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HOUSE OF REPRESENTATIVES

REPORT  
99-277

INVESTIGATION OF  
ALLEGED IMPROPER POLITICAL  
SOLICITATION

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R E P O R T  
OF THE  
COMMITTEE ON  
STANDARDS OF OFFICIAL CONDUCT  
HOUSE OF REPRESENTATIVES



SEPTEMBER 19, 1985.—Referred to the House Calendar and ordered to be  
printed

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**LETTER OF TRANSMITTAL**

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**HOUSE OF REPRESENTATIVES,  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,  
Washington, DC, September 19, 1985.**

**Hon. THOMAS P. O'NEILL, Jr.,  
*The Speaker, House of Representatives,  
Washington, DC.***

**DEAR MR. SPEAKER:** By direction of the Committee on Standards of Official Conduct, I herewith submit the attached report, "Investigation of Alleged Improper Political Solicitation."

Respectfully,

**JULIAN C. DIXON, *Chairman.***



# CONTENTS

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	Page
I. Foreword .....	1
II. Introduction .....	2
III. Highlights .....	3
A. Findings .....	3
1. The Solicitation Letter of June 24, 1985 .....	3
2. Statutory Implications .....	4
B. Recommendation .....	5
IV. Scope and Conduct of Investigation .....	5
A. Solicitation Investigated .....	5
B. Characteristics .....	5
C. Limits .....	5
V. Results of Investigation .....	5
A. Preparation and Distribution of the June 24, 1985, Solicitation ...	5
B. DCCC Procedures Regarding Mailed Matter .....	9
1. DCCC Policy and Procedure .....	10
2. Wilhelm's Knowledge of DCCC Policy .....	10
3. Failure of DCCC Personnel to Follow Procedure .....	11
C. Conclusions .....	12
VI. Review of Legal Issues .....	12
A. Application of 18 U.S.C. 602 .....	12
1. Views of the U.S. Department of Justice .....	12
2. Committee Analysis .....	13
a. Whether the solicitations were clearly directed at Feder-	
al Employees .....	14
b. Coercion .....	15
c. "Knowingly" .....	15
B. Application of 18 U.S.C. 607 .....	16
1. Views of the U.S. Department of Justice .....	16
2. Committee Analysis .....	17
C. Other Issues .....	19
1. Whether the respondents are liable for Wilhelm's actions .....	19
2. Whether respondent Feighan is liable for Cody's suggestion ..	19
3. Wilhelm's use of "inside mail" .....	20
VII. Conclusions and Recommendation .....	21
A. Conclusions .....	21
B. Recommendation .....	21

## APPENDICES

A. Consideration of H. Res. 217 at 131 <i>Cong. Rec.</i> H5329 <i>et seq.</i> , July 10, 1985...	23
B. Text of H. Res. 217 introduced by Rep. McCandless on July 10, 1985 .....	28
C. Complaint dated July 10, 1985, filed by Reps. Lott and McCandless .....	30
D. July 10, 1985, letter from Reps. Coelho, Andrews, and Feighan .....	45
E. July 17, 1985, letter to Rep. McCandless from Committee on Standards of Official Conduct .....	46
F. July 17, 1985, letter to Rep. Coelho from Committee on Standards of Official Conduct .....	47
G. August 5, 1985, Statement of John O'Hanlon .....	48
H. July 15, 1985, Statement of Randy Wilhelm .....	49
I. Extract of February 8, 1985, memorandum from Wilhelm Inc. to DCCC subject, "Membership Drive for the Majority Party" .....	50
J. July 23, 1985, 28 page Statement of Reps. Andrews, Coelho, and Feighan .....	51
K. July 15, 1985, Statement of Howard Pulchin .....	80
L. August 9, 1985, Statement of Howard Pulchin .....	83

## VI

	Page
M. August 5, 1985, Statement of Mary Jane Volk .....	89
N. July 31, 1985, Statement of Victor Driscoll .....	92
O. August 2, 1985, Statement of George Cody .....	95
P. August 1, 1985, Statement of Rep. Mike Andrews .....	99
Q. August 2, 1985, Statement of Rep. Edward Feighan .....	101
R. August 5, 1985, Statement of Rep. Tony Coelho .....	103
S. August 8, 1985, Statement of Michela Worthington .....	105
T. August 2, 1985, Statement of Jonathan B. Davis .....	107
U. August 2, 1985, Statement of Christopher Thomas .....	109
V. August 2, 1985, Statement of Jonathan Cedarbaum .....	111
W. Majority Party "script" for follow-up telephone calls regarding July 15, 1985, fundraiser .....	113
X. July 9, 1985, "Dear Colleague" letter from Reps. Andrews and Feighan, as Co-Chairmen of the Majority Party, regarding the July 15, 1985, event .....	114
Y. July 9, 1985, "Dear Colleague" letter from Reps. Andrews and Feighan, as Co-Chairmen of the Majority Party, regarding the July 15, 1985, event .....	115
Z. August 1, 1985, Statement of John Edgell .....	116
AA. August 29, 1984, Memorandum to DCCC staff regarding review and approval of letters .....	119
BB. August 21, 1985, Statement of Martin D. Franks .....	120
CC. July 10, 1985, letter from Reps. Coelho, Andrews, and Feighan .....	122
DD. July 11, 1985, letter from Rep. Coelho, as Chairman of DCCC .....	124
EE. August 8, 1985, Statement of Randy Wilhelm .....	126

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## INVESTIGATION OF ALLEGED IMPROPER POLITICAL SOLICITATION

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Mr. DIXON, from the Committee on Standards of Official Conduct,  
submitted the following

### R E P O R T

#### I. FOREWORD

On July 17, 1985, this Committee unanimously adopted a Resolution to undertake a Preliminary Inquiry, pursuant to Committee Rule 11, regarding a complaint filed by Representatives Trent Lott and Al McCandless (complainants). The complainants alleged that Representatives Tony Coelho, Edward Feighan, and Mike Andrews (respondents) violated certain provisions of Federal law by (1) having authorized and caused to be distributed solicitations seeking political contributions from Federal employees—i.e., congressional staff and (2) having authorized and caused to be distributed such political solicitations in Federal buildings—i.e., the congressional offices of Members of Congress.

This Report, prepared pursuant to the July 17, 1985, Resolution, presents the Committee's findings and recommendations with respect to the complainants' allegations.

There is no affirmative requirement that the results of every Committee investigation be made public. Typically, this has occurred either when an investigation was undertaken in response to a Resolution of the House (as was the case, for example, in the so-called "sex and drugs investigation" pursuant to H. Res. 12 (98th Cong.), H. Rep. 98-559, or the "altered transcripts investigation" initiated under H. Res. 254 (98th Cong.), H. Rep. 98-544), or when

the issue at hand involved matters of clear interest or guidance to the House of Representatives and its constituent membership (as was the case regarding the Committee's review of former Representative Ferraro's Financial Disclosure Statements, see H. Rep. 98-1169).

The Committee feels that the results of this Preliminary Inquiry should be made public because virtually every Member is associated with some local, State, or national organization which solicits political contributions. Thus, the Committee believes that the subject report should be useful and serve as guidance to all Members or organizations which may seek such contributions.

## II. INTRODUCTION

This Committee is authorized under the Rules of the House of Representatives (House Rule X, clause 4(e)(2)(B)) to investigate, in accordance with the Committee's Rule of Procedure, any alleged violation by a Member, officer, or employee of the House, of the Code of Official Conduct (House Rule XLIII). In addition, alleged violations of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities are within the Committee's jurisdiction.

On July 10, 1985, Representative Al McCandless introduced a privileged resolution (H. Res. 217) directing this Committee to conduct an investigation into an alleged improper solicitation of political contributions. 131 *Cong. Rec.* H5329 (daily ed., July 10, 1985), App. A. The thrust of the resolution (App. B) was that the solicitation—specifically, a letter dated June 24, 1985—violated two separate sections of Federal criminal law, 18 U.S.C. sections 602 and 607, respectively, by seeking political contributions from congressional staff and doing so within Federal office buildings. After some debate, the McCandless resolution was tabled by a vote of 233 yeas to 170 nays. 131 *Cong. Rec.* H5334 (daily ed., July 10, 1985).

However, subsequent to the tabling of H. Res. 217 on July 10, 1985, Representatives McCandless and Trent Lott filed a detailed complaint with this Committee. The complaint (App. C) addressed the same matters raised by the earlier McCandless privileged resolution. The complainants alleged that Representatives Tony Coehlo, Edward Feighan, and Mike Andrews violated 18 U.S.C. sections 602 and 607, by authorizing and causing to be distributed in Federal buildings materials soliciting political contributions from Federal employees. The complaint (as was the earlier McCandless resolution) was based upon a "Dear Democratic Colleague" letter dated June 24, 1985, with enclosures, (see App. C, page 40) under the letterhead of the Democratic Congressional Campaign Committee (DCCC). The subject materials, which were delivered to Members' offices on or about June 24-25, 1985, advertised a political fundraising event to be held on July 15, 1985, by the Majority Party, an organization of the DCCC. The stated purpose of the July 15 event was to help certain Members who had been "targeted for defeat by the National Republican Congressional Committee" by building up the "DCCC campaign coffers." Members were encouraged to involve their staffs in this fundraising endeavor. The June

24, 1985, letter bore the purported signatures of Representatives Andrews and Feighan as "co-chairmen" of the DCCC fundraiser. Representative Coelho's name appeared on the stationery letterhead as DCCC Chairman.

On the afternoon of July 10, 1985, the Members named in the McCandless-Lott complaint also requested this Committee to review the issues raised by H. Res. 217 (and thus, by implication, the complaint). See App. D.

Upon review of the complaint *vis-a-vis* Committee Rule 10(a), Committee staff determined that the complaint had been submitted in compliance with controlling procedural requirements. On July 17, 1985, the date of the next scheduled Committee meeting after the complaint had been filed, and pursuant to Committee Rule 10(b), the Committee determined that the matter merited further inquiry.

Accordingly, on July 17, 1985, pursuant to Committee Rule 11, the Committee unanimously adopted the following resolution to investigate the issues surrounding the complaint:

Whereas, a properly filed complaint has been put before the Committee on Standards of Official Conduct alleging violations of 18 U.S.C. 602 and 607 by Representatives Tony Coelho, Ed Feighan, and Mike Andrews,

Now, therefore, be it resolved that the Committee determines, pursuant to Committee Rule 10(b), that violations alleged in the complaint are within the jurisdiction of the Committee and merit further inquiry, and

Be it further resolved that this Committee conduct an inquiry, pursuant to Committee Rule 11(a), to determine whether such violations have occurred, and the complainants and named respondents be immediately notified of this action.

Both complainants and respondents were notified of the Committee's action. See Apps. E and F.

This Report contains the results of the Committee's investigation undertaken pursuant to the above-quoted Resolution.

### III. HIGHLIGHTS

#### A. FINDINGS

##### 1. *The solicitation letter of June 24, 1985*

None of the three respondents named in the complaint, Representatives Coelho, Feighan, and Andrews, had any knowledge of either the contents of the June 24, 1985, solicitation letter or of the manner or places to which it was to be distributed. Indeed, the Committee determined that the respondents first became aware of the instant controversy on or about July 10, 1985, when the matter was raised on the House floor in the McCandless privileged resolution. Furthermore, the June 24, 1985, solicitation letter was not prepared in accordance with the express, written policy and procedure of the DCCC requiring the review and approval of all outgoing DCCC correspondence by the DCCC Executive Director as well as DCCC Chairman Coelho.

The subject political solicitation was prepared by Wilhelm, Inc. ("Wilhelm") on behalf of the DCCC and apparently received only a cursory review by a DCCC employee at a time when the letter's contents were in draft form. Moreover, the contents of the draft letter reviewed by a DCCC employee did *not* contain the language suggesting staff involvement in the DCCC fundraising effort.

The Committee determined that the instant situation resulted from an apparent lack of understanding by the DCCC contractor (Wilhelm) regarding DCCC review and approval procedures coupled with a failure by a DCCC employee to subject the solicitation letter to such review processes. The Committee believes that, had at least one of these two factors been eliminated, the June 24, 1985, solicitation would not have eventuated as it did.

## 2. Statutory implications

The Committee's review of the language and history of the two statutes here involved, 18 U.S.C. 602 and 607, coupled with the views of the Department of Justice regarding the statutes' application, establishes that the provisions were designed to address *coercive* activities—that is, political "shakedowns"—directed at Federal employees. The Committee adduced absolutely no evidence whatsoever suggesting that the June 24, 1985, letter was either intended by its senders/preparers (the DCCC acting through its contractor, Wilhelm) or read by its recipients to have such an effect. (Indeed, it can be argued that the June 24, 1985, letter was *not* even directed to/at congressional staff.) Consequently, absent any evidence of "victimization"—i.e., coercion of congressional staff—the Committee concludes that the Preliminary Inquiry did not result in a finding of a violation of 18 U.S.C. 602 regarding political solicitation of Federal employees.

Similarly, while the solicitations were distributed in "protected" areas (Federal buildings under 18 U.S.C. 607) the clear absence of evidence of "shakedown" or "victimization" (assuming, *arguendo*, the letters were directed at Federal employees) leads to the parallel conclusion that the solicitations did not involve the type of offensive activity sought to be prevented by enactment of 18 U.S.C. 607.

In sum, the Committee views 18 U.S.C. 602 and 607 as designed to protect Federal employees from coercion *vis-a-vis* political solicitations and, insofar as 18 U.S.C. 607 is concerned, this protection extends to the workplace—a Federal building. As stated above, the Committee did not find any evidence indicating either a coercive intent or perception with respect to the solicitation here involved.

The Committee also concludes that, assuming *arguendo* the statutes' application, there is no respondent liability, through the DCCC, for contractor Wilhelm's actions in preparing and distributing the solicitation. In this connection, Wilhelm was an agent of the DCCC. For the respondents to be held liable there would have to be, at a minimum, a showing of DCCC notice and approval or later ratification of the substance of the solicitation. The Committee determined that neither the respondents, nor the DCCC personnel charged with oversight of Wilhelm activities, were aware of the solicitation at issue.

## B. RECOMMENDATION

The instant review clearly points up the need for any organization involved in political fundraising efforts to institute such procedural safeguards as are necessary to avoid any question that it is acting in accordance with those laws governing political solicitations.

In this light, the Committee admonishes the DCCC and any similar organization to carefully review all materials and procedures seeking political contributions.

## IV. SCOPE AND CONDUCT OF INVESTIGATION

### A. SOLICITATION INVESTIGATED

The Committee's July 17, 1985, Resolution directs a Preliminary Inquiry be undertaken regarding the June 24, 1985, political solicitation ascribed to Representatives Coelho, Andrews, and Feighan in the July 10, 1985, complaint.

### B. CHARACTERISTICS

The Committee conducted numerous interviews and reviewed a wide range of documents. Statements under oath were obtained from all those who were interviewed. These individuals included Members of Congress, congressional staff, DCCC personnel, as well as those employees of Wilhelm who were performing fundraising activities pursuant to an agreement with the DCCC.

The Committee is satisfied that the conclusions reached are based upon an analysis of all known and available information relevant to the Preliminary Inquiry.

### C. LIMITS

The Committee enjoyed the full cooperation of all persons and organizations from whom information was sought. Consequently, there were no impediments to the Preliminary Inquiry.

## V. RESULTS OF INVESTIGATION

Based upon numerous interviews coupled with the review and analysis of a wide range of documents, the Committee was able to reach a clear understanding of virtually every relevant event which occurred before, during, and after the political solicitation which was the subject of the complaint.

There follows below a detailed chronology of events surrounding the solicitation giving rise to this Preliminary Inquiry.

### A. PREPARATION AND DISTRIBUTION OF THE JUNE 24, 1985, SOLICITATION

*Late January, Early February, 1985*

John O'Hanlon, Terence McAuliffe, and Mary Jane Volk, all of the DCCC, negotiate with Howard Pulchin, Director of Operations, Wilhelm, and Randy Wilhelm, President, concerning the proposal of the Wilhelm organization

to handle the "Majority Party" account. (See, for example, App., G, August, 5, 1985, Statement of John O'Hanlon.) The "Majority Party" is an entity of the DCCC designed to "bring Washington Democrats together." Wilhelm proposes to handle a fundraising activity for the Majority Party, one purpose of which is to increase Majority Party membership. See App. H, July 15, 1985, Statement of Randy Wilhelm.

*February 8, 1985*

A memorandum is sent from Randy Wilhelm to John O'Hanlon and Mary Jane Volk, at DCCC outlining what Wilhelm proposes to do in connection with the Majority Party fundraiser. Among other things, the memorandum, App. I, identifies "Hill staffers" as among those groups of prospective Majority Party members.

*Approximately April 1, 1985<sup>1</sup>*

DCCC engages Wilhelm for the purpose of handling a Majority Party fundraiser. However, there is no written contract. The DCCC-Wilhelm agreement is apparently based on an oral understanding reached between John O'Hanlon, DCCC, and Randy Wilhelm, Wilhelm. See App. H.

*Sometime Prior to June 23, 1985*

Mary Jane Volk, DCCC, is designated by DCCC Executive Director, Martin D. Franks, to serve as the principal DCCC liaison with Wilhelm regarding the Majority Party fundraiser operation (see App. J. July 23, 1985, Statement of Representatives Andrews, Coelho, and Feighan, at p. 7), in conjunction with Howard Pulchin, Wilhelm's Director of Operations who has been directed to do so by Randy Wilhelm. See App. H.

*June 23/24, 1985*

Howard Pulchin prepares a draft of the June 24, 1985, solicitation letter at Wilhelm's office. See App. K and App. L, Pulchin's August 9, 1985, Statement.

Howard Pulchin, Wilhelm, communicates with Mary Jane Volk, DCCC, by telephone and reads to her the contents of the draft June 24, 1985, letter. App. K and App. M, Ms. Volk's Statement. The wording, "we strongly urge you to involve your staff," is not included in the draft. App. M. Ms. Volk approves the letter as discussed. The letter is *not* subjected to review by any other DCCC personnel. App. M. Mr. Pulchin also asks Ms. Volk to provide personnel to assist in distribution, with which she agrees.

<sup>1</sup> Randy Wilhelm's July 15, 1985, statement (App. H) places the date of the DCCC/Wilhelm contract as on or about April 1. The respondents' July 23, 1985, statement (App. J, at p. 6) indicates the contract was agreed to on or about April 8, 1985.

Howard Pulchin, Wilhelm, next calls Victor Driscoll, Administrative Assistant to Representative (respondent) Andrews, App. L and App. N, Statement of Driscoll, and reads to him the contents of the proposed solicitation letter (which does not include the statement involving the "staff"). Driscoll approves of the letter on behalf of Congressman Andrews. Driscoll also approves of the use of Andrews' signature for the letter and, sometime between the call from Pulchin and the letter being printed, he sends a copy of Andrews' signature and a franked envelope to Pulchin for his use in preparing a facsimile of the signature. Driscoll does not offer assistance to distribute the letter. Representative Andrews is *not* informed about what has occurred *vis-a-vis* the solicitation. App. N.

Pulchin next discusses the letter with George Cody of Representative (respondent) Feighan's office. Apps. K and L. (Cody did not recall whether he talked to Pulchin in person or on the telephone. See App. O.) Cody suggests that a statement involving "staff" participation in the fundraiser be added to the letter. App. O. Cody approves of the letter and, about this time, Pulchin obtains from Cody a franked envelope with Congressman Feighan's signature, of which Cody had approved the use. *Pulchin makes the addition regarding staff involvement suggested by Cody.* App. K. Cody also agrees to Pulchin's request to provide assistance to distribute the solicitation. Representative Feighan is *not* informed about what has transpired between Pulchin and Cody.

None of the individuals with whom Pulchin discusses the solicitation letter—Volk, Driscoll, or Cody—are shown a copy of the final text of the letter prior to its distribution. Moreover, no one at the DCCC offices (including Ms. Volk) and neither Representatives Andrews, Feighan, nor Coelho are aware of the contents of the June 24, 1985, letter prior to distribution. See Apps. P, Q, and R, Statements of Representatives Andrews, Feighan, and Coelho, respectively.

*June 24, 1985*

Michela Worthington, a Wilhelm employee, stuffs envelopes at Wilhelm's office. App. S. She uses a *Congressional Directory* to cross out names of Members not to receive the letters (i.e., Republican Members). She is directed by Howard Pulchin, Wilhelm, to go to Congressman Feighan's office and meet other individuals who will assist in the distribution of the letters.

Jonathan B. Davis, a DCCC intern, is directed by Mary Jane Volk, DCCC, to report to Congressman Feighan's office to assist in the distribution of the letter. App. T. Davis, upon his arrival at Feighan's office, is informed by Worthington that the letters are to be hand-addressed and delivered. Davis apparently disagrees with this method. App. L. He returns to the DCCC office, where he seeks to

obtain labels with the Members' names on them so that the letter can be sent by "inside mail." Davis states that his request precipitates a discussion between Volk, DCCC, and Pulchin, Wilhelm. Davis takes the letters back to Congressman Feighan's office and leaves them there. He later returns to the DCCC office without assisting in distribution.

George Cody, a staff member in Congressman Feighan's office, directs Christopher Thomas, an unpaid intern with Congressman Feighan's office, to assist in the distribution of the letter. App. U.

Jonathan Cedarbaum, also of Congressman Feighan's staff, directs Lisa Kaufman, an unpaid intern with Feighan's office, to assist in the distribution of the letter. App. V.

Thus, on June 24, 1985, Worthington, Thomas, and Kaufman meet in Congressman Feighan's office to distribute the materials. They divide up the letters, write, by hand, the Congressmen's names on the envelopes, and distribute them to the various recipient congressional offices. Both Kaufman and Thomas complete their distribution on this date. Ms. Worthington does not finish and leaves the undistributed letters on her mother's desk, a staff employee of Congressman Norman Sisisky, at Congressman Sisisky's office. Worthington completes the delivery the next morning, June 25, 1985. App. S.

Davis, upon returning to the DCCC after dropping the letters off at Congressman Feighan's office, makes some telephone calls to congressional offices inquiring of either the Member or the Administrative Assistance if they are going to attend the fundraiser and/or bring anyone. These calls are made after 4:00 or 4:30 p.m. The "script" for such telephone followup merely informs individuals of the nature of the Majority Party and the July 15, 1985, event and its cost. See App. W.<sup>2</sup>

#### *June 25, 1985*

Jonathan Davis, while at the DCCC offices, makes additional follow-up telephone calls to congressional offices from morning hours to that evening. Conversation is the same as described above.

#### *July 8, 1985*

Howard Pulchin drafts two July 9, 1985, follow-up letters to the June 24, 1985, solicitation. See App. L. One ver-

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<sup>2</sup> As part of the Preliminary Inquiry, the DCCC provided the Committee with computer lists containing the names, addresses and telephone numbers of individuals contacted during the mailing and telephone followup activities. The lists identify individuals who are (1) Members of the Majority Party and (2) other persons whose membership or participation was to be sought. The Committee established that, except in rare circumstances, the telephone number used for followup purposes was the individual's home telephone number. Similarly, the addresses listed for individuals who were not Members of Congress were home addresses. See also, App. J, at p. 13. As is discussed in detail in Section VI, *infra.*, regarding the operation of 18 U.S.C. 602, Davis' calls were clearly non-coercive.

sion, App. X, is directed at "targeted" Members (who are asked to sell 10 tickets), other Members are reminded of the earlier notice. App. Y.<sup>3</sup> See also App. L.

Pulchin attempts to contact George Cody, of Congressman Feighan's office, to inform him of the proposed July 9, 1985, letters. Cody is out of town. Pulchin then calls Congressman Feighan in Ohio (App. L) and informs him of the purpose of the letters but not of the specific language. Feighan okays the use of this signature on the July 9 letters. App. Q. Pulchin does not notify anyone else at Congressman Feighan's office of either the contents or the distribution of the July 9 letters.

Pulchin calls Vic Driscoll and Cindy Powers, of Congressman Andrews' office. Ms. Powers calls Pulchin back, App. L, and says it is permissible with Congressman Andrews to send the letters. Again, Pulchin does not read or show the letter to either Andrews, or Driscoll, or Powers. Mary Jane Volk, DCCC, is aware of the existence of the followup letters, but (as in the case of the June 24, 1985, solicitation) does not submit the material for DCCC senior management review. App. M.

#### *July 9, 1985*

The followup letters are completed by Pulchin. Around 8:30 p.m., Pulchin, Mary Jane Volk, John Edgell, a computer operator in Congressman Thomas Daschle's office (App. Z), Jonathan Davis, and several other volunteers address the envelopes with labels (from a list previously obtained from the DCCC which contained Democratic Members of Congress) and stuff the envelopes. DCCC envelopes are used. Ms. Volk states that she separated the labels of the Members who were "targeted" (they received a different July 9, 1985, letter). App. M. Edgell drops the letters off for "inside mailing" at the Rayburn House Office Building. App. Z.

From 6:00 to 8:30 p.m., John Edgell makes some follow-up telephone calls for the fundraiser. App. Z. See also App. W.

#### B. DCCC PROCEDURES REGARDING MAILED MATTER

Central to the instant review is whether the letters of June 24 and July 9, 1985, comported with DCCC procedure regarding such matters, and, if not, whether the respondents or DCCC senior management had prior notice or later ratified the solicitations. The Committee determined (in Section V, *supra*) that neither the respondents nor DCCC management either reviewed or later approved of the solicitations.<sup>4</sup> As discussed below, the Committee con-

<sup>3</sup> The Committee notes that the June 24, 1985, solicitation is addressed, "Dear Democratic Colleague," while the two July 9, 1985, followup letters begin "Dear Colleague." This distinction is not considered to have any substantive effect with regard to the matters raised by the Preliminary Inquiry.

<sup>4</sup> Had this been the case it would follow that Wilhelm's actions arguably could be imputed to DCCC senior management and thus the respondents.

cludes that the letters were not subjected to established DCCC review policy and procedure.

### 1. DCCC policy and procedure

The Committee determined that the DCCC policy and procedure requires that *all* letters or written materials issued by the DCCC are to be reviewed and approved by DCCC senior staff.

For example, an August 29, 1984, memorandum to all DCCC staff (App. AA) states, in part:

Marty [DCCC Executive Director Martin Franks] must see *every* letter before it is sent out, regardless if Tony [Coelho, DCCC Chairman] has approved the draft. (Emphasis in original.)

Consistent with the above, both DCCC Executive Director Franks and DCCC Chairman Coelho informed this Committee of the policy regarding their required review of all outgoing DCCC matter.

DCCC Executive Director Franks:

The procedures of the DCCC are that any written material, whether it be letters, brochures, or even bumper stickers, are to be seen and okayed by me before they go out. There are memos to this effect . . . See App. BB.

DCCC Chairman Coelho:

It is procedure, and has been practiced, that all correspondence going out of both the DCCC and my offices be reviewed and cleared. When people see that I have signed off on a piece of correspondence, those people have the belief that I have actually approved the materials . . . everything should be cleared by Mr. Franks and me. It has been a practice we have used at the DCCC since I became Chairman. See App. R.

And, in a July 10, 1985, letter to the Committee (App. CC), the respondents stated:

. . . [DCCC] procedures specifically require review of all written materials by DCCC senior management.

Finally, in a July 11, 1985, letter to the Committee (App. DD), DCCC Chairman Coelho stated:

In six enclosed memos dating from April 13, 1981, through June 25, 1985, a pattern and a procedure is clearly delineated by which any letters or written materials from DCCC are to be reviewed by DCCC senior staff.

In light of the above, the Committee is satisfied that DCCC written, explicit procedures require that letters, such as the June 24 and July 9, 1985, solicitations, be reviewed by DCCC Executive Director Martin Franks as well as DCCC Chairman Coelho. The Preliminary Inquiry established that these procedures were not followed in the case of the instant solicitation.

### 2. Wilhelm's knowledge of DCCC policy

As apparently clear as DCCC policy and procedure is, it is equally evident that the foregoing policy regarding the prior review of

outgoing DCCC materials was *not* explicitly brought to the attention of Wilhelm. Thus, for example, Howard Pulchin, Wilhelm's Director of Operations, stated:

I was unaware of any specific process which I was to follow in mailing on behalf of the DCCC. See App. L.

Similarly, Randy Wilhelm, President of Wilhelm, stated:

The only procedures I understood that Pulchin was to follow concerning Wilhelm, Inc.'s dealings with the DCCC was that he would run everything by Mary Volk, and she would run it by the appropriate people at the DCCC. These were the only procedures brought up in my negotiation with the DCCC people . . . To my knowledge, the DCCC never submitted or transmitted anything in writing or verbally that was considered a guideline. See App. EE.

None of the DCCC personnel interviewed during the Preliminary Inquiry provided any information or evidence controverting Wilhelm's assertions. It thus appears that the solicitation at issue was prepared and distributed at variance with established DCCC procedure due, at least in part, to Wilhelm's lack of knowledge about those requirements.

### *3. Failure of DCCC personnel to follow procedure*

The Committee determined, however, that Mary Jane Volk of DCCC was in a position to subject the proposed June 24 and July 9, 1985, letters to DCCC review procedures. The Committee inquired of Ms. Volk why she did not do so. She said:

The DCCC has an internal review system for letters mailed from the DCCC office. The solicitation letter of June 24, 1985, was drafted by Howard Pulchin and read over the phone for my approval, but it did not go through any formal review system because Congressman Tony Coelho's signature was not to be used—existing procedures call for Mr. Frank's review of letters for Congressman Coelho's signature. Therefore, I did not seek Marty Frank's (DCCC Executive Director) review or approval of the letter. App. M.

In this regard, DCCC Executive Director Martin Franks observed:

I have been informed by Mary Volk that she did not bring the letters to my attention because it was her understanding that this procedure only applied to correspondence that was to be specifically signed by Chairman Coelho. I have since informed Volk of her inaccurate interpretation of the procedures. App. BB.

Whatever the reason, the problem—i.e., the instant controversy surrounding the solicitation—caused by Ms. Volk's failure to follow DCCC review procedures (apparently based on a misapprehension of those procedures), was exacerbated by Howard Pulchin's failure to notify Ms. Volk of the changes made to the June 24, 1985, letter *after* she had approved the text. Specifically, *after* Mr. Pulchin dis-

cussed the letter's contents with Ms. Volk, he discussed the letter with George Cody of Representative Feighan's office. It was based on this later discussion that the language urging staff involvement was added. Mr. Pulchin, however, did *not* notify Ms. Volk of this change to the letter nor did he specifically provide her with a copy of the mailing for DCCC review prior to distribution. In this regard, Ms. Volk has stated:

If I had known the letter contained the phrase "we strongly urge you to involve your staff in this worthwhile effort," I would have had it deleted because I know that this is not allowed. App. M.

### C. CONCLUSIONS

The Committee concludes that:

The language which precipitated the Preliminary Inquiry was drafted by DCCC Contractor Wilhelm—specifically, by Howard Pulchin.

The June 24 and July 9, 1985, letters were not subjected to established DCCC review procedures requiring the approval of at least DCCC Executive Director Martin Franks.

Wilhelm apparently was unaware of these procedural requirements.

DCCC Employee Mary Jane Volk, while in a position to impose the procedure, did not correctly understand DCCC policy.

Wilhelm employee Howard Pulchin did not notify Mary Jane Volk of DCCC of the language regarding staff involvement in the fundraiser which he added *after* she approved the draft of the June 24, 1985, letter.

None of the respondents were aware of any of the actions giving rise to this Preliminary Inquiry (i.e., the June 24, 1985, solicitation) until *after* the matter was raised as a potential violation of law.

## VI. REVIEW OF LEGAL ISSUES

### A. APPLICATION OF 18 U.S.C. 602

#### 1. *Views of the U.S. Department of Justice*

18 U.S.C. 602 states:

It shall be unlawful for—

- (1) a candidate for the Congress;
- (2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
- (3) an officer or employee of the United States or any department or agency thereof; or
- (4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit any contribu-

tion within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Section 602 prohibits Senators, Representatives, candidates for Congress, officers, and employees of the United States, and persons receiving compensation for services from money derived from the United States Treasury, from knowingly soliciting any contribution from any other such officer, employee, or person. The statute applies to contributions made for the purpose of influencing federal elections only. Violations are felonies, punishable by fines up to \$5,000 and/or by imprisonment for up to three years.

In its publication entitled, "Federal Prosecution of Election Offenses," Fourth Edition, October 1984 ("1984 DOJ Publication"), the U.S. Department of Justice states that section 602:

. . . was originally enacted as a part of 19th Century legislation aimed at dismantling the spoils system of political patronage. As such, its legislative history reflects that it was Congress's intention to criminalize only aggravated forms of involuntary political "shakedowns," and it is in these terms that the scope of Section 602 has been customarily described by the courts that have interpreted it. See e.g. *United States v. Wurzbach*, 280 U.S. 396 (1930); *Ex parte Curtis*, 106 U.S. 371 (1882); *Brehm v. United States*, 196 F.2d 769 (D.C. Cir. 1952), cert. denied, 344 U.S. 838; *United States v. Burlison*, 127 F.Supp. 400 (E.D. Tenn. 1954).

It is the Criminal Division's position that this statute does not reach the solicitation of *voluntary* political contributions between federal employees. However, it does reach any situation where factors are present in a political transaction which indicate that the contribution being solicited was less than voluntary, and that the solicited employee was consciously placed in a position where he felt obliged to make the contribution.

The scope of the class covered by Section 602 was described well in *Burlison, supra*, to include any person who is paid directly from the United States Treasury for services rendered to the Executive, Legislative, or Judicial Branches of the Federal Government. All officers and employees of the Executive Branch, and all Members, officers and employees of the Congress are within the class protected by this statute. 1984 DOJ Publication at p. 26.

## 2. Committee analysis

In the light of the views expressed in the 1984 DOJ Publication, above, and the Committee's own analysis, the DCCC solicitation letters of June 24 and July 9, 1985, are statutorily suspect *only if* they are to be read as seeking coerced political contributions from Federal employees—i.e., congressional staff. Indeed the complainants note that, "it is . . . permissible for Members to solicit other Members." (Complaint, App. C, at p. 3.) This conclusion is supported by

the legislative history of the so-called Pendleton Act, the predecessor provision to what is now codified at 18 U.S.C. 602. *See*, 51 *Cong. Rec.* 8831 (May 19, 1914), wherein a House Committee stated:

It is no violation . . . of the Criminal Code for a Senator or Member of the House to solicit or receive assessments or contributions for political purposes from other Senators or Members of the House.

The cited statement is a part of the binding precedents of the House. *See*, 6 C. Cannon's *Precedents of the House of Representatives*, § 401 (1936); and remarks of Senator Hatfield at 125 *Cong. Rec.* 36754 (Dec. 18, 1979) during consideration of the 1980 revision to 18 U.S.C. 602.

Accordingly, the Committee considered whether the June 24 and July 9, 1985, solicitations were (1) clearly directed toward Federal employees (congressional staff) and, if so, (2) whether such solicitations were coercive—that is, the letters represented a “political shakedown” of such individuals.

*a. Whether the solicitations were clearly directed at Federal employees*

The Committee focused on whether the language in the June 24, 1985, letter, “We *strongly urge you to involve your staff* in this worthwhile effort,” (emphasis in original), and that in the July 9, 1985, letter, “We hope you will encourage your staff to participate,” was directed *at* Federal employees (congressional staff); or intended and perceived to be so directed. The Committee concludes that no such evidence exists.

First, the letters, and, therefore, the specific language at issue, was *not* addressed to congressional employees. Nor, as respondents point out, were copies of the letters systematically distributed to congressional staff. (See Respondents' statement, App. J, at p. 19.) (As discussed in Section V, Results of Investigation, the original idea for the staff-oriented language was, in fact, suggested by an individual on the staff of Representative Feighan, George Cody. And, it was Wilhelm employee Howard Pulchin who actually wrote the language at issue.)

It cannot be successfully argued that the exhortation regarding staff involvement was clearly directed at congressional staff in a letter addressed to such individuals. Indeed, the vehicle involved was a “Dear Democratic *Colleague*” letter, and the matter of staff involvement was clearly left to each recipient Member—in other words, a Member *to* Member communication, *not* a Member to staff letter. That this is so is buttressed by the fact that inside mail was used to distribute the July 9, 1985, letters (inside mail was not used for distributing the June 24, 1985, letter based solely on the desire to expedite delivery).<sup>5</sup> In this connection, the Committee is unaware of any evidence suggesting that either the author of the letter, Howard Pulchin, envisioned the solicitation as directed *at* congressional staff as opposed to Democratic *Members* or that recipient *Members* were to implement or initiate any particular effort to

<sup>5</sup> As discussed later, the rules regarding the use of “inside mail” are designed to address, *inter alia*, Member to Member (i.e., “Dear Colleague”) communication.

notify their staffs about the fundraising event. Notably, the Committee's review of what transpired in the congressional offices most closely associated with the solicitations—those of the named respondents—established that the letters were not circulated to staff and, perhaps, not even posted in common office areas.

In light of the above, the Committee does not agree with the complainants that the solicitation at issue was irrefutably directed at Federal employees—rather, this appears to have been a matter left to the recipient “Democratic Colleagues.” Moreover, the Committee is unaware of any information indicating that, upon receipt, the letters were then systematically (or even haphazardly) brought to the attention of congressional staff in Members' offices.

### *b. Coercion*

Even if, *arguendo*, the letters are read as soliciting contributions from Federal employees, the Committee is unable to conclude that such solicitations involve the coercive or “shakedown” characteristics necessary to trigger application of section 602.

As discussed earlier, the legislative history of section 602, the Department of Justice, and the courts reflect that, for section 602 to be invoked, there must be evidence of *coercion* of a Federal employee. In light of the facts that (a) section 602 states it is unlawful to “knowingly” make such solicitations and (b) the consistent interpretations of the statute which suggest the need for intimidation, the Committee believes it is, therefore, logical to further conclude that section 602 requires a showing that a transgressor of its provisions must “knowingly” seek to coerce a Federal employee to make a political contribution.

### *c. “Knowingly”*

There is no single meaning of the word “knowingly” when it is used in the statutory definition of a criminal offense. *Finn v. United States*, 256 F.2d 304 (4th Cir. 1958). However, the term “knowingly” means “with knowledge,” and when used in a prohibitory statute is usually held to refer to a knowledge of the essential facts. From such knowledge, the law presumes knowledge of the legal consequences arising from the performance of the prohibited act. *People v. Flumerfelt*, 96 P.2d 190 (1939); and *People of New York v. Shapiro*, 152 N.E.2d 65 (1958).

The Model Penal Code offers a similar construction of the word “knowingly” when it is stated as the requisite intent of a criminal offense. A person acts “knowingly” where the element of an offense involves the nature of his conduct and he is aware that his conduct is of that nature, or a particular circumstance, and he is aware of the existence of that circumstance. *Model Penal Code*, sec. 2.02(2)(b).

Actual knowledge is not always necessary for the commission of the criminal offense. *Turner v. United States*, 396 U.S. 398 (1970). Deliberate ignorance and positive knowledge are equally culpable. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person is aware of a high probability of its existence, unless he actually believes that it does not exist. *Model Penal Code*, sec. 2.02(7).

Requisite intent can be negated if the individual was acting on the basis of a mistake or ignorance of fact. However, "knowingly" does not require proof of actual knowledge of the applicable law, and ignorance of the law is no excuse. *United States v. International Minerals & Chemical Corp.*, 402 U.S. 558 (1971).

The Preliminary Inquiry established that the respondents (and the DCCC) did not have *any* knowledge of the solicitation activity conducted in their behalf by Wilhelm, or that it would be carried out in such a manner as to create an appearance that they intended to coercively solicit Federal employees. Moreover, there is no evidence that even the author of the solicitation (Wilhelm) "knowingly" solicited, or even intended to solicit, Federal employees in a coercive manner.

The Committee concludes that no coercion was present in the letters—it was neither "known," intended, "knowingly" intended, or, most importantly, perceived. Furthermore, the Committee, as stated earlier, does not regard the letters as necessarily having been directed at Federal employees. Consequently, the Committee concludes that the facts underlying the June 24 and July 9, 1985, letters do not support a finding that a violation of 18 U.S.C. 602 is present.

As discussed above, Member to Member solicitations are outside the intended scope of the statute. Since the letter at issue sought Members to involve their staffs in the fundraiser, a section 602 issue would arise only if the recipient Member sought a staff contribution. Again, the Committee obtained no evidence suggesting any such activity took place.<sup>6</sup>

#### B. APPLICATION OF 18 U.S.C. 607

##### 1. *Views of the U.S. Department of Justice*

18 U.S.C. 607 states:

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which di-

<sup>6</sup> Parenthetically, the Committee points out that respondents, citing Senator Hatfield at 125 *Cong. Rec.* 37854 (1979), assert that for coercion to exist there must be pressure in the context of an employer-employee relationship, and that, since the respondents do not have the authority to affect the vast majority of the congressional staff allegedly solicited, there can be no coercion. In this regard, the Committee simply notes that this contention arguably would not prevail had the Committee obtained evidence demonstrating that Members receiving the June 24 and July 9, 1985, letters consistently exerted coercive pressures on their respective staffs to contribute to the DCCC fundraiser. Such a scenario could regard the letter as a catalyst of the coercion with potential culpability under the statute flowing from Wilhelm through the DCCC to the respondents.

rects the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

In its 1984 publication, the Department of Justice states:

Section 607 makes it unlawful for anyone to solicit or receive a political contribution in any room or building where federal employees are engaged in the conduct of official duties. It also forbids political solicitations on federal military reservations. The purpose of this statute is to protect the integrity of federal office space from politicalization, *and to protect the federal workforce from being subjected to political demands while they are on duty.*

The employment status of the parties to the solicitation is immaterial. It is the employment status of the person(s) who routinely occupy the area where the solicitation occurs that is important. Specifically, this statute reaches all political solicitations which are effected in any office or area where a person paid directly from the United States Treasury for services rendered to the U.S. Government is engaged in the performance of official duties. See e.g. *United States v. Burlison*, 127 F.Supp. 400 (E.D. Tenn. 1954). *In this respect, Section 607 has the same reach as Section 602.*

Section 607 reaches political solicitations that are delivered by mail, as well as those that are made in person. *United States v. Thayer*, 209 U.S. 39 (1908). Areas occupied by officers and employees of the Legislative Branch are covered to the same extent as areas occupied by employees of the Executive Branch. However, this statute specifically does not reach contributions that are received by congressional staffers in their offices, provided there was no request for the contribution to be delivered to such a place, and provided further that the contribution was dispatched immediately to the Congressman's political committee. (Although Members of Congress are not specifically included in this exception, the Criminal Division of the Department of Justice believes that Congress intended that Members be permitted to personally receive unsolicited contributions in their offices to the same extent as their staffs.) 1984 DOJ Publication at p. 27. (Emphasis added.)

## 2. Committee analysis

Section 607 renders improper a political solicitation which occurs in a Federal building. As noted, the Department of Justice states, "section 607 has the same reach as section 602." The Committee understands this to reflect the Department's view that sections 602 and 607 are complimentary provisions, the former addressing political "shakedowns" of Federal employees, the latter addressing such activities when they occur on Federal property. In this light, it follows that for section 607 to be invoked, it must be established that

a solicitation in a Federal building involves the intimidation of Federal employees from whom political contributions are sought. In other words, sections 602 and 607 are intended to protect Federal employees from coercion *vis-a-vis* political contributions and to insulate the Federal workplace from such solicitations.

As discussed above, the Committee is satisfied that a violation of section 602 does not exist in the present case, no evidence of either intended or perceived coercion being present—even assuming *arguendo*, a solicitation of congressional staff occurred. Consequently, consistent with the Committee's reading of section 607, as buttressed by the Department of Justice views thereon, the Committee also concludes that a violation of section 607 is not indicated.

In sum, while a solicitation occurred in Federal buildings meeting the *literal* application of section 607, the Committee's conclusion of no violation is grounded upon the judicially construed intent and precedents surrounding the scope of *both* sections 602 and 607 as reflected, for example, by the expressed views of the Department of Justice.<sup>7</sup>

While not raised by the complaint, the Preliminary Inquiry established that both congressional staff and office space were used to assemble and address the June 24, 1985, solicitations. In this connection, the Committee notes that, separate and apart from the issue of coercion, *vis-a-vis* 18 U.S.C. 602, section 607 can be viewed as rendering improper not only those solicitations seeking political contributions which occur in a Federal building where the solicitation *is received* but also such activities which involve solicitations prepared in or sent *from* a Federal building. While section 607 has thus far not been specifically construed by the courts to prohibit the solicitation of campaign contributions *from* a congressional office, this Committee has taken the position that such activities would represent an inappropriate use of resources (staff or office space) generally covered by the Official Allowance, regardless of the presence of coercion.

In this light, the Committee views as improper any use of staff (whether paid or volunteer) or office space for the preparation or dissemination of political material not related to the legitimate representational responsibilities of the Member involved. Applying this proposition to the instant case, the Committee believes the appropriate course is to admonish not only the Members whose staff or offices were used (apparently without their knowledge) in conjunction with the DCCC fundraiser but all Members, officers, and employees of the House that it is improper to conduct such activities within Federal buildings regardless of the character of the specific political solicitation effort.

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<sup>7</sup> Moreover, and consistent with the conclusion that the June 24 letter was not clearly a solicitation directed at congressional staff but, rather, one directed at Members, the Committee notes that *both* complainants (App. C, at p. 7) and respondents (App. J, at p. 17) *agree* that 18 U.S.C. 607 is not violated by a solicitation by Members directed at other Members in their offices. Thus, on this additional basis, the Committee can reach the conclusion that 18 U.S.C. 607 was not violated.

## C. OTHER ISSUES

1. *Whether the respondents are liable for Wilhelm's actions*

The Preliminary Inquiry established that Wilhelm was a DCCC contractor engaged to handle the July 15, 1985, fundraising effort. In this light, it might be argued that the respondents, through the DCCC, were responsible for Wilhelm's actions *vis-a-vis* the solicitation, assuming a statutory violation did occur regarding 18 U.S.C. 602 and 607.

To determine the scope of the DCCC's liability for the acts of Wilhelm, one must first establish the nature of the relationship which existed between the two organizations. The DCCC and Wilhelm could be said to have entered either a principal/agent or an employer/independent contractor relationship. However, for the latter to exist, there would need to be a showing that Wilhelm was not controlled by the DCCC nor subject to its right to control Wilhelm's actions in connection with the July 15, 1985, fundraiser. See, e.g., *Restatement of Agency*, sec. 2(3). In the light of Wilhelm's (i.e., Pulchin's) continued contacts with DCCC (i.e., Ms. Volk) regarding review of the draft of the June 24, 1985, solicitation and method of distribution of the letters, it does not appear that Wilhelm was an independent contractor—there was not a total relinquishment of control by DCCC, nor was such a relinquishment perceived by Wilhelm. Consequently, the Committee views the organizations as having entered a principal/agent relationship.

Generally, a principal can be held liable only for those acts of its agent which the principal either expressly or impliedly authorized or subsequently ratified. See e.g., *U.S. v. Forbes*, 515 F.2d 676 (1975); and *U.S. v. Hall*, 424 F. Supp. 508 (1975). In other words, it is usually stated that the principal will not be subject to criminal liability for crimes committed by his agent or servant unless, in some way, he has directed, participated in, or approved the act.

The Committee understands that there are, however, some exceptions to these generalizations. Perhaps the most important exception is found in prevalent regulatory legislation forbidding certain conduct and making violation a misdemeanor without regard to intent. Examples are statutes regulating the sale of liquor, the purity and labelling of foods, and the range and accuracy of prices and weights. As discussed above, the Committee interprets 18 U.S.C. 602 as contemplating a coercive *intent* by those making political solicitations of Federal employees.

In view of the foregoing, since the DCCC had no knowledge of Wilhelm's actions on its behalf, it follows that the DCCC should not be held liable for whatever actions Wilhelm took *vis-a-vis* the solicitation efforts, particularly as regards any alleged violation of 18 U.S.C. 602 or 607. From this it, therefore, also follows that, absent any DCCC responsibility for the solicitations, the respondents should similarly not be held liable for Wilhelm's actions.

2. *Whether respondent Feighan is liable for Cody's suggestion*

As discussed earlier, the Committee determined that George Cody of Representative Feighan's staff first initiated the idea of

“staff involvement” in the June 24, 1985, solicitation.<sup>8</sup> Again, Representative Feighan was totally unaware of this matter. It follows, therefore, that absent prior knowledge or later ratification, Feighan should not be held responsible. It also follows that neither respondent Andrews nor Coelho should be held responsible for the solicitation if it is concluded that respondent Feighan, Cody’s employer, is not liable for Cody’s suggestion.

### 3. Wilhelm’s use of “inside mail”

The Preliminary Inquiry established that the two July 9, 1985, followup letters were distributed to Members’ offices via “inside mail.”

According to a handbook distributed by the Office of the Postmaster, U.S. House of Representatives, “inside mail” is, essentially, a “messenger” service, and is defined as embracing all mail between offices in the U.S. Capitol, House and Senate Office Buildings, and the Library of Congress, as well as mail intended for the White House, State Department, and the Social Security Administration.<sup>9</sup> The purpose of the “inside mail” service is to provide Members with a method by which inter-office communications may be transmitted.<sup>10</sup> Inside mail is not subject to the franking laws since its never enters into the system of the Postal Service nor is handled by its employees.<sup>11</sup>

In 1972, the Committee on House Administration recommended that all mail being sent through the inside mail should bear either a government frank or the appropriate postage. Since that time, it has been the policy of the House to require that either a Member’s frank or postage be affixed to all inner office mail *except* “Dear Colleague” letters. The handbook issued by the Office of the Postmaster indicates that inside mail may be used to circulate “Dear Colleague” letters and other “round-robin” correspondence relating to (1) the official responsibilities of Members, Officers, and Committees of the Congress, and (2) the activities of legislative, administrative, and other organizations within Congress which promote the general welfare of Members and/or employees. Notably, the handbook states that “Dear Colleague” letters, “must be on official letterhead *and should not be political or personal in nature.*” (Emphasis added.)

The Preliminary Inquiry indicates that the above-quoted guidelines were apparently violated regarding the use of “inside mail” when the July 9, 1985, followup “Dear Colleague” letters were distributed. (During Howard Pulchin’s interview, he stated that Mary Jane Volk, a DCCC employee, authorized him to distribute the July 9 letter by using “inside mail”. See App. L.)

The Committee understands that the practice of the Committee on House Administration (which exercises oversight regarding the use of the “inside mail” system) is, when apprised of misuse, to

<sup>8</sup> While Cody did not make a similar suggestion for the July 9, 1985, followup letters, the Committee concludes that Pulchin’s similar use of such language in drafting the followups was indeed precipitated by the earlier June 24 letter.

<sup>9</sup> Office of the Postmaster, U.S. House of Representatives, “Inside Mail,” 3 (1984).

<sup>10</sup> Commission on Congressional Mailing Standards, House of Representatives, *Regulations on the Use of the Congressional Frank* §6 (February 1984).

<sup>11</sup> *Id.*, at 4.

inform the wrongdoer of the impropriety and to instruct them to no longer engage in such activity. The Committee believes this Report should accomplish that objective.

## VII. CONCLUSIONS AND RECOMMENDATIONS

### A. CONCLUSIONS

The Committee concludes that the solicitation giving rise to the subject investigation was the product of a failure to adhere to established DCCC procedures regarding the review and approval of the organization's outgoing communications coupled with the lack of knowledge of these requirements on the part of both Wilhelm Inc., which prepared the letters and a DCCC employee.

Nevertheless, based upon the Committee's analysis of the two statutes here involved, 18 U.S.C. 602 and 607, the Committee concludes that violations of the provisions are not indicated—there was no intent or perception to coerce Federal employees (congressional staff) into making political contributions (18 U.S.C. 602) and, that absent evidence of such "victimization," the mere fact of the solicitations having been distributed in Federal buildings, without coercion, is insufficient for application of 18 U.S.C. 607.

Notwithstanding the foregoing, the Committee would be remiss if it were to permit readers of this report to infer any acquiescence regarding political solicitations directed at congressional staff, particularly those occurring in Federal buildings. In this connection, the Committee regards the facts giving rise to the instant investigation as singular—no evidence or information was adduced during the Preliminary Inquiry suggesting other questionable solicitations.

Thus the Committee wishes to make clear that his report does *not* represent condonation of "non-coercive" solicitations of congressional staff. The Committee strongly supports the concepts embodied in 18 U.S.C. 602 and 607 and will aggressively pursue any allegation that a violation of these provisions has occurred. It is for this reason that the Committee emphatically admonishes any person or organization contemplating political solicitations to be particularly mindful of Federal law regarding such matters.

In this regard, the Committee reaffirms its position that neither staff (paid or volunteer) while on official time, nor Federal office space at any time should be used to either prepare, distribute, or deliver to recipients material involving solicitations of political contributions.

### B. RECOMMENDATION

Any organization (such as the DCCC) involved in political fundraising efforts should be acutely aware of the constraints imposed by 18 U.S.C. 602 and 607 and institute such steps as are necessary to avoid questions being raised with regard to the propriety of such undertakings.

This report was approved by the Committee on September 19, 1985, by a vote of 10 yeas, 0 nays.

**STATEMENT UNDER RULE XI, CLAUSE 2(1)(3)(A) OF THE RULES OF THE  
HOUSE OF REPRESENTATIVES**

**The Committee made no special oversight findings in this report.  
No budget statement is submitted.**

APPENDIX A  
CONGRESSIONAL RECORD--HOUSE

July 10, 1985  
H5329-H5334

**REQUEST TO RAISE PRIVILEGE  
OF THE HOUSE**

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, I have a resolution at the desk raising a question of the privileges of the House, and I ask for its immediate consideration.

The SPEAKER. Is this the question of privilege that the gentleman was talking about?

Mr. McCANDLESS. It is, Mr. Speaker.

The SPEAKER. The Chair would like, before he recognizes the gentleman for that purpose, to ask, has the gentleman had the courtesy of notifying the Members whose names he has mentioned in this resolution?

Mr. McCANDLESS. Mr. Speaker, the names are not mentioned.

The SPEAKER. I think courtesy would dictate that the Chair recognize the gentleman at a later time today, then, after he has notified the people involved.

Mr. McCANDLESS. Mr. Speaker, this is a privileged question.

The SPEAKER. The Chair did not yet recognize the gentleman for a question of privilege. The Chair is at this time taking 1 minute unanimous consent requests.

Mr. GEDENSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection?

The Chair will recognize the gentleman from California (Mr. McCANDLESS) at the proper time, when he has recognized for unanimous consent for 1 minutes, and trust that he would notify the gentlemen he is bringing up in this particular petition.

Mr. McCANDLESS. Mr. Speaker, I admire your leadership. It is my understanding that the rules of the House permit a privileged resolution to be heard.

The SPEAKER. The Chair is recognizing unanimous consent requests for 1 minutes which we normally do.

Is there an objection?

In due time, there are two privileged questions to be presented.

Mr. WALKER. Mr. Speaker, reserving the right to object, it is my understanding of the rules that the gentleman has raised a question of the privileges of the House.

The SPEAKER. No; the Chair did not recognize the gentleman for that purpose. The Chair was aware of the fact that the resolution was sent to the clerk, and had so informed him that the gentlemen whose names were on his petition should be notified so that they could be in the Chamber, and the Chair had not recognized the gentleman for that purpose.

Mr. WALKER. Mr. Speaker, further reserving the right to object, it is my understanding that there are no names in the particular petition that the gentleman has. That is the information that I have from the gentleman. I have not read it, but I understand there are no names in it.

The SPEAKER. But there is an inference, and the Chair thinks in fairness, the gentleman should notify the people that he has reference to so that they at least would be able to be here to defend themselves. That is a fairness principle that the Speaker of this House is trying to suggest is permitted by rules of the House.

Mr. WALKER. Further reserving the right to object, we certainly want the Chair to be fair. That is one of the questions we have raised on a couple of occasions recently.

But in this case, it seems to me that the rules of the House specify that the gentleman from California (Mr. McCANDLESS) is permitted to raise a question of the privileges of the House.

The SPEAKER. He certainly is when he is recognized for that purpose, and the Chair has not yet recognized the gentleman for that purpose.

Mr. WALKER. Can the Chair inform us, further reserving the right to object, when he will recognize the gentleman?

The SPEAKER. The Chair will recognize the gentleman as soon as he entertains unanimous consent request for the 1-minute speeches. And if there is objection, Members can object, but the Chair is going through the first row, and then he will be recognized for that purpose.

Mr. WALKER. The gentleman will be recognized immediately following the 1 minutes?

The SPEAKER. The Members whose names that he has reference to should be notified so that he will allow them the opportunity to be on the floor to defend themselves.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I now have a copy of the resolution before me, and I see no names in the resolution at all.

The SPEAKER. The Chair has a copy of the resolution and the letter the gentleman has referred to.

Mr. WALKER. Mr. Speaker, on the understanding that the gentleman is going to be recognized immediately following the 1-minute, I will withdraw my reservation. But I do believe that in this instance the Chair has, in fact, deferred a question of the privileges of the House and I am somewhat concerned about that particular precedent being set under the rules as a result.

The SPEAKER. So that the gentleman understands the rules, unanimous-consent requests can under the

precedents. If the Chair desires to recognize for that purpose, be entertained prior to a privileged resolution, and that is what we are doing.

Mr. WALKER. Further reserving the right to object, then, the unanimous-consent request, as I understand it, has been purporting by the Chair in order to prevent the gentleman from California (Mr. McCANDLESS) from raising his question.

The SPEAKER. If any Member objects to the gentleman's unanimous-consent request to speak for 1 minute, the House can get to the question immediately.

Mr. WALKER. Further reserving the right to object, am I not correct that the Chair himself purporting the unanimous-consent request?

The SPEAKER. Let me say that the Chair would normally have gone the route of the 1 minutes. He saw the gentleman from California standing knowing what was in the mind of the gentleman, who had just sent a resolution to the desk, and trusting that the gentleman, before he would raise his question of privilege, would have the courtesy of notifying the Members whose names he is going to recommend to the Standards Committee, that he would so notify them so that they would have the dignity of being on the floor, because the Chair thought that that was the honorable and decent way to handle this matter.

Now in view of that, we are now back to the unanimous-consent request for 1-minutes.

□ 1020

Mr. WALKER. Reserving the right to object, Mr. Speaker, the problem here is—

The SPEAKER. What is the gentleman objecting to?

Mr. WALKER. The rules as I understand it do not give the Chair the ability to read the mind of the gentleman from California. The gentleman from California is attempting to raise a question of privileges of the House. I know of nothing in the rules that state that the Chair has as one of its obligations to read the mind of the gentleman from California.

The SPEAKER. The gentleman is in error. The power of the Speaker is the power of recognition. The power of recognition permits at this particular time the Chair to go to unanimous consent requests which in effect alter the normal rules of the House and that is exactly what the Chair is doing.

The gentleman from Connecticut.  
Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. The gentleman from Connecticut (Mr. GEDENSON) requests unanimous consent to address the House for 1 minute.

Is there an objection?  
The Chair hears none.

A QUESTION OF PRIVILEGE  
SHOULD PROCEED BEFORE  
OTHER BUSINESS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, rule IX of the House rules states very clearly, and I quote:

Questions of privilege shall be, first those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings, second, the rights reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn.

That is the rule to which I referred a few moments ago.

In other words, according to the Rules of the House, it is a question of highest privilege to raise. The gentleman from California had done that.

In so allowing other business to proceed before we got to that question of privilege, the majority has taken unto itself the right to plan their strategy, to look at this matter fully, and therefore deprive the minority of its right to raise this question at its own time and for its own purpose.

I think that is a very disturbing precedent and one that I hope will not overrule the Rules of the House of Representatives again in the future.

The SPEAKER. May the Chair respond to the gentleman by saying. Anytime a Member reads the Rules of the House, he has to read the rules and the precedents.

The precedents stand for the proposition that at any particular time, the power of the Speaker is the power of recognition. For a unanimous-consent request which may temporarily waive the standing rules of the House, and subject to objection by any Member, the Speaker may recognize any Member of the House, even though there is a resolution such as drafted by the gentleman from California to be offered at that particular time.

back to the House its findings and recommendations thereon.

The SPEAKER, The Chair has examined the resolution, and the gentleman from California (Mr. McCANDLESS) is within his rights to present it as a question of the privileges of the House. The gentleman is recognized for 1 hour.

Mr. McCANDLESS. I thank the Chair.

Mr. Speaker, on Tuesday, June 25, 1955, a letter, addressed to me, was hand-delivered to my office. The delivery to me was obviously a mistake, since the letter, dated June 24, began, "Dear Democratic Colleague," and was signed by the two Democratic Congressional Campaign Committee co-chairmen, under the letterhead and the name of the chairman of the organization.

The letter called attention to a July 15—and I quote from the letter—"low-cost, high-volume fundraiser to help our fellow Members who are targeted for defeat by the National Republican Congressional Committee."

The letter further stated that the fundraiser would be hosted by "the majority party of the Democratic Congressional Campaign Committee."

The letter then goes on to ask:

"Each Democratic office to sell at least five \$10 tickets, as well as encouraging those folks to become majority party members, to help build up the D.C.C.C. campaign coffers. We strongly urge you to involve your staff in this worthwhile effort," with the staff involvement appeal underscored in the letter.

Finally, the letter calls attention to an enclosed "invitation to the event and brochure describing the activities of the majority party."

The enclosed invitation referred to includes a return form, both for the party, which costs \$10 a ticket, and for membership dues in the majority party, which cost \$50, noting that the former can be counted toward the latter.

The invitation states:  
"Your ticket to fight back is \$10. Proceeds go directly to help Democratic members fight back."

Further, the enclosed brochure on the majority party makes it clear that "dues are used by the Democratic Congressional Campaign Committee to help elect Democratic candidates for Congress."

Mr. Speaker, this letter, delivered to Democratic house Members, and erroneously to one Republican, appears to be a serious violation of Federal law.

Section 602 of title 18 of the United States Code make it unlawful for candidates for Congress, those elected to or serving in Congress, or any officer or employee of the United States to "knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person."

Section 607 of title 18 makes it unlawful for any person to solicit cam-

paign contributions in a Federal building.

Mr. Speaker, I believe the clear intent of the letter is to solicit the attendance of Democratic members and staff at the fundraiser and to induce staff membership in the D.C.C.C. group that calls itself the majority party.

The final sentence of the solicitation letter supports this view. It says

"We both look forward to seeing you and your staff on Monday, July 15, as we Democrats fight back."

The return forms enclosed with the mailing further support this view.

Legally and ethically, I think this solicitation is wrong and that it sets a terrible precedent for this body.

Therefore, Mr. Speaker, I ask for the adoption of this resolution which would direct an investigation and report by the Committee on Standards of Official Conduct.

Mr. LOTT, Mr. Speaker, I want to commend the gentleman from California (Mr. McCANDLESS) on calling this very serious matter to our attention, and for his resolution directing the House Ethics Committee to investigate this matter.

I must confess that when I saw the materials in question, I was shocked that any of our colleagues would have the gall to send such blatantly partisan campaign solicitations to the offices of House Members. The Federal Criminal Code is pretty unequivocal at sections 602 and 607 that Members cannot solicit political contributions from Federal employees, including House staff members, and that such contributions cannot be solicited in Federal buildings.

And yet, here we have a letter to Democratic colleagues, informing them of an upcoming fundraiser, and asking each office to sell at least five tickets, involve their staff in the effort, and attend the event. Had the letter been directed solely at Members, it would not have violated the law since it is acceptable under the law for Members to solicit other Members. But, when that solicitation calls for more than the contribution of a Member, and is directed knowingly at staff members as well, then it violates the law. And when that letter is received in a Federal office building, it contravenes the other section of law on solicitations.

Mr. Speaker, I don't think there is any question that the materials in question constitute a solicitation. The Federal Election Commission, in Advisory Opinion 1976-40 said a solicitation is not just asking people to buy tickets to a fundraiser; a solicitation can simply be informing people of a fundraising activity.

Here we have a letter that asks Members for their assistance in making an upcoming campaign fundraiser a success. How? By involving their staff in the effort. The letter asks each office to sell at least five

#### PRIVILEGES OF THE HOUSE—ALLEGED ILLEGAL SOLICITATION OF POLITICAL CONTRIBUTIONS BY MEMBERS OF CONGRESS

Mr. McCANDLESS, Mr. Speaker, I again rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 217) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

##### H. RES. 217

Whereas three sitting Members of the United States House of Representatives have authorized and caused to be distributed to Democratic Members' offices in Federal House Office Buildings a letter dated June 24, 1955, soliciting contributions for a party fundraiser and membership dues in a party organization from congressional staff members; and

Whereas Federal law prohibits the solicitation of political contributions by Members of Congress of officers or employees of the Federal government (18 U.S.C. § 602), and the solicitation of political contributions in Federal buildings (18 U.S.C. § 607); and

Whereas allegations relating to the official conduct of Members raise a question of the privileges of the House under House Rule IX; and

Whereas the Committee on Standards of Official Conduct is authorized by House Rule X, clause (4) to investigate any alleged violation of Federal law by a House Member; Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is hereby authorized and directed to investigate the alleged illegal solicitation of political contributions by the Members of Congress referred to in the preamble of this resolution and report

tickets to the event. And the signers conclude by saying they hope to see the Member and his staff at the fundraiser. It should be clear from this that both the Member and staff are being solicited since neither is being offered complimentary tickets. What the letter is really asking is for each office to buy at least five tickets. This comes about as close to a political assessment and shakedown as you can get—the kind of abuses that gave rise to the forerunner statutes to sections 602 and 607 back in 1883.

As one of the Senators put it during debate on that original ban on political solicitations: "The intention is by this bill to remove not only coercive influences but the semblance of them."

A 1902 opinion by Attorney General Knox made clear, and I quote:

Whatever the particular form of words adopted in such circulars in order to show a request rather than a demand and to give to responses a quasi-voluntary character, the explicit and comprehensive words of the statute . . . unquestionably condemn all such circulars.

Mr. Speaker, I think it's clear not only from the unambiguous wording of the statutes involved but from the legislative history as well that Members are strictly prohibited from soliciting political contributions from House employees in any way, shape or form, so long as the appeal is knowingly directed at those employees. It does not matter whether the solicitation is part of a general colleague letter or whether the solicitation is mandatory or voluntary. The clear purpose of these statutes was to remove any hint of pressure or obligation on employees from their superiors.

In conclusion, Mr. Speaker, I want to commend the gentleman from California (Mr. McCANDLESS) for bringing this matter to our attention and for calling on the House Standards Committee to investigate this matter. As a former congressional staff member myself I am particularly sensitive to the prospect that Hill staffers could now be considered fair game for regular fundraising appeals by candidates and political committees—whether in their offices or at their homes. To the extent we allow this, we open ourselves to all manner of potential abuses associated with the old spoils system and its penchant for political shakedowns and payoffs. I don't want to see this happen to the people's House. Let's adopt this resolution and get on with the investigation.

The SPEAKER. Does the gentleman from California (Mr. McCANDLESS) yield time to the Democratic side?

Mr. McCANDLESS. Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, I am concerned, naturally, that there is perhaps a technical violation of procedures and the law

with respect to the distribution of a flyer here in the House of Representatives. I am a bit concerned that the gentleman from California has undertaken to make an issue of privileges of the House over such a matter. I am not condoning any technical violation that might have occurred, but this is certainly, by the gentleman's own description, hardly a fund raiser in the normally understood conditions that apply. This is a \$10 per person solicitation for a party that is meeting for the purpose of supporting a Democratic organization.

I am sure the gentleman knows that from time to time there have been inadvertent distributions of similar notices from the Republican side, as well as the Democratic side; and it seems to me that, unless there is some pattern or gross violation of traditional practice, it is extraordinary for the gentleman to interrupt the proceedings of the House over such a matter for an hour's debate.

The gentleman is entitled, as any Member of the House is, under the House rules, as he knows, to bring this matter to the attention of the Committee on Standards of Official Conduct, which is a bipartisan committee equally divided, on which no party holds a majority, and which is set up for the purpose of receiving any complaints that might be directed against individual Members in their official conduct. Why he has not chosen to do that, which is perfectly within his power and authority to do, I cannot explain. Perhaps the gentleman will tell me and tell the House why he has chosen this extraordinary method by which to raise this issue.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman from Washington for his comments. I would be happy to answer.

As has been pointed out, the event is scheduled for July 15, 5 days away. I have a real concern, having served in public office for 12 years prior to coming here, about the integrity of an elected official and the activities surrounding what happens to that person.

When this was delivered to my office, I felt strongly enough about it that I felt it would be necessary to come here and discuss it.

Mr. FOLEY. Mr. Speaker, will the gentleman answer a question for me? Mr. McCANDLESS. Let me just finish.

The one concern I have is: Is this going to be an activity that is sanctioned, and if it is on July 15, then we should have the sanction or the definition of the sanction by the committee in question rather than submitting it in the manner the optional authority provides.

Mr. FOLEY. Will the gentleman tell the House whether the distribution was by a Member of Congress to his office?

Mr. McCANDLESS. The distribution was by hand

Mr. FOLEY. By a Member of Congress?

Mr. McCANDLESS. Not by a Member of Congress.

Mr. FOLEY. Does the gentleman know of his own knowledge whether the distribution was authorized by any Member of Congress?

Mr. McCANDLESS. The letter was signed by two people.

Mr. FOLEY. But was the distribution authorized by a Member of Congress, to the Member's knowledge?

Mr. McCANDLESS. The precedence that I cited in the previous two sections of the Government Code, one dealing with a public office in a public building and the solicitation, the definition of those items appeared to be in order.

Mr. FOLEY. I do not think the gentleman is answering the question.

Mr. McCANDLESS. If I may continue to answer the gentleman from Washington, my purpose here is to see if this is a sanctioned activity: If it is, then fine. But the committee in question should be the one to decide that.

Mr. FOLEY. What I am trying to discover from the gentleman is if he knows from his own knowledge and has brought this matter to the House as a result of his own knowledge that the distribution was made either by a Member of Congress or at a Member of Congress' direction.

I wonder if the gentleman could enlighten me if he has information that satisfies him that a Member of Congress either handed it to someone in his office or authorized and directed that.

Mr. McCANDLESS. In response to this, I do not believe this is the place to actually get into the details of that. I believe the Ethics Committee is the place to do that. But we could certainly take a deposition of the person who delivered this and ask that person, "Were you authorized by a Member of Congress or one of the signing parties?"

The SPEAKER. The 5 minutes of the gentleman from Washington (Mr. FOLEY) has expired.

(Mr. McCANDLESS addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.)

— MOTION TO TABLE OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I move to lay the resolution on the table.

The SPEAKER. The question is on the motion of the gentleman from Washington (Mr. FOLEY) to lay the resolution on the table.

Mr. McCANDLESS. Mr. Speaker, I asked prior to that for the previous question and I was not recognized.

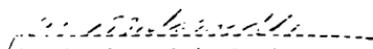
The SPEAKER. A motion to lay on the table takes precedence over the previous question. The gentleman is well aware of that.

The question is on the motion to lay the resolution on the table offered by the gentleman from Washington (Mr. FOLEY).



## APPENDIX B

99th Congress  
1st Session

  
(Member's Original Signature)

H. RES. 217

July 10, 1985

A resolution raising a question of the privileges of the House.  
Submitted by Mr. McCandless of California.

- 1 Whereas three sitting Members of the United States House of  
2 Representatives have authorized and caused to be dis-  
3 tributed to Democratic Members' offices in Federal House  
4 Office Buildings a letter dated June 24, 1985, soliciting  
5 contributions for a party fundraiser and membership dues  
6 in a party organization from congressional staff members;  
7 and
- 8 Whereas Federal law prohibits the solicitation of political  
9 contributions by Members of Congress or officers or  
0 employees of the Federal government (18 U.S.C. (a) 2), and  
1 the solicitation of political contributions in Federal  
2 buildings (18 U.S.C. §607); and
- 3 Whereas allegations relating to the official conduct of Members  
4 raise a question of the privileges of the House under  
5 House Rule IX; and
- 6 Whereas the Committee on Standards of Official Conduct is  
7 authorized by House Rule X, clause 4(b) to investigate  
8 any alleged violation of Federal law by a House Member;  
9 Now, therefore, be it

**BEST AVAILABLE COPY**

1           Resolved, That the Committee on Standards of Official  
2       Conduct is hereby authorized and directed to investigate  
3       the alleged illegal solicitation of political contributions  
4       by the Members of Congress referred to in the preamble of  
5       this resolution and report back to the House its findings  
6       and recommendations thereon.

## APPENDIX C

A COMPLAINT FILED BEFORE THE COMMITTEE ON STANDARDS OF OFFICIAL  
CONDUCT ALLEGING VIOLATIONS OF FEDERAL LAW BY HOUSE MEMBERS

July 10, 1985

INTRODUCTION

This complaint, alleging violations of Federal law by certain House Members named herein, is filed pursuant to House Rule X, clause 4(e)(2)(B) which authorizes the House Committee on Standards of Official Conduct to investigate sworn complaints filed by House Members.

ALLEGATIONS

- (1) Unlawful Solicitation of Federal Employees (18 U.S.C. §602): Representative Tony Coelho, Representative Mike Andrews, and Representative Ed Feighan did authorize and cause to be distributed to the offices of House Democratic Members materials soliciting political contributions, knowingly directed at congressional employees, in violation of 18 U.S.C. §602 which makes such activities unlawful.
  
- (2) Unlawful Solicitation in Federal Buildings (18 U.S.C. §607): Representative Tony Coelho, Representative Mike Andrews, and Representative Ed Feighan did authorize and cause to be distributed to offices occupied by Federal employees in the discharge of their official duties materials soliciting political contributions in violation of 18 U.S.C. §607 which makes such activities unlawful.

THE FACTS

On June 25, 1985, letters dated June 24, 1985, under the letterhead of the "Democratic Congressional Campaign Committee," under the name of "Tony Coelho, CA, Chairman," and over the signatures of "Mike Andrews" and "Ed Feighan," co-chairmen -- all three of whom are sitting Members of the U.S. House of Representatives -- were hand-delivered to the offices of House Democratic Members in Federal, House Office Buildings.

The letters contain the salutation, "Dear Democratic Colleague," and describe a fundraiser to benefit specified Democratic House Members to be held on July 15, 1985, at the Democratic Headquarters Building, to be hosted by the "Majority Party," an organization of the Democratic Congressional Campaign Committee.

The letters request assistance in making the event a success and go on: "We are asking each Democratic office to sell at least five \$10 tickets (as well as encouraging those folks to become Majority Party members) to help build up the DCCC campaign coffers. We strongly urge you to involve your staff in this worthwhile effort." (emphasis in original)

The letters call attention to an enclosed invitation and brochure which contain solicitation return forms for the fundraiser tickets and membership dues in the Majority Party, and both indicate that proceeds will go to elect Democratic candidates.

The letters conclude: "We both look forward to seeing you and your staff on Monday, July 15, as we "Democrats fight back"." (emphasis in original)

#### DISCUSSION

(1) Solicitation of Congressional Employees -- 18 U.S.C. §602 makes it unlawful for Members of Congress, candidates for Congress, and Federal officers and employees "to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee or person."

The legislative history behind the statute makes clear that employees of the House of Representatives are included in the definition of Federal employees, but that Members of Congress are not. It is therefore permissible for Members to solicit other Members. It is also clear from the legislative history that the solicitation must be "knowingly" directed at Federal employees: the inadvertent solicitation of a Federal employee as part of a solicitation aimed at the public at large is not a violation. (For a further discussion of the legislative history see, Ethics Manual for Members and Employees of the U.S. House of Representatives, Committee on Standards of Official Conduct, 98th Congress, Second Session, pp. 123-24)

There can be no question that the money being solicited in the materials delivered to congressional offices, both for fundraiser tickets and membership dues in the Majority Party, qualifies as a contribution under the meaning of sec. 301(8) of the Federal Election Campaign Act of 1971 since almost all gifts of money to the political committee of a political party automatically counts as a "contribution." Moreover, the solicitation materials make it clear that the proceeds from the tickets and dues will be used to help elect Democratic candidates for Congress. Section 301(8) defines "contribution" as "any gift . . . made by any person for the purpose of influencing any election for Federal office."

Nor can there be any question that the solicitation was made by Members of Congress. It does not matter that it was made in their capacity as officers in a party campaign committee or that the solicitation does not specifically identify them as Members of Congress.

Do the letter and two enclosed brochures constitute a solicitation of contributions? All three contain the disclaimers required of political advertising and solicitations (2 U.S.C. §441(d)), in this case, "Paid for and authorized by the Democratic Congressional Campaign Committee." The letter invites participation in the fund-raising event and membership in the party organization, and the brochures include return forms with which to enclose money for either the tickets, membership dues, or both.

While neither the law nor relevant case law provide any definitions or interpretations as to what constitutes a solicitation, there is some guidance in the advisory opinions of the Federal Election Commission. To quote from one such opinion regarding solicitations by corporations, trade associations and labor organizations under 2 U.S.C. §441(b)(4) (B):

The solicitation process includes asking persons to purchase tickets to fundraisers and providing persons with information about a fundraising activity. The Congressional debate on what in fact constitutes a solicitation is somewhat limited. It is clear, however, from a discussion among Senators Allen, Cannon, and Packwood that informing persons of a fundraising activity is considered a solicitation. (AO 1976-40 [¶5213], p. 10,155; emphasis added. Also see AO 1977-25,-47; 1978-17; 1979-13,-66)

The only remaining question is whether the solicitation is "knowingly" directed at congressional employees. It might be argued that since the letter is addressed to "Democratic Colleague(s)," it is exempt from the coverage of §602 as a solicitation by Members of Congress of other Members. (See especially 6 Cannon's Precedents §401, and House Report 63-677, in which a committee investigation concluded that a \$100 annual assessment of Members by the Democratic Congressional Committee, mailed to their offices, did not constitute an activity prohibited by law).

However, the mailing in question is clearly distinguishable from a solicitation directed solely to a Member of Congress. For one thing, the envelope did not contain any designation that the letter was for the "Member's Personal Attention." For another thing, the letters did not contain personal salutations, but instead read, "Dear Democratic Colleague." Colleague letters are usually read by staff members as well as Members, and sometimes only by the former.

But, most importantly, it is clear from the letter that the information regarding the fundraiser and membership in the party organization is directed not only at the Member, but the Member's staff as well. "Each Democratic office" is asked to sell an allotted number of tickets, and those purchasing the tickets are encouraged to join the party organization. The letter "strongly urges" the Member "to involve your staff in this worthwhile effort." And the signers look forward "to seeing you and your staff" at the fundraiser.

It might be argued that the letter does not specifically ask each office to "buy" at least five tickets (only "sell" is used), and therefore staff members are not being solicited to purchase tickets. However, the clear implication from the letter, taken as a whole, is that each office should purchase at least five tickets. If this were not the case, the letter would have concluded: "We both look forward to seeing you and five of your non-Federal employee friends at the fundraiser."

Since there is nothing in the letter or invitation to indicate that either Members or staff are entitled to complimentary tickets, it must be concluded that both are being asked to purchase tickets; both the involvement and attendance of staff in the fundraising event is encouraged by the letter. It makes no difference that the letter is addressed to their employing Members. The signers of the letter, as Members themselves, know full well that "Dear Colleague" letters which mention an event that is open to both Members and staff is usually circulated or posted in that office for the benefit and information of all staff members. The solicitation was therefore "knowingly" directed at congressional employees, and can hardly qualify as an "inadvertent" solicitation.

(2) Solicitation in Federal Buildings -- 18 U.S.C. §607 makes it unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) "in any room or building occupied in the discharge of official duties" by any Federal employee. Again, solicitations only of Members of Congress by other Members are exempted from this prohibition. And employees may receive contributions in a Federal building provided they have not been directed to be mailed to a Federal facility and that they are transferred within seven days to a political committee.

If it is concluded that the solicitation in question is not directed only at Members, but at their employees as well, then the delivery of the mailing to House offices is clearly in violation of 18 U.S.C. §607.

It does not matter that the solicitation was printed and sent from the Democratic headquarters building. To quote from the Ethics Manual:

The criminal statute at §607 has historically been construed to prohibit the solicitation of contributions from a Federal employee while such person is within a Federal building. The focus of the prohibition, then, has been directed to the location of the person solicited, rather than the location from which the solicitation originated. (op. cit., p. 136)

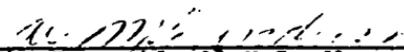
The Manual goes on to quote from the Supreme Court decision in United States v. Thayer on the forerunner statute to §607 to the effect that, "the solicitation was in the place where the letter was received." (209 U.S. 39,44 (1908))

#### CONCLUSION

The letter dated June 24, 1985, and the enclosed materials, which were delivered to the congressional offices of Democratic House Members, constitute a knowing solicitation of political contributions by House Members of House employees in a Federal building, in clear violation of 18 U.S.C. §602 and §607. The materials encouraged staff membership in a party organization, involvement in selling fundraising tickets (including a request that each office sell at least five tickets), and attendance at the fundraising event.

Respectfully submitted,

  
\_\_\_\_\_  
The Honorable Trent Lott

  
\_\_\_\_\_  
The Honorable Al McCandless

VERIFICATION UNDER OATH

Representative Trent Lott, and Representative Al McCandless, being first duly sworn, say that they have read the foregoing complaint and know the contents thereof, and that the same is true to their knowledge and belief.

  
The Honorable Trent Lott

  
The Honorable Al McCandless

Subscribed and sworn to before  
me this 10 day of July, 1985.

  
NOTARY PUBLIC

THE  
MAJORITY  
PARTY

Democratic Congressional Campaign Committee  
400 North Capitol Street, N.W., Suite 319  
Washington, D.C. 20001

AL McCANDLES



Tony Coelho, CA  
Chairman

June 24, 1985

Dear Democratic Colleague:

On July 15, the MAJORITY PARTY of the Democratic Congressional Campaign Committee will be hosting "Democrats Fight Back", a low-cost, high-volume fundraiser to help our fellow members who are targeted for defeat by the National Republican Congressional Committee.

We need your assistance to make this event a success. We are asking each Democratic office to sell at least five \$10 tickets (as well as encouraging those folks to become Majority Party members) to help build up the DCCC campaign coffers. We strongly urge you to involve your staff in this worthwhile effort.

Enclosed you will find an invitation to the event and brochure describing the activities of the Majority Party. If you need any further information please call Howard Pulchin at 549-2400.

We both look forward to seeing you and your staff on Monday, July 15, as we "Democrats Fight Back".

Sincerely,

*Mike*

Mike Andrews  
Co-Chairman

*Ed*

Ed Feighan  
Co-Chairman

... and they need your

**HELP!!**

Paid for and authorized by the  
Democratic congressional  
Campaign Committee



## WHAT DO

Clot Atkins  
Les Anton  
Rick Boucher  
Terry Bruce  
Bob Can  
Ron Coleman  
Budd Darden  
Tom Downey  
Bob Edgar  
Glenn English  
Sam Capenson  
Sam Gibbons  
Ken Gray  
Bill Hettrich  
Jim Jones  
Peter Kosmayer  
Mel Levine  
Marlyn Lloyd  
Stan Lundine

Tom Manton  
Matthew Martinez  
Frank McCloskey  
Dan Mica  
Allan Mollohan  
Bruce Morrison  
Bob Mrazek  
Steve Neal  
Jim Olin  
Harry Reid  
Tommy Robinson  
Phil Sharp  
Larry Smith  
Harley Staggers  
Richard Stallings  
Jim Traficant  
Harold Volkmer  
Tim Wirth  
Howard Wolpe  
Bob Young

## HAVE IN COMMON??

Please join these Democratic Members and  
Co-chairs Mike Andrews and Ed Feighan  
as the

Majority Party of the Democratic  
Congressional Campaign Committee

presents

**"DEMOCRATS FIGHT BACK"**

Monday evening, July 15

Democratic Headquarters Building  
430 South Capitol Street  
Washington, D.C.

6-9 pm

- a) They are all members of Congress;  
b) We are all good Democrats; and  
c) THEY ARE ALL ON THE NATIONAL REPUBLICAN  
CONGRESSIONAL COMMITTEE'S "HIT LIST"

- Special Celebrity Guests
- Music by NARDS
- Food, drink and friends

Your ticket to fight back is \$10.00\*  
Proceeds go directly to help Democratic  
Members "Fight Back"

For further information,  
please call 549-2400

\*As a special bonus,  
your \$10 contribution can be  
attributed to membership  
in the Majority Party  
(see brochure)

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Employer \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number (h) \_\_\_\_\_ (o) \_\_\_\_\_

- Yes, I want to help Democrats Fight Back. Enclosed is my check for \$10.00
- Yes, I want to help Democrats Fight Back AND join the Majority Party. Enclosed is my check  
for \$50 to attend the event and join the ranks
- Yes, I want to join the majority party, but prefer to be billed for membership. Enclosed is my  
check for \$10. Please bill me for \$40
- Yes, my friends want to help Democrats Fight Back. Enclosed is \$ \_\_\_\_\_ for \_\_\_\_\_  
tickets. (Please list names)

Please make checks payable to:

The Majority Party  
430 South Capitol Street  
Washington, D.C. 20003

## *The Best Party In Town Is The Majority Party*

You are invited to join Congressmen Tony Coelho, Mike Andrews, Ed Feighan, and all the Congressional Democrats in Washington's premier social organization for Democrats... *The Majority Party*.

*The Majority Party* was formed by the Democratic Congressional Campaign Committee to bring Washington Democrats together. You'll be supporting Democratic candidates for Congress, helping build the Democratic Party, all while enjoying our special activities.

As a *Majority Party* member, you'll be invited to exclusive special events and briefings. You'll see old friends, make new ones, and keep up to date on political developments. And you'll have an all-around good time.

We've greatly expanded and improved our program. We're scheduling activities every month. As a member of *The Majority Party*, you'll receive:

- Invitations to *Majority Party* receptions, special events and group activities like sports events and celebrity auctions.
- Our informal afterwork get-togethers.
- Periodic newsletters with political analysis and information on DCCC activities.
- Briefings by prominent Democrats.

While you're enjoying *Majority Party* activities, you'll have the satisfaction of knowing you're helping provide Democratic Congressional candidates with polling, targeting, media and direct financial help.

Because your dues will be used to help elect Democrats to Congress, your \$50 dues will really only cost you \$25. You'll receive a 50% federal income tax credit for up to \$100 in total political contributions on a single return and \$200 on a joint return. That's a real bargain!

## *To Join The Best Party In Town...*

Just fill out the Membership Application and drop it in the mail. Keep the attached Membership Card and bring it with you to *Majority Party* events. It shows that you're helping to make the best party in town even better.

## *It Wouldn't Be A Party Without You!*

## *Membership Application*

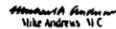
- Yes, I want to join *The Majority Party*!
- I'll pay my \$50 dues at the first *Majority Party* event I attend.
- Enclosed is my \$50 dues.

I know my dues will be used to help Democratic candidates for Congress and to help make *The Majority Party*...

## *The Best Party In Town!*

Name \_\_\_\_\_  
Organization \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

*Majority Party* dues are used by the Democratic Congressional Campaign Committee to help elect Democratic candidates for Congress.

  
Mike Andrews '86  
Co-Chairman

  
THE  
MAJORITY  
PARTY

  
Tony Coelho '81 C  
Chairman, DCCC

Member Name \_\_\_\_\_

*Join The  
Best Party  
In Town*

*Please  
Place  
Stamp  
Here*

*The Majority Party*  
Democratic Congressional Campaign Committee  
430 South Capitol Street  
Washington, DC 20003

## APPENDIX D

**MICHAEL A. ANDREWS**  
25TH DISTRICT, TEXAS  
1029 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-7508  
COMMITTEES  
PUBLIC WORKS AND  
TRANSPORTATION  
SCIENCE AND TECHNOLOGY



DISTRICT OFFICES  
FEDERAL BUILDING  
818 BUREAU  
SUITE 12102  
HOUSTON, TX 77002  
(713) 229-3244  
1001 E. SOUTHMOORE  
SUITE 810  
PASADENA, TX 77603  
(713) 473-4324

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

July 10, 1985

HAND DELIVERED

The Honorable Julian C. Dixon  
U.S. House of Representatives  
423 Cannon House Office Building  
Washington, D.C. 20515

Dear Congressman Dixon:

This morning at the beginning of the House proceedings, a question was raised by Congressman Al McCandless concerning a Majority Party letter regarding a reception to be held Monday evening, July 15, 1985.

We ask that the Ethics Committee thoroughly review these questions at the earliest possible time. We stand ready to provide you with any additional information and answer any questions you may have. In this regard, later today a more complete statement of the pertinent facts will be submitted to you.

Very truly yours,

  
\_\_\_\_\_  
Tony Coelho

   
\_\_\_\_\_  
Michael A. Andrews      Edward F. Feighan

## APPENDIX E

NINETY-NINTH CONGRESS  
 JULIAN C. DIXON, CALIFORNIA, CHAIRMAN  
 ED JENNINGS, GEORGIA  
 W. RAYBO, CALIFORNIA  
 WILLIAM J. COYNE, PENNSYLVANIA  
 BERNARD J. DwyER, NEW JERSEY  
 ALAN B. MOLLONAH, WEST VIRGINIA

FLOYD D. SPENCE, SOUTH CAROLINA  
 JOHN T. SPYER, MISSISSIPPI  
 JAMES S. V. HANCOCK, ILLINOIS  
 C. WILLIAM WHITEHEAD, VIRGINIA  
 EARL G. PURCELL, INDIANA  
 GEORGE C. WOODLEY, NEW YORK  
 RALPH L. LOTEN, CHIEF COUNSEL

## U.S. House of Representatives

### COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

SUITE MT-2, U.S. CAPITOL  
 WASHINGTON, D.C. 20515

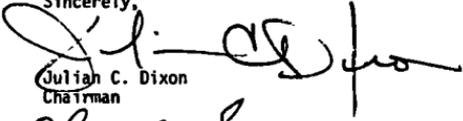
July 17, 1985

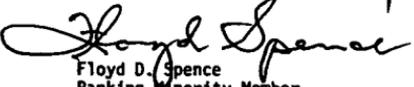
The Honorable Al McCandless  
 United States House of Representatives  
 435 Cannon House Office Building  
 Washington, D. C. 20515

Dear Representative McCandless:

Enclosed you will find a copy of the Committee's resolution of July 17, 1985, by which it voted to undertake a preliminary inquiry pursuant to Committee Rule 11 regarding the complaint you filed with the Committee on July 10, 1985, against Representatives Tony Coelho, Ed Feighan, and Mike Andrews.

Sincerely,

  
 Julian C. Dixon  
 Chairman

  
 Floyd D. Spence  
 Ranking Minority Member

Enclosure

## APPENDIX F

NINETY-NINTH CONGRESS  
 JULIAN C. DIXON CALIFORNIA CHAIRMAN  
 ED HENNES GEORGIA  
 VIC FARO CALIFORNIA  
 WILLIAM J. COYNE PENNSYLVANIA  
 BERNARD J. DYER NEW JERSEY  
 ALAN S. MOLLOY WEST VIRGINIA

FLOYD D. SPENCE SOUTH CAROLINA  
 JOHN E. BYRER MISSISSIPPI  
 JAMES W. HANCOCK ILLINOIS  
 C. WILLIAM BENTLEY MISSOURI  
 LAMAR D. PUGH MISSISSIPPI  
 GEORGE C. BURDETT NEW YORK  
 RALPH L. LOTT NEW YORK

## U.S. House of Representatives

### COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

SUITE WT-2, U.S. CAPITOL

Washington, DC 20515

July 17, 1985

#### HAND DELIVER

The Honorable Tony Coelho  
 United States House of Representatives  
 403 Cannon House Office Building  
 Washington, D. C. 20515

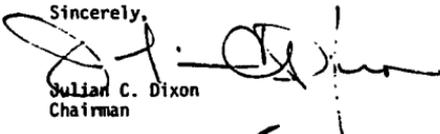
Dear Representative Coelho:

By direction of the Committee on Standards of Official Conduct, we hereby notify you that the Committee has received a complaint from Representatives Trent Lott and Al McCandless alleging you violated 18 U.S.C. 602 and 607. Said complaint has been determined to fall within the jurisdiction of the Committee and merits further inquiry. A copy of the complaint is enclosed.

The complete text of a resolution agreed to by the Committee at its meeting on July 17, 1985, is also attached, along with a copy of the Committee's Rules of Procedure.

Pursuant to Rule 11(a)(2)(A) of the Committee's Rules, you have the right "to present to the Committee, orally or in writing, a statement respecting the allegations with respect to which the inquiry is being held." If you wish to appear before the Committee to present oral testimony under oath, you must so inform the Committee and a Committee meeting will be scheduled for the purpose of receiving that testimony.

Sincerely,

  
 Julian C. Dixon  
 Chairman

  
 Floyd D. Spence  
 Ranking Minority Member

Enclosures

APPENDIX G  
STATEMENT  
OF  
JOHN O'HANLON  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is John O'Hanlon. I am submitting this statement voluntarily as an adjunct to my July 25, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry. I have been employed by the DCCC since November 7, 1984. My primary responsibilities with the DCCC regarding Wilhelm Associates was to negotiate the contractual arrangement with Wilhelm. Prior to working with the DCCC, I was employed as a fund-raiser with the Democratic House and Senate Council and the Democratic Victory Fund. I have never been employed with the House of Representatives.

I remember having a meeting with Randy Wilhelm during which time we discussed the reduction of Wilhelm's fee to the DCCC. The February 8, 1985, proposal regarding the Membership Drive for the Majority Party was Wilhelm's idea; however, I am not sure whose suggestion it was to recommend that Hill staffers be solicited, but it probably was Wilhelm's.

I was out of town when the June 24 and July 9, 1985, solicitation letters were distributed, and never discussed campaign solicitation procedures or federal restrictions with Wilhelm.

CERTIFICATION

I, JOHN O'HANLON, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
\_\_\_\_\_  
JOHN O'HANLON

SUBSCRIBED AND SWORN TO BEFORE ME  
this 5<sup>th</sup> day of August, 1985.

  
\_\_\_\_\_  
Notary Public for the District of Columbia.  
My Commission expires May 14, 1990.

APPENDIX H  
 STATEMENT OF  
 RANDY WILHELM

I, Randy Wilhelm, state as follows: I am founder and president of Wilhelm Associates, which is a professional fundraising firm based in Alexandria, Virginia.

My firm was hired by the Democratic Congressional Campaign Committee to handle the activities of the Majority Party on or about April 1, 1985. Most of the negotiations were handled by me on behalf of my firm and John O'Hanlon on behalf of the DCCC. Terry McAuliffe and I subsequently met to finalize the arrangement.

My firm initiated activities to promote a July 15, 1985, "Kick-Off" event. It was our role to coordinate all aspects of this event.

I directed Howard Pulchin, Director of Operations at my company, to handle the day-to-day responsibilities for the logistics of the event.

Randy Wilhelm, Pres.  
 Randy Wilhelm  
 President  
 Wilhelm Associates

7/15/85  
 Date

Sally Anne MacLackie  
 Notarized by

My Commission Expires May 14, 1990

7/15/85  
 Date

## APPENDIX I

WILHELM INC.

119 North Henry Street

Alexandria, Virginia 22314

Telephone: 703/549-2400



MEMO

TO: John O'Hanlon, Mary Jane Volk  
 FROM: Randy Wilhelm  
 RE: Membership Drive for the Majority Party  
 DATE: February 8, 1985

This memo is intended to serve as a starting point for discussion of increasing membership for the Majority Party. In particular, I believe we can be helpful in increasing membership through an ongoing effort of targeted mailings and follow-up telephone contacts.

We may also want to discuss the possibility of Wilhelm, Inc. handling the entire management of the project. This depends on whether or not someone in your organization wants to take the responsibility for arranging meetings, parties, events, etc. or if you just want it "out of your hair."

For now, let me address the mail/phone membership drive only.

I. LISTS OF PROSPECTS-There are several suggestions including the following;

- a. Democratic organizations such as Democrats for the 80's.
- b. People in the Washington, D. C. area who belong to national organizations such as ADA, NCEC, Independent Action, Fund for a Democratic Majority, etc.
- c. Members of local Democratic organizations and contributors to local Democratic candidates such as Mayor Barry and members of City Council.
- d. Lobbyists and other people who have "gone downtown" from their former positions on the Hill.
- e. Hill staffers.
- f. Organized labor.

II. MAILINGS-Once we start to acquire lists we can begin to systematically test-mail a few prospects from each list. Each month we can target, say, 1000 such prospects.

III. FOLLOW-UP TELEPHONE SOLICITATIONS-each prospect will receive a follow-up call within a week of the mailing to solicit their membership. The phone pitch will emphasize the positive rewards of belonging to M.P. such as social and business contacts while, at the same time, stressing the need for Democrats to come together.

APPENDIX J

BEFORE THE  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT  
UNITED STATES HOUSE OF REPRESENTATIVES

IN THE MATTER OF  
A COMPLAINT

BY  
REPRESENTATIVES LOTT AND McCANDLESS

STATEMENT OF REPRESENTATIVES ANDREWS, COELHO AND FEIGHAN

By Counsel:

Stanley M. Brand  
Brand & Lowell  
923 15th Street, N.W.  
Fifth Floor  
Washington, D.C. 20005  
(202) 662-9700

Robert F. Bauer  
Perkins Coie  
1110 Vermont Avenue, N.W.  
Suite 1200  
Washington, D.C. 20005  
(202) 887-9030

July 23, 1985

I. PROCEDURAL BACKGROUND

On July 10, 1985, Representative McCandless introduced a privileged resolution (House Resolution 217) on the floor of the House, directing the Committee on Standards of Official Conduct to conduct an investigation into solicitations of political contributions. 131 Cong. Rec. H5532 (daily ed., July 10, 1985). The gist of the resolution was that the solicitations, although addressed solely to Members, encouraged Members to involve their staffs in fundraising activity and did so within a Federal office building, violating two separate sections of the criminal law, 18 U.S.C. §§602 and 607, respectively.

After limited debate, the Resolution was tabled by a vote of 233 yeas to 170 nays. 131 Cong. Rec. at H5334. Also on July 10, 1985, Representatives Andrews, Coelho and Feighan, the Members against whom House Resolution 217 was directed, requested by letter that the Committee resolve the matter raised by the Resolution and offered their full cooperation in providing an explanation of the circumstances surrounding the so-called "Majority Party" letter.

Representatives Andrews, Coelho and Feighan were notified on July 17 that the Committee had authorized a

preliminary inquiry into the allegations of the Complaint, a copy of which was delivered to them on that day.<sup>1/</sup>

Pursuant to Committee Rule 11(a)(2)(A) the Democratic Congressional Campaign Committee ("DCCC") submits this written statement respecting the allegations of the Complaint.

## II. FACTUAL BACKGROUND .

The complaint before the Committee in this matter is based on a "Dear Colleague" letter dated June 24, 1985, bearing the names and facsimile signatures of Congressmen Mike Andrews and Ed Feighan. (Exhibit 1.) The letterhead is that of the Democratic Congressional Campaign Committee ("DCCC"), which identifies Congressman Tony Coelho as Chairman. This letter was hand delivered to the offices of Democratic Members of Congress on June 24, 1985.

The June 24 letter concerned a fundraising reception scheduled by DCCC for July 15, 1985, and held for the benefit of its "Majority Party" ("MP") program. The letter, as delivered, was accompanied by a standard MP brochure and a printed invitation to the July 15 event.

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<sup>1/</sup> Although the Members themselves requested that the Committee inquire fully into the matter, even before the filing of the Complaint, they have no objection to the Committee acting on the basis of the Complaint rather than the request. Pursuant to Committee Rule 13, the Committee could have, even without the filing of a complaint under Committee Rule 10, voted to commence a preliminary inquiry on its own initiative on the basis of the July 10, 1985 letter.

On the basis of interviews conducted by DCCC counsel, which it is expected will be fully corroborated by the Committee's Preliminary Inquiry, the following constitutes a complete account of the circumstances surrounding the production and delivery of the June 24 letter. This account addresses all material issues:

- A. The DCCC procedures for review of all such letters, which were not followed in this instance;
- B. The facts relating to the preparation and production of the letter;
- C. The facts relating to delivery of the letter;
- D. Current DCCC efforts (previously brought to the attention of the Committee) to respond constructively to this episode by further tightening procedures and erecting safeguards against recurrence.

Each of these areas of factual inquiry will be treated separately and in full below.

A. DCCC Clearance Procedures

In an earlier letter to the Committee, dated July 10, 1985, Congressmen Andrews, Coelho and Feighan advised the Committee that the June 24, 1985 letter was prepared, produced and distributed in a manner violative of DCCC clearance procedures applicable to all letters and communications. Over the years, these clearance procedures have been reduced to writing in a series of senior DCCC management directives to staff. The earliest of these is dated April 13, 1981, and the

most recent, June 25, 1985. Overall, by written communication to staff, senior DCCC management has addressed these clearance procedures on six separate occasions:

- April 13, 1981
- July 17, 1983
- August 22, 1983
- October 25, 1983<sup>2/</sup>
- August 29, 1984
- June 25, 1985.

Each of these communications has previously been supplied to the Committee. The procedures addressed in these communications were not observed in connection with the production and preparation of the June 24 letter, as will be shown below.

**B. Preparation and Production of June 24 Letter**

The June 24 letter was prepared and produced by Wilhelm, Inc. ("Wilhelm"), a fundraising consulting firm in Arlington, Virginia which DCCC retained in early 1985. Wilhelm also supervised the distribution of this letter to Congressional offices. As developed in the presentation which follows, the individual Wilhelm employee primarily responsible for the

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2/ This communication is an example of the ongoing attention paid by DCCC management to these matters. In this document, DCCC's Executive Director, Martin D. Franks, brought to the staff's attention a newspaper editorial commenting on controversy generated by a carelessly processed campaign mailing. Conceding that he is "sometimes picky about what goes out with our name on it," he notes that "we have a good record -- and a good name -- because of your diligence and cooperation. Long may all four last."

production and distribution of this letter -- and for the fundraising function to which it relates -- is Howard Pulchin, Wilhelm's Director of Operations.

In the early part of 1985, DCCC management explored with Wilhelm that firm's interest in assuming overall management responsibility for DCCC's "Majority Party," one fundraising function among many others maintained by DCCC. The "Majority Party," organized by DCCC in 1981, had been conceived and operated as a vehicle for the active interest in Democratic Party involvement on the part of Washington political professionals, including staff members of Democratic Congressional offices. The "Majority Party" was not designed or operated as a "big donor" fundraising function: with events priced at \$10.00 per ticket and "memberships" available for \$50.00 per calendar year, the "Majority Party" focused instead on involving as many interested, politically active individuals as possible in the ongoing programs of DCCC, not limited to fundraising. (Exhibit 2, "Majority Party" brochure.)

Because MP functions could not generate substantial fundraising proceeds, responsible DCCC employees began to question in early 1985 whether the returns from this program justified the staff time and expense it required.<sup>3/</sup> On or about January 24, 1985, discussions between DCCC and Wilhelm,

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3/ Interviews with Mr. Terrence McAuliffe, Director of DCCC's Finance Division, and Ms. Mary Jane Volk, a DCCC employee.

Inc. took place to determine whether Wilhelm, Inc. could provide paid consulting services in connection with the management of the MP which would be more cost efficient and productive than current DCCC "in-house" efforts.<sup>4/</sup>

In the course of these discussions, Wilhelm prepared a memorandum dated February 8, 1985, which reviewed generally a proposed program for achieving increased MP membership and activity. (Exhibit 3.) The discussions between DCCC and Wilhelm progressed until early April, when, on or about April 8, 1985, DCCC reached an oral agreement with Wilhelm, Inc. that the firm would administer MP fundraising activities for a monthly fee of \$1,250 through the end of 1986.<sup>5/</sup> On or about the same time, DCCC and Wilhelm, Inc. agreed that the firm's efforts on behalf of MP should be inaugurated with a "good first event" to raise the visibility of the program, raise funds, and attract new "memberships."<sup>6/</sup> This event, originally scheduled for June 24, 1985, was finally set for July 15, 1985.<sup>7/</sup>

In the course of preparing for this event, Mr. Howard Pulchin proposed a "Dear Colleague" letter which advised all Democratic Members of this event.<sup>8/</sup> Mr. Pulchin raised the

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4/ Id; interviews with Mr. Randy Wilhelm, President of Wilhelm, Inc., and Mr. Howard Pulchin, Director of Operations of Wilhelm, Inc.

5/ Interview with Volk.

6/ Id.

7/ Id.

8/ Interview with Pulchin.

- 7 -

matter with Ms. Mary Jane Volk, formerly director of the Majority Party and now the principal DCCC liaison with Wilhelm, Inc. on Majority Party Projects. Ms. Volk agreed to this proposal; she has stated that "Dear Colleague" advisories on DCCC functions, including MP functions, were standard practice.<sup>9/</sup>

Mr. Pulchin then drafted the letter which, with subsequent revisions, became the June 24, 1985 letter referenced in the Complaint before this Committee.<sup>10/</sup>

Mr. Pulchin read this letter to Ms. Volk over the telephone.<sup>11/</sup> Both Mr. Pulchin and Ms. Volk recall that she presented no objection to the letter.

Ms. Volk did not submit the letter to DCCC's clearance procedures.<sup>12/</sup> Ms. Volk was under the impression that letters bearing other Members' facsimile signatures in a "Dear Colleague" format did not require submission to the clearance procedures.<sup>13/</sup>, <sup>14/</sup>

Mr. Pulchin then proceeded to check the letters with representatives of the offices of Congressmen Andrews and

- 
- 9/ Interviews with Volk and Pulchin.  
10/ Interview with Pulchin.  
11/ Interviews with Pulchin and Volk.  
12/ Interview with Volk.  
13/ Id.  
14/ In fact, as materials submitted to this committee reflect, standing DCCC procedures require that the Executive Director "see every [emphasis in the original] letter before it is sent out . . . ." (Exhibit 4.)

Feighan who were to serve as co-chairmen of the July 15 event, and whose names were to appear on the letter as signatories. Mr. Pulchin recalls that he spoke first with Victor Driscoll, Administrative Assistant to Congressman Andrews. Whereas Mr. Pulchin recalls that he spoke with Mr. Driscoll in person, Mr. Driscoll recalls that the discussion was conducted on the telephone.<sup>15/</sup> Mr. Pulchin recalls that he read the letter to Mr. Driscoll, whereas Mr. Driscoll recalls that the contents of the letter were made generally known to him and that these contents "may" have been read to him in full text.<sup>16/</sup> Mr. Driscoll now recalls his impression at the time that the letter was one soliciting the Members' participation in this event.<sup>17/</sup>

At the time Howard Pulchin reviewed the letter with Victor Driscoll, the letter did not include language "urging" the Members to "involve your staff in this worthwhile effort." This language was added in the course of discussions with Mr. George Cody of Congressman Feighan's office. Both Mr. Pulchin and Mr. Cody recall that, at Mr. Cody's suggestion, Mr. Pulchin added language to this effect.<sup>18/</sup> On this

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15/ Interviews with Pulchin and Mr. Victor Driscoll, Administrative Assistant to Congressman Mike Andrews.

16/ Id.

17/ Interview with Driscoll.

18/ Interviews with Pulchin and Mr. George Cody of Congressman Feighan's office.

occasion, too, Mr. Pulchin recalls meeting with Mr. Cody in person, while Mr. Cody recalls only a telephone conversation during which the letter was read to him.

Neither Congressman Feighan nor Congressman Andrews was provided a text of this letter.<sup>19/</sup> Neither did any of those involved -- Messrs. Cody, Driscoll or Pulchin -- read the letter to, or review its contents with, Congressmen Andrews or Feighan.<sup>20/</sup> The signatures of these Congressmen were affixed in facsimile form to the letter by Howard Pulchin.<sup>21/</sup> Mr. Pulchin recalls that Victor Driscoll provided him with a franked envelope with the Congressman's facsimile signature, and that Driscoll further wrote out the signature "Mike" on a yellow sheet of paper for Mr. Pulchin's reference.<sup>22/</sup> Driscoll recalls that Pulchin requested authority to use a facsimile signature already available to him in materials in DCCC files.<sup>23/</sup>

In either case, Driscoll does recall authorizing Pulchin's use of a facsimile signature of Congressman Andrews. Mr. Cody does not recall any specific discussion with Mr. Pulchin about the use of Congressman Feighan's facsimile signature.

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- 19/ Interviews with Congressman Mike Andrews and Ed Feighan.  
20/ Interviews with Cody, Driscoll and Pulchin.  
21/ Interview with Pulchin.  
22/ Id.  
23/ Interview with Driscoll.

C. Facts Relating to the Delivery of the Letter.

Howard Pulchin took charge of the production and delivery of the letter. Mr. Pulchin prepared the letter in final form on word processing facilities at the office of Wilhelm, Inc. and reproduced them for distribution at a commercial copying facility. Mr. Pulchin then called upon DCCC summer interns to enclose the letter in MP envelopes, with enclosures in the form of the MP brochure and an invitation to the July 15 event.<sup>24/</sup>

Pulchin recalls that he was concerned with the promptest possible delivery of the letter. Pulchin contacted both Victor Driscoll and George Cody to determine whether their offices had interns available to help with distribution.<sup>25/</sup> Driscoll advised that he did not, whereas Mr. Cody did make two intern from the Feighan office available for this purpose.<sup>26/</sup> Under the supervision of Howard Pulchin, Pulchin and interns from DCCC and Congressman Feighan's office made hand delivery of this letter to Democratic Congressional offices. The delivery was completed on June 24, 1985.

Following the June 24, 1985 letter, Howard Pulchin concluded that an additional, "last minute" letter to Members, reminding them of the event and urging the participation of

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24/ Interview with Pulchin.

25/ Id., interviews with Driscoll and Cody.

26/ Interviews with Driscoll and Cody.

- 11 -

them and their staffs, would be appropriate.<sup>27/</sup> Pulchin recalls that he contacted Congressman Feighan by telephone in Ohio with a request for authorization to prepare this letter over his name and the name of Congressman Andrews. Congressman Feighan, assuming that the letter was no more than a "time, date and place" letter, gave the requested authorization over the telephone.<sup>28/</sup> Howard Pulchin did not read the letter to Congressman Feighan.<sup>29/</sup>

Howard Pulchin also sought to contact Congressman Andrews for his authorization on this letter. Pulchin reached the receptionist in Congressman Andrews' office, who placed the call on hold and checked with the Congressman to determine whether he wished to speak with Mr. Pulchin.<sup>30/</sup> Congressman Andrews, advised that the letter was in the nature of a follow-up advisory to Members on the July 15 event, authorized this employee to advise Mr. Pulchin that the Congressman had no objection to the letter.<sup>31/</sup>

Mr. Pulchin prepared the letter, the same night, in the Wilhelm offices in Arlington, Virginia. Mr. Pulchin

- 
- 27/ Interview with Pulchin.  
28/ Interview with Feighan.  
29/ Interviews with Feighan and Pulchin.  
30/ Interview with Pulchin.  
31/ Interviews with Andrews and Pulchin.

prepared two versions and reproduced the letter in the necessary quantities on DCCC copying facilities.<sup>32/</sup> (Exhibit 5.)

On this occasion, with the assistance of DCCC's Mary Jane Volk and a DCCC volunteer, Mr. Pulchin directed and participated in the "stuffing" of envelopes with this new letter. Mr. Pulchin then elected to deliver the letter through the House mail delivery system, in place of hand delivery.<sup>33/</sup>

The complaint before the Committee focuses specifically on language in the June 24 letter which allegedly reflects the intent to solicit Congressional employees in their place of work. Interviews conducted by DCCC have revealed, and the foregoing reflect, that this language was added in a later phase of the drafting of the June 24 letter. At the time Mary Jane Volk of DCCC was read the letter, it did not include this language. Both Howard Pulchin and George Cody of Congressman Feighan's office recall that Mr. Cody suggested the addition of this language.

Interviews conducted by DCCC counsel also established that neither on the occasion of the June 24 letter, nor at any previous time in the conduct of MP activities, did any of the individuals involved have any intention to systematically solicit Congressional employees in their workplace. For

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32/ Interview with Pulchin.

33/ Interview with Pulchin.

example, Victor Driscoll has stated that the June 24 letter, including enclosures, was neither posted in Congressman Andrews' office nor distributed to any Andrews employee.<sup>34/</sup> George Cody recalls his receipt, at some point, of copies of the invitation to the July 15 event which he deposited in employees' mailboxes. Cody does not recall "posting" the June 24 letter or any other notice to Feighan employees relating to the July 15 event.<sup>35/</sup>

DCCC records and interviews reveal that solicitation of Congressional employees for membership in the MP, or attendance at its events, were generally conducted by telephone solicitations to those employees at their personal residences. On the basis of interviews and other evidence, including DCCC's compilation of home addresses and telephone numbers of Democratic Congressional office staff (which have been provided to the Committee staff for review in connection with the preliminary inquiry), DCCC staff appeared to have been fully aware that the solicitation of Congressional employees in their workplace was improper.

D. Current DCCC Review

The interviews conducted by DCCC counsel were undertaken at the request of Congressman Coelho in connection with proceedings before this Committee, and as part of a

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34/ Interview with Driscoll.

35/ Interview with Cody.

- 14 -

broader effort to review and recommend improvements in DCCC procedures. It is now expected that those recommendations will shortly be submitted to Congressman Coelho for his review. Soon thereafter, DCCC will make available to the Committee any revisions in the procedures which have been approved by Congressman Coelho and placed in effect.

III. ANALYSIS

Complainants have alleged that the June 24 letter constitutes an apparent violation of 18 U.S.C. §§602 and 607.<sup>36/</sup> It is respectfully submitted that none of the Respondents have violated either the provisions of §602 or §607. At best, the actions challenged by Complainants could be deemed -- indeed Respondents deem them -- ill-considered in light of the issues they have raised and the controversy they could be expected to generate. Had DCCC procedures been followed, these letters would not have been cleared for precisely those reasons -- but only for those reasons.

What ultimately occurred was a management failure at DCCC -- and a significant one which is being thoroughly addressed by a DCCC internal review. This management problem

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36/ On this basis, Complainants seek action by this Committee under the House rules, though they do not cite the rule which this purported violation of federal law would contravene. Presumably, Complainants mean to suggest violation of House Rule 43, Clause 1, which directs Members and employees of the House to avoid conduct which reflects discredit on the House.

does not include any violation of federal law. There is no violation of criminal law here, and thus no basis for a Committee finding that House rules have been violated.

A. There Have Been No Violations of 18 U.S.C. §602.

1. Solicitations Of Members Do Not Violate §602

The letters in question were directed to Members of Congress. Even the Complainants concede that solicitations of Members do not violate §602.

Complainants are correct: an examination of the structure and history of 18 U.S.C. §602<sup>37</sup> reveals that it was never intended to preclude the solicitation of political contributions from Members of Congress. By its own terms, the statute specifically prohibits Members only from soliciting an

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37/ Section 602, captioned "solicitation of political contributions," provides as follows:

it shall be unlawful for --

- (1) a candidate for the Congress;
- (2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;
- (3) an officer or employee of the United States or any department or agency thereof; or
- (4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States to knowingly solicit, any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

"officer or employee of the United States," or any person "salaried by the government for services." Id. The statute further treats such officers, employees and persons on government salary as categories of individuals separate from, and not inclusive of, Members. Compare id. §602(2) (specifically including Representatives in Congress among individuals who may not initiate certain solicitations).

A well established canon of statutory construction provides that "[w]here Congress includes particular language in one section of a statute but limits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." Russello v. United States, 104 S. Ct. 296, 300 (1983). Thus, while Members may not solicit federal employees, officers and other government-salaried persons, they may be the targets of such solicitations.

The legislative history of §602 fully supports this conclusion. 18 U.S.C. §602 was enacted in original form in 1883 as an amendment to a bill (S. 133) sponsored by Senator Pendleton, aimed at improving the federal civil service. See An Act of January 15, 1883, ch. 27, Sec. 11, 22 Stat. 403, 406 (1883). In 1914, a House committee was instructed by the full House to examine whether any Members had violated the law by receiving political contributions from other Members of Congress. See H.R. Res. 256, 63d Cong., 2d Sess. (1914). The Committee concluded, with the approval of the full House, "it

is no violation . . . of the Criminal Code for a Senator or Member of the House to solicit or receive assessments or contributions for political purposes from other Senators or Members of the House." 51 Cong. Rec. 8831 (May 19, 1914).

That determination now has the force of law within the House, it having been incorporated into binding precedent. See 6 C. Cannon's Precedents of the House of Representatives §401 (1936). (Exhibit 6.) Indeed, the Committee report adopted by the full House on this matter in 1914 "conclude[d] that this is a case where the letter of the law must yield to reason and the intendment of Congress and therefore [the predecessor sections] of the Criminal Code should not be construed to prohibit one Senator or Member from soliciting campaign contributions from another Senator or Member of Congress from making such solicitation in the office furnished such Senator or Member of Congress in a Government Building." 6 C. Cannon's Precedents, supra, at 573 quoting H.R. Rep. No. 677, 63d Cong., 2d Sess. 10 (1914) (emphasis added).

When Congress in 1980 enacted the most recent successor to the Pendleton Act, it once again clarified the original intent that the statute protect only subordinate federal officials -- and not Members of Congress -- from political solicitation. Senator Hatfield, the Senate sponsor of the 1980 version of §602, left no doubt on this score: "No Federal employee may solicit contributions from another Federal employee, although this prohibition does not apply to solicitation of Members of Congress." 125 Cong. Rec. 36754

(Dec. 18, 1979) (emphasis added). This reading of the law is well recognized. See United States v. Burleson, 127 F. Supp. 400, 403 (E.D. Tenn. 1954) ("The persons intended to be protected were the subordinates, the unprotected individuals who worked in Government jobs."); see also House Committee on Standards of Official Conduct, Ethics Manual for Members and Employees of the U.S. House of Representatives, 98th Cong., 2d Sess. 124 (1984) (noting that §602 does not apply to solicitation of Members of Congress).

2. There Was No Solicitation of Federal Employees Violative of §602

Complainants insist the letter must also be treated as a solicitation by Congressmen Andrews, Coelho and Feighan of each of the employees of each Congressional office whose Members received the letter. Their theory is based on the assumption that "Dear Colleague" letters are always shared with staff, by "posting" within the office or otherwise. This assumption about how the House operates is the speculative basis for Complainants' allegation of violations of the United States Criminal Code.

(a) The June 24 letter did not solicit federal employees

Section 602, a criminal enactment, must be read narrowly. Cf. Bujic v. United States, 446 U.S. 398, 406 (1980). As a threshold issue, the letter in question simply cannot be read as a "solicitation" of any federal employee by Congressmen Andrews, Coelho or Feighan. The letter was not

- 19 -

addressed to any Congressional employees, nor were copies of the letter distributed to them. The letter itself does not ask that it be circulated by the recipient Member to his or her staff. The letter leaves to the Member's discretion whether he will raise the matter of the July 15 event with his employees.

The very predicate of the §602 violation Complainants allege -- a solicitation of federal employees -- does not exist here.

(b) Only coercive solicitation of federal employees violates §602.

If this absence of a true "solicitation" were not sufficient reason to disregard the allegations of a violation of §602, which it is, Complainants ignore that §602 was designed to address only coercive solicitation of federal employees. As clearly established by legislative history and judicial interpretation, §602 is intended to proscribe only such coercive solicitations. As explained in United States v. Burleson, 127 F. Supp. at 403, the statute was designed to eliminate the "shake-down system" whereby Members of Congress and others would intimidate their subordinates into making political contributions.

It defies logic to argue that the letters in the present case even approach a coercive political "shakedown" of the type condemned by §602. The principle of coercion underlying §602 is grounded in concern that the "employing authority," in this case the Member, could extract, as a

condition of employment or as a tacit inducement, a campaign contribution from the employee -- an entreaty the employee could not successfully resist given his or her economic dependence on the employing authority. See 125 Cong. Rec. 37854 (1979) (remarks of Senator Hatfield); Ex Parte Curtis, 106 U.S. 371 (1882) (purpose of statute is not to restrict giving or receiving but to protect those in "public service against exactions through fear of personal loss"). As the Senate sponsor recognized, however, these evils are not threatened outside the employer-employee relationship, and the statute therefore "permits a Federal employee to make a voluntary contribution to another Federal employee who is not his or her employer or employing authority." Id.

In the House of Representatives, each Member is an "employing authority" and so, Member A cannot coerce, under §602, the employees of Member B because he exerts no legal control over that Member's staff. See 2 U.S.C. §92 ("Appropriations made by Congress for clerkhire for Members . . . shall be paid by the Clerk of the House of Representatives to those persons . . . to be designated by each Member"). Accordingly, the letters in issue cannot be viewed as within §602 prohibitions because the evils to which §602 was addressed are not implicated by solicitations from individuals having no hiring or firing authority over the persons solicited. See United States v. Burleson, 127 F. Supp. at 404 (statute is to protect "those classes easily exposed to the abuse of political contributions").

In addition, the argument propounded by the Complainants would, carried to its logical extreme, blur a line consistently drawn within the House of Representatives between "employing authorities" and persons lacking the authority to hire and fire. In so doing, it would subject Members to an array of prohibitions not now applicable to them. For example, the federal anti-nepotism statute, 5 U.S.C. §3110, prohibits federal officials, including Members, from appointing, promoting or recommending for appointment or promotion any relative of the Member to any agency or department over which the official exercises authority or control. The House of Representatives has consistently interpreted the statute as proscribing only the "employment of a relative of a Member on that Member's staff or on the staff of a committee or a subcommittee of which the Member is chairman." See House Committee on Standards of Official Conduct, Ethics Manual for Members and Employees of the U.S. House of Representatives, 98th Cong., 2d Sess. 17 (1984) (emphasis added). Were the theory advanced by Complainants under §602 adopted in the analogous anti-nepotism context, those interpretations would necessarily fall. Such a realignment of internal House legal precedents is unjustified.

Even if the Committee were to assume in theory that a Congressional staff member could be "coerced" into contributing by a Member other than his employing Member, coercion means just that: some measure of intimidation or undue pressure which

- 22 -

suggests that the contribution was not voluntary. There is simply no evidence whatever of coercion here.<sup>38/</sup> The letter in question was not even a direct solicitation of a federal employee, much less a "coercive" one. Neither Complainants nor anyone else could plausibly maintain that "coercion" would be a factor in any effort to sell a \$10.00 ticket to a fundraising reception. Moreover, the facts of this matter, reviewed in Section I, hardly reflect "coercive" intent of any kind directed toward Congressional employees.<sup>39/</sup> The June 24 letter, tame by current direct mail fundraising standards, does not qualify as a high-pressure coercive communication by any fair reading.

Congressional staff, Democratic or Republican, are fully entitled to participate in the activities of a political party. They may attend partisan events, make political contributions at those events (other than those for the benefit of their employing Members), and volunteer their time for activities in the campaign of their employing Member or any other federal candidate. By their misconstruction of §602,

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38/ A dictionary definition of "coerce," consistent with common sense, is instructive: 1: to restrain or dominate by nullifying individual will 2: to compel to an act or choice [they could coerce the citizens by threats but not persuade their agreement] 3: to enforce or bring about by force or threat. Webster's New Collegiate Dictionary (1981).

39/ The language "urging" Members to "involve" staff was a vague, last-minute addition to the letter. See p. 8.

Complainants seek to create a cloud over the legitimate participation of Congressional staff in the affairs of their own party.

B. There Have Been No Violations Of 18 U.S.C. §607

As in the case of §602, Complainants concede that the language and legislative history of §607<sup>40/</sup> indicate that it was never intended to apply to solicitations from Members of Congress. See Complaint, at 7 ("solicitations only of Members of Congress by other Members are exempted from" §607). Complainants' case under §607 presumes yet again that the June 24 letter must be treated as a direct solicitation of federal employees by Respondents. This theory, too, is simply wrong.

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40/ Section 607, captioned "Place of solicitation," provides as follows:

(a) It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any person mentioned in section 603, or in any navy yard, fort, or arsenal. Any person who violates this section shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971.

- 24 -

To repeat, the June 24 letter was not addressed to Congressional staff; it was not delivered in envelopes bearing their names, and it did not direct Members to "post" or otherwise make copies available to their staffs. Moreover, even the Complainants admit that the letter does not request in clear terms that the Members solicit their staffs to contribute to the DCCC, by buying a ticket to the July 15 event. The letter asks only that each Democratic office attempt to "sell" -- not "buy" -- tickets and that the staff generally become "involved" in making the July 15 event a successful one. And, the interviews conducted by DCCC reveal that the letter's language to this effect was added in a draft of the letter without any clear understanding among those concerned about what it meant.

These are all the facts of the June 24 letter, and they do not fit together in any way to make out a violation of criminal law. Both Democratic and Republican staffs have traditionally assisted with the organization of political party fundraising events and have made contributions to their respective parties. Their right to do so is recognized under federal law which exempts them from the restrictions on political activity in the Hatch Act. 5 U.S.C. §7324. Both House and Senate rules allow liberally for Congressional staff involvement in political activity, including fundraising activity, so long as full attention to their public duties is not thereby disrupted. See House Committee on Standards of

Official Conduct Advisory Opinion No. 2 (July 11, 1973) reprinted in Ethics Manual for Members and Employees of the U.S. House of Representatives, supra, at 157 (so called "free time" rule). Senate rules are even more explicit in this regard by permitting certain Member-designated staff to solicit, receive and otherwise handle campaign funds. See Standing Senate Rule 41.1, reprinted in Senate Manual, S. Doc. No. 1, 98th Cong., 2d Sess. 74-75 (1984) (two assistants to each Senator may receive, solicit, be custodian of and distribute campaign funds within Senate rules). The broad reading of the criminal law offered in the Complaint is unprecedented in light of those established rights.

None of this is to suggest that had the June 24 and July 5 letters been properly submitted for DCCC review, they would have been approved. They would not have been. The uncertainties of the application of §607 are such that DCCC management would have been alert to the ever present possibility of partisan-inspired controversy and would have rejected the letter in the form prepared to avoid this controversy for the benefit of the House and DCCC. This, however, would have been a political and management judgment, not a legal imperative.<sup>41/</sup>

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<sup>41/</sup> With respect to both of Complainant's allegations, it must be kept in mind that Members Andrews, Coelho and Feighan were not personally involved in reviewing the

(Footnote continued on following page.)

C. The Members Have Not Acted in a Manner that Brings Disrepute Upon the House.

Finally, the Complainants nowhere discuss how the Members' actions violate the House Code of Official Conduct, see House Rule XLIII, which this Committee is charged with enforcing. An examination of that rule reveals that the only potentially applicable provision is subsection (1). Subsection (1), a general catch-all provision, states that a Member "shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

The language of this provision in no way suggests that it was intended as a wholesale incorporation of the federal criminal code into the House rules. On the contrary, when the House wishes to incorporate a statute into its own rules, it knows full well how to do so explicitly. See, e.g., House Rule XLIV(2) ("the provisions of Title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House . . .").

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(Continued from previous page.)

letters or directing the distribution which has given rise to the present investigation. Instead, the preparation and distribution of the challenged letters were handled primarily by Wilhelm, Inc. ("Wilhelm"), a contractor hired by the DCCC, in some measure of coordination with DCCC staff. Even assuming that Wilhelm's actions violated §602 and/or §607, which is expressly denied, those transgressions could not be imputed to the Members. Sections 602 and 607 are subject to 18 U.S.C. §2(b), which provides that a principal is liable for the illegal acts of an agent only if the principal "willfully" caused the illegal acts to be done. United States v. Bradley, 540 F. Supp. 690, 693 (D. Md. 1982).

Furthermore, the floor debates leading up to the enactment by the House of its Ethics Code unequivocally reveal that Title 18 (i.e., the federal criminal code) and the Ethics Code are not automatically coextensive. In a section-by-section analysis of the Ethics Code, Chairman Price explained the intent of his Committee with respect to subsection (1):

The committee endeavored to draft a code that would have a deterrent effect against improper conduct and at the same time be capable of enforcement if violated. Initially the committee considered making violations of law simultaneous violations of the code, but such a direct tie-in eventually was ruled out for the reason that it might open the door to stampedes for investigation of every minor complaint or purely personal accusation made against a Member. At the same time, there was need for retaining the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress. Stated purposefully in subjective language, this standard provides both assurances.

114 Cong. Rec. 8878 (1968). Although not agreeing with Chairman Price that this was a wise policy decision, Congressman Halleck did concur with the Chairman in noting that the Committee had consciously decided against a wholesale incorporation of Title 18 into the Ethics Code:

We have not dealt in this with violations of the law.

I wanted some language in here that would simply say that any violation of the law in respect to your duty and responsibility here was unethical per se. Some of the smarter lawyers than I am over at the legislative branch of the Library said that that would get it all fouled up with the Justice Department -- I do not think so. At any rate that is not in here.

Id. at 8782.

It is thus clear that a determination that House Rule XLIII(1) has been violated does not automatically follow from a Title 18 violation. Instead, while Title 18 may serve as a predicate for the inquiry, a determination that Rule XLIII(1) has been violated requires an additional finding that the criminal act was "flagrant" enough to bring disrepute upon the House. See H.R. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

IV. CONCLUSION

The Complaint should be dismissed. The actions at issue here do not present violations of federal law or House rules. As Congressmen Andrews, Coelho and Feighan have stated, they regret nonetheless that well-established DCCC clearance procedure failed in this instance to reject a letter likely to arouse objection and provoke controversy. The current, thorough internal review by DCCC and the pending development of improved procedures to guarantee against recurrence (which will be made available to the Committee) should bring this matter to a full close. No further action by this Committee or the House is necessary or warranted.

Respectfully submitted,

  
Stanley M. Brand

  
Robert F. Bauer

APPENDIX K  
STATEMENT OF  
HOWARD PULCHIN

Currently I am Director of Operations for Wilhelm Associates. I was responsible for running the Majority Party fundraising for the Democratic Congressional Campaign Committee.

I wanted to inform Members of Congress and Congressional staffers of our July 15 event, "Democrats Fight Back." The easiest way to do so I thought would be through a letter signed by Ed Feighan and Mike Andrews. I drafted up a letter to this effect and ran it by Mary Jane Volk of the DCCC for her approval. She approved it. I needed prior approval of Feighan and Andrews as well. Thus, I contacted their offices for the Members' approval. Vic Driscoll, Administrative Assistant to Congressman Andrews approved the letter as was, and gave me approval to sign a fascimile of the Congressman's signature. He gave me a franked envelope with his signature, as well as attempting to make his copy. I contacted George Cody, Executive Assistant to Ed Feighan for his approval of the copy. He said the letter was fine, yet he felt we should include something to the effect of having the Members involving their staffs. This I did. He also gave me permission to sign the Congressman's name, and gave me a franked envelope for an example.

I typed the letter on my office word processor and sent one of my interns down to a copy store to get it xeroxed on DCCC letterhead. When this was done, one of my interns stuffed each letter, along with a Majority Party brochure and invitation to the event, into a Majority Party envelope. We wanted to hand deliver each letter to save time, and also because I didn't feel it was appropriate to send fundraising letters inside mail, regardless if it was approved from the Committee.

The delivery coordination was to take place in Congressman Feighan's office. One of my interns was to meet two of Feighan's along with one from the DCCC. They were to hand address each envelope and distribute them by building. The DCCC intern thought this was a waste of time; it could have been more easily handled through inside mail. This I balked at. Hand distribution went on as planned, with the exclusion of assistance from the DCCC intern.

I also intended to send out a letter to all Members a week prior to the event (targetted Members listed on the event invitation were to receive a different copy from all other Democrats.) I discussed this with Congressman Feighan by phone in Ohio. He agreed to the concept and did not require to hear the letter

as was. I wanted to discuss this with Congressman Andrews. I spoke to his scheduler, told her what I wanted, and asked for Mike to call me. She returned the call  $\frac{1}{2}$  hour later, saying that Andrews said to go forward with it. I typed the letters, signed them, and brought them to the DCCC office to have them reproduced. Mary Jane Volk, a phone bank volunteer, and I stuffed them and affixed DCCC inside mail labels on them. We then gave them to the volunteer and he agreed to bring them to an inside mail box.

  
 Howard Pulchin  
 Director of Operations  
 Wilhelm Associates

July 15, 1985  
 Date

  
 Notarized by

My commission expires May 14, 1990

July 15, 1985  
 Date

## APPENDIX L

STATEMENT  
OF  
HOWARD PULCHIN  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Howard Pulchin. I am submitting this statement voluntarily, as an adjunct to my July 26, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been employed by Wilhelm, Inc, as their Director of Operations, for the past sixteen months. Prior to that time, I worked for Senator John Glenn's Campaign.

There were three letters that I had anything to do with--the June 24, 1985, letter and two July 9, 1985, letters. One of the July 9, 1985, letters was intended for the targeted Members. I wrote both of those letters.

I read the June 24, 1985, letter over the telephone to Mary Jane Volk (with the DCCC) and Vic Driscoll (with Congressman Mike Andrews' office). I believe that I personally showed the letter to George Cody (with Congressman Ed Feighan's office). I think this was done on or about June 23 or 24, 1985. Cody suggested that I include the language that "urged the staff to be involved." Cody gave no reason for the inclusion of this language and we did not discuss the point.

I also wrote the July 9, 1985, letter with similar language as the June 24, 1985, letter but did not pattern the latter letter on the prior. N.R.C.C. targeted members were to try to sell ten tickets, and other Democratic Members were to try to sell five tickets. Neither targeted members nor staffers received the June 24, 1985, letter; they received invitations instead.

Before any of the letters were sent out, I talked to Congressmen Feighan and Andrews, or either their Administrative Assistants, and asked them about what I was going to do to get their approval.

I was unaware of any specific process which I was to follow in mailing on behalf of the DCCC. I just called Mary Jane Volk and discussed with her anything that was connected with the DCCC. Neither Driscoll nor Cody told me that they had run the letters through their bosses; they just told me that the letters were fine. I had no dealing with Sullivan of Congressman Feighan's office. I did not ask for, or receive, from Mary Jane Volk anything in writing concerning the letters. I just ran them by her over the telephone for her approval.

Driscoll gave me a franked envelope with Congressman Andrews' signature on it and he also wrote a facsimile of "Mike" which I could use on the letter. I got a copy of Congressman Feighan's signature from Cody.

I am familiar with the February 8, 1985, memorandum and recall that there was some discussion about it. I was out of town traveling for a client when the memorandum was finalized.

It is common practice to involve Hill staffers in fundraising events. This was the first effort with the Majority Party in which I was involved. I did not have knowledge of any prior Majority Party solicitations.

The June 24, 1985, letter probably was drafted and finalized over a two-day period, the 23rd and 24th. The letter was done on my word processor at Wilhelm, Inc. I had signatures reproduced and then sent the letter to a copy shop in Alexandria. I had an intern from Wilhelm, Inc. (Michaela Worthington) stuff each envelope, put in a ticket and invitation, and then take them over to Congressman Feighan's office, where she was to meet up

with other interns. I had asked Cody earlier if other interns would help distribute these letters. I do not believe that the interns were paid interns, but I am not sure. The envelopes were not addressed or labeled when they went over to Congressman Feighan's office. The interns were to address the envelopes in Congressman Feighan's office with "Congressman So and So's name" and room number, and then distribute them by hand.

J. B. Davis is a DCCC intern who works in the Finance Section. Davis was assigned to work on a couple of different projects, one of which was the Majority Party. I asked Davis to go over and help the other interns with the June 24, 1985, letter. Mary Jane Volk probably knew he was going. Davis did not feel this was the most efficient way to distribute the envelopes, so he went back to the DCCC offices. Davis suggested sending them by "inside mail." I did not want to send them by "inside mail." I do fundraising for a living and send all invitations with a stamp to eliminate any conflicts; I felt that the "inside mail" was too slow. I preferred to save expenses by hand-delivering these letters.

I sent the July 9, 1985, letter by "inside mail." It was easier and was not disallowed. I guess I was being too cautious with the June 24, 1985, letter. I was told by Volk that the July 9 letter could be sent by "inside mail" and I do not believe postage was put on it. I was told that the DCCC has "franking" privileges; I was not aware of this with the June 24 letter. Davis suggested "inside mail" on the June 24 letter and I did not want to use it at that time; I had no further discussion over the telephone with Davis or Volk about it. DCCC envelopes were used with the July 9 letter; Majority Party envelopes were used with the June 24 letter.

The July 9, 1985, letter probably was authored on July 8 and written in the offices at the DCCC. I called Congressman Feighan, in Ohio, to tell him what I wanted to do. I asked him about the letter. I did not read the letter to him. He said it was okay. I then spoke to Cindy Powers, of Congressman Andrews' office, and told her I would like to speak with the Congressman about the letter. Cindy called back and told me that Congressman Andrews had said the letter was okay to send out. I had no contact with Congressman Coehlo's congressional office, but just spoke with Volk of the DCCC. The July 9 letter was copied on the DCCC copy machine and stuffed at the DCCC offices. There were the same number of copies made of the July 9 letter as there were of the June 24 letter. There was no thought or reasoning behind copying at the DCCC offices since I was at the DCCC. The July 9 letter was put in envelopes with DCCC labels. Volk, a volunteer (John Edgell), and I labeled the envelopes. When the envelopes were stuffed and labeled, Edgell put them in "inside mail." This all occurred around 9:00 P.M. (Edgell is a volunteer for the Majority Party who I believe works for Congressman Tom Daschle, although I am not sure. I was involved with Edgell during Senator John Glenn's Campaign.)

I was never told by any attorney or counsel for the DCCC not to run the letters. To the best of my knowledge, no attorneys were consulted and no one with the Ethics Committee was conferred with.

Some follow-up telephone calls were made with regard to the June 24, 1985, letter. I directed these calls to be made. Some calls were made just to see if the Congressmen had gotten the letter, but we were not getting anywhere so the calls were stopped. My intern, Michelle Knox, made the calls, but she no longer is employed with Wilhelm, Inc. She made a couple of calls one morning,

but stopped because I had other things for her to do. I do not remember the date the calls were made. There was no format or script; I did not write anything. The Administrative Assistants in the congressional offices were the recipients of the morning follow-up calls. When a letter is sent to a Congressman, it usually goes to his Administrative Assistant so we called them to make sure the Congressmen got the letter. There was no list kept of the Administrative Assistants that were contacted about the June 24 letter--there may be a scrap of paper somewhere but, since the project was abandoned, no official list was retained.

No follow-up calls were made concerning the July 9, 1985, letter during regular office hours. There were a few night-time calls made to people who were sent the invitation, but not the letter. A phone bank was used to call people at home who received invitations. During the first three nights of these calls, no script was used; a script was used on the fourth night, which was the last night.

I was told by Mary Volk that Marty Franks was to be involved in the approval process of the invitation and brochure distribution. I do not know who Jonathan Cedarbaum is.

I had no discussions with anyone concerning procedure, laws, or regulations with regard to this project. I may have discussed the procedure in general with someone at some prior time but not concerning this project.

Aside from the June 24 and July 9, 1985, letters and the abandoned telephone effort, I am not aware of any further follow-up attempts to involve the staffs with respect to this fundraiser.

CERTIFICATE

I, Howard Pulchin, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
 \_\_\_\_\_  
 HOWARD PULCHIN

SUBSCRIBED AND SWORN TO BEFORE ME )  
 this 9<sup>th</sup> day of August, 1985. )  
  
 \_\_\_\_\_ )  
 Notary Public for the District of Columbia. )  
 My Commission expires \_\_\_\_\_.)

## APPENDIX M

STATEMENT  
OF  
MARY JANE VOLK  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Mary Jane Volk. I am submitting this statement voluntarily, as an adjunct to my July 25, 1985, interview, to tell what I know about the Majority Party letters which are the subject of the present preliminary inquiry.

I have been employed in the Finance Division of the DCCC since January 8, 1983. Although I was not involved with the drafting of the February 8, 1985, memorandum from Randy Wilhelm, I did discuss the proposal with him. The February 8, 1985, memorandum, suggesting that staffers be involved in the fund-raiser, probably was referring to staffers who were already members. I had several conversations with Wilhelm and O'Hanlon concerning their contractual arrangement, but no formal contract was ever drafted.

Wilhelm Associates used the Majority Party's list to obtain the names of Hill staffers to be solicited. All phone calls and mailings were to be made to the employees' homes.

The DCCC has an internal review system for letters mailed from the DCCC office. The solicitation letter of June 24, 1985, was drafted by Howard Pulchin and read over the phone for my approval, but it did not go through any formal review system because Congressman Tony Coehlo's signature was not to be used--existing procedures call for Mr. Frank's review of letters for Congressman Coehlo's signature. Therefore, I did not seek Marty Frank's (DCCC Executive Director) review or approval of the letter. At the time the letter was read to me, it did not contain the language which urged Members "to involve your staff." I never saw the final

version of the June 24, 1985, letter until after the matter was brought up by Republican Members on the House floor. I believe that Pulchin did discuss the letters with people from both Congressmen Feighan's and Andrews' staffs. If I had known the letter contained the phrase "we strongly urge you to involve your staff in this worthwhile effort," I would have had it deleted because I know that this is not allowed.

At some time during my conversations with Pulchin, he mentioned the procedure he would follow in distributing the materials. It was my understanding that the June 24, 1985, letter was to be sent to only Members of Congress; it never was intended to be distributed to, or brought to the attention of, their staffers since another mailing was to be sent directly to the staffers' homes.

Pulchin told me that he wanted some of the DCCC interns to hand-deliver the June 24, 1985, letter. I responded to his request by stating that it would be difficult to get someone from my office to do it. Eventually, J. B. Davis, the Finance intern, was told to help distribute the letter. Davis did not complete the task since he thought the method by which it was to be done was too complicated. The July 9, 1985, letter was to be distributed by "inside mail."

The only other intern I knew who worked on the June 24, 1985, letter was Michaela Worthington, a Wilhelm, Inc. employee. If I had known congressional interns were going to be used to distribute the letter, I would have left it up to the intern's Congressman to determine whether the act was proper. I also did not direct anyone to go to Congressman Feighan's office to handle the distribution of the June 24, 1985, letter. I believe the June 24 letter was stuffed at the office of Wilhelm, Inc.

The July 9, 1985, letter was distributed by the House "inside mail" system.

I believe that it was done under the direction of Howard Pulchin, who also made the decision to use the "inside mail" system. Pulchin already had the labels that were provided by the DCCC for some prior mailings.

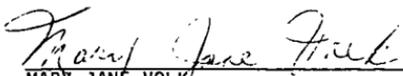
I believe Pulchin drafted the July 9, 1985, letter in the DCCC offices, which is where the letter was reproduced and addressed. I sorted the labels by placing those for targeted Members on a different envelope, which possibly contained a different letter.

The DCCC intern, J. B. Davis, made follow-up telephone calls on the day after the June 24, 1985, letter was distributed, but I do not believe I told him to make the calls. I believe that Davis called the offices of the targeted Members mentioned in the June 24, 1985, letter. I also believe that Pulchin may have given the intern a script to use when he made the follow-up calls. I did not direct J. B. Davis to make any follow-up telephone calls concerning the July 9, 1985, letter, nor do I know of any such calls.

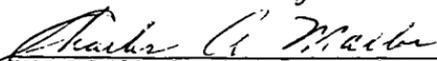
I do not know who changed the request on the sale of tickets and/or memberships in the two letters from five to ten members.

CERTIFICATION

I, MARY JANE VOLK, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
 \_\_\_\_\_  
 MARY JANE VOLK

SUBSCRIBED AND SWORN TO BEFORE ME. )  
 THIS 5 DAY OF August, 1985. )

  
 \_\_\_\_\_  
 Notary Public for the District of Columbia.  
 My Commission expires \_\_\_\_\_.)

APPENDIX N  
STATEMENT  
OF  
VIC DRISCOLL  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Vic Driscoll. I am submitting this statement voluntarily, as an adjunct to my July 29, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been employed as the Administrative Assistant to Congressman Mike Andrews since January, 1983. Prior to my employment with Congressman Andrews, I was engaged in the private practice of law in Houston, Texas.

I am familiar with the June 24, 1985, letter and one of the July 9, 1985, letters. I believe that the longer of the two July 9, 1985, letters is the one that I am familiar with, although I previously did not know that there were two versions of that letter. I did not see the July 9, 1985, letter until the problem arose on the House floor. I never saw, or even heard of, the contents of the letter and did not have anything to do with the stuffing, addressing, or distribution of the letter.

I had a telephone conversation with Howard Pulchin, of Wilhelm, Inc., concerning the June 24, 1985, letter. I received a call from Pulchin in his office during work hours. This took place just prior to the date of the letter and the conversation concerned the letter's purpose, rather than its text. I got the impression that this letter was from certain Members to other Democratic Members regarding the fund-raiser and membership in the Majority Party. The discussion did not involve staff participation. I did not see any drafts or memorandums relating to the June 24, 1985, letter, and it was not until July 10, 1985, that I actually saw this letter.

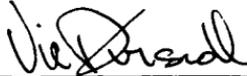
When Howard Pulchin and I discussed the June 24, 1985, letter, the subject of the Congressman's signature came up and I gave him permission to sign Congressman Andrews' name to the letter. I figured that Pulchin had access to Andrews' signature through his association with the DCCC. Eventually, Pulchin came by the office and got a franked envelope with Andrews' signature. I did not inform Congressman Andrews of this fact. In the past, the Congressman authorized me to use the facsimile under certain guidelines. Pulchin asked me if anyone from the office could assist in the distribution of the June 24, 1985, letter, and I responded by saying "no." I did not discuss my conversation with Pulchin with any Member of Congress, their staffs, anyone at the DCCC, or anyone else at Wilhelm, Inc.

Pulchin told me during our telephone conversation concerning the June 24, 1985, letter that he intended to call George Cody, of Congressman Feighan's office, about the letter right after our conversation. On about July 10, I also was told that Pulchin had a discussion with George Cody about the language in the letter which stated that staff should get involved. I received the brochure concerning the fundraiser in the mail at my residence since I am a member of the Majority Party.

The June 24, 1985, letter and the materials enclosed therein, were not passed around my office, nor did I bring the information to the staff's attention. Most of the staff are members of the Majority Party and, therefore, would receive the information by mail at home. I do recall, however, that there were a number of brochures in the area of the receptionist's desk, which I told her to keep there and not disseminate.

CERTIFICATE

I, Vic Driscoll, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.



\_\_\_\_\_  
VIC DRISCOLL

*District of Columbia*  
SUBSCRIBED AND SWORN TO BEFORE ME

this 31 day of July, 1985. )

*Mary Curtis Bowman*  
\_\_\_\_\_  
Notary Public for the District of Columbia.)  
My Commission expires May 30, 89.)

APPENDIX O  
STATEMENT  
OF  
GEORGE CODY  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is George Cody. I am submitting this statement voluntarily, as an adjunct to my July 30, 1985, interview, to tell what I know about the Majority Party letters which are the subject of the present preliminary inquiry.

I have worked for Congressman Ed Feighan's congressional staff since 1983. I also worked for Mr. Feighan in Cleveland, Ohio, when he served as one of three County Commissioners.

I have never seen the February 8, 1985, memorandum from Randy Wilhelm to Mary Volk and John O'Hanlon. Randy Wilhelm contacted me and asked me to help get the Majority Party off of "dead center." I spoke with Howard Pulchin about the June 24, 1985, letter just before it was sent out, but I do not recall the date of our conversation. I knew that he was going to write a letter, but I did not know of its contents until right before it was sent out. I had nothing to do with the letter's contents or its drafting. Pulchin and I discussed the letter over the telephone during working hours, but I do not recall whether the conversation occurred during the morning or afternoon.

I suggested to Pulchin that he include something in the letter to encourage the staff to participate in the Majority Party event, but I do not recall if the statement in the letter was the exact line that we agreed upon. I believe I made this suggestion the week prior to Monday, June 24, 1985, or either on the 24th. I do not recall if Pulchin gave me a copy of the letter or if we just discussed it over the telephone. My intention in making the suggestion was probably to get the staff involved or get them to

go on their own volition since this was a Democratic function and my boss (Congressman Feighan) was the co-chairman of the Majority Party. I did not have a set agenda when this was done; I was just trying to get the staff involved, whether the letter was posted or xeroxed and passed out. I was not trying to induce any strategy.

I did not have any discussions with any Member of Congress or his staff, or with anyone from the DCCC concerning the June 24, 1985, letter; I only discussed it with Howard Pulchin. I also did not discuss the matter of using Congressman Feighan's signature with Mr. Feighan or anyone else; I acted on my own. Congressman Feighan had absolutely no knowledge about what was being done or proposed to be done in his name.

I gave Pulchin a couple of franked envelopes, but I do not recall for what specific purposes. I do not believe that I gave Pulchin permission to use the signature, but I did not object to the letter when I saw my boss' signature on it, nor did I pay much attention to it.

Pulchin asked me for the use of an intern to help get the letters distributed after they were printed and xeroxed. Pulchin was going to have someone from the DCCC to do the distributing and he also wanted someone from Congressman Feighan's office. I provided two interns (Lisa Kaufman and Chris Thomas). They were volunteer interns who help answer the phones, open mail, run errands, write letters, and do "goffer stuff." I recall that a DCCC intern brought the materials over, although I do not remember her name, and she, along with our two interns, got the letters ready for delivery. I believe the DCCC intern had a list which she had checked off where they were to go and I think they were divided up by buildings (Rayburn, Longworth, and Cannon). I also believe that the envelopes were Majority Party stationery, but I am not sure. When I spoke with Pulchin, I knew that he needed the interns to

help deliver the letters. I did not direct anyone as to how to do it nor did I know how it was going to be done. I was around the office when the interns were doing this, but I did not direct anyone to do anything nor did I provide any assistance. I did not inform Congressman Feighan that the interns were helping out with this project.

I did not confer with any lawyer or anyone with the Ethics Committee about the contents of the June 24, 1985, letter. I worked only with Howard Pulchin, and I assumed that Pulchin was in contact with those people and the people with whom he was working.

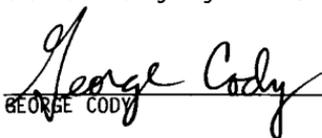
I had nothing to do with any follow-up phone calls. With the exception of the editorial language and providing interns, I had nothing else to do with the June 24, 1985, letter.

I do not recall whether the June 24, 1985, letter was sent to me personally or whether Pulchin gave me a copy, along with the promotional pieces and invitations. I did not receive anything at my home. There was no discussion with Pulchin as to how the letter was to be distributed, whether by inside or outside mail--all Pulchin asked me for were interns.

The first time I saw the July 9, 1985, letters was on July 30, 1985, the date of this interview. I know nothing at all about these letters or how they were distributed. I was on vacation when the July 9 letters were issued, and I had absolutely nothing to do with them.

CERTIFICATION

I, George Cody, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
\_\_\_\_\_  
GEORGE CODY

SUBSCRIBED AND SWORN TO BEFORE ME

this 2<sup>nd</sup> day of August, 1985.

  
\_\_\_\_\_  
Notary Public for the District of Columbia.  
My Commission expires \_\_\_\_\_.

## APPENDIX P

STATEMENT  
OF  
CONGRESSMAN MIKE ANDREWS  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Congressman Mike Andrews. I am submitting this statement voluntarily, as an adjunct to my July 29, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have never seen the February 8, 1985, memorandum from Randy Wilhelm to Mary Volk and John O'Hanlon. I also have not seen, nor was I ever told, the contents of the June 24, 1985, and the July 9, 1985, letters. I had an understanding with the Majority Party that Congressman Ed Feighan and I would have a letter sent out over our signatures to notify Democratic Members of Congress and other members of the Majority Party that there was to be a fund-raiser. This letter basically would state the when, where, and why of the function.

I had no conversation with anyone at the DCCC or Wilhelm, Inc., concerning the contents of the letters, nor did I have any conversation or input into the stuffing, addressing, or distribution of the letters. I do not recall any conversation with Howard Pulchin regarding the signatures on the letters.

In essence, I first heard of the letters' contents when Congressman McCandless spoke on the House floor on July 10, 1985, which was the first time I had heard of any mention of getting the staffs involved.

CERTIFICATION

I, Mike Andrews, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
MIKE ANDREWS

SUBSCRIBED AND SWORN TO BEFORE ME )  
this 1<sup>st</sup> day of August, 1985. )

  
Notary Public for the District of Columbia.)  
My Commission expires \_\_\_\_\_.)

## APPENDIX Q

STATEMENT  
OF  
CONGRESSMAN ED FEIGHAN  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Congressman Ed Feighan. I am submitting this statement voluntarily, as an adjunct to my August 1, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have never seen nor heard of the February 8, 1985, memorandum from Randy Wilhelm to Mary Volk and John O'Hanlon.

I knew there was going to be a fundraising event in connection with the Majority Party and, in fact, attended a meeting four to six weeks prior to July 15, 1985, the date of the fundraiser. Also present at the meeting was Mary Jane Volk, Howard Pulchin, Randy Wilhelm, and about ten other people I cannot identify. We generally discussed the tickets, how to raise money for the costs, etc. I recall that the brochure was shown around. I was only at the meeting for about ten minutes. I do not recall if there was any discussion on who was to be solicited.

I have never seen, nor did I know of, the contents of the June 24, 1985, letter prior to July 10, 1985, and have no knowledge of the manner in which it was stuffed, addressed, or distributed.

Prior to today, I had not seen the July 9, 1985, letters. I do recall receiving a telephone call on the Monday before July 9, 1985 (July 8, 1985) from Howard Pulchin while I was in Ohio. Pulchin stated in the call that he tried to get George Cody to get permission to use my name on a Majority Party fundraising letter, but Cody was out of town. Pulchin gave me the impression that the letter basically was a notification of the time and place of the

fundraiser and that Pulchin made the assertion that the letter had cleared all the channels at the DCCC. Pulchin never read the letter to me. I did give Pulchin permission to affix my name to the letter.

I did not know that there were two letters dated July 9, 1985. I only gave Pulchin permission to use my name on one of the July 9 letters and that was the only one I was aware of.

I had no further discussions with any of my staff or the DCCC staff concerning the June 24, 1985, or the July 9, 1985, letters. It was not until July 10, 1985, that I learned that George Cody and my interns were involved with the distribution of the letters.

I was an honorary chairman of the Majority Party and did not see any reason to be familiar with the rules and procedures of the DCCC since they would have a better understanding of the legal procedures. I was under the impression that the DCCC had a strict set of rules.

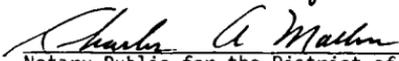
I always was under the assumption that Howard Pulchin was an employee of the DCCC.

CERTIFICATION

I, Ed Feighan, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
ED FEIGHAN

SUBSCRIBED AND SWORN TO BEFORE ME )  
this 2<sup>nd</sup> day of August, 1985. )

  
Notary Public for the District of Columbia.)  
My Commission expires Sept. 30, 1989.)

## APPENDIX R

STATEMENT  
OF  
CONGRESSMAN TONY COELHO  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Congressman Tony Coelho. I am submitting this statement voluntarily, as an adjunct to my August 1, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

The Majority Party originally had older members. The Majority Party was looking for a new look--younger people who could afford the \$50 membership. I was a staffer for fourteen years and never had an association to join which would make me feel like a part of an organization. I started the Majority Party and am familiar with the who, how, and where of fundraising procedures.

I had never seen either the June 24, 1985, or the July 9, 1985, letters in question prior to July 10, 1985, nor did I participate in any way in their distribution. I know one cannot solicit staff people and, if I had seen the wording "urging Members to get staff people involved," the letter never would have gotten anywhere. If the letter had been given to Martin Franks for review, it would not have gone out. To my knowledge, Martin Franks never saw the letter prior to July 10, 1985.

On July 9, 1985, I received a call and was told that there was going to be a discussion on the House floor the next day in connection with the fundraiser which would be directed at me personally. I called Martin Franks immediately, and he told me that they sent out a flyer concerning the fundraiser. It was a shock to both Mr. Franks and me when we found out the next day, from

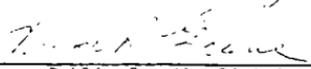
the information discussed on the House floor, that there was a cover letter with the brochure and its contents.

It is procedure, and has been practiced, that all correspondence going out of both the DCCC and my offices be reviewed and cleared. When people see that I have signed off on a piece of correspondence, those people have the belief that I have actually approved the materials. Both Martin Franks and Mary Jane Volk know that everything should be cleared by Mr. Franks and me. It has been a practice we have used at the DCCC since I became chairman. If there is an activity that the DCCC is involved with in which the legal issue is not clear, the DCCC will ask either Bob Bauer or Christopher (Kip) O'Neill for their legal opinion which they have done in the past.

CERTIFICATION

I, Tony Coelho, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
\_\_\_\_\_  
TONY COELHO

SUBSCRIBED AND SWORN TO BEFORE ME )  
this 10th day of July, 1985. )  
  
\_\_\_\_\_  
Notary Public for the District of Columbia. )  
My Commission expires April 24, 1989 )  
~~Notary Public, Dist. of Columbia~~  
~~Commission Expires April 24, 1989~~

## APPENDIX S

STATEMENT  
OF  
MICHELA WORTHINGTON  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Michela Worthington. I am submitting this statement voluntarily as an adjunct to my June 22, 1985, interview, to tell what I know about the campaign solicitation letters.

I have been employed as a full-time, paid, employee for Wilhelm, Inc., since June 17, 1985. I also worked for Wilhelm in a part-time capacity two or three days in April, 1985.

I did not write, stuff, address, or deliver the July 9, 1985, solicitation letter, but I do remember seeing it. I went on vacation after June 29, 1985, but I believe I delivered the June 24, 1985, solicitation letter prior to that time. I hand-delivered the letter to Members' offices in the Rayburn Building after addressing them with the Democratic Congressmen's names, which I copied from the House directory posted on the walls of all House buildings, during my employment as a paid intern for Wilhelm, Inc.

I stuffed all the envelopes with the June 24, 1985, letter at the offices of Wilhelm, Inc. I then was directed by Howard Pulchin, my immediate supervisor on the project, to go to Congressman Feighan's office to hand-deliver them. Once in Congressman Feighan's offices, an intern named Chris addressed envelopes to be sent to the Longworth Building, at the direction of George Cody, while an unknown female was utilized after an intern, identified only as Dave, refused to hand-deliver the letters. I believe that Pulchin and Cody had spoken earlier and discussed how the letters were to be delivered. I was told by Pulchin that the "inside mail" was not to be used because the materials were on the wrong stationery.

The letters were delivered during the afternoon, and I returned the following morning to complete the task. Letters that were not delivered the first day were left on my mother's desk in Congressman Sisisky's office until the next morning. I also was directed to cross out the names of all Republican Members and targeted Democratic Members.

I was not directed in any of these activities by any Members of Congress or their staffs, except for Mr. Cody, nor were they present during these activities. I did not make any follow-up telephone calls relating to the membership drive and fund-raiser.

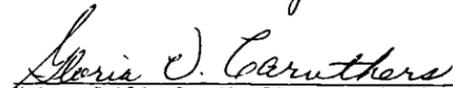
CERTIFICATION

I, Michela Worthington, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
MICHELA WORTHINGTON

SUBSCRIBED AND SWORN TO BEFORE ME

this 8<sup>th</sup> day of August, 1985.

  
Notary Public for the District of Columbia.  
My Commission expires May 14, 1990.

## APPENDIX T

STATEMENT  
OF  
JONATHAN BURTON DAVIS  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Jonathan Burton Davis. I am submitting this statement voluntarily, as an adjunct to my July 23, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I was first hired as an intern by the DCCC on May 31, 1985, and currently am employed there. My original job with the DCCC was with the Issues Division. I now work with the Finance Division. My immediate supervisor is John Interrante. I probably did some work such as placing labels on the July 9, 1985, letter and possibly made some back-up telephone calls, but I had no input into the contents of the letter.

In connection with the June 24, 1985, letter, I was directed by Mary Jane Volk to follow the instructions of Howard Pulchin, of Wilhelm, Inc., regarding the addressing and distributing of the letter. I was instructed to go to Congressman Feighan's office and meet two interns to assist with the addressing and distribution of the letter.

When I arrived at Congressman Feighan's office, an intern from Wilhelm, Inc. brought over the letters already stuffed, but not labeled. I was informed by the other intern that they were to hand-write the addresses on the letters and then hand-deliver them. I am not sure if the addressing was to be done by name and office number, or just by name. Back at the DCCC, there was a dispute as to the method of distribution and I was told to forget about the labels. I did not return to Congressman Feighan's office then, but did some follow-up telephone calls for the fund-raiser that afternoon.

The discussion about the distribution problem was between Pulchin and Mary Jane Volk. Shortly after I returned to Congressman Feighan's office from the DCCC, I gave some letters I had to other interns and left without participating in any other activities in connection with the letters. All the activities occurred in the lobby of Congressman Feighan's office. I did not receive or hear of any instructions directed at me or the other interns from any Congressmen or their staffs.

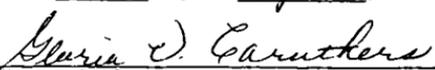
On the day of and the day after the June 24, 1985, letters were distributed, I made follow-up telephone calls from a list maintained in the DCCC offices. I made the calls usually during the morning and afternoon hours, and sometimes after office hours. Basically, I would call and ask for the Congressman or his Administrative Assistant, and inquire if they were going to be present at the fund-raising party and, if so, whether they were bringing someone. I believe I made these calls at the request of Mary Jane Volk of the DCCC staff or Howard Pulchin. I stopped making the calls the day after Congressman McCandless made his statement on the House floor.

I did not know the contents of the June 24, 1985, letters because they were sealed when I arrived at Congressman Feighan's office.

CERTIFICATION

I, Jonathan Burton Davis, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
 JONATHAN BURTON DAVIS

SUBSCRIBED AND SWORN TO BEFORE ME  
 this 2nd day of August, 1985. )  
 )  
 Notary Public for the District of Columbia.)  
 My Commission expires May 14, 1990.)

## APPENDIX U

STATEMENT  
OF  
CHRISTOPHER THOMAS  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Christopher Thomas. I am submitting this statement voluntarily, as an adjunct to my July 24, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been an unpaid intern in Congressman Ed Feighan's office since June 17, 1985. My basic duties involve "grunt" work. At some point on the delivery date of the June 24, 1985, letter (although I am not sure of the exact date), I was told by George Cody, of Congressman Feighan's office, to be available to assist in the delivery of some letters. Cody told me that two other people were coming over with letters and that I was to help with their delivery.

At about 3:30 p.m., Michaela Worthington, a female intern who I believe was from the Majority Party, arrived in Congressman Feighan's office with a bag of letters which already had been stuffed. The list from which I worked, the Capitol Directory, had the names of all the Congressmen who were not to receive the letters crossed out. This had been done by Ms. Worthington. I delivered the letters to the offices in the Longworth Building, and Lisa Kaufman, another intern from Congressman Feighan's office, delivered the letters to the offices in the Cannon Building. Ms. Worthington delivered those that went to offices in the Rayburn Building.

Another individual, a male who I believe was J. B. Davis, also came to the office. Davis did not agree with the method by which the letters were to be delivered (writing by hand the names on the envelopes and then hand-

delivering the letters). Davis went over to the DCCC to get labels so that the interns could use the "inside mail" service to deliver the letters.

At this time, Ms. Worthington called her boss, who I believe was called Howard, and was told that they could not use the labels and the "inside mail" method since the materials were on the wrong stationery. About fifteen minutes after Davis left, a female returned with the letters, which were then distributed.

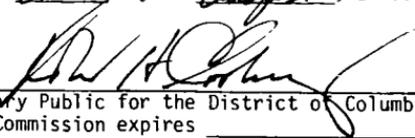
I did not receive any instructions from any Member of Congress or his/her staff, except for what George Cody told me concerning the distribution of the letters. I have never heard of Wilhelm, Inc., and I have never worked for the DCCC.

Ms. Worthington called me the next day and I told her that we had finished the distribution of the letters. Worthington informed me as to how any left-over letters were to be discarded, which I did.

CERTIFICATION

I, Christopher Thomas, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
CHRISTOPHER THOMAS

SUBSCRIBED AND SWORN TO BEFORE ME  
this 2nd day of August, 1985. )  
  
Notary Public for the District of Columbia.)  
My Commission expires \_\_\_\_\_.)

Notary Public  
District of Columbia  
Expires July 11, 1987

## APPENDIX V

STATEMENT  
OF  
JONATHAN CEDARBAUM  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Jonathan Cedarbaum. I am submitting this statement voluntarily as an adjunct to my July 31, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been employed on the staff of Congressman Ed Feighan since January, 1985, and prior to that, I worked on the campaign of Orin Teicher.

I do not recall ever seeing the February 8, 1985, memorandum from Randy Wilhelm to Mary Volk and John O'Hanlon.

The first time that I saw either of the July 9, 1985, letters was after the discussion came up on the House floor relating to this matter. I believe it was the longer of the two letters dated July 9, 1985.

I did not receive any of the letters personally, but I do recall seeing the brochure for the fundraiser. I cannot recall where I saw the material, but I did not see the cover letter with the brochure. I am not a member of the Majority Party.

On or about June 24, 1985, I directed two of Congressman Feighan's interns, Chris Thomas and Lisa Kaufman, to assist another young lady in distributing some letters. I recall that the lady came to Congressman Feighan's office with the letters, and the only part in which I participated was that I suggested each intern choose one of the House Office Buildings and distribute the materials there. I do not recall who instructed me to direct these interns in the distribution of the letters. I did not pay much

attention to the letters, but I believed the letters to be some variety of a "Democratic Dear Colleague" letter.

I did not take part in any other activity concerning any of the letters and that included follow-up telephone calls.

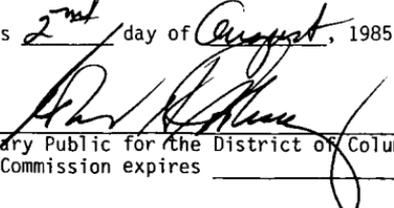
CERTIFICATION

I, Jonathan Cedarbaum, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
 \_\_\_\_\_  
 JONATHAN CEDARBAUM

SUBSCRIBED AND SWORN TO BEFORE ME

this 2<sup>nd</sup> day of August, 1985.

  
 \_\_\_\_\_  
 Notary Public for the District of Columbia.  
 My Commission expires \_\_\_\_\_.

## APPENDIX W

MAJORITY PARTY SCRIPT

## Event Information:

July 15, 1985

6-9

Democratic Headquarters, 430 South Capitol Street

"Democrats Fight Back"

\$10 ticket price, \$50 to join the Majority Party

The Majority Party is a membership organization of the Democratic Congressional Committee. Yearly membership dues are \$50 and entitles members to events each month. Types of events include political briefings, after work get-togethers, political memorabilia auctions et al.

Script: (Note: you are calling people who have received invitations, although many of them will say they have not)

Hello, my name is \_\_\_\_\_ and I'm calling for the Majority Party of the Democratic Congressional Campaign Committee.

By now, you should have received your invitation to "Democrats Fight Back" - ~~The kick-off event of the year of the Majority Party.~~ We hope you will be <sup>able</sup> ~~able to join us this Monday night at Democratic Headquarters.~~ Will you be <sup>able</sup> ~~attendance?~~ ~~this Monday night - it's the kick-off on~~

Please mark all your responses directly on the call sheets.



THE  
MAJORITY  
PARTY

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE

Co-Chairmen  
Michael Andrews  
Edward Feighan

Tony Coelho  
Chairman, DCCC

July 9, 1985

Dear Colleague:

As Co-Chairs of the Democratic Congressional Campaign Committee's Majority Party, we would like to thank you for lending your name and support to our 1985 kick-off event, "Democrats Fight Back".

With less than a week to go, the event is shaping up to be quite a success. We do, however, have a long way to go to reach our goal. Your staff has been working with the event coordinators and we appreciate all of their efforts. We do need your personal assistance in order to reach our goal. As you know, each host Member has been asked to sell 10 tickets at \$10 each (or memberships for \$50). We hope you will encourage your staff to participate.

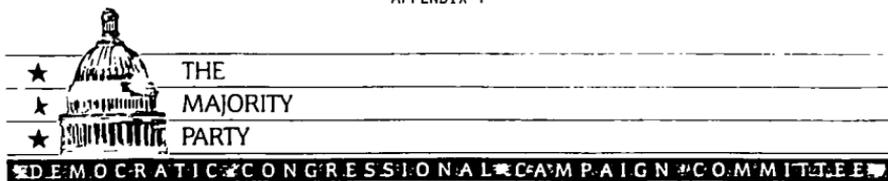
We strongly urge you to make every effort to attend this event, Monday, July 15, at the Democratic Headquarters Building, 430 South Capitol Street, between 6 and 9 p.m. Please have your staff call Howard Pulchin at 549-2400 to R.S.V.P.

Sincerely,

Michael A. Andrews  
Co-Chair

Edward F. Feighan  
Co-Chair

## APPENDIX Y



Co Chairmen  
Michael Andrews  
Edward Feighan

July 9, 1985

Tony Coelho  
Chairman DCCC

Dear Colleague:

With less than one week to go until the Majority Party's "Democrats Fight Back" fundraising event, we need your assistance to make this effort a resounding success.

We hope that you will be able to attend the event and that you will encourage your staff to participate in this very worthwhile event.

We look forward to seeing you next Monday at the Democratic Headquarters Building, 430 South Capitol Street, between the hours of 6 and 9 p.m.

Sincerely,

Michael A. Andrews  
Co-Chair

Edward F. Feighan  
Co-Chair

## APPENDIX Z

STATEMENT  
OF  
JOHN EDGELL  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is John Edgell. I am submitting this statement voluntarily, as an adjunct to my July 30, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been employed by Congressman Tom Daschle as a computer operator since May 17, 1985. I previously worked on the campaign circuit with Senators John Glenn and Gary Hart, and Representative Geraldine Ferraro.

I have never seen the February 8, 1985, memorandum from Randy Wilhelm to Mary Volk and John O'Hanlon. Upon being shown the three letters in question, I recalled seeing the June 24, 1985, letter on the bulletin board in the offices of Congressman Daschle. I may have seen one of the July 9, 1985, letters as it came across my desk because of my duties as a computer operator. I also can identify one of the July 9 letters because I helped stuff it into envelopes on a Monday on or about July 8, 1985.

I volunteered to help stuff the July 9, 1985, letters at the DCCC offices. No one had asked me to help. I arrived at the DCCC offices around 6:30 P.M., and around 9:30 P.M., four or five other people and I started putting the mailing together for a "Hill drop." I volunteered to drop the mail off at the Rayburn Building for "inside mailing" at the request of Howard Pulchin. When I inquired about the necessity of the letters requiring a stamp, Pulchin told me that the DCCC had an exemption. I always had thought that the envelope

was supposed to have a Congressman's signature on it to enable the mail to be put in the "inside mail."

I believe the letters were addressed to House Members. I did not complete the task that night, but mailed what was finished. The only person I can identify, other than Pulchin, is a female with black hair who assisted with the task.

During the same night (between 6:30 P.M. and 9:00 P.M.), I made some follow-up telephone calls to whom I believe were members of the Majority Party. Those calls were made to their residences and the basic approach was, "I'm calling to see if you have received the invitation, and whether you can make it or bring a friend." I do not know if these calls were to congressional staff people because I was working from a list with home addresses and telephone numbers.

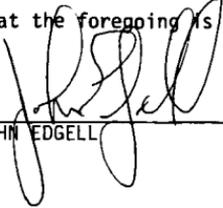
July 8, 1985, was the only time I did any work for the DCCC. I did not participate in any other efforts concerning the editing, stuffing, addressing, or distribution of the June 24, 1985, and July 9, 1985, letters.

The June 24, 1985, letter came to Congressman Daschle's office and, after it was opened, I saw it on a table in the office and read it. A female in the office is a member of the Majority Party, and we discussed the invitation in general. The June 24, 1985, letter ended up on the bulletin board. As the computer operator, I get the "last shot" at all of the mail.

On the night of July 8, 1985, the Press Secretary for Congressman Rodino was also at the DCCC offices assisting with the telephone calls. I was never directed by anyone to assist the DCCC with this function.

CERTIFICATION

I, JOHN EDGELL, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.




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 JOHN EDGELL

SUBSCRIBED AND SWORN TO BEFORE ME )

this 1st day of August, 1985. )

Maria V. Caruthers  
 Notary Public for the District of Columbia. )  
 My Commission expires May 14, 1990. )

## APPENDIX AA

August 29, 1984

## MEMORANDUM

TO: Staff  
FROM: Jeri *JSM*  
RE: Approval of letters

The purpose of this memorandum is to remind staff of the procedures to be followed when letters are sent out of this office. We recently had a mailing go out where the nicknames were incorrect: That is a sure sign to the recipient of that letter that Tony did not see the letter. We all get a good chuckle when we see letters addressed to "Dear Anthony" instead of "Dear Tony." That is a proof positive that 1) the letter-writer does not know Tony and 2) that we do not have to take the letter seriously.

The procedures are:

1) Marty must see every letter before it is sent out, regardless if Tony has approved the draft.

2) Marty must see the final letter (not the draft) along with any enclosures. If the letter is going to more than one person, the list to whom it is being sent must be attached for Marty's review. This list must contain the name, address and greeting so that first and nicknames can be checked. Background material (a letter sent to TC which we are answering, a TC memo, etc.) must also be attached.

3) For computer letters, Marty must approve the letter as it is stored on the computer and review the attached list of those who will get the letter. Attach background information also. This is a change from previous procedures. In the past, the list was not required. But because the error previously mentioned caused us no small amount of embarrassment, this must be done.

I know that everyone is busy, but we are in the campaign business by choice. Now is not the time to let down our guard and let needless errors slip through, especially when such errors (which may seem small to us) can be magnified greatly once the mistake leaves our office.

The pace is grueling, the pressure is nearly overwhelming, but that extra special effort does our House candidates no good on November 7. We need everyone's best efforts, cooperation, attention to detail and adherence to procedures long established.

## APPENDIX BB

STATEMENT  
OF  
MARTIN FRANKS  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Martin Franks. I am submitting this statement voluntarily, as an adjunct to my August 8, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I had not seen the June 24, 1985, letter or either of the July 9, 1985, letters prior to Congressman McCandless' statements on the House floor. I knew there were efforts under way to make the July 15, 1985, event come off because I had seen some brochures that were to be sent to the Majority Party members at their residences.

The procedures of the DCCC are that any written material, whether it be letters, brochures, or even bumper stickers, are to be seen and okayed by me before they go out. There are memos to this effect, and I know that Mary Volk has been the recipient of some of these memos and also has sat in on meetings when these procedures were discussed.

I do not know for certain if Howard Pulchin or Randy Wilhelm had these procedures specifically brought to their attention, but it is my expectation that someone communicated to them that matters, such as the June 24, 1985, and July 9, 1985, letters should have been reviewed by me.

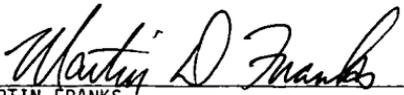
I have been informed by Mary Volk that she did not bring the letters to my attention because it was her understanding that this procedure only applied to correspondence that was to be specifically signed by Chairman Coelho. I have since informed Volk of her inaccurate interpretation of the procedures.

It is my policy that approval of all outgoing DCCC matter be based upon a review of a "hard copy" draft.

I know that the DCCC has "inside mailing" privileges and that the Majority Party, being part of the DCCC, has these same privileges. I know that the "inside mail" is for the purpose of communicating with Members and their staffs and for solicitation of Members of Congress, and it does not require postage.

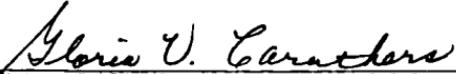
CERTIFICATION

I, Martin Franks, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

  
 MARTIN FRANKS

SUBSCRIBED AND SWORN TO BEFORE ME )

this 21st day of August, 1985. )

  
 Notary Public for the District of Columbia. )  
 My Commission expires May 14, 1990. )



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DEMOCRATIC  
CONGRESSIONAL  
CAMPAIGN COMMITTEE

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Tony Coelho, CA  
Chairman

July 10, 1985

The Honorable Julian Dixon  
Chairman  
Committee on Standards of Official Conduct  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

As we promised in our previous letter today, we wish to provide you and the Committee an explanation of the circumstances surrounding the DCCC "Majority Party" solicitation which was raised on the floor this morning.

In late April of this year, the DCCC hired Wilhelm, Inc. to assume primary responsibility for the operation of the Majority Party, a fundraising project of the DCCC which was begun in 1981. While DCCC was contracting out this activity, there was agreement with Wilhelm, Inc. that all its activities on behalf of the Majority Party would be conducted in accordance with established DCCC procedures. These procedures specifically require review of all written materials by DCCC senior management.

We have now discovered that solicitations drafted, produced and distributed by Wilhelm, Inc. for a July 15 Majority Party event were not submitted for the review required by DCCC procedure and by agreement with Wilhelm, Inc. Moreover, we were not fully apprised by Wilhelm, Inc. of the nature of these letters nor were we advised of the manner of their distribution.

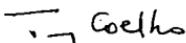
As a result, these solicitations, including the June 24, 1985, letter discussed on the floor today, and one dated July 9, 1985 (attached), were distributed by Wilhelm, Inc. to Members in their House offices. If these letters had gone through the normal DCCC procedures, or if any one of us had known how Wilhelm, Inc. proposed to handle this matter, the letters would not have been sent.

The Honorable Julian Dixon  
 July 10, 1985  
 Page Two

Please be assured this regrettable occurrence is being addressed immediately. We are confident it will not happen again because, at all times, DCCC, with the Majority Party and its other activities, has taken great pains to comply fully with both federal and state laws as well as House rules. The DCCC's internal review procedures are written, regularly updated, and well established. While this matter necessitates further review and tightening of those procedures, we believe those procedures have served the DCCC well in the past and will continue to do so in the future.

We stand ready to provide you with any additional information and answer any questions you may have.

Sincerely,



TONY COELHO  
 MEMBER OF CONGRESS



MICHAEL A. ANDREWS  
 MEMBER OF CONGRESS



EDWARD F. FEIGHAN  
 MEMBER OF CONGRESS

Attachment




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DEMOCRATIC  
 CONGRESSIONAL  
 CAMPAIGN COMMITTEE

---

Tony Coelho CA  
 Chairman

July 11, 1985

The Honorable Julian Dixon  
 Chairman  
 Committee on Standards of Official Conduct  
 U.S. House of Representatives  
 Washington, D.C. 20515

Dear Mr. Chairman:

Following up on the telephone request of Mr. Powers of your staff to Martin Franks, Executive Director of the Democratic Congressional Campaign Committee, enclosed is the additional material you requested.

1. The Wilhelm, Inc. contract Enclosed is a February 8, 1985, memorandum from Wilhelm, Inc. to DCCC staff outlining proposals for Wilhelm, Inc. to become involved in the Majority Party. Agreement on their proposals and the terms of the agreement, including procedures to be followed, were reached orally.

2. Delivery of the letters The June 24, 1985, letter was hand delivered to Members' offices by three interns. Michaela Worthington was the intern from Wilhelm, Inc. Two interns from Congressman Feighan's office, without his knowledge, also helped with the delivery. Their names are Christopher Thomas and Lisa Kaufman.

The July 9, 1985, letter was delivered through the DCCC's access to the House Inside Mail.

3. DCCC procedures In six enclosed memos dating from April 13, 1981 through June 25, 1985, a pattern and a procedure is clearly delineated by which any

The Honorable Julian Dixon  
Page Two  
July 11, 1985

letters or written materials from DCCC are to be reviewed by DCCC senior staff. As was noted in yesterday's communication, clearly the June 24 and July 9 letters would not have survived submission to those procedures.

Please let me know if you need further information.

Sincerely,

Handwritten signature of Tony Coelho in cursive script.

TONY COELHO  
CHAIRMAN

Enclosures

## APPENDIX EE

STATEMENT  
OF  
RANDY WILHELM  
BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

My name is Randy Wilhelm. I am submitting this statement voluntarily, as an adjunct to my August 1, 1985, interview, to tell what I know about the campaign solicitation letters which are the subject of the present preliminary inquiry.

I have been in the fundraising business for 4½ to 5 years, and have never been employed on the "Hill." Wilhelm, Inc. and the DCCC started negotiations concerning Wilhelm, Inc.'s handling of the Majority Party during January or February, 1985. I first got a verbal okay from John O'Hanlon and then from Terry McAuliffe. Although I thought we had a written agreement, I could not find one. I have no written contracts with about 50% of my clients.

The contract with the DCCC was for \$1,250 a month which was paid in advance. Howard Pulchin was to handle the Majority Party matters for Wilhelm, Inc., and Mary Volk was to be the liaison for the DCCC. The only procedures I understood that Pulchin was to follow concerning Wilhelm, Inc.'s dealings with the DCCC was that he would run everything by Mary Volk, and she would run it by the appropriate people at the DCCC. These were the only procedures brought up in my negotiations with the DCCC people. It was my impression that Wilhelm, Inc. would suggest what was necessary and then submit the activity to Mary Volk to obtain the necessary approval. To my knowledge, the DCCC never submitted or transmitted anything in writing or verbally that was considered a guideline.

I authorized the February 8, 1985, memorandum to Volk and O'Hanlon. It was not my idea, in particular, to target Hill staffers as prospects for the fundraiser because that group had been solicited for membership by the Majority

Party for the past four years. In fact, the Majority Party was started for Hill staffers.

I was aware that the June 24, 1985, letter was to be distributed, but I cannot recall if I approved it. I also do not recall seeing any memos or drafts of this letter. I do not remember seeing the phrase "we strongly urge you to involve your staff" in the June 24, 1985, letter. I knew that the brochure was being sent out and that a notification was going to be sent with a cover letter; however, I did not know the letter's contents.

Howard Pulchin had the responsibility of bringing the event together. If the client approved of a particular activity, it was not necessary for Pulchin to clear it with me first. I did not communicate personally with the DCCC regarding the Majority Party fundraiser to obtain approval of the letter, and I do not recall any discussion or understanding relating to the distribution of materials connected with this event. My connection with the follow-up telephone calls was limited to reminding Pulchin to do the follow-up calls and that, if we could not get enough volunteers, he was to get some paid help. I also recall discussing the fact that we were not to call the Members' offices other than to ascertain if the Member had received the invitation. Basically, the calls were made to staffers who were members of the Majority Party. These calls were made from a list composed of home telephone numbers or home numbers we looked up in the telephone book. Pulchin and I probably discussed the script for the telephone calls because this was normal procedure.

During the week, or either the day, before the June 24, 1985, mailing, Pulchin told me that Mary Volk indicated that we could send the June 24 letter by "inside mail." Pulchin told me that it was not a good idea, and I agreed since I thought the "inside mailing" was for the Members' use. Pulchin made the decision to hand-deliver the June 24, 1985, letter.

I do not know how the July 9, 1985, letters were distributed; however, if they did go out by "inside mail," I would consider it inappropriate. I have no idea why there were two July 9, 1985, letters. I did not direct, nor did I know, how the envelopes were to be stuffed or addressed.

I have no knowledge of anyone contacting this Committee concerning the fundraiser, nor did I seek legal advice with respect to the fundraising activities. I have never heard of the Franking Commission.

I was under the impression that the letters were only to be sent to the Members' offices that were targeted and that the other Majority Party members would be notified by mail at their residences.

CERTIFICATION

I, Randy Wilhelm, certify to the House Committee on Standards of Official Conduct, under penalty of perjury, that the foregoing is true and correct.

*Randy Wilhelm*  
 \_\_\_\_\_  
 RANDY WILHELM

SUBSCRIBED AND SWORN TO BEFORE ME )

this 8 day of August, 1985. )

*Marie O. Caruthers* )  
 \_\_\_\_\_ )  
 Notary Public for the District of Columbia. )  
 My Commission expires May 14, 1990. )

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