John Grotta—who is a former western political director for the RNC as well as a former director of voter contact for the National Republican Senatorial Committee. A key planning document submitted by the John Grotta Company to ATR about these mailings is entitled, "A Strategic Direct Mail and Telemarketing Proposal to Inform and Activate the Seniors Electorate in Select Congressional Districts During the 1996 Election Season."[27] The proposal's use of the word "Electorate" to describe seniors and "1996 Election Season" to describe the relevant time period is evidence of an election-related purpose. The proposal states that, "[u]nlike other direct marketing companies, we possess unique campaign experience and telemarketing technology which allow us to target your mail and phone programs to produce the results you need." The proposal cites "vast campaign and political expertise" and past "direct mail and telephone programs for winning Presidential, Gubernatorial, U.S. Senate and House *Republican* candidates" as two of the company's selling points. (Emphasis added.)

RNC-produced documents provide further evidence that the Medicare effort was election driven. An undated memorandum produced to the Committee by the RNC entitled, "Memorandum for the Field Dogs,"[28] states in its entirety:

> Re: Outside Mail and Phone effort
>
> Attached is a rotten copy of the 1st of 3 mail piece[s] that will be sent to 150 selected congressional districts it will be directed at, a map of which has been included for your viewing pleasure.
>
> We discussed this effort during Wednesday's conference call.
>
> This is an effort undertaken by Americans for Tax Reform. They are attempting to warn seniors about Democrat Mediscare tactics . . .[29]

This memorandum shows that the RNC had a copy of ATR's first Medicare mailing before it was sent out—it attaches the "piece that will be sent." It shows that the RNC knew it was the first of three mailings, and that it was being sent, not to specified cities or counties or zip codes, but to specified Congressional districts. To ensure that RNC field personnel would know exactly which districts were targeted, the memo included "a map . . . for your viewing pleasure." The memo also states that RNC field personnel had discussed the "effort undertaken by Americans for Tax Reform" in a previous "Wednesday's conference call."

This memorandum demonstrates advance RNC knowledge not only of ATR's general Medicare effort, but also of ATR's first specific mailing and of the 150 congressional districts selected to receive it. The fact that the mailing targets congressional districts, rather than cities or zip codes, again demonstrates an election-related intent. The fact that this information was communicated to RNC field personnel doing election-related work at the time—and in the last month before election day—provides still more evidence of an election-related purpose.

Additional documents analyzed by the Minority indicate that the RNC knew when it gave ATR the $4.6 million that ATR intended to spend the funds on the Medicare issue. Consisting primarily of

invoices, check copies, wire transfers and bank records, this evidence shows that the RNC's $4.6 million "donation" to ATR actually consisted of four payments made throughout the month of October in amounts and on dates that enabled ATR to pay the bills for the Medicare direct mail and phone bank operation.

A key document is an October 29, 1996, invoice provided to ATR's executive director, Audrey Mullen, from the John Grotta Company.[30] This invoice shows that the company sent out three mailings, directed two rounds of telephone calls, and purchased a database for ATR. It shows ATR owing various amounts throughout October 1996. The grand total for the entire direct mail and phone bank operation, not including postage for the mailings, is $3,325,498.60, of which only about $608,000 was still owed on October 29.

ATR's bank records,[31] provided by Riggs National Bank in response to a Committee subpoena,[32] show that on October 1, 1996, ATR had two bank accounts with a combined total of $294,078.50. This amount, less than a tenth of the total cost of the direct mail-phone bank operation, would have been insufficient to pay for that effort. The bank records show, however, that beginning on October 4, the RNC began transferring funds directly into one of ATR's bank accounts in amounts that would prove more than enough to pay for the entire direct mail-phone bank operation.

The timing of the RNC payments is also revealing. According to the October 29 invoice, ATR owed John Grotta an initial payment of $195,177.50 on October 7. On October 4, three days before that initial payment was due, the RNC gave $2 million to ATR. The RNC didn't write a check to ATR—the bank documents show that the RNC wire-transferred the funds directly from its soft money account into ATR's bank account.[33] Five days later, on October 9, ATR paid its bill to John Grotta.[34]

Two weeks later, ATR faced another $1,313,677.40 in bills owed to the John Grotta Company. These bills were due on October 18 and October 22. On October 17, the RNC made a second payment to ATR, this time in the amount of $1 million. Again, this money was wired directly into ATR's bank account.[35] Within days of receiving it, ATR paid the John Grotta Company $1,418,544.38.[36]

Yet another Grotta bill came due on October 24, in the amount of $1,104,000. On October 23, however, the total in ATR's bank account was only $216,344.93. But on October 25, the RNC made a third payment of $1 million wired into ATR's account.[37] Within hours of receiving this million-dollar payment, ATR paid the John Grotta Company $1,104,000.[38]

The fourth and most telling payment came one week later, at the end of October. ATR faced a final Grotta bill in the amount of $607,776.72. On the day before that bill was due, the total in ATR's bank account was only $70,085.65. But on the next day—the day when the $607,000 bill was due—the RNC wired ATR a fourth and final payment in the amount of $600,000.[39] Within two hours of receiving the RNC funds, ATR paid its final bill for the Medicare direct mail-phone bank operation.[40]

The timing and amounts of RNC payments to ATR, when compared to the billing dates and amounts owed by ATR to the John Grotta Company, suggest ongoing communication and coordination

between ATR and the RNC. They indicate, for example, that the RNC's $600,000 payment to ATR just in time for ATR to pay a $600,000 bill was more than coincidence.

However, when asked publicly about the transactions, RNC Chairman Haley Barbour and ATR President Grover Norquist denied that the $4.6 million transfer was part of any coordinated effort between the two organizations. Barbour told the *Washington Post* that "he had no understanding with Norquist about how the money would be spent,"[41] while Norquist told the press that he had made "no specific commitment"[42] to the RNC on how ATR would spend the money.

But other statements by the two men indicate the opposite. When asked to comment on the $4.6 million, Norquist told the *Washington Post* that ATR "just ramped up on stuff we were going to do anyway. They, the RNC, the conservative movement, knew the projects we were working on."[43]

When asked about the $4.6 million at a news conference at RNC headquarters on October 29, 1996, Barbour said the following:

> Sure. We made a contribution to Americans for Tax Reform, which is a conservative, low-tax organization. You'll see in our FEC report now and at the end of the year that we've made contributions to a number of organizations that are like-minded, share our views, promote our ideas.
>
> *As you know, when we do advertising, when we do advocacy, no matter what we do, we typically have to pay for it, either totally with FEC dollars or a mixture of FEC and non-FEC dollars. While our fundraising among small donors has been nothing short of spectacular, we often find ourselves in the position where we cannot match up non-FEC funds with enough FEC funds.*
>
> *So, when we came to that point, we decided we would contribute to several groups who are like-minded and whose activities we think, while they're not specifically political, we think are good for the environment for us.*[44] (Emphasis added.)

In a *Washington Post* article on February 9, 1997, again referring to the RNC contribution to ATR, Barbour was quoted as saying that groups like ATR "'have more credibility' in pushing a political message than the parties themselves."[45]

These statements by the RNC chairman indicate that the RNC gave ATR $4.6 million in soft money for two reasons. The first reason was that the RNC did not have enough matching hard dollars to allow the RNC to do the desired issue advocacy itself. FEC filings demonstrate just how few hard dollars the RNC had during the last month before the election. On September 30, 1996, the RNC reported having $16.7 million on hand, of which only $3.8 million was hard money; on October 16, of the $3.9 million the RNC reported having on hand, none was hard money.[46] The FEC has ruled that issue advocacy undertaken by a national political party in a presidential election year must be paid for with a mix of 65 percent hard dollars and 35 percent soft dollars,[47] yet the RNC paid for the ATR Medicare mailings and phone calls without using a single hard dollar. The second reason the RNC gave for giv-

ing $4.6 million to ATR in October was that political advertising sponsored by a group like Americans for Tax Reform had more credibility than advertising sponsored by the RNC itself. Norquist's statement is unequivocal that the RNC already knew what projects ATR was working on—one would assume that included ATR's Medicare project whose projected cost was three times greater than ATR's entire income the previous year.

The facts, documents and public statements of Barbour and Norquist, when viewed together, reveal a deliberate, coordinated strategy of moving RNC soft dollars to a tax-exempt organization to pay for an election-related direct mail and phone bank operation. Had the RNC undertaken that operation itself, it would have required substantial hard dollars which the RNC did not have. The resulting mailings and telephone calls were paid for entirely with soft dollars, drew on ATR's greater credibility, and targeted 150 selected congressional districts presumably where Republican candidates needed help on the Medicare issue.[48]

In addition to demonstrating coordination between the RNC and ATR to fund the Medicare direct mail-phone bank operation, the invoices and bank records provide evidence of the involvement in that operation by the Americans for Tax Reform Foundation, ATR's affiliated charitable organization which is legally prohibited from engaging in campaign activity or operating for the benefit of a private interest like the Republican Party.[49] The documents suggest that of the $4.6 million provided by the RNC, ATR transferred about $2.3 million to the Foundation which, in turn, paid the John Grotta Company for almost half of the direct mail-phone bank bills. In effect then, the RNC funneled soft money through two tax-exempt organizations—one a 501(c)(4) and one a 501(c)(3)—to pay for an election-related effort it could not do on its own due to a shortage of hard dollars. ATR paid approximately $1.8 million for the operation, while the ATR Foundation paid approximately $1.5 million.[50] Additional proof of the Foundation's involvement is provided by one of the mailings which states, underneath the heading "Straight Talk About You, Medicare & the November 5 Election": "Paid for by AMERICANS FOR TAX REFORM FOUNDATION."[51]

ATR TELEVISED ATTACK ADS

The RNC's $4.6 million paid for more than the Medicare direct mail and phone bank operation. That operation cost approximately $3.3 million plus postage. That leaves RNC funds in the range of $1 million unaccounted for. Although Norquist told the *Washington Post* in December 1996, that ATR "didn't do televised issue ads,"[52] and told the Committee in June 1997 that "it has never run political advertising on any subject,"[53] the evidence establishes that ATR did in fact produce and run television ads attacking Democratic candidates, the costs of which appear to have been paid at least in part with RNC funds.

A videotaped copy of a 1996 television ad attacking then-Representative Robert Torricelli, the Democratic senatorial candidate in New Jersey, for allegedly missing votes during his tenure as a Congressman, was provided to the Minority.[54] The ad states plainly in the closing frame that it was paid for by ATR. An invoice to ATR from a company called Title Wave requests roughly $8,000 for pro-

ducing an ad called "Missing."[55] In addition, ATR provided to the Committee invoices from a company called Mentzer Media Services, Inc. ("Mentzer"). These invoices show that Mentzer charged ATR $325,230 for a 30-second television media buy in the New York/New Jersey media markets[56] and another $56,656.25 for media buys in the Philadelphia/New Jersey media markets.[57] These media buys began in October and lasted until November 4, 1996, the day before the election. The Mentzer invoices do not specify the Torricelli/"Missing" ad, but that is the only ad which the Minority has evidence was broadcast in those markets. It is possible, however, that these media buys were for other ATR-sponsored television ads not yet identified.

ATR's bank records indicate that RNC funds were used by ATR to pay the bills related to this television attack ad. The records indicate that on October 4, 1996, the same day it received $2 million from the RNC, ATR wrote a $4,000 check to Title Wave as partial payment on the Torricelli/"Missing" ad's production costs.[58] Two weeks later, ATR wrote a $4,900 check to a company called Soundwave.[59] The memo at the bottom of the check states that it is payment on an invoice for the "Torricelli ad." ATR's bank records also indicate that beginning October 8, ATR wire-transferred a total of $374,830 to Mentzer Media Services for media buys.[60] Overall, at the beginning of October, ATR's bank account balances stood at just over $290,000. After receiving the influx of RNC money, ATR spent over $383,000 on producing and televising the television ad attacking then-Representative Torricelli.

Documentary evidence suggests ATR's possible involvement with other television ads as well during the 1996 election season. Two such television ads, both of which attack President Clinton by name, were allegedly sponsored by an organization called Women For Tax Reform. Both ran in Chicago in the last week of August, during the Democratic National Convention.[61] These ads were announced at a news conference held at the National Press Club on August 21, 1996.[62] The records of Women for Tax Reform indicate, however, that this organization was formed on August 15,[63] just six days earlier. Since six days hardly seems sufficient time for a new organization to develop, produce, and purchase air time for two television ads and announce them at a National Press Club briefing, the facts suggest that Women for Tax Reform must have had assistance prior to its formation.

That assistance was likely provided by ATR. The president of Women for Tax Reform was Audrey Mullen, who served concurrently as ATR's executive director.[64] In addition, Women for Tax Reform shared office space, facilities, equipment, and personnel with ATR.[65] In its application to the IRS for tax-exempt status, Women for Tax Reform states that it has a "special relationship" with ATR.[66] The extent to which ATR assisted Women for Tax Reform with its television ads cannot be determined conclusively, due to the refusal of both ATR and Women for Tax Reform to comply with Committee subpoenas for documents and deposition testimony. But the acknowledged relationship between the two organizations together with the timing of Women for Tax Reform's anti-Clinton ads so quickly after its formation suggest that ATR was more than a bystander in this matter.

Documents also suggest that ATR was working with the RNC to produce television ads attacking other Democratic candidates. Among the documents produced to the Committee by the RNC is the script of a television ad which was designed to attack Democratic candidates running for open seats.[67] The document states at the top, "RNC–TV/Open Seat TV:30/ 'Control.'" The ad calls for inserting a picture of a Democratic candidate, stamping "*Wrong*!!" over it, and then inserting the "Democrat Tax Record" under the picture. The last line of the ad reads: "For more information call Americans for Tax Reform." At the bottom of the document is a typewritten notation "As of 10/15/96 4:50 PM/ Approved by legal counsel." This document is compelling evidence of coordination between the RNC and ATR on television attack ads during the 1996 election season. It reveals a sufficient investment of resources to involve a written script and legal consultation three weeks before election day. Since RNC and ATR officials refused to be interviewed or to appear in response to a subpoena for deposition testimony, it is unclear whether any of the contemplated ads were broadcast. Whether or not a broadcast took place, however, this RNC-produced document is evidence of ATR–RNC coordination on political advertising.

ATR CANDIDATE ADVOCACY

During the 1996 election season, in addition to its Medicare operation and involvement with television ads attacking Democratic candidates, ATR used its taxpayer pledge and award programs to assist Republican candidates and attack Democratic candidates.

ATR first initiated its taxpayer pledge program in 1986.[68] Essentially, it consists of ATR's asking candidates for office to sign a pledge that, if elected, they will oppose efforts to raise taxes. ATR then publicizes, through media advisories, press conferences and advertisements, the willingness or unwillingness of a candidate to sign its pledge.[69]

In 1986—the first year of its taxpayer pledge program—the FEC found reason to believe that ATR had violated federal campaign laws by improperly coordinating with candidates the timing and distribution of its pledge media advisories.[70] ATR settled this matter with the FEC through a conciliation agreement in which it admitted violating the federal election laws and agreed to pay a $1,000 civil penalty.

In 1994, in response to complaints from the Democratic Party, the FEC again investigated ATR's taxpayer pledge program.[71] The investigation initially focused on ATR activities during a 1994 special election in Kentucky, expanded to other 1994 congressional campaigns, and also included examination of ATR activities in 1995 with respect to the Dole presidential campaign.

In September 1996, the FEC general counsel issued a report on ATR's activities, including its dealings with the Dole presidential campaign.[72] According to the general counsel's report, Norquist attended several events in 1995 at the request of the Dole for President Committee ("Dole campaign"). The first was a media event on April 7, in Washington, D.C., at which Senator Dole signed ATR's Taxpayer Pledge, an action he had not taken previously.[73] The second event, on April 10, was a "town hall meeting" in New Hamp-

shire in which Senator Dole made his formal announcement for the presidency. According to the general counsel's report, the press stated that Norquist attended the event to assure reporters that Senator Dole had finally signed ATR's pledge.[74] After the announcement, Norquist reportedly flew with the Dole campaign to New York City and attended fundraisers for the Senator.[75] Norquist's transportation and accommodation costs were paid by the Dole campaign.[76] The general counsel's report describes similar media events that Norquist attended on behalf of 1994 congressional campaigns, as well as an ATR radio advertisement during the Kentucky special election which the general counsel determined contained "express advocacy," meaning that the radio ad advocated the defeat of the Democratic candidate and the election of the Republican candidate.

ATR told the FEC that Norquist had attended the 1994 and 1995 media events solely as a spokesman for the organization and "with the explicit understanding that [he] would not advocate the election or defeat of any candidate" and "would not discuss the candidate . . . or the candidate's campaign outside the context of the taxpayer pledge."[77] However, the FEC general counsel's report concludes, in part:

> Mr. Norquist's affidavits and press reports show that ATR and certain federal candidates coordinated the timing, and possibly the content, of press conferences and other press events where such candidates announced that they had taken ATR's pledges. Specifically, ATR coordinated Mr. Norquist's appearances at such events with . . . Dole for President. . . . ATR's activities here appear analogous to those at issue in MUR 2269, [the 1986 enforcement action] a matter in which the Commission also found that ATR violated Section 441b(a). . . . [S]uch committees appear to have accepted corporate in-kind contributions from ATR. Accordingly, this Office recommends that the Comission find reason to believe that . . . Dole for President Committee . . . violated 2 USC 441b(a). . . . [I]t appears that other issues brought to light in this matter also require further investigation. . . . ATR's documents also indicate that it provided candidates with ideas for their campaigns, i.e., it offered to coordinate tax rallies, its flyers provided candidates with ideas on how to win election and it offered free of charge extra-large copies of its tax pledge that were designed to assure adequate media coverage. These appear to be things of "value" and thus contributions. . . . [T]his Office also recommends that the Commission approve the attached Subpoenas for documents and Orders for Written Answers.[78]

The report made similar findings with respect to the 1994 Republican candidate committees. In short, the report found reason to believe that ATR had engaged in improper coordination with Republican candidate committees and provided illegal in-kind corporate contributions to them by coordinating the pledge media events. The report recommended that the FEC find reason to believe that ATR had violated section 441b's prohibition against corporate contribu-

tions or, in the alternative, section 433(a)'s requirement for registration as a political committee. The report also recommended further investigation of ATR. While the general counsel's findings and recommendations received the support of three of five Commissioners,[79] a vote of four Commissioners is required to sustain an action, and the FEC ultimately closed the matter without further action.[80]

Other than ATR's actions in 1995 with respect to the Dole presidential campaign, the FEC did not report on ATR's activities during the 1996 election cycle. It seems clear, however, that the FEC general counsel's negative findings regarding ATR's 1994 and 1995 activities had no deterrent effect, as ATR continued to use its pledge program to assist Republican candidates in 1996.

One key document is a March 8, 1996, letter on ATR stationery from Norquist to RNC Chairman Haley Barbour.[81] In it, Norquist thanks Barbour for his letter "regarding our 'Taxpayer Protection Pledge', your support is always greatly appreciated." Norquist then writes:

> If possible, we would like to receive an updated list of Republican candidates directly from the RNC. It is important that we receive this list soon, as we would like to bring as many candidates on board as possible. And, in so doing, make the tax issue a central campaign feature for Republican candidates.

In his own words, Norquist directly ties ATR's taxpayer pledge program to Republican campaign efforts.

On October 8, 1996—just one month before election day—ATR held a Capitol Hill press conference to highlight candidates who had signed ATR's taxpayer pledge. This media event in Washington, D.C., was coordinated with numerous local media events across the country by candidates who had signed the pledge. According to ATR's own documents, its Washington press conference featured high-level speakers from the Dole campaign and GOPAC, a Republican political action committee set up by Speaker of the House Newt Gingrich.[82] Also included among the speakers were a Republican Congressional candidate from Hawaii and senior executives from the Christian Coalition, the Eagle Forum, and the U.S. Chamber of Commerce.[83] No Democratic candidates or representatives of Democratic-oriented organizations were included in the press conference.[84]

Also in October 1996, ATR initiated a new program announcing "Enemy of the Taxpayer Awards." Media advisories by ATR on October 28, a week before election day, announced these awards to "the most pro-tax, pro-spending Members of the House of Representatives."[85] The 34 taxpayer "enemy" awards went to 33 Democrats and one Independent. Not a single Republican candidate was named.

ATR stated that it had based the awards on the recipients having voted "no" on four specified votes relating to taxes and a balanced budget. However, a review of the votes shows that two of the Democrats recipients, Representative Bill Hefner of North Carolina and Representative William Orton of Utah, were cited despite the fact that they had voted "no" on only three of the four votes, while

two Republicans, Representative Amo Houghton of New York and Representative John Porter of Illinois, who had also voted "no" on three of the four votes, were not cited. This double standard between Democrats and Republicans with similar voting records is additional evidence of the partisan nature of ATR's Enemy of the Taxpayer Award program.

At about the same time that ATR initiated its Enemy of the Taxpayer Awards, it also began citing incumbent Democratic congressmen as "Taxpayer Villain of the Month." The target of ATR's November Villain of the Month Award was Representative Ken Bentsen a Democrat from Texas, who at the time was involved in a run-off election. Over the course of five days from December 2, 1996, through December 6, 1996, ATR issued six different press releases citing Representative Bentsen as a "Taxpayer Villain" and criticizing his voting record on a wide variety of issues.[86] Every one of the press releases cited the fact that Representative Bentsen was facing a run-off election and gave the date of the election in December. It should also be noted that despite the fact that Representative Bentsen had been chosen as the "Taxpayer Villain" for the month of November 1996, the vast majority of the votes he was criticized for took place in 1995; indeed, the most recent vote for which he was criticized took place in April 1996.

In contrast to the "enemy" and "villain" awards given to Democrats in 1996, ATR issued hundreds of "Friend of the Taxpayer Awards" and "Defender of the American Taxpayer Awards" to Republicans. According to ATR's published criteria, the 1996 Friend of the Taxpayer Awards went to House incumbents who had received a score of 90 percent or better on a series of 19 votes of interest to ATR and who had signed ATR's Taxpayer Protection Pledge.[87] ATR gave this award to 208 Republicans (32 Senators and 176 Representatives) and one Democrat (Representative Barbara Rose Collins).[88] On September 27—six weeks before Election Day—ATR issued a press release praising Republican Representative George Nethercutt of Washington for winning a Friend of the Taxpayer Award.[89] The release reveals, however, that Representative Nethercutt's vote rating was 85 percent—below the stated criteria for the award and clear evidence that an exception had been made for him.[90] Other Republicans who did not meet the 90 percent criterion also won the award, including Representatives Nathan Deal of Georgia and Michael Castle of Delaware.[91] According to ATR materials, Representative Castle received the award even though he had not signed the taxpayer pledge.[92]

On September 18, ATR issued more than 115 "Defender of the American Taxpayer Awards" to Republican Members of Congress who cosponsored legislation that opposed alleged efforts by the United Nations to impose a "tax" on American citizens.[93]

ATR's 1996 taxpayer awards reveal a clear partisan bias. Republicans are routinely deemed taxpayer "friends" while Democrats are routinely called taxpayer "enemies." Norquist himself provides a partisan analysis in the press release announcing ATR's first enemy of the taxpayer awards: "It is unfortunate that tax relief and spending cuts are so alien to the Democratic party." The partisan track record of the 1996 awards, coupled with an FEC enforcement history citing problems with ATR's coordination of

pledge media events with Republican candidates, indicate that ATR's taxpayer pledge and award programs are partisan in nature and an abuse of federal election laws. They also plainly contradict ATR's statements to the Committee that ATR "has never advocated the election or defeat of any candidate for any office at any time."[94]

In fact, on several occasions in 1996, ATR expressed support for or opposition to a particular candidate outside the context of any taxpayer pledge event or award announcement. A case in point is the Kansas Senate race. Republican incumbent Senator Sheila Frahm, appointed to her seat after Senator Dole's resignation, faced a primary challenge from then-Representative Sam Brownback. On June 13, 1996, Norquist sent a memorandum to "Conservatives [and] Taxpayers" on the subject of "Sam Brownback's Senate Candidacy." Norquist's memorandum states in part:

> A very important race is underway in Kansas. Sam Brownback, a leader among the freshman in the U.S. House of Representatives is running for the U.S. Senate seat which has been vacated by Senator Dole. On Tuesday, June 11th, Sheila Frahm was appointed to fill the Dole vacancy until the November election. She will be running against Rep. Brownback in the Republican primary on August 6th. Several taxpayer groups and conservative advocacy groups have inquired about this race. I have analyzed this race, and as a taxpayer activist, I wanted to share the following information that will show the distinction between the candidates.
>
> This race is extremely important to taxpayers in Kansas and to people around the nation. . . . Brownback has been an able fighter in bringing about the change that occurred in the House throughout this current Congress. He will bring this change to the Senate. Sam Brownback is a leader who is dedicated to the cause of cutting taxes, reducing the size and scope of government, and passing real term limits legislation. Sheila Frahm stands in the way of these reforms. . . . This race is a clear battle between a tax and spend status quo candidate and a tested advocate of taxpayers, Sam Brownback.[95]

Despite a statement in the memorandum that "ATR does not endorse candidates," this memorandum clearly sends the message that "conservatives and taxpayers" should support Representative Brownback. The memorandum is entitled, "Sam Brownback's Senate Candidacy." The second sentence states that "Sam Brownback . . . is running for the U.S. Senate." The first paragraph gives the date of the primary election. The body of the memorandum praises Representative Brownback for positions he has espoused in the House of Representatives, and contrasts his record with a description of Senator Frahm as "stand[ing] in the way of these reforms." ATR's preference couldn't be clearer than in its final sentence characterizing the race as "a clear battle between a tax and spend status quo candidate and a tested advocate of the taxpayers, Sam Brownback."

ATR has also supported specific candidates in general elections. In the 1996 Iowa Senatorial race, for example, between Democratic Senator Tom Harkin and Republican challenger James Lightfoot, citing "lists provided by their campaigns," the *Des Moines Register* reported that Lightfoot had received the endorsement of Americans for Tax Reform.[96] ATR was active in Iowa during the prior election cycle as well. In November 1994—just days before election day—Norquist attended a press conference with Iowa Republican Greg Ganske who was challenging the Democratic incumbent Neal Smith. During the press conference, according to the *Des Moines Register,* Norquist said, "You have a very strong delegation from Iowa, with the exception of Neal Smith, who stands out like a sore thumb in the eye of the Iowa taxpayer."[97]

Another example is a 1996 House race involving Democratic Minority Leader Richard Gephardt of Missouri. An ATR press release dated July 8, 1996, announces a press conference to be held in Representative Gephardt's district in which Norquist will discuss "the proliferation of legislators who feel no accountability towards their constituents."[98] The contact person listed on the ATR press release is "Wheelehan for Congress 314–487–8199." Wheelehan was the Republican candidate opposing Representative Gephardt in 1996. Two versions of the press release state, "If you would like to set up an interview with Mr. Norquist, please contact Charlie Van Esler at (314) 487–8199." The telephone number was that of the Wheelehan for Congress campaign.

The Norquist memorandum on Representative Brownback, his statements to the media in specific races, ATR press releases issuing taxpayer awards—each of these activities should be acknowledged for what it is, ATR's advocating the election or defeat of specific candidates, while ducking compliance with legal requirements for organizations engaged in federal election activity.

ATR: COORDINATED EFFORTS IN 1996 TO ELECT REPUBLICANS TO OFFICE

ATR did more in 1996 than express support for or opposition to specific candidates. ATR also engaged in several efforts to coordinate support for Republican electoral success.

Documents produced to the Committee indicate that ATR coordinated two of its biggest media events in 1996 with Republican organizations. On April 29, according to an RNC-produced document,[99] a meeting was held in the conference room of the National Republican Congressional Committee to discuss ATR's upcoming "Tax Freedom Day Event" in May and "Cost of Government Day" in July. Attendees included Norquist and two other persons from ATR; five representatives from the RNC; two representatives from the Dole campaign; two representatives from the Republican Governors Association; one representative each from the Republican Senate Policy Committee and the House Republican Conference; and a representative of Republican Senator Paul Coverdell of Georgia, sponsor of a "Cost of Government Day" resolution.

Since ATR and the RNC both refused to respond to Committee subpoenas to discuss ATR-RNC interactions, little information is available about what happened at this meeting; however, another RNC-produced document dated the next day, April 30, sheds some

light.[100] Labeled "Confidential Memorandum," it is addressed to the "Tax Freedom Day Working Group" and is authored by one of the ATR participants who attended the April 29 meeting the day before. The memorandum states that "we are still standing by for a confirmation from Senator Dole. Gary Koops says he hopes to have an answer for us this afternoon. I have reminded him that satellite availability and coalitions turnout could be a real problem if we delay much further." Koops attended the April 29 meeting on behalf of the Dole campaign. The memorandum also states that, to join a conference call later that day, persons should ask for the "Tax Freedom Day Working Group call." Read together, the April 29 and 30 memoranda contain compelling evidence that ATR had formed a working group with Republican organizations and candidates, including Senator Dole, to coordinate its media events in May and July—exactly the type of improper media coordination that ATR had been cited for by the FEC in 1986.[101]

Another key development was ATR's decision to host weekly meetings in its offices that, at least in part, addressed the 1996 elections. These Wednesday morning meetings were convened by Norquist, attended by 50–70 conservative activists at a time, and regularly attended by such groups as the Christian Coalition, the National Right to Life Committee, the U.S. Chamber of Commerce, the National Rifle Association, the Seniors Coalition, and GOPAC.[102] According to ATR's own policy documents, these meetings also included "Capitol Hill staffers, candidates for national office, and visiting Members of Congress."[103] One meeting, on September 18, took place at the U.S. Capitol, presumably at the invitation of House Speaker Gingrich who spoke to the group about "how Republicans should conduct their campaigns."[104] At the end of his remarks, Norquist presented the Speaker with an ATR Friend of the Taxpayer Award.[105]

As chronicled in Elizabeth Drew's book *Whatever It Takes,* these meetings often served as strategy sessions for the 1996 elections. Drew recounts, for example, group discussions of GOP presidential primaries and candidates such as Senator Dole, Patrick Buchanan, Steve Forbes, and Lamar Alexander,[106] as well as specific House and Senate races such as the Kansas Senate race.[107] In some instances, meeting participants reported on a specific election contest. For example, after a Washington state primary showed Republican Representative Randy Tate trailing his Democratic challenger, a representative of GOPAC told the meeting, "We need to pay attention. This is problematic. . . . We have our work cut out in Washington State."[108] In other instances, staff from the National Republican Congressional Committee or National Republican Senatorial Committee provided detailed briefings on specific races.[109]

In still other instances, Republican candidates made formal presentations at the meetings and requested support for their election efforts.[110] For example, Representative Tate, running for re-election in the House, and Representative Brownback, running for election to the Senate, were permitted to address the meeting and request the support of the groups represented there.[111] Michael Hammond, running in a Republican primary against a congressman in New Hampshire, was allowed to explain why attendees should support

him rather than the Republican incumbent.[112] At a meeting on September 11, 1996, four Republican candidates made such presentations. Drew writes:

> The federal election law stipulates that interest groups aren't supposed to coordinate their efforts for or against a candidate, but what actually goes on appears to be a distinction without a difference. [One meeting participant] said, "The Federal Election Commission says you can't coordinate, but everybody talks to each other." He added, "We make a practice of not talking specific amounts with each other. We talk about who's targeted, how somebody's doing, but not in terms of 'Why don't you throw in three thousand and we'll throw in five thousand.'" This is a very narrow interpretation of the law.[113]

RNC-DIRECTED CONTRIBUTIONS TO ATR

A final area of concern in 1996 involves documents in the Committee's possession which reveal that, in addition to transferring $4.6 million of its own funds to ATR, the RNC also solicited funds from third parties and directed those contributions to ATR.

A memorandum dated October 17, 1996, marked "confidential," from Jo-Anne Coe, RNC finance director, to Haley Barbour, RNC chairman; Sanford McCallister, RNC general counsel, and Curt Anderson, RNC political director, discusses efforts by Coe to forward certain sums of money to three tax-exempt organizations, including a $100,000 check from Carl Lindner to ATR, another $100,000 check from Lindner to the National Right to Life Committee, and $950,000 from several sources to the American Defense Institute.[114] The memorandum poses questions about how certain checks should be handled and requests quick action "so I can put this project to bed."

The "project" itself is not described in the memorandum; however, a second document may provide additional information. It is an October 21 memorandum from Coe to Barbour. This memorandum states:

> As soon as we meet and hopefully come to some resolution on the joint state mail project, I will forward these checks to the three organizations. In the meantime, I am respectfully withholding delivery of the checks until we have the opportunity to discuss this matter.[115]

Could the "joint state mail project" be the "project" referred to in the October 17 memo from Coe to Barbour? Could it be a reference to ATR's $3.3 million direct mail-phone bank operation on Medicare? The fact that the RNC finance director was "respectfully withholding" checks to three organizations appears to be evidence that the RNC was exercising control over the performance of those organizations in the joint state mail project in exchange for funding. The fact that this document was produced, not by the RNC or ATR, but by the Dole for President committee indicates possible participation of the Dole campaign in these efforts as well.

Two letters written by Coe on the same date as her memorandum to Barbour on the joint state mail project offer additional clues.[116] The first letter is addressed to Norquist at ATR and the

second to David O'Steen, the executive director of the National Right To Life Committee. Each encloses a $100,000 check from Carl Lindner to the organization, as described in the October 17 memo. Coe states in both letters, "Glad to be of some help. Keep up the good work." A review of ATR's bank records shows that ATR deposited a $100,000 check on October 23.[117] It thus appears that the RNC directed contributors to write checks payable to specified tax-exempt organizations such as ATR, but to send them to the RNC. The RNC then forwarded the checks to the organizations, possibly in exchange for participation in the "joint state mail project" or other campaign activities.

Two additional documents also contain evidence of RNC coordination with ATR and other tax-exempt organizations. The first[118] was produced by the RNC and has the same distinctive "confidential" heading as the October 17 memo from Coe to top RNC officials. This document discusses contributions to ATR, National Right to Life Committee, American Defense Institute, United Seniors Association, the City of San Diego, and "CCRI," which was the California ballot initiative on affirmative action. Each organization is analyzed in terms of whether contributions to it would have to be reported to the public and whether a contribution would be tax deductible. The final document is a list of the same organizations with the exception of the CCRI.[119] By each organization's name is a large dollar figure. The figure for ATR is $6 million. Altogether, the figures add up to $15.1 million.

The significance of these two documents and the dollar figures is unclear. Could the $6 million figure for ATR indicate that in addition to giving ATR $4.6 million directly, the RNC directed another $1.4 million to ATR in third party contributions to ATR?[120] If the same is true for the other listed organizations, the RNC may have directed more than $9 million in undisclosed third party contributions to these groups. In the absence of Committee subpoenas being issued or enforced, however, the extent to which the RNC obtained contributions for ATR and other tax-exempt organizations and what it received in return for this fundraising remain unclear.

ATR AND RNC'S REFUSAL TO COOPERATE

On April 9, 1997, Grover Norquist was quoted in the press as saying that he would "cheerfully testify before the Committee."[121] He thereafter continuously refused to be deposed or interviewed by the Committee staff. When subpoenaed for a deposition in September 1997,[122] he refused to instruct his attorney to accept service of the subpoena,[123] and he failed to appear. In fact, despite repeated requests and efforts by the Minority to seek ATR testimony either voluntarily or by subpoena, no one from ATR ever submitted to an interview or a deposition by this Committee. As noted above, ATR also refused to comply with the Committee's document subpoena, claiming, "ATR has never engaged in electioneering of any sort. It has never advocated the election or defeat of any candidate for any office at any time; it has never run political advertising on any subject."[124] Having cloaked itself in this self-serving proclamation, ATR refused further cooperation or compliance with document or deposition subpoenas, thereby making a mockery of the Committee's subpoena process. Despite requests from the Minority that the

Chairman issue an order compelling ATR to comply with the Committee's subpoena, no action was ever taken by the Committee to enforce its subpoena authority.

The RNC was equally intransigent. Not one RNC official ever provided an interview or deposition testimony on the $4.6 million transfer or on any dealings between the RNC and ATR.

POSSIBLE CIVIL, CRIMINAL AND TAX LAW VIOLATIONS

The facts and documents behind the RNC's $4.6 million transfer to ATR are compelling support for the proposition that the RNC used ATR as a surrogate to do what the RNC itself had neither the hard dollars nor the "credibility" to do on its own. In addition to questions of impropriety, questions arise regarding four sets of possible legal violations by ATR and the RNC.

Circumvention

The first and most serious issue involves the RNC's possibly deliberate circumvention of hard money requirements in funding ATR's election-related efforts.

With respect to the Medicare direct mail and phone bank operation, FEC rulings are clear that if the RNC had funded this issue advocacy effort directly, it would have had to pay the bills with a mix of hard and soft dollars.[125] Sixty-five percent of the cost would have had to come from hard dollars that complied with federal contribution limits. The RNC instead funded the Medicare effort indirectly through ATR using only soft dollars. These funds were wired into ATR's bank account for as short a period as two hours before ATR used them to pay for Medicare mailings and telephone calls that clearly benefited the GOP. Given the coordination between the RNC and ATR on how these funds would be used, their brief detour through ATR's bank account is possibly insufficient to relieve the RNC of its legal obligation to comply with hard money requirements, including contribution limits and disclosure.

The same analysis applies to RNC funds used by ATR to pay for $383,000 in televised ads attacking the Democratic Senatorial candidate in New Jersey, and perhaps for other television attack ads aimed at Democratic candidates. The RNC funds used to pay for the televised ads consisted entirely of soft dollars. If the RNC had sponsored these television ads directly, it could have been required to pay for them entirely with hard dollars or, at a minimum, 65 percent with hard dollars. Sponsoring the ads directly also would have subjected the RNC to federal limits on the direct contributions and coordinated expenditures that a national political party may make with respect to a particular Senate race. In the 1996 New Jersey Senate race, section 441a(h) of the Federal Election Campaign Act limited the RNC to no more than $17,500 in direct contributions to the GOP Senate candidate, while section 441a(d)(3) limited the RNC to coordinated expenditures of no more than $369,807. ATR spent $383,000 on the New Jersey television attack ads alone. ATR's sponsorship of the Torricelli attack ads, paid for in whole or in part with RNC soft dollars, appears to have been a deliberate ploy to allow the RNC to evade federal limits on contributions and coordinated spending in that Senate race.

Coordination

A second issue concerns improper or illegal coordination. The evidence is compelling that extensive coordination took place between ATR and the RNC regarding ATR's Medicare direct mail and phone bank operation. The documents show that ATR's taxpayer pledge, Tax Freedom Day and Cost of Government Day media events were coordinated with several Republican organizations and candidates. ATR's weekly meetings repeatedly analyzed specific candidates, races and election strategy. Those meetings were attended by Republican Party officials, candidates and persons sympathetic to electing Republicans to federal office. Although more information is needed to establish violations of federal election law, the evidence available to date justifies an immediate in-depth investigation by the FEC and Justice Department.

Another coordination issue arises from the documents establishing that the RNC directed contributions from third parties to ATR and other tax-exempt groups. Although pending campaign finance reform measures such as S. 25, the McCain-Feingold bill, would outlaw this practice, it is currently not against the law for a political party to suggest that a person make a contribution to a tax-exempt organization. Even under current law, however, a directed contribution may become an illegal act, if the timing of that contribution is controlled by the political party that arranged it or made contingent upon the recipient taking action at the suggestion of, or in coordination with, the party. In the case of ATR, remaining questions include how many contributions the RNC directed to ATR in addition to the $100,000 contribution from businessman Carl Lindner; how those funds were used by ATR; whether the RNC exercised control over the expenditure of the funds or over other ATR activities in exchange for the funds; and whether the facts indicate the directed contributions were an attempt to circumvent contribution limits and disclosure requirements.

Directed contributions between a national political party and tax-exempt organizations was a topic of concern for the Committee when the political party involved was the Democratic Party. The Committee held an entire day of hearings to take testimony from businessman Warren Meddoff regarding his discussions with Harold Ickes, former deputy chief of staff in the White House, about possible contributions to tax-exempt organizations by a Meddoff associate. As discussed in Chapter 17 of this Report, Ickes's suggestions were made in response to a request from Meddoff, and no contributions were ever made. The RNC did much more than make suggestions—it collected checks, controlled checks, and delivered checks to tax-exempt organizations sympathetic to the Republican Party—yet not a single witness was called to testify on such RNC conduct.

Disclosure

A third issue involves disclosure. RNC Chairman Haley Barbour stated in an October 29 press conference that, "[d]isclosure of contributions and expenditures, shining the bright light of public scrutiny, is the fundamental principle underlying our campaign finance laws."[126] Yet the RNC's payment of $4.6 million to ATR, when coupled with ATR's decision not to file any FEC reports on its activi-

ties, effectively prevented all disclosure of expenditures paid for with RNC funds. The Medicare mailings and telephone calls, for example, were represented as ATR-sponsored efforts, and RNC funding was kept secret. When asked about television ads, ATR denied to the press and to this Committee that it engaged in television advertising, thereby hiding its televised attack ads on the New Jersey Democratic Senatorial candidate and keeping doubly secret the use of RNC funds to pay for those ads. Additional investigation by the FEC and Justice Department should be undertaken to establish whether the RNC and ATR improperly or illegally evaded federal disclosure requirements by ATR's failing to file any FEC reports on its activities.

Tax laws

A fourth issue involves federal tax law, in particular ATR's possible abuse of its tax-exempt status and whether either ATR or the RNC should have, but failed to, report the $4.6 million as taxable income.

ATR is exempt from taxation under Internal Revenue Code section 501(c)(4). A 501(c)(4) organization is required to be engaged in social welfare that promotes "the common good and general welfare of the people of the community."[127] Social welfare organizations may not engage in campaign-related activity as their primary activity. The relevant tax code regulation, 26 CFR 1.501(c)(4)–1, describes the prohibited activity as "direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office." Campaign activity that a 501(c)(4) organization does engage in must be nonpartisan, so that the organization does not confer a private benefit on a particular political party, in violation of its tax-exempt status.[128]

An analysis of ATR's bank records for 1996 indicates that the $4.6 million donated by the RNC provided more than two-thirds of ATR's 1996 income.[129] Despite ATR's claim to be a grassroots organization supported by taxpayers across the country, its bank records indicate that only $12,470, or less than 0.2% of its 1996 deposits, came from donations of $1,000 or less.[130] The fact that RNC funds outmatched all other sources of ATR funding by a 2–1 margin is compelling evidence that, in 1996, electioneering was ATR's dominant pursuit, in violation of its tax-exempt status. ATR's key activities during the year—from its multimillion-dollar Medicare direct mail-phone bank operation to its advocacy of particular candidates to its active support of Republican electoral success—provide added evidence that electioneering dominated. A second possible violation of ATR's tax-exempt status lies in the fact that its election pursuits were clearly partisan in favor of the Republican Party. Partisan activities do not promote "the common good" required of 501(c)(4) social welfare organizations, but confer a private benefit on the favored political party.[131] Together, ATR's partisan, election-driven activities strongly suggest that it may have violated its tax-exempt status.

A similar analysis applies to the Americans for Tax Reform Foundation, a 501(c)(3) organization prohibited by federal tax law from engaging in any campaign activity.[132] The facts and documents indicate that the Foundation served as a second conduit for

RNC funds, paid nearly half the bills associated with the Medicare direct mail-phone bank operation, and placed its name on at least one of the three Medicare mailings. The Foundation's participation in this RNC-funded, election-related effort appears to violate the legal prohibitions against a 501(c)(3) charitable organization's participating, directly or indirectly, in campaign activity and against its operating to benefit a private interest such as the Republican Party.

A final issue is how the RNC and ATR treated the $4.6 million on their tax returns. Section 527 of the federal tax code suggests that one or the other organization may have been required to treat this sum as taxable income. As a political organization, the RNC's income is exempt from taxation to the extent it is used for the purpose of influencing an election.[133] If the money which the RNC received from contributors and then transferred to ATR was for election-related purposes, then the RNC could exclude the amount from its taxable income; however, if the RNC made a non-election-related, charitable contribution to ATR, then it is possible that this income is taxable to the RNC. Conversely, ATR's income is exempt from taxation to the extent that it is used for charitable and not election-related purposes.[134] While ATR is entitled to engage in a limited amount of election-related activity, income expended on such activity is taxable. It would thus seem that if the $4.6 million was for an election-related purpose, the RNC could exclude it from its taxable income, but ATR could not. In contrast, if the $4.6 million was for a charitable purpose, then ATR could exclude it from its taxable income, but the RNC could not. It is unclear how either organization treated this money, whether any tax was paid, and whether any violation of tax law occurred as a result, but what is clear is that this issue merits further investigation and analysis by the appropriate authorities within the Department of the Treasury.

CONCLUSION

The facts and documents, as well as the public statements of Haley Barbour and Grover Norquist, make it clear that RNC soft money—$4.6 million in all—flowed through ATR bank accounts and paid for a multimillion-dollar direct mail-phone bank operation as well as other election-related efforts such as television attack ads. It is also clear that if the RNC had paid for these election-related efforts directly, it would have required substantial amounts of hard dollars. The facts suggest that the RNC laundered 1996 soft dollars through ATR in order to avoid using hard money to pay for election-related activities, to capitalize on ATR's ostensibly greater credibility, and to avoid public disclosure of RNC involvement.

The facts and documents also show that, in 1996, ATR undertook a host of partisan activities to support the Republican agenda and elect Republican candidates to office. ATR's efforts included taxpayer pledge and award media events coordinated with specific candidates; Tax Freedom Day and Cost of Government Day media events coordinated with Republican organizations, and weekly meetings with outside groups designed in part to further Republican electoral success in 1996. These partisan, election-driven activities appear to violate the tax-exempt status of ATR and its

Foundation; ATR's coordination with the Republican Party may have resulted in other federal election law violations as well.

Was the RNC directing contributions from third parties to ATR to circumvent contribution limits and disclosure requirements? Did the RNC and ATR violate campaign disclosure requirements? Did the RNC or ATR violate federal tax law in how they reported the $4.6 million on their tax returns?

The evidence of possible civil, criminal, and tax-law violations involving ATR is powerful and should have been explored at a Committee hearing with full opportunity for examination and cross-examination. Unfortunately for the American public, ATR's role in the 1996 elections remained largely unexplored in this Committee's investigation. The Committee did not call a single hearing witness to testify about the $4.6 million transfer. The Committee rejected repeated requests from the Minority to hold hearings on the subject. Committee investigators were thwarted in their efforts to interview or depose witnesses from the RNC or ATR regarding the $4.6 million or any other dealings between the two organizations. Despite public statements promising cooperation, no one from either the RNC or Americans for Tax Reform provided any testimony to the Committee, in public or in private, regarding the relationship between the RNC and ATR.

The Committee's failure to investigate does not, however, eliminate ATR or the RNC's potential legal liability. Because of the quality of the evidence and the potentially serious misconduct involved, the Minority has determined to refer information regarding the apparent coordination between the RNC and ATR to the U.S. Departments of Justice and Treasury and the FEC for further investigation into potential civil, criminal, and tax-law violations.

FOOTNOTES

[1] The original officers of ATR were Peter Ferrara, president, and William P. Barr, the secretary/treasurer. See also letter from John M. Richman, chairman and CEO, Dart & Kraft to William E.C. Dearden, chairman, Hershey Foods Corporation, 10/3/85, ATR000579.

[2] FEC MUR 4204, ATR Answers to Interrogatories, Section A, question (1). To qualify under IRC section 501(c)(4), an organization must be operated to benefit the common good and general welfare of the community.

[3] Articles of Incorporation of Americans for Tax Reform, amended 3/31/93, ATR000013.

[4] Articles of Incorporation of Americans for Tax Reform, amended 3/31/93, ATR000013.

[5] In addition to the Foundation, ATR's affiliated organizations include Citizens Against a National Sales Tax; Women for Tax Reform, a 501(c)(4) corporation; and the Anti-Tax PAC, a political action committee established 4/5/96, but inactive during the 1996 election cycle. Norquist also recently established The Merritt Group Ltd., a lobbying firm in which he is a principal along with two senior ATR employees and a fourth individual from outside of ATR.

[6] Letter from Jeffrey L. Yablon to Whom It May Concern at the Internal Revenue Service, submitting ATRF and ATR's applications for tax-exempt status; Application for Recognition of Exemption, Form 1023, Attachment F, submitted by Fairness for Families, the former name of ATRF, 8/30/85.

[7] Articles of incorporation of Fairness for Families, the former name of ATRF, 7/2/85, p. 1; Application for Recognition of Exemption, Form 1023, Attachment E, submitted by Fairness for Families, 8/30/85.

[8] FEC MUR 4204, ATR Answers to Interrogatories, Section A, question (3).

[9] Drew, Elizabeth, *Whatever It Takes,* New York: Penguin Books USA Inc., 1997, p. 7.

[10] Drew, p. 8.

[11] Norquist, Grover, *Rock the House: History of the New American Revolution,* Ft. Lauderdale, FL: VYTIS Press, Inc., 1995, "About the Author."

[12] Norquist, "About the Author."

[13] Norquist, "Prologue" by Speaker Gingrich; *Roll Call,* 2/6/97.

[14] R027732.

[15] R006050.

[16] See R047456–047458.

[17] Drew, p. 14.

[18] Drew, pp. 182–83.

[19] *Baltimore Sun,* 4/17/95, p. 2A.

[20] In his book, *Rock the House,* pp. x–xi, Norquist writes: "The Republican capture of the House of Representatives is the culmination of a 40-year struggle by a conservative nation to overthrow a liberal political elite that has used gerrymandering, incumbent protection laws, and taxpayer dollars to stay in power. . . . Chapter One begins by describing what actually happened on election day, November 8, 1994: the size and depth of the Republican victory and the overturning of the old order. . . . It means that more than 50,000 Democrat political activists have lost their hold on taxpayer-supported positions as a result of this election."

[21] ATR's annual income in 1994 and 1995 was less than $1 million each year. ATR's IRS Form 990 for 1994 and 1995.

[22] Letter from Thomas Wilson of Lane & Mittendorf to Majority Counsel, 6/11/97.

[23] Daily Teleconference with RNC Chairman Haley Barbour, 10/25/96, reported by Federal News Service, Federal Information Systems Corporation.

[24] ATR000048.

[25] See, for example, ATR000194–197 and ATR000504–505.

[26] ATR000194–195.

[27] ATR000512–19.

[28] R014844.

[29] R014844.

[30] ATR000560.

[31] See ATR/R00001–00942.

[32] Committee Subpoena 000348, issued 8/21/97.

[33] See ATR/R00864.

[34] See ATR/R00871 and ATR/R00875.

[35] See ATR/R00866.

[36] See ATR000560.

[37] See ATR/R00867.

[38] See ATR/R00877 and ATR000560.

[39] See ATR/R00868.

[40] See ATR/R00881.

[41] *Washington Post*, 10/29/96.

[42] Drew, p. 223.

[43] *Washington Post*, 12/10/96. The John Grotta Company proposal for the Medicare direct mail-phone bank operation is dated 7/8/96, three months before ATR received the first $2 million from the RNC.

[44] "Haley Barbour, Chairman of the Republican National Committee, Discusses Democratic National Committee Refusal of Pre-Election FEC Report," Presidential Campaign Press Materials, Federal Document Clearing House, Inc., 10/29/96.

[45] *Washington Post* 2/9/97.

[46] See RNC filings with FEC, 9/30/96 and 10/16/96. See also *Newsday* 12/28/97.

[47] FEC Advisory Opinion 1995–25.

[48] ATR has not identified the 150 Congressional districts, nor how they were selected. The "Field Dogs" memorandum, *supra*, however, shows that at a minimum the RNC was fully informed of the particular districts selected.

[49] 26 USC 501(c)(3); 26 CFR 1.501(c)(3)–1(d)(1)(ii) ("it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests"); *The Association of the Bar of the City of New York* v. *Commissioner*, 858 F.2d 876 (2nd Cir. 1988), cert. denied, 1989 (even insubstantial political activity endangers an organization's exemption under section 501(c)(3)); *American Campaign Academy* v. *Commissioner,* 92 T.C. 1053 (1989) (Republican organizations and candidates are not a charitable class, but a private interest; an organization operated for the benefit of Republican organizations or candidates does not qualify for tax exemption under section 501(c)(3)).

[50] The ATR Foundation's involvement in the direct mail-phone bank operation was difficult to uncover due to incomplete document production. The Foundation never produced, for example, any bank records. Although ATR's bank had possession of and was willing to produce the Foundation records, it felt it could not do so under the wording of the Committee subpoena without ATR's consent. ATR refused to allow the bank to produce the Foundation records. See letter from Thomas E. Wilson of Lane & Mittendorf, to Alan Edelman, Associate Counsel to the Minority, 9/19/97. When the Ranking Member subsequently asked the Chairman to issue a new subpoena to the bank explicitly requesting ATRF records, the request was ignored. See letters from Senator Glenn to Chairman Thompson, 10/1/97 and 10/14/97. This forced the Minority to re-create the Foundation's role from documents already obtained.

ATR's bank documents indicate that on October 4, 1996, the RNC wired $2 million to ATR. See Document ATR/R00864. On October 17, the RNC wired another $1 million to ATR. Document ATR/R00866. The next day—October 18—ATR transferred $508,000 to the ATR Foundation. Document ATR/R00844. Four days after that—on October 22—ATR transferred another $851,000 to the Foundation. Documents ATR/R00846 & ATR/R00848. The RNC wired yet another $1 million to ATR on October 25. Document ATR/R00867. That same day, ATR transferred the $1 million to the Foundation. Document ATR/R00852. The result is a pattern of the RNC transferring money to ATR, and ATR then either using that money directly to pay the John Grotta bills or routing it through its Foundation to pay the John Grotta bills. This pattern is all the more striking, because ATR bank records for the preceding year and a half, from June 1995 to December 1996, do not indicate a single month in which ATR transferred money to its Foundation. Yet in October 1996, ATR transferred over $2 million to ATRF.

Two types of evidence indicate that the Foundation used the RNC funds to help pay for the direct mail-phone bank effort. First, comparing the October 29 Grotta invoice, Document ATR000560, to ATR bank records shows that for every recorded bill payment but two there is a corresponding wire transfer from ATR's bank account to the John Grotta Company. The two exceptions are two bill payments that are both shown as having been made on October 25—

one in the amount of $468,000 and one in the amount of $1,104,000. Both payments are shown on the invoice as having been made by ATR, but there is no corresponding wire transfer from ATR's bank account. However, both payments were made after ATR had transferred over $2 million to the ATR Foundation. Logic suggests that the Foundation must have made both bill payments on ATR's behalf. While the Foundation's bank records would have provided affirmative proof of its payments to Grotta, the Minority's requests for these bank records were denied. In the meantime, one of the mailings paid for with RNC funds, Document ATR000194–000195, states that it was "[p]aid for by AMERICANS FOR TAX REFORM FOUNDATION."

[51] ATR000194–000195

[52] *Washington Post* , 12/10/96.

[53] Letter from Thomas Wilson of Lane & Mittendorf, to Majority Chief Counsel Michael Madigan, 6/11/97.

[54] A copy of the videotape is maintained in the files of the Committee.

[55] ATR000101

[56] ATR000106

[57] ATR000107–000108

[58] ATR/R00590

[59] ATR/R00602

[60] See ATR/R00870,00873,00878,00880

[61] Women for Tax Reform Media Reminder, 8/21/96, alerting media to a press event that day on the formation of the group and its intention to televise anti-Clinton ads.

[62] Women for Tax Reform Media Reminder, 8/21/96, alerting media to a press event that day on the formation of the group and its intention to televise anti-Clinton ads.

[63] It is interesting to note that Women for Tax Reform was formed with a contribution of $100,000 from a single, private (and unnamed) individual. See Exhibit C to Form 1024, Application for Recognition of Exemption Under Section 501(a), WTR0070.

[64] See Exhibit C to Form 1024, Application for Recognition of Exemption Under Section 501(a), WTR0070. Women for Tax Reform was granted tax exempt status under Section 501(c)(4) by the Department of Treasury on November 6, 1996, see WTR0024–0025.

[65] See Exhibit C to Form 1024, Application for Recognition of Exemption Under Section 501(a), WTR0070.

[66] Exhibit C to Form 1024, Application for Recognition of Exemption Under Section 501(a), WTR0070.

[67] R001938.

[68] FEC MUR 4204, General Counsel's Report, 9/10/96, p. 2.

[69] FEC MUR 4204, General Counsel's Report, 9/10/96, pp. 2, 5. In recent years, ATR has presented federal candidates with two additional pledges, an "anti-VAT pledge" opposing a national value added tax, and a "legislative probity pledge" opposing certain health care reform legislation. FEC MUR 4204, General Counsel's Report, 9/10/96, p. 2; ATR000816.

[70] FEC MUR 2269.

[71] FEC MUR 4204.

[72] FEC MUR 4204, General Counsel's Report, 9/10/96.

[73] See, for example, *Kansas City Star*, 4/11/95.

[74] FEC MUR 4204, General Counsel's Report, 9/10/96, p. 8.

[75] FEC MUR 4204, General Counsel's Report, 9/10/96, p. 8.

[76] FEC MUR 4204, General Counsel's Report, 9/10/96, p. 9.

[77] FEC MUR 4204, General Counsel's Report, 9/10/96, p. 9.

[78] FEC MUR 4204, General Counsel's Report, 9/10/96.

[79] There was one vacancy on the Commission at the time.

[80] FEC MUR 4204, Statement of Reasons, 12/10/96.

[81] R 004610.

[82] ATR000056–57.

[83] ATR000056–57.

[84] In September, ATR also held a "Taxpayer Salute to the 104th Congress" in the Cannon Caucus Room of the U.S. House of Representatives to thank the Republican House for its work and "to get earned media attention for the accomplishments of the 104th Congress." Documents ATR000659 and ATR000058. A 9/17/96 memoranda from Norquist inviting attendance at the event is addressed to "House Republican Members and Staff" and states that the program will feature the "Republican leadership." Document ATR000659. This "Salute" is another example of an ATR-sponsored media event benefiting the Republican Party prior to the 1996 elections.

[85] ATR000272.

[86] ATR000599–599F.

[87] ATR000054.

[88] ATR000054; ATR states elsewhere in the document, on ATR000048, that the award went to 210 officeholders, but the specific list of award-winners includes 209 names. The sole Democrat who won the award did not run a general election campaign in 1996, having lost in the primary.

[89] ATR000388.

[90] The basis for this exception is unclear, but may have been due to the symbolic importance of his seat to the Republican Party. Rep. Nethercutt had gained office in 1994 by defeating Democratic Speaker of the House Thomas Foley.

[91] ATR000536–46.

[92] ATR000536–46.

[93] ATR000056. It is possible that one Democrat, Representative James Traficant of Ohio, received the award, but ATR's refusal to cooperate with the Committee prevented making a final determination.

[94] Letter from Thomas Wilson, of Lane & Mittendorf, to Majority Chief Counsel Michael Madigan, 6/11/97.

[95] ATR000547.
[96] *The Des Moines Register,* 11/3/96.
[97] *The Des Moines Register,* 11/2/94. At the time of Norquist's statement, Rep. Smith was the only Democratic member of the Iowa congressional delegation.
[98] ATR000549–551.
[99] R 047272.
[100] R 004605.
[101] ATR's 1996 annual report on its activities also states that RNC Chairman Haley Barbour "issued a three-page press release on [Cost of Government Day]. The RNC also sent copies of our information packet to all state Republican parties." It states that Norquist gave a June briefing to "Republican district directors'; ATR was "involved in putting together a briefing paper and talking points for the House Republican Conference'; and that ATR "contributed language on Cost of Government Day for the GOP National Convention." ATR 000052–54.
[102] Drew, pp. 5–6.
[103] ATR000087
[104] Drew, p. 168.
[105] Drew, p. 169.
[106] Drew, pp. 1, 155–56. Anti-Clinton discussions also took place; Drew, pp. 82–84, 206–7.
[107] Drew, pp. 86, 111, 156, 168, 184, 207–9.
[108] Drew, pp. 167–68.
[109] Drew, p. 207.
[110] Drew, pp. 65, 84, 156.
[111] See Drew, pp. 65, 156.
[112] See Drew, p. 84.
[113] Drew, pp. 18–19.
[114] DFP004240. This document was produced to the Committee by the Dole for President campaign.
[115] DFP004242.
[116] DFP004241 and DFP004243.
[117] ATR/R00850. A second check for $100,000 was deposited on 10/28/96. ATR/R00854.
[118] R021609.
[119] DFP004244.
[120] An analysis of ATR's bank records shows that, from August 1 to October 31, 1996, ATR received more than $5.8 million in major donations, including $4.6 million from the RNC, four $100,000 donations, one $75,000 donation, four $50,000 donations, two $30,000 donations, and nine $25,000 donations. In addition, ATR received a $10,000 donation from the Coalition for Our Children's Future. CCF000384–85.
[121] Associated Press, 4/9/97.
[122] See Committee subpoena 000390.
[123] Letter from Thomas Wilson of Lane & Mittendorf, to Majority Chief Counsel Michael Madigan, 9/19/97.
[124] Letter from Thomas Wilson of Lane & Mittendorf, to Majority Chief Counsel Michael Madigan, 6/11/97.
[125] FEC Advisory Opinion 1995–25 to RNC.
[126] "Haley Barbour, Chairman of the Republican National Committee, Discusses Democratic National Committee Refusal of Pre-Election FEC Report," Presidential Campaign Press Materials, Federal Document Clearing House, Inc., 10/29/96.
[127] 26 CFR 1.501(c)(4)–1(a).
[128] See IRS decision letter disqualifying National Policy Forum from tax exemption under Section 501(c)(4) due to partisan activites, 2/21/97. See also Footnote 49.
[129] An anlysis of ATR's bank records shows that, from August 1 to October 31, ATR received more than $5.8 million in major donations, including $4.6 million from the RNC, for $100,000 donations, one $75,000 donation, four $50,000 donations, two $30,000 donations, and nine $25,000. In addition, ATR received a $10,000 donation from the Coalition for Our Children's Future. CCF000384–85.
[130] Norquist's statement that, "ATR didn't receive more than ten percent of its funds from any one company or industry," Drew, p. 10, is therefore misleading, since the majority of its funding in 1996 came from the RNC and a few other sources.
[131] See footnote 49.
[132] See footnote 49.
[133] See 26 U.S.C. 527(a) and (e)(2).
[134] See 26 U.S.C. 501(a) and 527(f).

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