of the press. Internal Revenue Service investigation records show that a Chief of Intelligence improperly disclosed information regarding my tax returns to the Treasurer of my opponent's campaign upon his apparently illegal request, information which was elaborated on to Members of the press by the District Director of Internal Revenue which resulted in highly derogatory publicity some two weeks prior to the general election. The information was not only illegally procured, it was erroneous and should have been declared invalid by the District Director rather than expanded.

Subsequent investigation not only confirms the above but discloses that the Treasurer of my opponent's 1976 campaign, who is his campaign Chairman for this 1978 election, is an attorney, an officer of the Court, which compounds his apparent violation of the law with a problem of professional ethics. This person is shown by the investigation to have been involved for some ten years in discussion with IRS personnel regarding my taxes and to have demanded an investigation of me using illegally-procured inaccurate information.

This person is a member of the law firm which is defending Mel Morgan on the violation of my credit report, a campaign official for my opponent who has written letters of complaint against me to the Federal Election Commission, and a party to an apparent violation of the Internal Revenue Code for the Privacy Act.

The Internal Revenue Service has been investigating their obviously leaky operation for some 20 months with some punitive action already in process. In the meantime, they have officially requested, first at the state level and now at the Federal level, a Grand Jury to further expand the probe as necessary because of questionable involvement of elements of the press. The Federal Bureau of Investigation has also requested action by the Department of Justice regarding the apparent violations of law.

The Justice Department is looking into the matter, but with about the same pace and passion that gave them a black eye in the Marston situation.

In the meantime, this political use of the Internal Revenue Service in my case and others which I now have documented is being brought to the attention of other appropriate committees of Congress for corrective action. You can be certain that I have complete inspection reports, court records and other legal support for the information contained in this letter.

As I mentioned on page two of this letter, I had not previously thought it necessary to burden you with the full circumstances surrounding the unusual situation I sometimes present to your consideration. However, I have concluded that it is important that you know that, because of investigations of my detractors, and because of the current lawsuit before the

Court of Appeals, and because of possible legal action yet to be taken in any of the incidents heretofore mentioned which could involve legislative or executive entities of the Federal Government as well as private parties, I am not in position to provide more information to your committee or anyone else than the law requires.

This must be so until this ordeal is over and until I receive valid assurances that I am not still going to be victimized by partisan or designing individuals in whatever capacity.

I have had the bitter course with the former Chairman of the House Administration Committee who denied me due process in his deliberations and who made premature and unqualified public accusations and judgments in the press which were later disproven, not to mention the problem of selective justice where I encountered in the pressure exerted on the Justice Department and on the Court. And worse yet, to be subjected to an illegal investigative fishing expedition dignified by apparent cooperation of elements of a Congressional committee is, at the least, shocking.

I am only concerned that I or any other citizen receive just and fair treatment, but this can only be accomplished with a non-political Justice Department and an ethical Congress not bogged down in partisanship or the "buddy system."

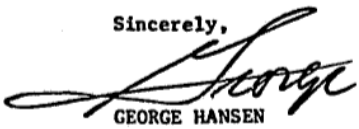
I remind you that despite periodic audit activity by the IRS and despite the intense political interest previously noted by the District Director of IRS for Idaho, to this moment I have never been shown to owe one penny to IRS. Despite two investigations by the FEC, I have been thoroughly cleared of any misconduct under Federal election law.

Despite investigations by the Justice Department as noted, never have I been accused of an act impugning my personal integrity. Despite intense and improper activity by some elements of the HAC, the total of any discrepancies found was the filing of a campaign report on the wrong form and filing one report late (and even in that incidence the report was filed in cycle and well before the election).

It does seem strange that all of the allegations against me have been made conveniently proximate to a primary or general election. A normal human being might be forgiven for becoming suspicious of the intent and motivation of such conveniently-timed activities.

I have confidence that you share my concern and can profit by understanding the magnitude of the ordeal my family and I have experienced for nearly four long years.

Sincerely,



GEORGE HANSEN
Member of Congress

Possible violation of ethics code

Hansen report may be incomplete

REP. GEORGE HANSEN
...wife's debts unlisted

By DAVID MORRISSEY
Times-News writer

Second District Congressman George Hansen may be in violation of House ethics codes for not reporting debts of his wife, an attorney with the House Committee on Standards of Official Conduct said Friday.

Although a formal determination of a violation would have to be made by the full committee, a question exists whether Hansen's ethics reports contain all necessary information, committee staff member and attorney Jim Hallivanger said.

Should a determination be made that an intentional violation of the codes has occured, it is possible the congressman might face legal penalties, including fines and imprisonment. A determination that an unintentional violation has occurred might result in Hansen being asked to file additional information with the House Committee on Standards of Official Conduct.

The new codes of ethics, passed by the House last year, went into full force May 1. On that date congressmen were required to file disclosure reports listing most assets and debts. The intent of the codes, representatives said last year, was to ensure voters recent sexual and monitary scandals in the Congress were a thing of the past. The reports require congressmen to make public most private holdings which might be interpreted as a conflict of interest.

One part of the new codes, which were formulated by the temporary Select Committee on Ethics, require a congressman to list debts and assets of a spouse unless those debts or assets were acquired by the spouse in a manner totally independent of their relationship to the congressman.

Hansen's report, filed last week, lists debts owed to seven banks, one law firm and one certified public accountant. Those debts are not required to be itemized by specific dollar amounts, but rather are listed as falling into amount categories, showing the debt is less than one specified figure but greater than another amount. Hansen's debts were listed as totaling between $30,000 and $150,000.

But last year Hansen and his wife legally divided their debts and assets, prior to Mrs. Hansen beginning a nation-wide fund-raising effort to pay her half of their personal, non-campaign debts.

"George and I have arrived at a legal and equal division of property and indebtedness," Mrs. Hansen wrote in a fund-raising letter last year, "I have assumed a substantial portion of those debts arising from the political dirty tricks

(Continued on p. A2)

May 1979

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	NOTES
	1:00 Rd. IHMO Malheur-Rm.	1 Decide what to do w/ the Hansen v. Morgan case; 4:00 Conf call w/ Walt. Rex Lee, Dave West + Steve [illegible] + Larry [illegible]	2 10:00 Phil; leave open phil; 4:00 Jeff Frink	3 MSLF Denver	4 7:30 breakfast at Univ [illegible]; 5:30 Larry [illegible]; 4:00 [illegible] Burke; 11:00 Steve Darry AG's; call Clayton [illegible] / AM; Tax [illegible]	5 Work on Hansen v Morgan; Boston; Research 1978 Election; Government Act	– Motion for [illegible] ?? [illegible]; form letter for AG. [illegible] for Nelson Miller; [illegible]; – keep [illegible] on basis of [illegible] that [illegible] offer [illegible]; prepare docs for Larry Williams [illegible]
6 Hansen v Morgan [illegible]	7 Confer IJL re AM [illegible] in Hansen v Morgan; Bosses Luncheon; 4:00 Larry Williams; 7:00	8 [illegible]; Philharmonic	9 8:00 Firm Meeting; [illegible]; Boise Cascade [illegible]; 4:00 Boise City Hall; Dinner [illegible] 8:00	10 leave open; 5:30 – Hm School Play	11 9:00 Larry Williams [illegible]; 1:30 – Philharmonic	12	
13; Mothers Day	14 9:00 Roy [illegible]; 2:00 Byron Meridith 988-1022; ~~4:00 Larry Williams~~	15 [illegible] App [illegible]; 11:00 DO(K) for Viking [illegible]; 3:00 [illegible] to White House Conf. on Sm. Bus. – [illegible]; Joe 6:30 Assoc. [illegible] Contractors; Royale Inn Frank [illegible]	16 9:00 – Larry Williams; Lunch w/ LS + JE; [illegible]	17 Philharmonic – [illegible]; Riley's [illegible]; Kirk Shuler – [illegible]; 5:30 [illegible]	18 9:00 Roy Kuhn; 10:30 – John Mitchell; Lunch Front Smith; Firestone – PM; PM Firestone	19	
20 John Bates' Lease; Loise [illegible]	21 8:00 Firm Meeting; 5:45 – Rex Lee; 9:00 – Morgan; 8:00 [illegible]; [illegible]; 1st Bd Meeting Philharmonic	22 OSHA trip; Trip to Wash D.C.	23 OSHA trip; Sheraton Park!; Bd Mtg 8:00	24 Sheraton Park Hotel; Connecticut Ave.	25	26	
27	28 [illegible]; Memorial Day	29 4:00 Lloyd Schaeffer; Kirk Shuler	30 1:30 Lloyd S.	31 [illegible]			

BRIEFING BOOK EX. 24

Note-a-Date®

G4a.

BRIEFING BOOK EX. 25

HAND DELIVERED

RECEIVED

UNITED STATES HOUSE OF REPRESENTATIVES

Office of the Clerk
Washington, D.C.

ETHICS IN GOVERNMENT ACT OF 1978 (2 U.S.C. §§ 701-708)

FINANCIAL DISCLOSURE STATEMENT

GEORGE V. HANSEN
(Full Name)
1125 LONGWORTH
HOUSE OFFICE BUILDING
(Mailing Address)
WASHINGTON, D.C. 20515

ID # GH
(OFFICE USE ONLY)

☐ Check if this is an amended Statement.

INDIVIDUAL REPORTING STATUS

(Check one only)

☒ MEMBER OF U.S. HOUSE OF REPRESENTATIVES—DISTRICT 2 STATE IDAHO

☐ CURRENT OFFICER/EMPLOYEE/PRINCIPAL ASSISTANT—EMPLOYING OFFICE _____

☐ NEW OFFICER/EMPLOYEE/PRINCIPAL ASSISTANT—EMPLOYING OFFICE _____

NOTE: Requirements for new officers/employees/principal assistants differ substantially from those of Members of Congress and current officers/employees/principal assistants. Please read Instructions on reverse side carefully.

May 15, 1979
(Date)

George Hansen
(Signature)

NOTE: Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions. See 2 U.S.C. § 706 and 18 U.S.C. § 1001.

RETURN COMPLETED COVER PAGE AND STATEMENT
(WITH 3 COPIES OF EACH) TO:
The Clerk, U.S. House of Representatives
Office of Records and Registration
1036 Longworth House Office Building
Washington, D.C. 20515

706-1

ETHICS IN GOVERNMENT ACT OF 1978—FINANCIAL DISCLOSURE STATEMENT

Name of Person Filing GEORGE V. HANSEN Page 2 of 3

NOTE: See reverse side for Detailed Filing Instructions and Exemptions. If additional space is required, use continuation sheets provided. *Complete all parts. (If None, so indicate)*

SECTION I

A. INCOME (including honoraria) from any source received during preceding calendar year aggregating $100 or more in value. Exclude income from current U.S. Government employment.

SOURCE	TYPE (salary, pension, honorarium, etc.)	AMOUNT/VALUE
New York Life Ins. Co.	deferred consideration	$ 965.62

B. INCOME from dividends, interest, rent, capital gains including trusts or other financial arrangements, received during the preceding calendar year exceeding $100 in value. NOTE: For Section I.B. indicate Category of Value: Category I—$100.01-$1,000; II—$1,000.01-$2,500; III—$2,500.01-$5,000; IV—$5,000.01-$15,000; V—$15,000.01-$50,000; VI—$50,000.01-$100,000; VII—Over $100,000.

SOURCE	TYPE	CATEGORY OF VALUE (I, II, III, IV, V, VI, VII)
Family Estate	legacy	II
U. S. Government	Interest	I

SECTION II

A. GIFTS of transportation, lodging, food or entertainment aggregating $250 or more in value received from any source during the preceding calendar year.

IDENTITY OF SOURCE	BRIEF DESCRIPTION
Council for Interamerican Security	transportation and related expenses for two-day fact-finding trip to Panama — Sept. 22,

B. GIFTS other than transportation, lodging, food or entertainment aggregating $100 or more in value received from any source during preceding calendar year.

SOURCE	BRIEF DESCRIPTION	VALUE
None		

C. REIMBURSEMENTS received from any source aggregating $250 or more in value in preceding calendar year.

IDENTITY OF SOURCE	BRIEF DESCRIPTION
None	

NOTE: For Sections III–V below, indicate Category of Value: Category I—$1,000.01-$5,000; II—$5,000.01-$15,000; III—$15,000.01-$50,000; IV—$50,000.01-$100,000; V—$100,000.01-$250,000; VI—Over $250,000.

IMPORTANT—For new Officers and Employees Only: In Sections III, IV, VI, and VII, the Reporting Individual Should List the Information Required as of Date Not More Than 31 Days Prior to the Date of Filing. The Information Listed Below is Current as of _____ (Date)

SECTION III

INTEREST IN PROPERTY HELD during preceding year in a trade or business, or for investment or production of income including trusts or other financial arrangements with a fair market value exceeding $1,000 at the close of the preceding calendar year.

IDENTITY	CATEGORY OF VALUE (I, II, III, IV, V, VI)
None	

SECTION IV

LIABILITIES (total) owed to any creditor which exceeds $10,000 at any time in the preceding calendar year and any revolving charge account with an outstanding liability over $10,000 at the close of the calendar year.

IDENTITY	CATEGORY OF VALUE (I, II, III, IV, V, VI)
See continuation sheet	

SECTION V

PURCHASE, SALE OR EXCHANGE during the preceding calendar year which exceeds $1,000 in real property, stocks, bonds, commodities futures, or other forms of securities.

BRIEF DESCRIPTION	DATE	CATEGORY OF VALUE (I, II, III, IV, V, VI)
None		

SECTION VI

POSITION HELD on or before date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or educational or other institution other than the United States.

POSITION	ORGANIZATION
None	

SECTION VII

AGREEMENTS AND ARRANGEMENTS with respect to future employment, leave of absence, during the period of the reporting individual's Government service, continuation of payments by a former employer other than the U.S. Government, and any continuing participation in an employee welfare or benefit plan maintained by a former employer.

DATE	PARTIES TO	TERMS
N/A		

FSA-1

ETHICS IN GOVERNMENT ACT—FINANCIAL DISCLOSURE STATEMENT

GEORGE V. HANSEN
(Name)

CONTINUATION SHEET

Section	Indicate: Date/Source/Identity/Brief Description/Type/Parties To/Terms (As Applicable)	Indicate: Amount/Category of Value/Value (As Applicable)
IV	Bank of Idaho	II
	First Bank and Trust	II
	National Bank of Washington	II
	First Security Bank	III
	Idaho State Bank	III
	Idaho First National Bank	IV

G28

CUSTOMER NAME (Business or Individual)	CONNIE S. HANSEN
SEND MAIL TO	☐ Business ☒ Home
BANK REFERENCE	1st American Bank, Arlington Va
NAME & POSITION OF OFFICER CONTACTED	Kathryn Eckhardt
BRANCH OFFICE	32
ACCOUNT NO.	32008
R.R.	
FEDERAL IDENTIFICATION NO.	498 34 1691 ☐ I.R.S. ☒ S.S.
DATE ACCOUNT OPENED	1 | 16 | 79
CREDIT REPORT REQUESTED	☒ No ☐ Yes
TYPE	☐ RCC ☐ D & B ☐ Other
RESIDENTIAL ADDRESS — STREET & P.O. BOX NO.	4700 38th Place North
CITY / STATE / ZIP	Arlington, Va 22207
TELEPHONE NO.	703 532 7833
SOURCE OF ACCOUNT	☐ Walk In ☐ Call In ☐ Mail ☒ Direct ☐ Advance Lead ☐ Referred by
BUSINESS ADDRESS — STREET & P.O. BOX NO.	
CITY / STATE / ZIP	
TELEPHONE NO.	202 225 5531
EMPLOYER OR FIRM AFFILIATION	Housewife (Husband: Congressman George Hansen, Idaho)
NATURE OF BUSINESS	
OCCUPATION OR POSITION HELD	
OVER 21	☒ Yes ☐ No
APPROXIMATE AGE	
IS CUSTOMER A DIRECTOR, OFFICER OR CONTROLLING STOCKHOLDER OF A CORPORATION	☒ No ☐ Yes (Company and position held)
IS CUSTOMER RELATED TO A C.I.S. OR CARGILL OFFICER OR EMPLOYEE	☒ No ☐ Yes (Give name and relationship)
IS CUSTOMER U.S. CITIZEN	☐ No ☒ Yes
IS CUSTOMER A NON RESIDENT ALIEN	☒ No ☐ Yes (What country)
SPOUSE'S NAME	George Hansen
SPOUSE'S OCCUPATION	Congressman
SPOUSE'S EMPLOYER	U.S.
ACCOUNT INFORMATION	☐ Cash ☒ Margin
OTHER BROKERS (If any)	n/a
TYPE OF TRADES	☐ Hedge ☐ Spread ☒ Speculative
? OF AUTHORIZED PERSON OPENING THE ACCOUNT	Connie Hansen
EMPLOYED BY	n/a
PERSON AUTHORIZED TO ENTER ORDERS	Connie Hansen
EMPLOYED BY	n/a
CORPORATE RESOLUTION TO TRADE SIGNED BY (Officer & Title)	
SOURCE OF INFORMATION	
R.R. SIGNATURE	[signature]
OFFICE MANAGER SIGNATURE	
C.I.S. OFFICER SIGNATURE	[signature]

CUSTOMERS (Approximate)

NET WORTH	ANNUAL INCOME
☐ Under $20M	☐ Under $10M
☐ $20M - $50M	☐ $10M - $20M
☐ $50M - $100M	☐ $20M - $50M
☐ $100M - $250M	☐ $50M - $100M
☒ Over $250M	☐ Over $100M

CARGILL ... INFORMATION

BUYS	
VOLUME	

CUSTOMER BUSINESS ANALYSIS

SALES (Dollars)	
PRODUCTS	
COMMODITIES	
PROFITS	
PLANS	
OTHER	Watch activity in the account very closely. Keep [illegible] posted.

BRIEFING BOOK EX. 26

LEGAL DOCUMENTS SIGNED

☐ Corporate Authorization ☐ Trading Authorization
☒ Commodity Agreement ☐ Margin Agreement
☐ Joint Account Agreement Risk Disclosure Statement

FILE COPY

G-31 [illegible]

BRIEFING BOOK EX. 27

2:40 [illegible]

[illegible] Check [illegible]

* [illegible]-79 Gold [illegible] 231 [illegible]

as of close 1-10-79

[illegible]

32002 -0

Bruce - Very [illegible] @ 603 [illegible]

go late [illegible]

G+20 [illegible] J+52 [illegible]

9:22 Cert - looking for M-1 increase anywhere from 1 to 5 bill

11:41 Lindsey [illegible] - develops a Retirement Community in Ohio - Have [illegible] facility for Churches & Non-Profit grp. 3 yr. project - 500 Units - Health Care Dining, Recreation, etc. to sold on Condominium basis. L/$300,000 initially to acquire land & pre-sale of development. Cert of [illegible]

12:11 [illegible] sold 600 [illegible] - [illegible]

12:44 Paine Weber & Hutton - good sellers in Sev.

12:54 Paine Weber, Hutton & Dean Witter - 26 [illegible]

1:18 Sev - Continued Commission fee selling

* 1-12-79 Gold Ldn. 216.60 - 4.60

as of close 1-11-79

32001 Eye A111 [illegible]

32002 Egg 67M

8:34 [illegible] to little [illegible]

8:37 [illegible] +100.

8:40 [illegible] trade buying [illegible]

9:35 [illegible] - Sev all locals, Chart buying

Three mths - Comex Chicago Ldn

22,970 [illegible]

1-8-79	59,023,000
1-9-79	59,151,000
1-10-79	59,021,000
1-11-79	57,319,000
1-12-79	57,309,000

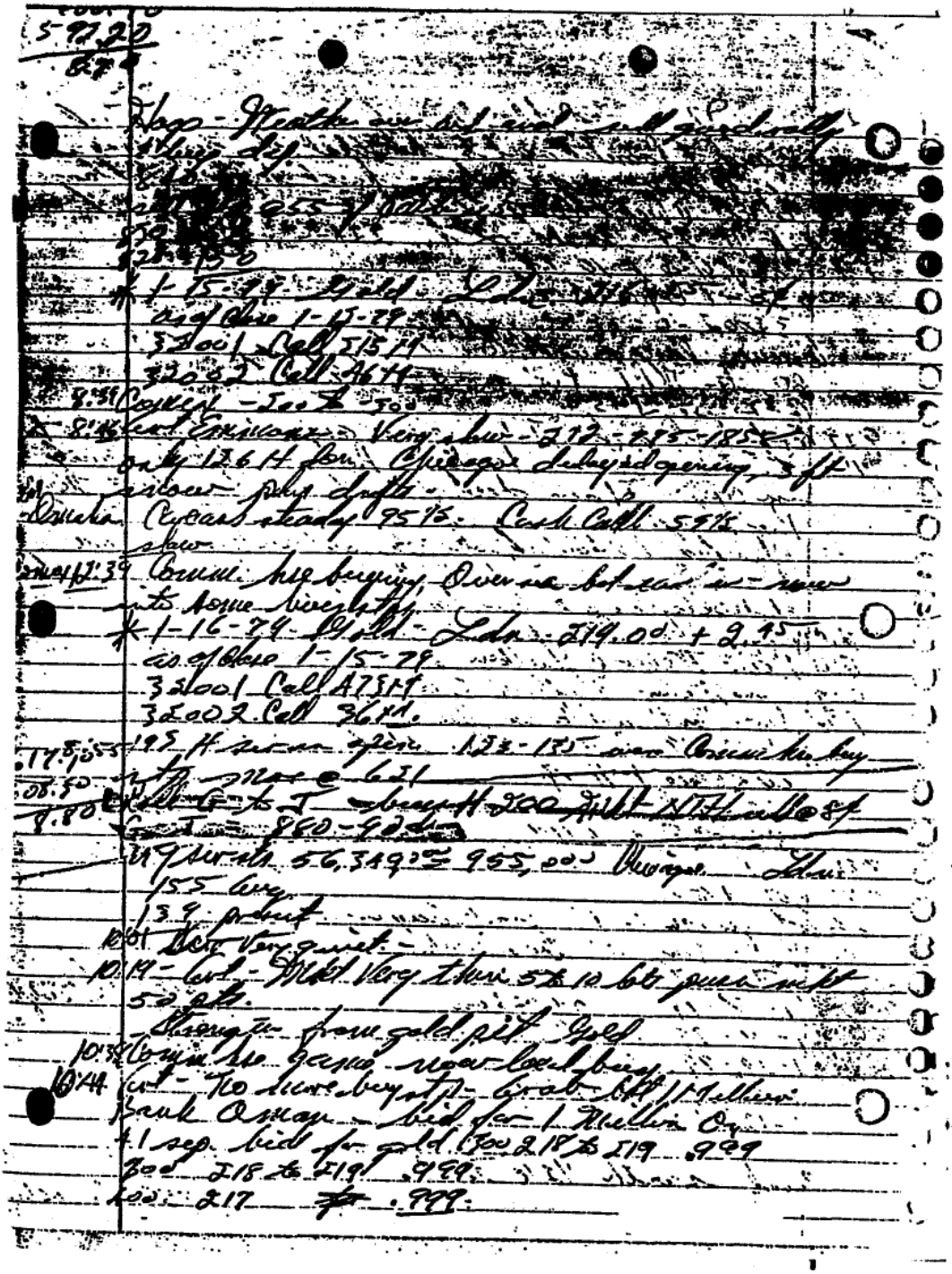
Bank [illegible] 1/3 6 250 [illegible]

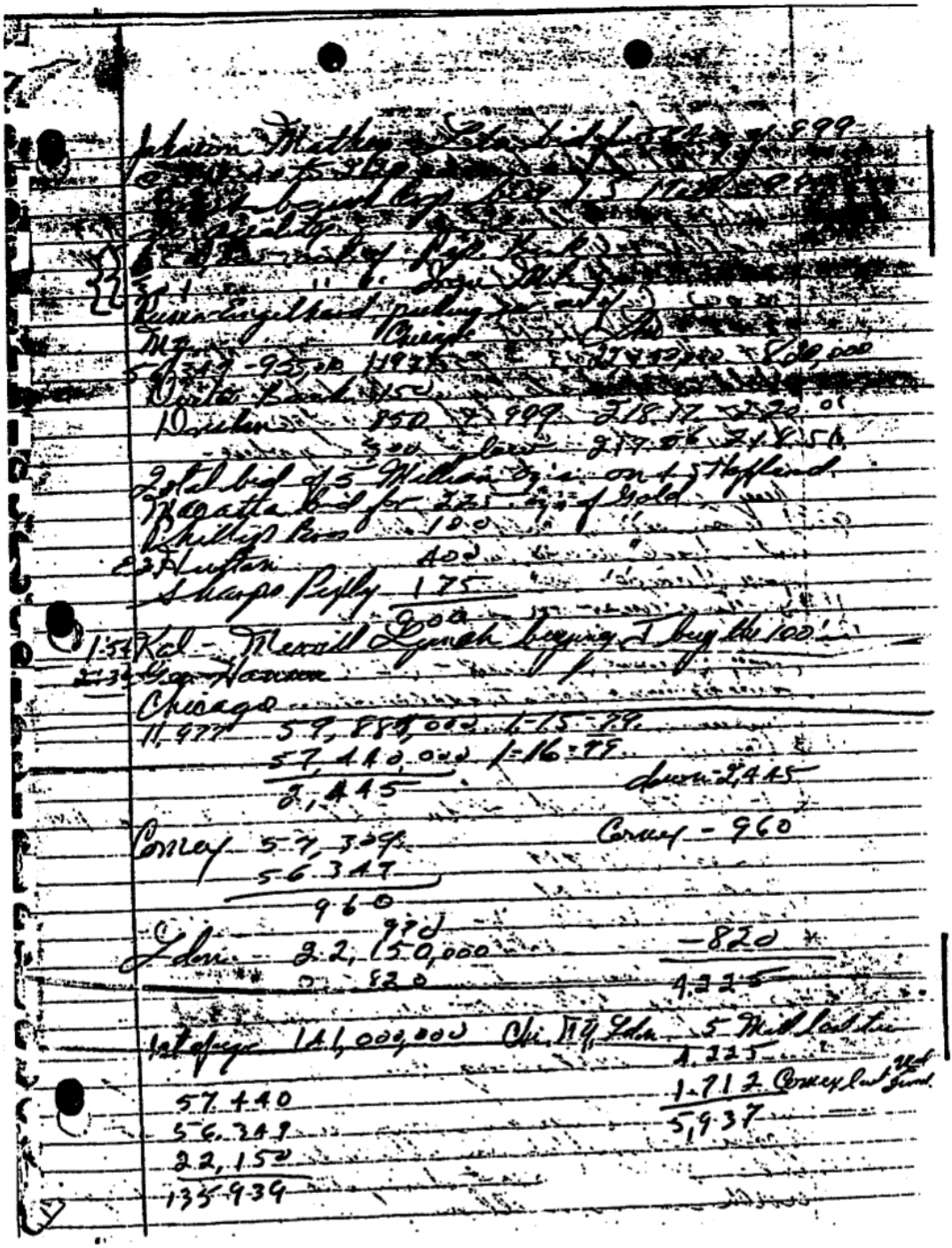
605

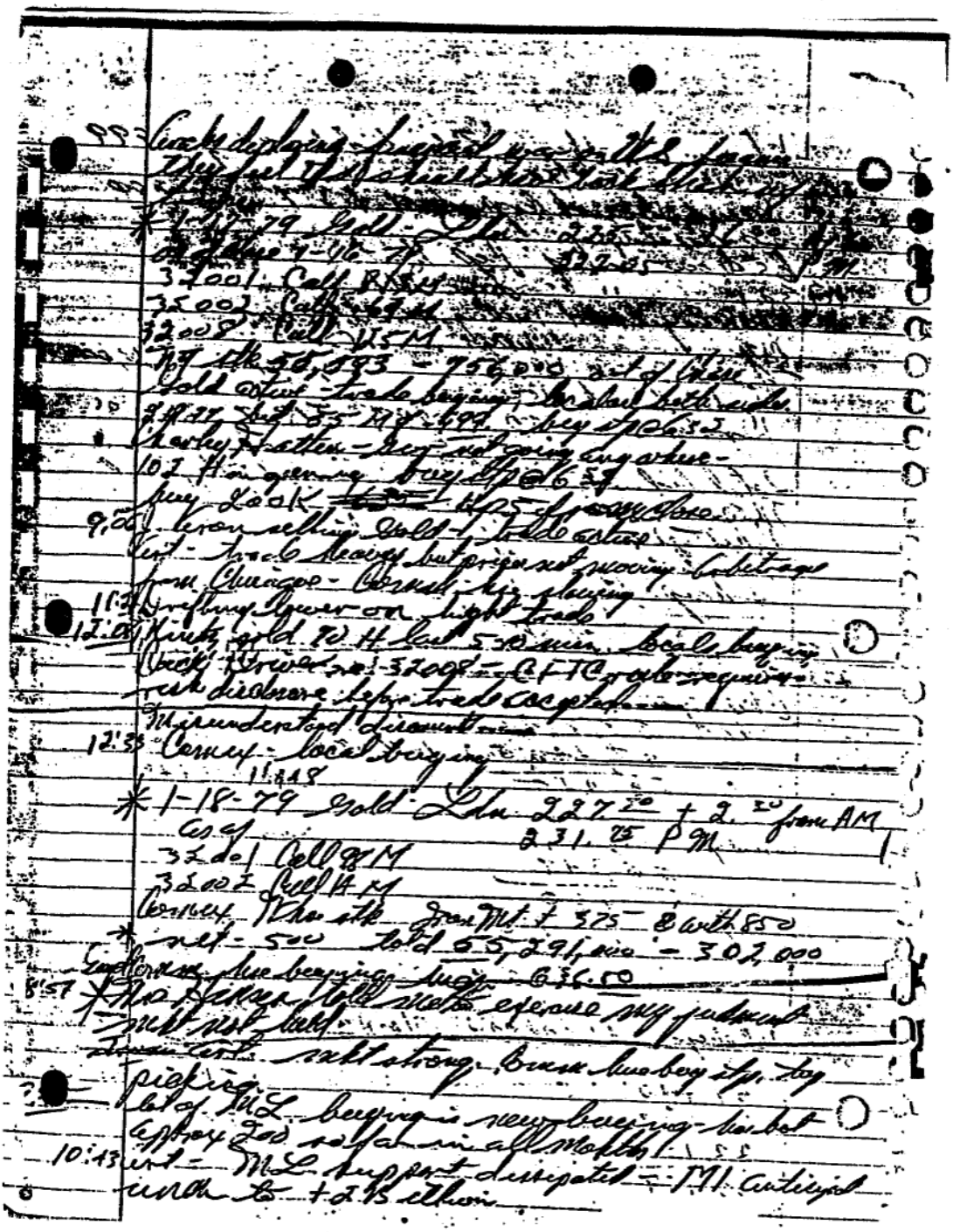
596.5

8.5 [illegible] N.I.

36-291 356







11:26 Kal - BOT - ML. selling ± 200 I - spread 100 & 150

11:27 [illegible] Security Bank Pocatello Idaho.

11:36 [illegible] today - 1-208-233-[illegible]

[illegible] at Security Bank of Idaho [illegible] Pocatello, Id.

acct # 004-11962-39 [illegible]

11:50 [illegible] switch sld 5000 H. & bot 3,000 U @ 2050

[illegible] look other side

Cattle on feed 98 to 107

Mktngs 106 to 114

Placements 87 to 96

12:12 [illegible] 10 min before close [illegible] from broking.

1:48 Jack Taylor - swamped - be ± 2 wks before ready to talk

1:51 [illegible] NFC [illegible]

[illegible] in Montana of a friend.

[illegible] no longer w/ [illegible]

[illegible] Bag [illegible]

* 1-19-79 Gold [illegible] 230.20 AM + 3.50

as of Close 1-18-79 230.55 PM - 1.00

32001 Call 1004

32002 Call 1111

[illegible]

[illegible] Call + 200 to + 300

Fed Cattle 6,2 - 6,37 in Texas good

Beef trade lite - [illegible] 977

8:52 [illegible] + 500,000 = 55,396,000

increase @ [illegible]

Earlier indication [illegible]

Kal - Chicago [illegible] 433 - 15 Contracts = 75,000 as of 1-18

G I - 700 - 750

[illegible] Cattle. - [illegible]

[illegible] @ 6145 - however floor [illegible]

buyers @ ± 6145

[illegible] Argentina [illegible] 10 [illegible] of

rain in Rio Grande del Sol area.

10:05 [illegible] - going to [illegible] - next Wednesday

- [illegible] asked if I had any people in mind who

might be buyers, I [illegible] him I did.

* 32 of 8 = 212, 475 arriving today

135

1:59: Geo. Hansen - wanted to make sure bank transfers to us were done to our satisfaction - assured him it had been handled very properly.

*1-23-79 Gold Ldn. 234.40 - 13.10 AM
as of close 1-19-79 $235.00 P.M.

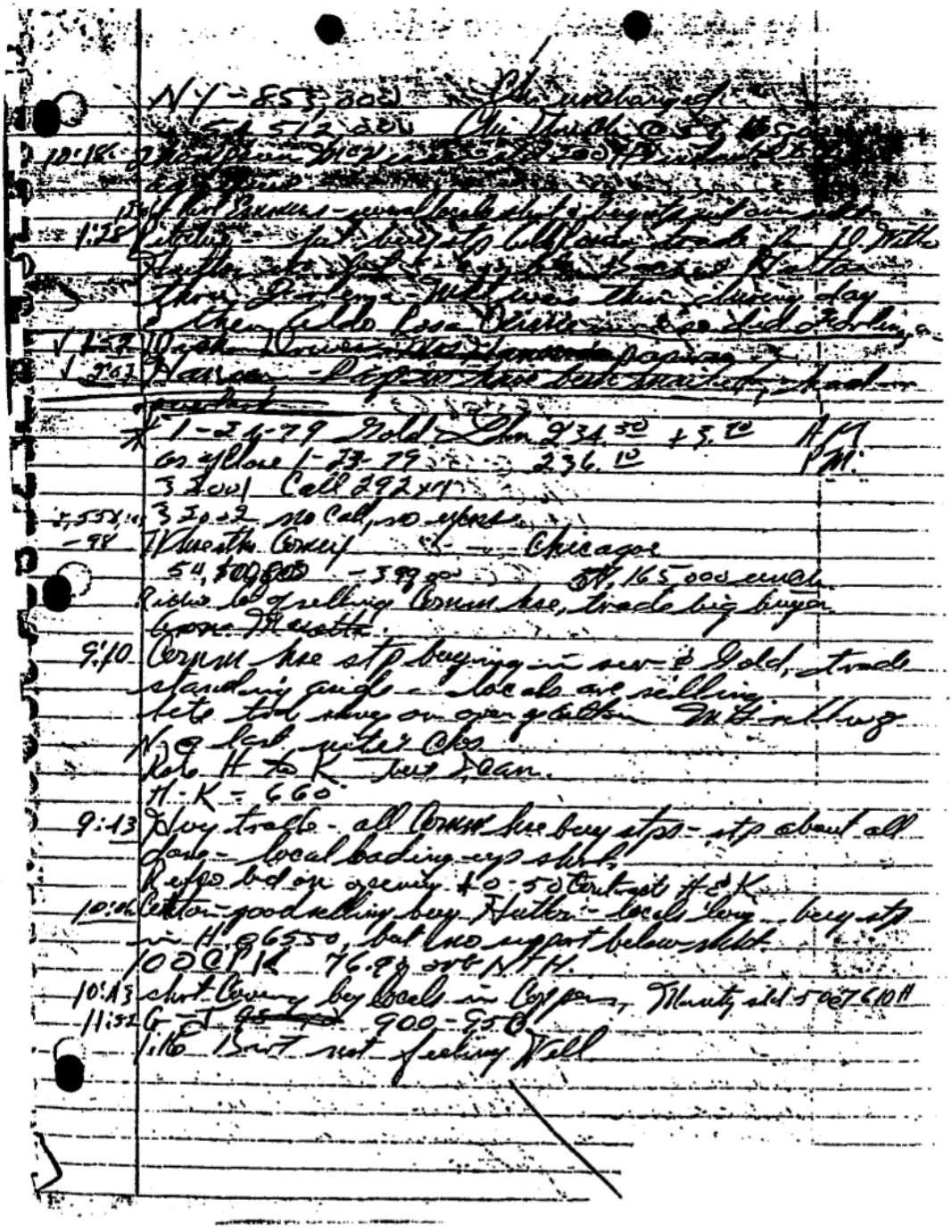
3Doc [illegible] 834.
33002 - no call and - 10 no efens
N. [illegible]
Money Chicago 1-19-79 London 1-19-79
55,365,000 - 231,000 Unchanged 57,165,000 21,890,000 - 260,000
Loan Hl + 100
Chase - 331
Copper stk - 77,000 tot 331,000.
[illegible] 13 to 14 [illegible]
13 to 15 1307.

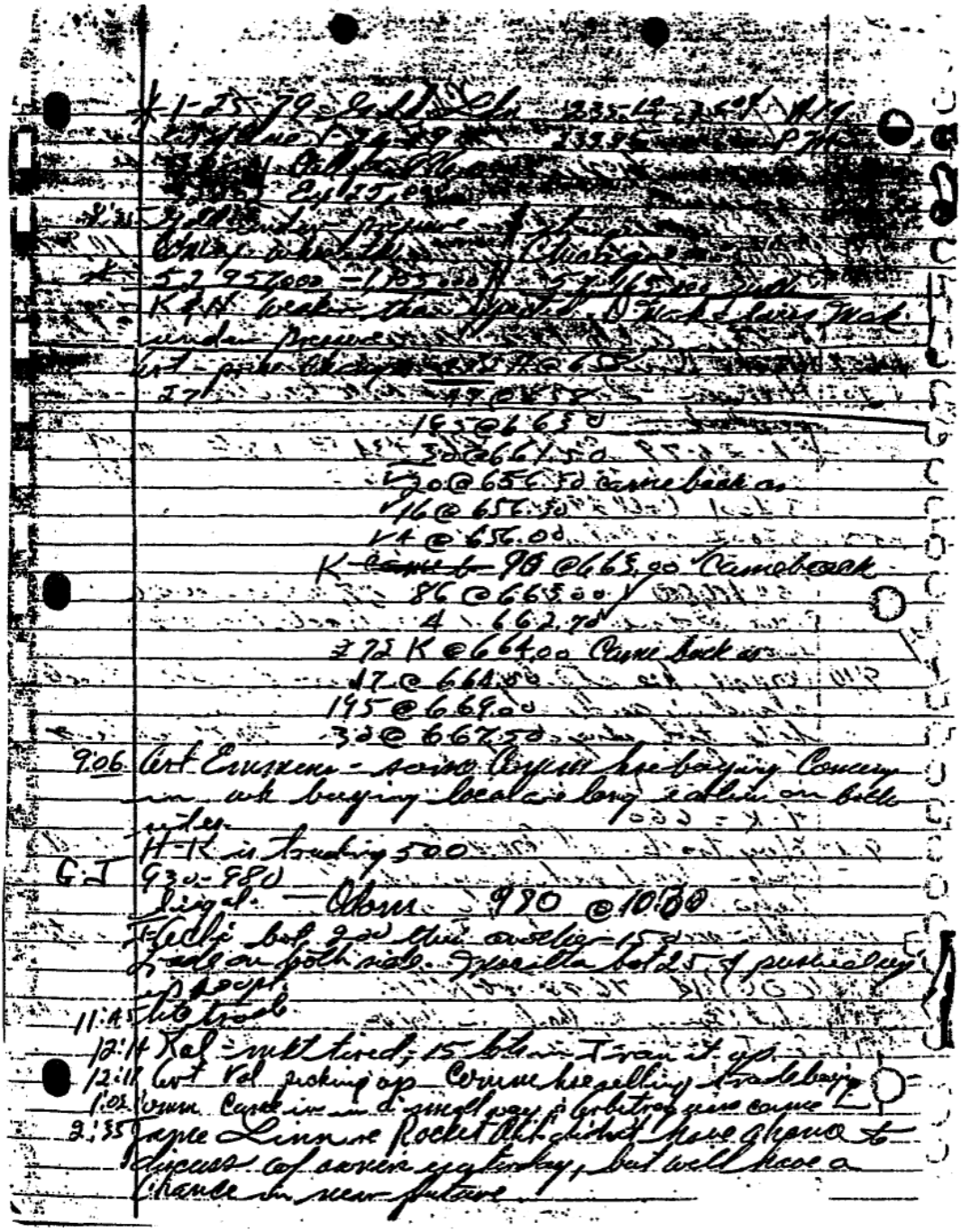
[illegible] over [illegible]

Mr Hansen
Marlie Hattin - [illegible] Bros - has been withdrawing - may be moving into plant - have storage facilities
[illegible] 010955 [illegible] Mr. Carman
[illegible] Investigating dept. [illegible]
[illegible]
[illegible] dated 1-19-79. - [illegible] this morning

[illegible] a Correction. [illegible]

*1-23-79 - Gold Ldn. 230.80 - 3.60 A.M.
as of 6th 1-23-79 230.00 P.M.
33100 no call, no Eyacin
33002 [illegible] 3014
[illegible] mom.
Letter [illegible] K. 10 N. 101. 30 Z.
[illegible] 10 K 50.
33001 calls 75. [illegible]
Totten
[illegible] stk NY Chase - 74,000
from [illegible] 779,000





BRIEFING BOOK EX. 28

SHANK, IRWIN, CONANT, WILLIAMSON & GREVELLE
ATTORNEYS AT LAW
3100 FIRST NATIONAL BANK BUILDING
DALLAS, TEXAS 75202
(214) 748-9696
TELECOPIER
(214) 748-9690
TELEX 73-2760

IN WASHINGTON, D C
1300 19TH STREET, N W
SUITE 210
WASHINGTON, D C 20036
(202) 659-9406

KAREN S BEDELL
CECIL W CASTERLINE
A B CONANT, JR
ROBERT B COUSINS, JR
WILLIAM E DOUGLASS
ROGER GOLDBURG*
JAMES W GREVELLE
IVAN IRWIN, JR
STEVEN C METZGER
ROCANET D PLETCHER
FREDERICK J RERKO
ROBERT N RULE, JR
RALPH B SHANK
ALLEN WEED
RAY B WILLIAMSON

*LICENSED IN COLORADO AND NEW YORK ONLY

WILLIAM D HAYWARD
JOHN R WOODWARD
EVAN M SOTTING
DREW R HEARD
CHARLES W PAULY
WILLIAM D WRIGHT
RODERIC C STEARLEY
J RICHARD HORNER
JOHN H PEPER
KATHLEEN S CLEAVELAND
P TALMAGE BOSTON JR
TIMOTHY M FULTS
DONALD C JOHNSON
RICHARD L ALLEN
WILLIAM B CHANEY
THOMAS I HIGIER
JOHN T HELM

July 17, 1980

Mrs. George Hansen
4700 38th Place North
Arlington, Virginia 22207

Dear Mrs. Hansen,

On May 27, 1977, the First National Bank in Dallas funded a $50,000 loan to you evidenced by a promissory note in the original principal amount of $50,000 payable to the First National Bank in Dallas and guaranteed by Nelson Bunker Hunt. This loan was renewed in May, 1978 for an additional year, with interest paid current through May 26, 1978. The renewed note (the "Note") matured May 29, 1979 and a formal demand for payment of the past due principal sum of $50,000 and accrued interest of $10,033.56 was made on you by First National Bank in Dallas on March 18, 1980.

The principal of and interest on the Note were never paid to the First National Bank in Dallas. Because of your failure to meet these obligations under the Note when it matured, our client, Nelson Bunker Hunt, as guarantor on the Note, was required to pay the principal of the Note and the accrued interest thereon in the total amount of $61,503.42. Accordingly, the Note has been endorsed over and Mr. Hunt is now the holder thereof.

On behalf of our client Nelson Bunker Hunt, we hereby demand payment of the past due principal sum of $50,000 and accrued interest of $12,267.31 on the date hereof. Until paid in full, interest continues to accrue on this loan at the rate of $16.67 per day.

It is imperative that we receive an immediate response to this letter in order to reach a mutually acceptable arrangement for the payment of all money due and owing. If we do not receive payment or otherwise agree upon an arrangement within ten (10) days from the date of receipt of this letter, we shall have no alternative but to file suit on behalf of Mr. Hunt for recovery of these amounts. You will additionally become liable for attorneys' fees incurred as a result of such action pursuant to the terms of the Note.

Thank you for your attention to this matter.

Very truly yours,

Ray B. Williamson

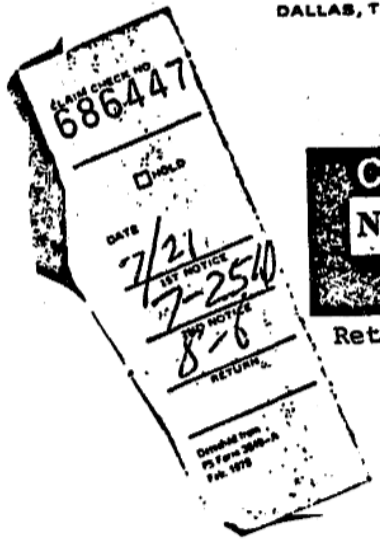
Ray B. Williamson

RBW:mh

cc: Nelson Bunker Hunt

Certified Mail No. 186715
Return Receipt Requested

SHANK, IRWIN, CONANT, WILLIAMSON & GREVELLE
ATTORNEYS AT LAW
3100 FIRST NATIONAL BANK BUILDING
DALLAS, TEXAS 75202



CERTIFIED
No. 186715
MAIL

Return Receipt Requested

DALLAS, TX
PM
17 JUL

DALLAS
JUL 17 80
TEX.
U.S. POSTAGE
1.40

Mrs. George Hansen
4700 38th Place North
Arlington, Virginia 22207

250

G 26

BRIEFING BOOK EX. 29

3,107.35 Washington, D.C., October 26, 1978

On May 25, 1981 ~~I~~, I promise to pay to the order of N. B. Hunt

at Dallas, Texas,

the sum of Three Thousand One Hundred Seven and 35/100 DOLLARS,

with interest thereon at the ~~rate of~~ % from date until paid; interest to be paid upon maturity and if not so paid, all principal and interest, at the option of the holder of this note, to become immediately due and collectible. Any part hereof may be paid at any time. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay holder's reasonable attorney's fees and collection costs, even though no suit or action is filed hereon; if a suit or an action is filed, the amount of such reasonable attorney's fees shall be fixed by the court or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

A fluctuating rate from date until maturity, Connie S Hansen

which rate shall be one percent per annum above CONNIE S. HANSEN, 3307 N. Piedmont St.,

the prime interest rate charged by the First National Arlington, Va. 22207

Bank in Dallas at its office in Dallas, Texas (but in no event, shall the maximum rate charged hereunder exceed the maximum rate of interest permitted by applicable law).

PROMISSORY NOTE.

61,503.42 Washington, D.C., June 3, 1980

On May 25, 1981 I promise to pay to the order of N. B. Hunt

at Dallas, Texas,

The sum of Sixty One Thousand Five Hundred Three and 42/100 DOLLARS,

with interest thereon at the ~~rate of~~ % from date until paid; interest to be paid upon maturity and if not so paid, all principal and interest, at the option of the holder of this note, to become immediately due and collectible. Any part hereof may be paid at any time. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay holder's reasonable attorney's fees and collection costs, even though no suit or action is filed hereon; if a suit or an action is filed, the amount of such reasonable attorney's fees shall be fixed by the court or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

A fluctuating rate from date until maturity, Connie S Hansen

which rate shall be one percent per annum above CONNIE S. HANSEN, 3307 N. Piedmont St.,

the prime interest rate charged by the First National Arlington, Va. 22207

ank in Dallas at its office in Dallas, Texas (but in no event, shall the maximum rate charged hereunder exceed the maximum rate of interest permitted by applicable law).

PROMISSORY NOTE.

BRIEFING BOOK EX. 30

97TH CONGRESS
1ST SESSION

H. R. 4093

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 1981

Mr. HANSEN of Idaho introduced the following bill; which was referred jointly to the Committees on Ways and Means and the Judiciary

---

A BILL

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Protection Act".

BRIEFING BOOK EX. 31

Q O.K. SO COULD YOU JUST TELL US NOW -- I WILL ASK YOU: DID CONGRESSMAN HANSEN DESCRIBE TO YOU AN ORGANIZATION, A NONPROFIT ORGANIZATION WHICH HE WAS INTENDING TO SET UP FOR THE PURPOSE OF CARRYING OUT THE EFFORTS THAT ARE DESCRIBED IN THIS BOOK?

A YES, SIR.

Q ALL RIGHT. THANK YOU. AND DID YOU GIVE HIM THE CHECKS FOR $25,000 AND $60,000 WITH THAT UNDERSTANDING IN MIND, THAT THERE WOULD BE AN ORGANIZATION THAT WOULD BE PROMOTING THIS BOOK?

A HE TOLD ME THAT, AND I --

Q THAT WAS PART OF YOUR TOTAL UNDERSTANDING WHEN YOU WROTE OUT THOSE CHECKS, WASN'T IT?

A YES, SIR.

Q O.K. IT WAS NOT YOUR UNDERSTANDING, AGAIN, THAT THIS WAS SOMETHING THAT HE WAS USING FOR SOME PLEASURE CRUISE OR PERSONAL --

A NO.

Q ALL RIGHT.

A I REMEMBER HIM SAYING THAT HE WANTED TO PROMOTE THE BOOK, THAT HE HAD AN ORGANIZATION, AND THAT WAS, YOU KNOW, THE REASON FOR THE FUNDS.

Q FINE.

BRIEFING BOOK EX. 32

HON. GEORGE V. HANSEN
MRS. CONNIE S. HANSEN
P. O. BOX 1130
POCATELLO, IDAHO 83201

4077

2 7 5 2 11-27 19 81

92-301/1241

Pay to the order of Piedmont Airlines $ 356.00

Three hundred fifty-six and 00/100 Dollars

First Interstate Bank

First Interstate Bank of Idaho, N.A.
Pocatello Office
253 South Main
Pocatello, Idaho 83204

For WDC-TRIC/Va.
ACT.-Bus.

G V Hansen

⑆124103016⑆ 24081788⑈ 4077⑈ ⑈0000035600⑈

6+202-225-5531

SALT LAKE CITY
PAY ANY BANK

NOV 23 81

BANK OF VIRGINIA
68-424

THE NORTHERN TRUST CO
CHICAGO, ILLINOIS

#4077

BRIEFING BOOK EX. 33

Q. When he discussed the loan with you at that point, did he tell you that there was an organization, this was November, that had been formed with regard to the matter of this book or these books?

A. An organization had been discussed with me at

probably that time, sir, but I don't recall, having that discussion that day. But an organization, or Congressman Hansen had discussed with me, or I had knowledge, I guess, that there was an organization, or there was to be an organization at the time, at the time of this conversation.

Q. So it is your recollection that either prior to that meeting, that Sunday morning, in your office, or at the meeting, the matter of an organization was discussed between yourself and the congressman?

A. Yes, sir.

Q. Was it your understanding that it would be this organization that would be responsible for the mailings relating to this book?

A. Well, sir, to be honest with you, I don't know that I understood all about the organization. But it was my understanding that the proceeds of my loan would be used in a mass mailing, publishing or promoting of the book or books.

Q. In fact, I think you testified in answer to Mr. Cole, that you really anticipated this would be a short term loan, it would be repaid in a matter of months, is that right?

A. Yes.

Q. Is it not a fact that the reason you viewed it as a short term loan is that the anticipation was that there would be a mass mailing and funds would come in as a result of the mass mailing?

A. Yes, sir.

Q. So that was discussed between yourself and the congressman?

A. Yes, sir.

Q. That whatever it is that was being done with this book would require an additional investment for a mass mailing?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. And that the funds were really intended to be used for such a mailing?

A. Well, I don't know that it was specified that my money would go to the mass mailing or the publishing or something else within that.

Q. But it was in that area, it had to do and you understood there would be a mailing and that funds would come in as a result of that mailing?

A. Yes, sir.

Q. The expectation was that as a result of funds coming in from that mailing, that the loan that you made would be paid back?

A. Yes, sir.

BRIEFING BOOK EX. 34

97TH CONGRESS
1ST SESSION

H. R. 4931

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 1981

Mr. HANSEN of Idaho introduced the following bill; which was referred jointly to the Committees on Ways and Means and the Judiciary

---

A BILL

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Protection Act".

BRIEFING BOOK EX. 35

97TH CONGRESS
1ST SESSION

H. R. 4821

To amend the Internal Revenue Code of 1954 to provide taxpayer relief and simplification of the individual income tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1981

Mr. HANSEN of Idaho introduced the following bill; which was referred to the Committee on Ways and Means

---

A BILL

To amend the Internal Revenue Code of 1954 to provide taxpayer relief and simplification of the individual income tax, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Simplification Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of,

1505

BRIEFING BOOK EX. 36

Q. Do you know of any efforts of Congressman Hansen, at the Pentagon, on behalf of McAfee and Meade?

A. All I know is that he introduced them and later complained to the Pentagon about treatment of employees of the Pentagon by reason of their involvement in the thing.

Q. How many calls did Congressman Hansen make to the Pentagon on behalf of these Virginia fellows, do you have any idea, sir?

A. I have no idea how many calls he made on behalf of the Virginia people. I know of one call he made on behalf of the employees.

United States of America vs.

DEFENDANT: BRIEFING BOOK EX. 37 | WESTERN DISTRICT OF VIRGINIA - ROANOKE

JOHN DWIGHT MEADE, JR. | DOCKET NO. 82-00107-R

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date 08827,0122

MONTH	DAY	YEAR
12	07	82

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL Carl E. McAfee, Esquire (Name of counsel)

PLEA

[X] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [ ] NOT GUILTY

FINDING & JUDGMENT

There being a finding/~~exclusion~~ of [ ] NOT GUILTY. Defendant is discharged [X] GUILTY.

Defendant has been convicted as charged of the offense(s) of embezzlement, false entry in bank book & false statement to influence loan in violation of Title 18 U.S.C. §656, 1005 & 1014.

SENTENCE OR PROBATION ORDER

As to counts 1 & 7 consolidated for sentencing, The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of two (2) years and fined the sum of $5,000.00.

As to counts 2 & 6 consolidated for sentencing, IT IS ADJUDGED that defendant pay a fine to the United States in the sum of $5,000.00. The imposition of sentence as to imprisonment only is suspended and the defendant placed on probation for a period of five (5) years to commence upon release from custody in counts 1 & 7.

As to counts 3, 4 & 5 consolidated for sentencing, IT IS ADJUDGED that the defendant pay a fine of $5,000.00. The imposition of sentence as to imprisonment only is suspended and the defendant is placed on probation for a period of five (5) years to run concurrent with probation period imposed in counts 2 & 6, on the following conditions:

SPECIAL CONDITIONS OF PROBATION

1. Defendant is to pay $15,000.00 fine on a schedule to be worked out with the Probation Office.

2. Defendant is to perform 200 hours community service under direction of the Probation Office.

IT IS FURTHER ORDERED that the defendant report to the institution designated by the Bureau of Prisons on Monday, June 6, 1983 to begin service of his sentence

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

Maxwell Air Force Base, Alabama

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

[X] U.S. District Judge James C. Turk

[ ] U.S. Magistrate

Date December 7, 1982

A TRUE COPY, TESTE:
Joyce F. Witt, Clerk
By: Deputy Clerk

LAW OFFICES
J. D. BOWIE
BRISTOL, VIRGINIA 24201-0170
502 CUMBERLAND STREET
P. O. BOX 1170

J. D. BOWIE
S. GRAY ROBINSON
SONDRA K. ALAN

AREA CODE 703
466 5015

May 4, 1983

BRIEFING BOOK EX. 38

The Hon. James M. Cole
The Hon. Reid Weingarten
Attorneys for Public Integrity Section
Criminal Division
United States Department of Justice
315 Ninth Street, 4th Floor
Washington, D.C. 20530

Re: John D. Meade, Jr.

Dear Jim and Reid:

We appreciate your candor in discussing with John D. Meade, Jr. and myself Mr. Meade's potential criminal liability arising from grand jury proceedings and other investigations of Congressman George V. Hansen. Since our conference in your offices on May 4, I have reviewed with my client in great detail the factors discussed.

I have advised Mr. Meade that he should make full and frank disclosure of any and all information he has concerning any wrong doing on the part of Congressman Hansen as it relates to your investigation. I have further advised him that if any such full and frank disclosure would incriminate Mr. Meade, either because of inconsistencies with his sworn testimony before the grand jury, or because of his involvement in any transactions which could be construed as bribery, it would probably be to his best interests in the long run to offer cooperation in the prosecution of the cases against Congressman Hansen in hopes of obtaining immunity for himself.

In his mind and without benefit of a transcript, Mr. Meade has carefully reviewed his grand jury testimony, and he positively affirms that his entire testimony before the grand jury was absolutely true to the best of his knowledge and belief, both then and now.

Further, Mr. Meade assures me that bribery was never considered, much less discussed by him or in his presence, either when he made bank loans to Mr. McAfee and Mr. Rogers to replenish resources from which they made loans to Congressman Hansen, or at the time that Mr. Meade made a personal loan from his individual resources directly to Congressman Hansen. He

says he has no knowledge of any events which could reasonably be construed as bribery of Congressman Hansen by himself or anyone else in any time.

I can understand your being suspicious of the circumstances which have been related to you pertaining to the two loans made to Congressman Hansen by Messrs McAfee and Rogers, and the one loan made to Congressman Hansen by John Meade. However, if it were Mr. Meade's purpose to fabricate a false story, I would hope that he would be clever enough to come up with a story which would be less suspicious and more plausible. As we all know, it is not uncommon for the truth to appear far more suspiciousthan a lie. In the instant case, we have to take the position that these suspicions have no basis in fact.

Mr. Meade would be happy to cooperate with you in any way possible, and he feels no obligation or desire to protect Congressman Hansen or anyone else involved here, but could not truthfully furnish any additional or different testimony other than that which he has already given before the grand jury. If he should, at any later time, recall or learn of any new information which would either directly or indirectly shed light on your case, he has assured me that he will immediately furnish any such information to you through this office.

In the meantime, if I can be of any assistance to you in pursuing any further inquiries in the matters about which John Meade has any information, I would be glad to assist, and I am sure John would, also.

With best regards, I am,

Sincerely,

J. D. BOWIE

JDB:dcb

cc: Mr. John D. Meade, Jr.

BRIEFING BOOK EX. 39

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA v. GEORGE V. HANSEN, Defendant.	Criminal No. 83-75 Judge Joyce Hens Green

AFFIDAVIT OF LAWRENCE I. SANK

Lawrence I. Sank, being duly sworn, deposes and says:

1. I am submitting this affidavit at the request of counsel for Congressman George V. Hansen in support of his motion for a new trial.

2. I am a clinical psychologist, licensed in the District of Columbia and Maryland, who has practiced in these jurisdictions since 1973. I am also a clinical diplomate of the American Board of Professional Psychology ("ABPP"). I am an Associate Professor in the Departments of Health Care Sciences and Psychiatry and Behavioral Sciences of the George Washington University Medical Center. I am Co-director of the Center for Cognitive Therapy in Bethesda, Maryland. Attached to this affidavit is a curriculum vitae specifying my education, other professional experiences and qualifications, my teaching, research and consulting experience, and specifying the textbook I have written, the 17 professional articles which I have authored and the over 30 professional presentations which I have conducted.

3. My specialty areas include the use of both individual and group modalities for the treatment of mood disorders and for the treatment of the victims of hostage situations, otherwise known as "barricade" situations. I have written, presented and lectured about the group dynamics of human interaction in both clinical and social settings -- i.e., how people interact and respond in clinical and other social settings when they find themselves in groups. This includes such areas as persuasion, attitude change, and behavior change. Among my experiences in this area has been the treatment of the victims of the Hanafi Muslim siege of three buildings in the District of Columbia in March, 1977 (the B'nai B'rith Headquarters, the District Building and the Islamic Center).

4. I have been asked to apply my professional knowledge and experience to assist in understanding the circumstances of members of a jury who are "sequestered." That term has been defined to me as meaning that members of a jury in a criminal case are removed from their home setting and are kept in a group at all times. I am advised that, under an order of "sequestration," jurors are lodged at a hotel, are provided their meals in a group, are restricted in their communications with any individual not on the jury (including any communications with the members of their immediate families, such as spouses, children and parents), and are not permitted access to newspapers (with the possible exception of newspapers from which any relevant articles have been cut out) or magazines or any electronic

media. I have been told that "sequestered" jurors may converse on the telephone with family members or business associates only when overheard by a supervising marshal, and may participate in physical activities or exercise only to the extent consistent with the group's activities.

5. I have been asked by counsel for Congressman Hansen to compare the effects of such "sequestration" on members of a jury maintained in this condition for a period of fourteen days, while they are hearing evidence in a criminal case, with the situation of jurors considering a criminal case of a similar duration who are permitted to go home after court sessions are concluded each day and who may engage in ordinary communications with the outside world and ordinary relations with family members and associates during that period of time. In making this comparison, I have been told to consider that the latter group is instructed by the judge not knowingly to read or hear any reports concerning the trial and not to discuss the trial with other members of the jury or family members and friends. I have been asked specifically to express my opinion as to whether there exist psychological factors which would alter the outcome or verdict in a case with a "sequestered" jury which are not present with a jury that has not been "sequestered."

6. In my opinion there are a number of psychological mechanisms that apply to a sequestered jury that would not apply, or would apply to a far lesser extent, to one that is not sequestered. These factors would be far more salient in the case

of a "sequestered" jury and could significantly affect the verdict of such a jury.

(a) Sensory Deprivation/Stimulus Reduction. -- "Sequestered" jurors are removed from their natural environments within which they experience the stimuli which ordinarily support and maintain their behavior. I am familiar with situations in which a subject experiences reduced environmental stimuli for an extended period of time. Individuals in such situations are likely to form opinions which they would not ordinarily have and to alter their attitudes. They are likely to behave in ways which would otherwise be strange to them. Psychologists have used this response clinically to alter patterns of behavior. A juror in a "sequestered" environment, where the number and type of stimuli are deliberately reduced or eliminated, is likely to act differently than he would in his normal environment. Sequestered jurors would, therefore, be more likely to change their attitudes, feelings, beliefs and behavior simply because of this restricted or stimulus-reduced environment than if they were not subject to such restrictions.

(b) Hypnosis. -- "Sequestered" jurors who are urged to concentrate on little other than the trial in which they participate are comparable to subjects of hypnosis. Hypnosis can be viewed as a state of

heightened concentration, whereby the subject is called upon to perform, think and feel in special ways. This includes a heightened suggestibility or responsivity. The subject of hypnosis is frequently placed in that state by a person whom he views as having authority. The induction procedure involves the subject focusing his or her attention and thereby reducing the scope of his or her attention. A "sequestered" juror is asked by the Court to focus his or her attention on the trial proceedings, and external stimuli are screened out, just as the hypnotist would direct the subject to screen out extraneous stimuli. In such a "sequestered" situation, the juror is likely to become more malleable, and more prone to be persuaded to change his or her attitudes in the direction suggested by such authority.

(c) "Marathons". -- The long duration of a trial involving "sequestered" jurors is likely to affect their group behavior. In clinical settings, mental health professionals (psychologists, psychiatrists and social workers) often place their patients in intensive group experiences for a prolonged period (24 to 48 hours). Their professional judgment is that dramatic changes occur in the patients as a result of these extended sessions. In such marathon-type experiences, the patients and those who observe them often report

dramatic personal changes. Psychological literature reflects, however, that these changes are short-lived and the patient soon rebounds back to the earlier pre-marathon state. A "sequestered" juror in a trial that covers two weeks resembles a participant in a "marathon" session. Such a juror would likely change his beliefs, feelings, thoughts and behavior, not only in response to evidence placed before him but in response to the environment in which he or she was placed to deliberate. These changes would probably be different were he or she not "sequestered."

(d) "Brainwashing". -- Because "sequestered" jurors are cut off from their usual environment and are maintained in benign custody by marshals, they bear some resemblance to hostages and prisoners. Reports of situations where hostages, prisoners of war and concentration-camp inmates have been held against their will reveal that some of these victims have come to adopt the beliefs, attitudes, political views and behaviors of their captors. This is sometimes referred to as the "Stockholm Syndrome." Locally, there were examples of this response during the Hanafi Muslim siege of the three buildings in the District of Columbia. I treated victims of this siege and found Stockholm Syndrome-like symptoms exhibited during this period of captivity. Psychologically, we recognize the desire on the part of

the captive to embody those features which are seen as effective, powerful and in favor. Because of his or her reduced physical and psychological freedom (including reduced access to family, friends and information, and limited ability to move about), a "sequestered" juror is more likely to rely on those whom he or she sees every day for a sense of what is right or wrong and what kinds of attitudes and beliefs he or she should hold. If the jury is guarded by marshals, the marshals would be seen as such authorities. In addition the United States Government represented by the prosecutor, would be such an authority figure. With this psychological model operative, jurors would be more likely to identify with, and attempt to curry the favor of, these more powerful figures in a situation where their freedom is limited.

(e) Persuasion in Groups. -- The extended period over which a "sequestered" jury is held together as a group is likely to affect the readiness of a juror to express and stick with an individual opinion. It has been noted that in a group setting subjects are more willing to bend their opinions to the perceived norm held by the group. This tendency is enhanced when the group experience is intense and access to the outside is limited. People in groups have been known not to

speak their minds when they fear arousing the disapproval of dominant members in the group or when they fear they might thwart the task of the group. This condition is aggravated if the group has been kept together for a long period. In that case, an individual member's silence, rather than reflecting assent, may reflect fear of the consequence of speaking up. A "sequestered" juror would feel more pressure to comply with the group norm and to come to a unanimous decision. Such a juror is more likely to fear social consequences, such as ostracism or being called a poor team member, than a juror who does not have this group experience.

(f) Group Compliance. -- Groups tend to move toward compliance with a perceived external demand. In the case of "sequestered" jurors, such a demand might be the fantasized or real expectation that they return a particular verdict. "Sequestered" jurors' fantasies about what the outside world expects of them would be far more active than in a non-sequestered situation, where the fantasy could be tested against the reality of a potentially relatively indifferent public. If much time and expense was believed by the jurors to have been incurred by the Government in their "sequestration" and there was intense scrutiny by the press (including the presence in the courtroom of press

artists and reporters), "sequestered" jurors would feel more pressured than non-sequestered jurors to bring in a verdict that would comply with external demands. These external demands include perceived public opinion regarding the kind of defendant against whom the charges are filed and the desire to avoid needless public expense. My opinion is that "sequestered" jurors in the District of Columbia would be more likely than non-sequestered jurors to render a group verdict based on the public perception, growing out of the "Abscam" prosecutions, that Congressmen are unscrupulous. They would also be more likely not to want to return a verdict of not guilty that would bring them into public disrepute, as had been the experience of the members of the publicized Hinckley jury. And if the "sequestered" jurors believed, from news reports before they were sowrn and "sequestered," that the case which they were deciding was viewed as a initial test of the honesty of government officials, they would feel in this environment increased pressure to return a guilty verdict.

7. On the basis of the above enumerated factors, my conclusion, based on my knowledge and experience, is that a "sequestered" jury would act differently, in significant ways, from a non-sequestered jury, not because of evidence or other information coming to the jurors' conscious attention but because the circumstances surrounding the deliberation are materially

altered in various ways that could produce a different outcome when a jury is "sequestered."

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 29, 1984.

Lawrence I. Sank

LAWRENCE I. SANK

April 1984

CURRICULUM VITAE

LAWRENCE I. SANK

ADDRESS: Center for Cognitive Therapy, Inc.
5026 Wissioming Road
Bethesda, Maryland 20816

TELEPHONE (301) 229-3066 (Office)
(301) 229-3131 (Home)

BIRTH DATE: March 3, 1946 -- Brooklyn, New York

EDUCATION:
1964-1965 Rutgers University
1965-1968 Brandeis University
1968-1969 University of Rochester
1969-1972 Rutgers University

DEGREES:

A.B., cum laude, 1968, Brandeis University, Waltham, Mass.
Major: Economics

M.S., 1970, Rutgers University, New Brunswick, New Jersey
Major: Clinical Psychology

Ph.D., 1972 Rutgers University
Major: Clinical Psychology

Training Fellowship/grants:
NDEA: 1969
USPHS: 1971-1973

LICENSURE/ CERTIFICATION:

D.C. Board of Psychologist Examiners
License #604 (3/5/74)

Maryland State Board of Examiners of Psychologists License #717 (12/8/73)

National Register of Health Service Providers in Psychology Certificate #15770 (7/7/75)

The American Association of Sex Educators, Counselors, and Therapists -- Certified Sex Therapist (4/9/79)

Diplomate in Clinical Psychology, American Board of Professional Psychology, Diploma #3214 (6/4/80)

CLINICAL EXPERIENCES:

Professional:

1982-present	Co-director, Center for Cognitive Therapy, Inc. (Washington Area)
1974-1984	Associate Professor (Tenured), Department of Health Care Sciences and Department of Psychiatry and Behavioral Sciences, George Washington University Medical Center. Director, Mental Health Practice -- George Washington University Health Plan (pre-paid medical group practice).
1980-present	Research Therapist, NIMH Collaborative Depression Research Study.
1976-1978 1981-1982	Associate Director, Clinical Psychology internship Program, jointly with the Departments of Psychiatry and Behavioral Sciences and Health Care Sciences, The George Washington University Medical Center.
1973-1974	Staff Psychologist, American University Counseling Center and Professional Consultant to Paraprofessional Training Grant.

Postdoctoral:

1972-1973	Postdoctoral Fellow in Clinical Psychology, Department of Psychiatry, University of Wisconsin Medical School, Madison, Wisconsin.

Predoctoral:

1971-1972	Psychology Intern, Department of Psychiatry, Beth Israel Hospital, Boston, Massachusetts.
1971	Psychology Trainee, Peer Counseling Program, Livingston College, New Brunswick, New Jersey.
1970	Psychology Trainee, Mount Carmel Guild Community Health Center, Newark, New Jersey.
1970-1971	Psychology Trainee, Psychological Clinic, Douglas College, New Brunswick, New Jersey.
1969-1971	Advisor to undergraduates, Department of Psychology, Rutgers College, New Brunswick, New Jersey.

RESEARCH AND CONSULTING EXPERIENCE:

1982-present	Consultant to National Naval Medical Center, Bethesda Naval Hospital, Department of Psychiatry, Bethesda, Maryland
1980-1982	Consultant to Continental Telephone Company
1980-1982	Consultant to Arthur Young & Company
1979-1982	Mental Health consultant to National Commission on Health Certifying Agencies.
1977-1983	Consultant to the Association for the Advancement of Psychology (AAP) on Federal HMO regulations as they affect the practice of Psychology in HMOs.
1975-1976	Consultant to United States Air Force, Department of Psychiatry, Malcolm Grow Medical Center, Andrews Air Force Base, Washington, D.C.
1974-1979	Consultant to Home Care Program (nursing and social service planning for cancer patients). The George Washington University Medical Center.
1974-1983	Consultant to Nurse Practitioner and Physician's Assistant Training Programs, The George Washington University School of Medicine.
1973-1974	Consultant to Paraprofessional Training Program (for undergraduate mental health workers), American University, Washington, D.C.
1973-1974	Child Psychologist consultant to Model Neighborhood Area Comprehensive Community Mental Health Center, Capitol Heights, Maryland
1972-1973	Consultant to establish behavioral inpatient program, Dodge County Mental Health Center, Juneau, Wisconsin.
1972	Consultant, Industrial and Clinical Psychology, Abt Associates, Cambridge, Massachusetts.

RESEARCH AND CONSULTING EXPERIENCE (Continued):

1969-1972	Research Assistant -- Projective Test Design and Scoring, Continuing Education Program, Rutgers University, New Brunswick, New Jersey.
Summer 1970	NDEA Summer Follow, Reviewed T-Group Outcome Studies

TEACHING EXPERIENCES:

1980-1982	Coordinator and Instructor, Clinical Interviewing to Physician's Assistant and Nurse Practitioner Students, The George Washington University School of Medicine, Washington, D.C.
1977-1982	Preceptor in Senior Elective "Mental Health Provision in the Primary Care Setting," for Department of Health Care Sciences, The George Washington University School of Medicine, Washington, D.C.
1976-1982	Lecturer, Physician's Assistant and Nurse Practitioner Programs, The George Washington University School of Medicine, Washington, D.C.
1976-1979	Lecturer, Primary Care Rotation (third year), The George Washington University School of Medicine, Washington, D.C.
1974-1977	Preceptor in Senior Elective, "Family Medicine," for Department of Psychiatry and Behavioral Sciences, The George Washington University School of Medicine, Washington, D.C.
1974-1979	Instructor, Communication Skills, (Freshman Course), The George Washington University School of Medicine, Washington, D.C.
1974-1978	Section Leader, "Principles of Problem Solving: Psychiatry and Behavioral Sciences," (Sophomore Course), The George Washington University School of Medicine, Washington, D.C.
1974-1983	Lecturer to Psychiatry residents. The George Washington University School of Medicine, Washington, D.C.

TEACHING EXPERIENCES (Continued):

1974-1979	Supervisor in psychotherapy to Psychiatry Residents and Psychology graduate students. The George Washington University School of Medicine, Washington, D.C.
1973-1974	Instructor, Paraprofessional Training Course, American University, Washington, D.C.
Spring 1972	Instructor, Introductory Psychology Course, Chamberlayne Junior College, Boston, Massachusetts.
Spring 1972	Instructor, Psychological Testing for Medical School students, Harvard Medical School, Beth Israel Hospital, Boston, Massachusetts.
Fall 1971	Teaching Assistant, Industrial Psychology Course, Department of Psychology, Rutgers College, New Brunswick, New Jersey.

PROFESSIONAL PUBLICATIONS

Sank, L.I.	Effective and Ineffective Managerial Traits Obtained as Naturalistic Descriptions from Executive Members of a Super-Corporation. Personnel Psychology, 1974, 27, 423-434.
Sank, L.I.	and Biglan, A. Operant Treatment of a Case Recurrent Abdominal Pain, Behavior Therapy, 1974, 5, 677-681. Reprinted in Schafer, C.E., Millman, H.L., & Berish, A.I., Therapies for Psychosomatic Disorders in Children, Jossey-Bass, 1979.
Sank, L.I.	Perceived Trait Co-Occurrences According to Managerial Role: A Structural Representation. Journal of Vocational Behavior, 1975, 7, 189-200.
Sank, L.I.	Smrekar, M.J., and DeBeal, M.K. Student Descriptions of a Residence Hall Environment: A Methodological Innovation. Journal of College Student Personnel, 1975, 16, 405-408.
Sank, L.I.	Massed Program of Counter-Conditioning for a Flying Phobia. Social Work, 1976, 21, 318-319.

PROFESSIONAL PUBLICATIONS (Continued):

Sank, L.I. Stimulus Enhancement: Dealing with stimulus compounding in Systematic Desebsitization. Journal of Behavior Therapy and Experimental Psychiatry, 1977, 8, 115.

Mental Health Practice, George Washington University Health Plan. Is There a Treatment for Terror? Psychology Today, 1977, 11, 54-56, 108-112.

Sank, L.I. and Prout, M. Critical Issues for the Fledgling Therapist, Professional Psychology, 1978, 9, 638-645.

Shapiro, J., Sank, L.I., and Shaffer, C.S. Behavioral Groups as Preventive Care in a Health Maintenance Organization (HMO), ERIC Clearinghouse for Counseling and Personnel Services, Resources in Education, June 1979.

Sank, L.I. Community Disasters: Primary Prevention and Treatment in a Health Maintenance Organization, American Psychologist, 1979, 34, 334-338. Reprinted in GCP, Ginn Publishing Company's Anthology service. Reprinted, in part, in Lahey, B.B. and Ciminero, A.R. An Introduction to Abnormal Psychology, Glenview, Illinois: Scott, Foreman, & Co., 1980. Reprinted, in part, in Newman, B.M. and Newman, P.R. Living: The Process of Adjustment, New York: Dorsey Press, 1981. Reprinted in Student Guide and Reader to Abnormal Psychology: Current Perspectives (3rd Edition), New York: Random House, 1979. Reprinted, in part, in Slaiken, K.A., Crises Intervention, New York: Allyn and Bacon, 1983. Reprinted in Rosenhan, D. and Selligman, M.E.P. Abnormal Psychology, New York: W.W. Norton & Co., 1984.

Sank, L.I. and Shapiro, J. Case Examples of the Broadened Role of Psychology in HMOs. Professional Psychology, 1979, 10, 402-408.

Sank, L.I. and Shaffer, C.S. Clinical Findings While Treating the B'nai B'rith Hostages. Psychiatric Forum, 1979, 8, 67-74.

PROFESSIONAL PUBLICATIONS (Continued):

Shaffer, C.S.	Shapiro, J., Sank, L.I. & Coghlan, D.J. Cognitive Behavior Therapy: A Comparison of Group and Individual Formats. ERIC Clearinghouse for Counseling and Personnel Services, Resources in Education, January, 1980.
Shapiro, J.	Shaffer, C.S., Sank, L.I. & Coghlan, D.J. Cognitive Behavior Therapy: Methods and Comparative Research in Upper, D. and Ross, S.M. (Eds.) Behavioral Group Therapy, 1981: An Annual Review, Champaign, Ill.: Research Press, 1981.
Shaffer, C.S.	Shapiro, J., Sank, L.I. & Coghlan, D.J. Positive Changes in Depression, Anxiety and Assertion Following Individual and Group Cognitive Behavior Therapy Interventions. Cognitive Therapy and Research, 1981, 5, 149-158.
Shaffer, C.S.	Sank, L.I., Shapiro, J. & Donovan, D.C. Cognitive Behavior Therapy Follow-up: Maintenance of Treatment Effects at Six Months. Journal of Group Psychotherapy, Psychodrama, and Sociometry, 1982, 35, 57-63.
Sank, L.I.	and Shaffer, C.S. A Therapist's Manual for Cognitive Behavior Therapy in Groups, New York: Plenum Press, 1984.

PROFESSIONAL PRESENTATIONS:

The Behavioral Treatment of Sexual Dysfunction. October 24, 1975. Department of Psychiatry, Malcolm Grow USAF Medical Center, Andrews AFB, Washington, D.C.

Mental Health Services in an HMO - The Use of a Short Term Model. November 12, 1975. Department of Psychiatry, The George Washington University Medical Center, Washington, D.C.

The Assessment and Treatment of Sexual Dysfunction. April 21 and 28, 1976. Group Health Association Primary Provider Group, Rockville, Maryland.

PROFESSIONAL PRESENTATIONS (Continued):

Martial Difficulties: Perception and Intervention by the Primary Care Physician. October 19, 1976. Department of Health Care Sciences, The George Washington University Medical Center, Problems in Primary Care Lecture Series.

Invited participant at Conference on Health Incentives. Sponsored by World-Man Fund, February 4-5, 1977, Washington, D.C.

Motivating Both Patient and Provider. Invited address to Regional Meeting of the National Hospital Council, Division on Education and Training, February 16, 1977, Washington, D.C.

The Expanding Role of Psychology in HMOs. Paper presented at the National Convention, American Psychological Association, San Francisco, July 1977.

Co-Chairman of Special Meeting, "Psychologists in HMOs," National Convention, American Psychological Association, San Francisco, August 1977, and Toronto, August 1978.

The Inclusion of a Medicaid Population in a General Mental Health Program. Invited paper for the Second Annual Alcoholism, Drug Abuse, and Mental Health Services in HMOs Conference. November 30 - December 1, 1977. Chicago, Illinois. Published in the Conference Proceedings.

Strategies for Coping with Community Disasters - Prevention and Treatment. Invited Paper for the Second Annual Alcoholism, Drug Abuse, and Mental Health Services in HMO's Conference. November 30 - December 1, 1977. Chicago, Illinois. Published in the Conference Proceedings.

Keeping Them Happy: Enticing, Motivating, and Retaining the Volunteer. Invited address to Regional Meeting of National Council, Division of Volunteer Services Directors, May 9, 1978, Washington, D.C.

Treating the Victims of Terrorism: The Hanafi Takeover of the B'nai B'rith Headquarters (with M. Belz). Paper read at the Second International Conference on Psychological Stress and Adjustment in Time of War and Peace. Jerusalem, Israel, June 19-23, 1978.

Behavioral Groups as Preventive Care in a Health Maintenance Organization (with J. Shapiro and C.S. Shaffer). Paper presented at the National Convention, American Psychological Association, Toronto, Canada. September 1, 1978.

PROFESSIONAL PRESENTATIONS (Continued):

Terrorized and Terrorist: The Role of Psychology. Workshop conducted at the National Convention, American Psychological Association, Toronto, Canada. September 1, 1978.

The Parallels in Treating the Victims of the Thurston Hall Fire and the B'nai B'rith Siege. Invited presentation to the George Washington University Counseling Center, The George Washington University, April 27, 1979.

Co-Chairman of Special Interest Group Meeting, "Psychologist in HMOs," National Convention, American Psychological Association, New York City, September 1, 1979.

Cognitive Behavior Therapy: A Comparison of Group and Individual Formats (with C.S. Shaffer and J. Shapiro). Paper presented at the National Convention. American Psychological Association, New York City, September 4, 1979.

How to Conduct Rational-Cognitive Therapy Outcome Studies in a Clinical Setting (with C.S. Shaffer, J. Shapiro, & D.J. Coghlan). Paper presented at the Third National Conference on Rational-Cognitive Therapy, New York City, June 6, 1980.

Cognitive Behavior Therapy: A Comparison of Group and Individual Formats (with C.S. Shaffer, J. Shapiro, & D.J. Coghlan). Paper presented at the Third National Conference on Rational-Cognitive Therapy, New York City, June 8, 1980.

Cognitive Behavior Therapy Follow Up: Group Versus Individual Formats (with C.S. Shaffer, J. Shapiro, & D.J. Coghlan). Paper presented at the National Convention, American Psychological Association, Montreal, Canada, September 3, 1980.

Effects of Psychological Interventions on "At Risk" Patients' Medical Utilization (with C.S. Chaffer, J. Shapiro, & D.J. Coghlan). Paper presented at the National Convention, American Psychological Association, Montreal, Canada, September 3, 1980.

Survey of Psychologists Working in Health Maintenance Organizations (with C.S. Shaffer, J. Shapiro, & D.J. Coghlan). Paper presented at the National Convention, American Psychological Association, Montreal, Canada, September 3, 1980.

Chair, Special Interest Group Meeting "Psychologist in HMOs." National Convention, American Psychological Association, Montreal, Canada, September 1, 1980.

PROFESSIONAL PRESENTATIONS (Continued):

Chair, Symposium on the Promise of Health Maintenance Organizations (HMOs) - "Implications for the Training of Professional Psychologists." National Convention, American Psychological Association, Montreal Canada, September 4, 1980.

Chair, Open Meeting, American Psychological Association (APA) Task Force on Psychology in HMOs. National Convention, American Psychological Association, Montreal, Canada, September 2, 1980.

Advanced Workshop Leader, Health Maintenance Organizations (HMOs) - How They Work and How to Work in Them. Workshop presented at the National Convention, American Psychological Association, Los Angeles, August 24, 1981.

Cognitive Behavior Therapy in Groups: Structured versus Unstructured Formats (with C.S. Shaffer, J. Shapiro, & D.C. Donovan). Paper presented at the National Convention, American Psychological Association, Los Angeles, August 25, 1981.

Group Versus Individual Cognitive Behavior Therapy: Twelve Month Follow Up (with C.S. Shaffer, J. Shapiro & D.C. Donovan). Paper presented at the National Convention, American Psychological Association, Los Angeles, August 28, 1981.

Chair, Special Interest Group Meeting, "Psychologists in HMOs," National Convention, American Psychologists Association, Los Angeles, August 28, 1981.

Panelist, Employment Opportunities for Health Psychologists Outside of Psychology Departments -- the HMO perspective. National Convention, American Psychological Association, Washington, D.C., August 26, 1982.

PROFESSIONAL AFFILIATIONS

American Psychological Association -- Member

Division 18 -- Psychologists in Public Service -- Member
Division 29 -- Psychotherapy -- Member
Division 38 -- Health Psychology -- Charger Member

Association for the Advancement of Behavior Therapy -- Member

D.C. Psychological Association -- Member

Behavior Therapy and Research Society -- Clinical Fellow

The American Association of Sex Educators, Counselors, and Therapists -- Member

COMMITTEES/PROFESSIONAL SERVICE:

George Washington University Medical Center Faculty Senate, Elected term 1977-1979.

Chairman, Faculty Committee on Appointments, Promotions, and Tenure, Department of Health Care Sciences, 1977-1979.

Chairman, Academic Affairs Committee, Department of Health Care Sciences, 1978-1981.

Member, Goals and Priorities Committee, Department of Health Care Sciences, 1978-1982.

Member, Health Care Committee, Division of Health Psychology (38), American Psychological Association, 1979-1981.

Co-Chairman, HMO Interest Group for the American Psychological Association, Office of Professional Affairs, 1977-1981.

Chairman, Task Force on Psychology in HMOs. Sponsored by the National Register of Health Service Providers in Psychology. Washington, D.C., October 8, 1979.

Chairman, Task Force on Psychology and HMOs. Sponsored by the Board of Professional Affairs, American Psychological Association, 1980 and 1981.

Review Board Member, Council for the National Register of Health Service Providers in Psychology, 1980-1982.

Editorial Board Member, Health Psychology -- 1981-1983.

Guest Review Board Member, Journal of Behavior Therapy and Experimental Psychiatry.

Guest Review Board Member, Health Psychology.

Guest Review Board Member, American Psychologist.

REFERENCES

On Request.

BRIEFING BOOK EX. 40

III. THE INDICTMENT MUST BE DISMISSED BECAUSE IT CONSTITUTES A SELECTIVE PROSECUTION THAT VIOLATES THE DEFENDANT'S FIFTH AMENDMENT RIGHT TO EQUAL PROTECTION OF THE LAW

As the Defendant sets forth with specificity in subsections A and B post, the defendant alleges that as a matter of fact and of law his prosecution here is unconstitutionally selective and discriminatory and therefore the indictment is fatally defective and must be dismissed.

The long line of cases flowing from Yick Wo v. Hopkins, 118 U.S. 356 (1886) has clearly held that the Fifth Amendment Due Process Clause must be implemented with the consequence that equal protection of the law is not limited to the enactment of fair and impartial legislation, but inescapably extends to the application of these laws. Bolling v. Sharpe, 347 U.S. 497 (1954). See United States v. Falk, 479 F.2d 616, 618 (7th. Cir. 1973) citing Yick Wo supra.

However, mere selectivity in prosecution, standing alone, creates no constitutional problem. Oyler v. Boyles, 368 U.S. 448, 456 (1962). Nonetheless, Oyler does not appear to preclude the granting of relief against intentional or purposeful discrimination against an individual. Oyler did not allege intentional discrimnation against himself and merely attempted to show by statistical evidence that fewer than all multiple offenders were given heavier sentences. However, Judge Lumbard has stated that Oyler does not preclude the granting of relief against intentional or purposeful discrimnation against an individual. Moss v. Horning, 314 F.2d 89, 93 (2d Cir. 1963). See, United State v. Falk, 479 F.2d 616, 619 (7th. Cir. 1973).

Numerous cases following Oyler and delivered through various District Courts and United States Courts of Appeals have established a two pronged test for establishing a prima facie case of prohibited and constitutionally offensive selective prosecution. The defendant must show first that others similarly situated generally have not been prosecuted for conduct similar to that for which the defendant was prosecuted, and second, that the Government's discriminatory selection of defendant for prosecution was based on impermissible grounds such as race, religion, or exercise of the Defendant's first amendment right of speech. United States v. Scott, 521 F.2d 1188, 1195 (9th. Cir.) cert. denied, 424 U.S. 955 (1975); United States v. Berrios, 501 F.2d 1201, 1211 (2d. Cir. 1974); United States v. Ecklund, 551 F. Supp. 964, 968 (S.D. Iowa 1982). See United States v. Wayte, 549 F. Supp. 1376, 1380 (C.D. Cal. 1982).

The concept of intentional and purposeful discrimination was explained in United States v. Berrios, 501 F.2d. at 1211 (1974) as follows:

> To support a defense of selective or disciminatory [sic] prosecution, a defendant bears the heavy burden of establishing, at least prima facie, (1) that, while others similarly situated have not generally been proceeded against because of conduct of the type forming the basis of the charge against him, he has been singled out for prosecution, and (2) that the government's discrimnatory selection of him for prosecution has beed invidious or in bad faith, i.e., based upon such impermissible considerations as race, religion or the desire to prevent his exercise of constitutional rights. These two essential elements are sometimes referred to as 'intentional and purposeful discrimination'."

Id. See, United States v. Torquato, 602 F.2d 564, 568-569 (3d Cir.1979); United States v. Steele, 461 F.2d 1148 (9th Cir. 1972), and United States v. Falk, supra.

The Seventh Circuit has expanded the scope of the second prong of the test to include "...the desire to penalize the exercise of constitutional rights." United States v. Niemiec, 611 F.2d 1207, 1209 (citing United States v. Peskin, 527 F.2d 71, 86 (7th. Cir. 1975), cert. denied, 429 U.S. 818 (1976). See United States v. Swanson, 509 F.2d. 1205, 1208 (8th. Cir. 1975) and United States v. Berrios, 501 F.2d 1207 (2d. Cir. 1974). Unequal application of the criminal laws does amount to a constitutional violation if there is present an element of intentional or purposeful discrimination. Snowden v. Hughes, 321 U.S. 1, 8 (1944).

Finally, it is undisputed as a matter of Constitutional law that a defendant cannot be convicted if he proves unconstitutional discrimination in the administration of a penal statute. Two Guys from Harrison-Allentown, Inc. v. McGinley, 366 U.S. 582, 588 (1961). The Defendant is entitled to dismissal of the indictment if his evidence ultimately demonstrates that the authorities purposefully discriminated against him in the exercise of his constitutional rights and liberties.

The burden of proving such discrimination is placed upon the defendants. United States v. Malinowski, 472 F.2d 850, 860 (3rd Cir. 1973).

It appears that it is the responsibility of the judiciary to protect indivduals from abuses of prosecutorial discretion which violate the constitutional rights of defenants. See, Project: Criminal Procedure, 69 Geo.L.J. 318-319 and notes 854-858 (1980).

A. The Prosecution Here is Selective

Defendant is and has been intentionally discriminated against in the application of criminal investigative processes and procedures, including the use of a Federal Grand Jury and indictment on the basis of prosecutorial activities which form an unjustifiable standard for selectivity in prosecution. Falk, supra at 619.

Three recent cases involving Members of Congress, one of whom was a United States Senator, have each unsuccessfully raised issues of selective prosecution.5/ In contra distinction to

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5/ In United States v. Diggs, 613 F.2d 988(D.C. Cir 1979) the United States Court of Appeals for this Circuit considered the selective prosecution arguments of Congressman Charles Diggs that there was a general danger of selective prosecution of Congressmen for actions relating to their official responsibilities which could be used as a weapon to discipline political foes. The court dismissed the issue because the Defendant made no colorable showing whatsoever that he was prosecuted for improper political purposes, though the Court did express clear support for the integrity of the legislative process requiring careful judicial inquiry into a Congressman's claim of discrimnatory prosecution citing United States v. Brewster, 408 U.S. 501, 555-558,(1972)(White, J., dissenting). Id. at 1003-1004.

In United States v. Myers, supra the United States Court of Appeals for the Second Circuit passed upon, inter alia, the appeal from the District Court's rejection of Myers' discrimnatory enforcement challenge to his indictment reciting the familiar Berrios formulae and noting that Myers made no claim whatever that any others similarly situated had not been prosecuted, nor did he supply by affidavit or otherwise information that he was, as he claimed, a disfavored legislator. United States v. Myers, 635 F.2d at 940-941

The United States District Court for the Eastern District of New York has rejected claims of selective prosecution by former United States Senator Harrison Williams reaching issues of singleing out for prosecution, negative selection for prosecution, and interference by superiors in the Department of Justice. United States v. Williams, 529 F. Supp. 1085 (E.D. N.Y.

these more recent and lamentable cases involving Members of Congress, the Defendant alleges and contends, as is more fully set forth in the ensuing portion of this Memorandum and as supported by the attached Appendicies, that -- (1) he has been singled out for prosecution while others similarly situated have not only not generally but also not ever been proceeded against either by civil or criminal procedures with respect to conduct of the type forming the basis of the charges against him, and (2) the Government's discriminatory selection of him for prosecution has been based upon impermissible considerations including the Government's desire to prevent the Defendant from exercising his Constituional rights under the First Amendment and from exercising fully the scope of his office as a Member of Congress duly elected and qualified under Article II of the Constitution for the United States of America. United States v. Niemiec, 611 F.2d 1207, 1209 (7th Cir. 1975).

It is uncontested, and the Government has explicitly conceded in open court and on the record in this case, that this action presents new and novel questions of first impression concerning the interaction of the Ethics in Government Act and 18 U.S.C. §1001. The indictment charges, in conclusory terms as acts constituting criminal offenses, legislative activities by the Defendant which are committed solely to the review and disciplinary purview of the United States House of Representatives.

1981), 644 F.2d 950 (2d Cir. 1981).

With respect to the satisfaction of the first element of the two pronged test, Defendant asserts that he is the first and only Member of Congress, member of the Federal Judiciary, or member of the Executive Branch required to file a Report under the Ethics in Government Act who has ever been indicted for a violation of 18 U.S.C. §1001 on the basis of reports relating to the reports required to be filed under EIGA.

The Comptroller General of the United States has issued a report,[6/] which clearly reflects that as of May 30, 1980, 420 employees and candidates required to file EIGA reports with the House of Representatives and 111 employees and candidates required to file EIGA reports with the United States Senate had failed even to comply with the most basic requirement of filing. The same statistics for non-filing as of October 17, 1979 reflected 103 and 147 non-filers for the House of Representatives and the Senate respectively. The pertinent portion of the GAO Report setting forth these statistics is attached hereto as Exhibit I.

Of all those who did file such reports since the EIGA became effective, it appears that the Department of Justice has investigated one and only one person, the Defendant. It further appears that one and only one person, the Defendant, has been indicted with relation to these EIGA reports, and that indictment

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6/ Comptroller General of the United States, "The Financial Disclosure Process of the Legislative Branch Can Be Improved" (FPCD 81-20)(March 4, 1981).

is premised upon an inapplicable general criminal statute for a matter which is only civil and not penal in nature and which is committed as a matter of law to the exclusive review of the House of Representatives.

Defendant knows of no one who has been subjected to the civil penalties provided under EIGA. Defendant is aware of no instance of anyone even being investigated by the Department of Justice either under civil or criminal standards for EIGA violations, except of course the Defendant.7/

B. The Prosecution of Defendant Was Based Upon His Extensive and Continuing History of Confrontation and Harsh Criticism with the Executive

The defendant was first elected to Congress in 1964 and served two consecutive terms before seeking another office. Thereafter, he was again elected in 1974 and has served continuously since that time. During both his first and second

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7/ The Court may note with interest that the present Attorney General of the United States filed his EIGA report for his first year in office with sufficient error, by omissions of controversial tax shelter partnership interests and a $50,000.00 severance payment, that it became a matter of press notoriety to the extent that an amended report was necessary. Since his report was, if the Government's theory in this prosecution is accepted ad arguendo, subject to the provisions of 18 U.S.C. §1001, the Defendant wonders with a certain sense of awe at the ability of the Department of Justice to review the Attorney General's filing and find no prosecutable activity. In fact, it is doubtful that the question of the possible applicability of 18 U.S.C. §1001 to EIGA reports ever occurred to the Department of Justice until it found itself at the end of an otherwise unproductive grand jury investigation seeking some way to prosecute the Defendant. New York Times, May 13, 1982 at B-17., New York Times, June 5, 1982 at 8., New York Times, July 22, 1982 at A-14., and Washington Post, July 22, 1982 at A1, A-13.

periods of service, he has been involved in controversy with several executive agencies of the Federal Government. These occasions invariably involved his accusation of misconduct on the part of federal officers of those agencies. A short, exemplary list of some of those controversies follows.

Internal Revenue Service

In 1976, the Congressman began a dispute that lasts to this day with the Internal Revenue Service, which arose out of the treatment by the Service of compensation by the federal government of people in Idaho resulting from the collapse of a federal dam under construction. The conflict revolved around treatment of reimbursement as capital gains. See Exhibit II.

Beginning with that confrontation, people from other parts of the nation began to address their complaints about IRS collection misconduct to him. A sufficient number of those complaints were substantial enough that in 1980-1981 the Congressman wrote a book detailing his complaints that the collection practices of the IRS were improper and, in many cases, illegal. The book included a number of case histories and internal documents of the IRS supporting his allegations. See Exhibit III.

In November of 1981, the Congressman introduced H.R. 4931 which proposed to reduce the collection authority to the level available to any other government agency. This bill was co-sponsored by well over 100 legislators. At the same time he introduced H.R. 4821, a bill to eliminate progressive taxation and apply a single rate of taxation to all taxpayers without

regard to income. In support of this legislation, he introduced into the Congressional Record a series of entries entitled "The IRS Strikes", outlining some of the more unacceptable practices of the collection arm of the IRS (Exhibit IV). In addition, the Congressman initiated complaints directly to the Commissioner of Internal Revenue, first with then Commissioner Jerome Kurtz and later with his successor, the current Commissioner Roscoe P. Eggers (Exhibit V).

Failing to receive what he considered responsive answers to his complaints about IRS collection practices, the Congressman began to lobby for a hearing on those practices before the Subcommittee on Oversight of the Committee on Ways and Means of the House of Representatives. On April 26, 1982, such a hearing took place -- the first such open hearing in almost thirty years (Exhibit VI, pp. 9-21) (Serial 97-81).

During the entire controversy with the Internal Revenue Service, the Congressman has made plain that he questions the honesty, integrity and truthfulness of officers of that Service. More importantly, he has published, both in the Congressional Record and privately (Exhibit VII), his negative view of the policy and conduct of the IRS in collecting taxes.

Department of Justice

Partly as a consequence of the continuing controversy with the IRS, the Congressman had occasion to bring to the attention of the Department of Justice four areas in which the Department had cooperated with the IRS in activities which he viewed as improper and illegal. In a series of letters, he complained to

the Attorney General of the United States concerning the four issues

(1) The creation and maintenance of lists of taxpayers to be specially targeted by the IRS and with the assistance of the FBI.

(2) The probably criminal use of bugging by the IRS in the ordinary course of its work with the consent and authorization of the Department of Justice.

(3) The transmission to federal prosecutors of tax information on jurors in contravention of the limits imposed by 26 U.S.C 6103(h)(5).

(4) The improper use of grand jury subpoenas by the Department of Justice to assist the IRS to circumvent the provisions of the Tax Reform Act of 1978 (Exhibit VIII.)

The letters speak for themselves as to the issues raised in them. The merits of the controversies are not relevant here. They are, however, matters over which the Congressman was greatly concerned and amelioration for which he sought from the Department of Justice over a considerable period of time.

They all have two additional characteristics. If publicized, they had the potential to embarrass the Department and, if no corrective measures were taken, the Congressman threatened to make each of them public issues. The Congressman did subsequently publicize these issues and events on the nationwide CBS Television Program "60 Minutes", through extensive hearings before the Committee on Ways and Means of the United States House of Representatives (the first House hearings in 30

years on IRS collection procedures), and by a series of Congressional Record entries concerning the Service.

In some instances such responses as were received to the Congressman's letter were made on behalf of the Department of Justice by the Head of the Criminal Justice Division, D. Lowell Jensen. In at least one instance, that same individual was the direct addressee of the correspondence. Without exception, the Department took the position that it had a justifiable legal position and did not need to respond to the substance of the Congressman's complaint.

The Immigration and Naturalization Service (INS)

The Congressman represents a farming area which is very labor-intensive and is dependent on transient labor. As might be anticipated, he has had considerable contact with the INS, both on a constituent service basis solving individual problems between INS and his constituents and on the basis of continuing concern for legislation which would protect the rights and interests of both the farmers and of the transient laborers who work in the area.

Early in 1981, substantial policy changes occurred within the administration of the INS which resulted in the arrests of several Idaho farmers for trafficking illegal aliens. The farmers were ultimately tried under federal criminal jurisdiction. The Congressman led the fund raising for the defense of these farmers.

In pretrial statements, the government's chief witness and a member of the INS admitted the main elements of the government's

factual case. Agents of the INS had crossed the border into Mexico, and, posing as employment agents called "coyotes", had brought into the United States aliens for whom they were alleged to provide employers. These aliens were brought to Idaho and the INS agents procured their employment by several Idaho farmers. Once the hiring was accomplished, the INS agents had the farmers arrested for trafficking illegal alien workers.

The Congressman was outraged by what he viewed as entrapment, and by the lack of ordinary fairness in the INS handling of the case. Expressing these views, he twice wrote to the Attorney General, asking for an investigation of the actions of the INS in the case (Exhibits IX and X). Between the two letters, the farmers had been acquitted by the Federal Judge at the close of the government's case because of Federal entrapment activities.8/

Again, as in all of the other cases of government agent misconduct referred to the Department of Justice by the Congressman, no investigation was made and no disciplinary action was taken against the INS agents. The Congressman concluded that the reason was simply that the federal government had adopted criminal means to meet their responsibility as a matter of national policy.

8/ United States v. Eldon Hart and Dallas Ray Serr, Criminal No. 81-1009 (July 19, 1981)(Unreported)(D. Idaho, 1981).

Occupational Safety and Health Administration

In 1975, pursuing the alleged purposes of the then new OSHA, inspectors from the local office of OSHA attempted to enter the premises of a small contractor in Pocatello, Idaho. The businessman resisted and refused entry to the inspectors on the ground that they lacked a search warrant and were, therefore, without authority to compel entry. This set off a years-long battle in which the Department of Justice, acting for the Department of Labor, prosecuted the contractor for his resistance.

The Congressman entered the conflict immediately, raising money for legal costs and marshalling opposition to the concept of warrantless entry as an attempt to strip a Constitutional right by a mere statute. The matter ultimately reached the Supreme Court, where the contractor prevailed.9/ In the course of the conflict, the Congressman had raised more than $100,000 for the defense and had turned the popular mind against the protection of safety at the cost of the Bill of Rights (Exhibit XI).

Litigation Against the Executive Branch

Over the past few years, the Congressman has challenged the Department of Justice in a series of suits in which he was the implacable plaintiff against further erosion of Constitutionally protected liberties. In January, 1977, he sued the President, alleging that he lacked the authority to pardon draft

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9/ Marshall v. Barlows, Inc., 436 U.S. 307 (1978).

evaders.[10/] He was a plaintiff against NOW and the International Women's Year for misuse of federal funds.[11/] He sued in his own name and assisted three states to sue to obtain a clarification of the recission of a state vote on the proposed Constitutional Amendment called the ERA.[12/]

Foreign Affairs

He was a leader in the fight to prevent the ratification of the Panama Canal Treaties and came within two votes of defeating the Treaties in the House. See Exhibit XII. He was also a named party in the civil litigation designed to determine the Presidential authority to dispose of the Canal. See, Edwards et al. v. Carter, et al., 445 F. Supp. 1279 (D.D.C.1977), 580 F.2d 1055(D.C. Cir. 1977), 436 U.S. 907 (1977).

The Congressman has actively instigated litigation against the Executive with respect to the change of diplomatic relations with the Republic of China. See, Goldwater et al. v. Carter et al., 444 U.S. 996 (1979).

The Congressman also deeply angered the Executive Branch and embarassed both the Department of State and the Department of Justice by successfully negotiating with the authorities in Iran

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10/ Hansen v. Carter et al., Civil Action No. 77- (D.D.C. 1977(dismissal for want of jurisdiction(unreported opinion).

11/ Hansen v. National Commission on the Observance of International Womens Year, et al. - F. Supp. -, (D. Idaho, 1980), 628 F.2d 533 (9th Cir., 1980)

12/ Freeman v. Idaho, 529 F.Supp. 1107 (D. Idaho 1981)

during that period of time when United States personnel were being held hostage and succeeded in establishing communications between the hostages and their families when the Executive Branch failed utterly to do so to its profound political embarassment. See Exhibit XII.

Energy and Banking Issues

The Congressman has incurred the immense anger and displeasure of both the financial community and the Executive Branch in the controversies concerning the Bonneville Power Administration and the Rural Electrification Administration by his harsh and unrelenting criticism of their coercive and fraudulent tactics in compelling participation by rural electrical cooperatives serving his constituents to subscribe to a murderously burdensome financial program to rescue nuclear utilities in the Pacific Northwest from financial collapse. See Exhibit XIV.

In summary, the Congressman has consistently and over a long period of time opposed many agencies of the federal government on a coherent basis of resisting erosion of the rights and privileges of citizens in the guise of Executive assertions of need for revenue, efficiency, safety or expediency. In a disproportionate number of those cases, his views have prevailed to the embarrassment of the Executive Branch. In short, he represents a clear and present danger to the view that the Government is not answerable to the electorate in how it manages the affairs of the operation of day-to-day government.

In sum, as a modern day heir and advocate of the Jeffersonian philosophy that the government that governs best is the government that governs least, the Congressman has become such a thorn in the side of so many bureaucrats in the Executive Branch and by means so tempestuous that he has been singled out in a cunning way for economic and political retribution and retaliation through this indictment. That his selection for this task comes as the result of the invisible wheels of the Department of Justice comes as little surprise to the Defendant, but must at the least be the subject of close judicial scrutiny.

"In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may give offense." Tenney v. Brandhove, 341 U.S. at 373 [quoting II Works of James Wilson 38 (Andrews ed. 1896)] (emphasis added).

In light of the applicable law and the undeniable level of antagonism between the Executive Branch and the Defendant, including direct and personal conflicts with the very officers of the Department of Justice who have presumably authorized this prosecution, the Defendant submits that he has met the burden of both law and fact and that the indictment should be quashed as fatally defective in that it results from constitutionally impermissible selective prosecution. Even if the indictment should not be thus dismissed, the Defendant contends that he must have discovery against the United States with respect to this issue.

REPORT OF SPECIAL COUNSEL

UPON COMPLETION OF PRELIMINARY INQUIRY

36-291 O--84——20

REPORT OF SPECIAL COUNSEL UPON COMPLETION OF PRELIMINARY INQUIRY

On April 4, 1984, pursuant to Rule 14 of the Rules of the Committee on Standards of Official Conduct, this Committee commenced a preliminary inquiry into whether any of the offenses for which Representative George V. Hansen was convicted on April 2, 1984, constituted a violation over which the Committee has jurisdiction. Attached to this report are copies of the documentary evidence received in the preliminary inquiry, including: relevant portions of the transcript of Congressman Hansen's trial on charges of violating 18 U.S.C. § 1001; relevent trial exhibits; selected correspondence and submissions from Congressman Hansen's counsel to the Committee and a transcript of the oral testimony of Congressman Hansen given before the Committee on May 17, 1984.[1]

1. THE INDICTMENT

On April 7, 1983, Congressman Hansen was indicted by a Federal Grand Jury in the District of Columbia. The indictment charged him with four counts of filing false statements in violations of 18 U.S.C. § 1001 based on his financial disclosure filings under the Ethics in Government Act. The four counts involved (1) excluding personal loans of a total of $135,000 from Carl McAfee, Odell Rodgers and John Meade in 1982, (2) excluding his wife's indebtedness of $61,503.42 to Nelson Bunker Hunt in 1981, (3) excluding his wife's profit of $87,475 from silver transactions in 1980 and (4) excluding his wife's indebtedness of $50,000 to a Dallas bank in 1979 (Tr. 1944–1950).[2]

2. SUMMARY OF THE EVIDENCE

A. Hansens' Financial Relationship

Starting in 1976, over concerns about their financial condition, Congressman George V. Hansen and his wife Connie started to devise means by which they could raise funds to pay back debts that they owed (Tr. 1014). The plan devised was for the Congressman to solicit funds of $100 or less from individuals outside his congressional district and to apply those funds to his personal debts (Tr. 1021–1023). After consultations with his personal attorney John L. Runft, Congressman Hansen wrote to the Federal Election Commission ("FEC") and advised it of his solicitation plan (Def.Ex. 30; Tr. 1017). On March 30, 1977 the FEC wrote to the Congressman (Def.Ex. 32) stating that the Federal Election Campaign Act of 1971 "would not apply" to the plan as proposed. The FEC went on to state:

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[1] "Relevancy" was determined as follows: Special Counsel designated those portions of the trial transcript and those trial exhibits they thought were relevant to the Committee's consideration. By letter dated April 18, 1984, Congressman Hansen's counsel was given the opportunity to cross-designate. Congressman Hansen's attorneys took advantage of this invitation and worked out those portions of the transcript and those exhibits which they wanted included. Thereafter, on May 17, 1984, Special Counsel and Congressman Hansen's attorney entered into a stipulation agreeing that the portions and exhibits agreed upon were those which were relevant to the Committee's consideration.

[2] "Tr." references are to the trial transcript, attached as an appendix hereto.

> The Commission's conclusion that the described plan is not within the Act should not be construed as Commission endorsement or approval of the plan; . . . The Commission also notes the possible application of the Rules of the House of Representatives to this situation . . .

(Def.Ex. 32). Prior to receiving the FEC's response, Congressman Hansen, on March 14, 1977, sent a letter to the House Select Committee on Ethics ("Ethics Committee") (Def.Ex. 31), advising it of his request to the FEC and asking for the Committee's "comments and suggestions" of the plan (Tr. 1040). On April 5, Congressman Hansen again wrote the House Ethics Committee (Def.Ex. 34) to advise it of the FEC's response and to propose various alternatives—direct mail, independent committee—to the solicitation program (Tr. 1040).

In response to the Congressman's letters, the Ethics Committee, on May 11, 1977, issued Advisory Opinion No. 11 (Def.Ex. 35) concluding that neither a member, his or her spouse, committee such as the one proposed by Congressman Hansen could solicit funds for the member's "unrestricted personal use" (Tr. 1047). [The Committee's total advice is contained in two Advisory Opinions—No. 11 issued in direct response to Congressman Hansen's March and April inquiries and Advisory Opinion No. 4 issued sometime earlier.]

After receiving this advice, Congressman Hansen again conferred with Mr. Runft to find a "legal and proper way of proceeding forward . . . in a fashion that was open and within the bounds of the law" (Tr. 1048). The alternative agreed upon was a "property settlement agreement" in which Congressman and Mrs. Hansen would give up the automatic, legal rights each had to the other's assets and debts (Tr. 1063). Then, according to this agreement, the debts would be transferred to Mrs. Hansen. Thereafter, Mrs. Hansen could solicit gifts to eradicate what would then be her debts alone (Tr. 1048–1050; Def.Ex. 40). Following the Hansens' agreement, Mrs. Hansen wrote to the Ethics Committee on June 3, 1977 (Def.Ex. 36) stating that Congressman Hansen would abide by the advisory opinions, but she would not let "Congress . . . deprive [her] of the basic rights of a citizen . . . to pay [her] bills and protect [her] home." She went on to say that she and the Congressman had separated their finances "with considerable difficulty" and that she was going to raise funds for what were now her debts.

At the time of the June 1977 letter, the Hansens did not send the Committee an actual copy of the property settlement agreement or provide specific information concerning how they planned to maintain their financial lives (e.g. tax returns, bank accounts, mortgages) in the future. On June 8, Chairman Richardson Preyer, on behalf of the Ethics Committee, wrote to Mrs. Hansen (Def.Ex. 37) stating that the Committee did not intend to deprive her of her civil rights and explained the change in rules prohibiting the kind of solicitations that Congressman Hansen originally had proposed (Tr. 1059).

The property settlement agreement (Def.Ex. 40) was drafted in June and finally executed by the parties on September 30, 1977 (Tr. 1066). In conjunction with the property settlement agreement, the

Hansens also executed three quit-claim deeds (Def.Exs. 75–77) in which the Congressman gave up to Mrs. Hansen his interest in their then existing real property (Tr. 1071–72, 1135–36). Under the terms of the property settlement agreement, Congressman Hansen was given the family's personal debts and obligations, and Mrs. Hansen was given the real property and the debts for which the Hansens originally wanted to solicit funds (Tr. 1122, 1228). As explained by the Congressman's attorneys, under the property settlement, Congressman and Mrs. Hansen did not have to live their financial lives separately (Tr. 1055–60, 1346). It simply dissolved the automatic right each had to the other's assets and liabilities. After the settlement, Congressman and Mrs. Hansen could continue to engage in joint finances, but this would have to be the result of an express decision to do so, as any two people could do. Following this execution, Mrs. Hansen did proceed to collect over $100,000 (Tr. 1074, 1265).

The prosecution cross-examined Mrs. Hansen and others about the claimed debts. The Hansens' two attorneys did not recall the amounts or people to whom the Hansens owed the alleged $372,000 (Tr. 1141–42, 1481–83). Mrs. Hansen too was somewhat vague about the source of the debts claimed (Tr. 1325). The Hansens' trial counsel told the court that there was no documentation of these debts (Tr. 1036), and the Hansens' tax return for the year in which Mrs. Hansen asserted the debts showed $818 in interest deductions for personal loans (Tr. 1270).

The evidence at trial showed that the property settlement was never filed with a court or in a public place (Tr. 1116). Consequently, it neither changed the right of an existing creditor to seek payment from either Hansen, nor did it alter the right of future creditors to do the same thing. After the agreement went into effect, the Hansens continued to live their financial lives together. They maintained joint bank accounts (Tr. 1232); they continued to file joint tax returns in which assets and liabilities of each spouse were declared for the benefit of both (Tr. 1233); they continued to own and purchase cars in both their names (Tr. 478, 1234, 1237–38); and they even continued to hold, buy and sell real estate in both their names (Tr. 478, 1241, 1229, 1261–64). The prosecution showed, for example, that one of the properties for which Congressman Hansen had executed a quit-claim deed in conjunction with the property settlement, was subsequently sold by the Hansens in both names (Tr. 1261–64) and was declared jointly in their taxes that year (Tr. 1264). Mrs. Hansen acknowledged that some financial statements for years after the property settlement went into effect also showed joint assets and liabilities (Tr. 1253–57). Mrs. Hansen also stated at the trial that it was possible that some of the $100,000 which had been raised by her solicitations had been spent by the Congressman or had been spent for his benefit (Tr. 1267–81). Bank records revealed that on July 11, 1977 a sum of $4,700 was in fact transferred from the solicitation account to the Hansens' joint account (Govt.Exh. 72; Tr. 1281).

B. Nelson Bunker Hunt Loan

Congressman and Mrs. Hansen met Nelson Bunker Hunt in 1976 at a social reception (Tr. 81, 1196). The Congressman took Mr.

Hunt aside at this dinner and asked him for money to help him with debts resulting from legal bills and political fights (Tr. 82). Mr. Hunt said he was sympathetic to the Hansens but that he did not want to just "reach into his pocket" to make a contribution (Tr. 82). Instead, Hunt told the Congressman that he would help him make some money on his own. After additional thought, Hunt thought that helping the Congressman directly "might not look good," "might be suspicious" and might "be a problem" (Tr. 84). Congressman Hansen told Hunt that he and Mrs. Hansen were separating their finances and Hunt could help by helping Mrs. Hansen (Tr. 97). At the time of this conversation, the Hansens' separation agreement had not yet been executed, but it had been discussed and agreed upon in principle between Mr. and Mrs. Hansen (Tr. 85). Mr. Hunt's plan was to pass on to Mrs. Hansen when "he heard of a good stock investment or perhaps a good commodity investment or something" (Tr. 97). Mrs. Hansen described this arrangement as follows: ". . . [I]f you give a person a fish and he'll eat for a day, but you teach him to fish and he'll eat for his life . . ." (Tr. 1197).

Pursuant to that agreement, Mr. Hunt did call Mrs. Hansen and told her to get in touch with a commodities broker in Chicago named Owen H. Nichols (Tr. 99, 1198) in order to place an order for soybeans futures. On April 20, 1977 Hunt called Nichols and purchased a large quantity of soybean contracts (Tr. 189). In total, 250,000 bushels of soybeans were purchased at a total paper value of $2,489,700 (Tr. 191).[3] Later on April 20, 1977 Hunt again called Nichols. This time he told him to transfer the 250,000 bushels into a new account for Mrs. Hansen. These same bushels were sold later that day, netting a profit of $51,775.00 (Tr. 197). Mr. Nichols did not talk with Mrs. Hansen about the transaction until after the market had closed and the profit made in her name (Tr. 200). Following April 20, another soybean transaction was made by Mr. Nichols on Mrs. Hansen's behalf (Tr. 204). This one, involving 100,000 bushels with a paper value of $1,046,000, resulted in a minor loss of $410 (Tr. 205). Again Mr. Nichols made these transactions on the advice of Mr. Hunt. Finally, on April 25, 1977, Mr. Nichols bought 200,000 more bushels of soybeans on Mrs. Hansen's account (Tr. 206). These bushels, worth $2,050,000, were sold on April 29, resulting in a loss of $85,220 (Tr. 208). All of the transactions, then, produced a $33,855 loss to Mrs. Hansen (Tr. 208).

When Mr. Hunt heard of the loss, he telephoned Mrs. Hansen (Tr. 101) and then arranged for her to come to Dallas in order to arrange for a loan to pay her loss (Tr. 101, 1200). On May 27, 1977 an aide to Mr. Hunt called Sam Henry, a Senior Vice President at the First National Bank of Dallas, to arrange for a loan for Mrs. Hansen (Tr. 259). On the same day, Mrs. Hansen came to the bank and signed the necessary papers and received a cashier's check for $50,000 (Tr. 259-60). Mrs. Hansen told the bank and put down on the loan papers that the $50,000 was for "personal expenses" (Tr.

[3] Commodities transactions have a certain "paper" value, that is the total value of the commodity if it was kept and delivered at its future date. This "paper" value has significance only when the purchaser actually wants to take delivery or if the value of the commodity plummets dramatically. In the latter case, the paper value would define the upper limits of the risk.

262). Hunt co-signed the $50,000 loan from the First National Bank of Dallas to Mrs. Hansen (Tr. 101). The $50,000 check was endorsed by both Congressman and Mrs. Hansen, deposited in one of their joint accounts, and used by both for personal expenses (Tr. 292–300). Mrs. Hansen paid the $33,855 soybean loss with a $40,000 check (Tr. 1287).

Mrs. Hansen executed notes to Mr. Hunt on October 26, 1978 (for $3,107) and on June 3, 1980 (for $61,503) (Tr. 109–110). These notes have not yet been paid (Tr. 975). On the ninety-day periods on which interest for the note was due, the bank sent notices to Mrs. Hansen (Tr. 265). No interest was paid, and after a second notice, Congressman Hansen called the bank and told them that a check for the accrued interest would be sent (Tr. 267). Thereafter, Mr. Hunt arranged for the payment of the interest to date (Tr. 268). In November 28, 1978, the one year note was extended for another year, again with Mr. Hunt's guarantee (Tr. 270). The actual renewal occurred in January 1980 and was backdated at that point because that is when the interest was paid and the loan was current (Tr. 271). Before the loan was ultimately paid by Mr. Hunt in June 1980, the bank contacted Congressman Hansen on a few other occasions about the loan interest payments (Govt. Ex. 20–22) (Tr. 275).

Mrs. Hansen ultimately did not pay the Dallas bank for the note and the bank, on June 3, 1980, turned to Mr. Hunt for collection. Hunt paid the bank $61,503.42 representing principal and interest on the loan (Tr. 104, 275).

There was no dispute that the $50,000 Dallas loan extension, the payments by Nelson Bunker Hunt and the notes to Mr. Hunt were not included in Congressman Hansen's financial disclosure forms for 1978 through 1980.

C. Silver Transaction Profits

In November 1978, Congressman Hansen was re-elected. In January 1979, Mr. Hunt called Mrs. Hansen again (Tr. 114, 1206). Mr. Hunt, aware of Mrs. Hansen's loss from the soybean transaction, now recommended that she consider investing in silver (Tr. 114, 1206). He advised her to contact his silver broker, Les Ming, who worked in a commodities firm in Oklahoma City. Ninety percent of Ming's business was for Hunt and his family (Tr. 312). Mr. Ming's job was to evaluate the silver market and call Mr. Hunt to make a recommendation concerning possible investments (Tr. 315). On January 16, 1979, Messrs. Hunt and Ming exchanged a number of telephone calls. During one of these calls, Mr. Hunt said that he "had a friend, George Hansen, who may be interested in silver" (Tr. 332). Mr. Hunt identified Mr. Hansen as a U.S. Congressman and told Ming to offer Hansen Hunt's silver contracts (Tr. 323). On January 16, Ming purchased 125 silver contracts, each of which contained 5000 ounces of silver with a paper value of $3,876,800 (Tr. 379).

After the silver purchases had been made, Mr. Ming called Congressman Hansen pursuant to Hunt's suggestion (Tr. 340). Eventually Ming spoke with Connie Hansen (Tr. 343). After Ming and Mrs. Hansen talked, Mr. Ming arranged for the contracts to be put in Mrs. Hansen's name (Tr. 365). On January 18, Ming sold the 125 contracts for Mrs. Hansen for a net profit of $87,000 (Tr. 371). The

record differs as to who made the decision to sell. Ming says he and Mrs. Hansen did (Tr. 370); Hunt says he did (Tr. 115), and Mrs. Hansen said she left the decision totally to Ming (Tr. 1207).

In order to collect the profit, Mrs. Hansen first had to produce a certain percentage of the money required to buy the contract—called the margin (Tr. 1208). This amounted to $1000 a contract or $125,000. Congressman Hansen made the arrangements for the margin payment (Tr. 419). He called his accountant and campaign treasurer C. Lee Caldwell and told him that he needed his help in a commodities transaction for Mrs. Hansen (Tr. 420). Congressman Hansen told Mr. Caldwell to write a check for $125,000 from an account in which there was some $292 (Tr. 421), to take that to another Idaho bank, and that bank would wire the money to the commodities house to cover the transaction (Tr. 424). The $125,000 and the $87,000 profit would then be re-wired to the second bank, and the first would be re-paid (Tr. 446).

The $87,000 was deposited in Congressman and Mrs. Hansen's joint account (Tr. 1211, 1292). Congressman Hansen stipulated at trial that the entire $87,000 was used by him with knowledge that it was the profit for the 1979 silver transaction (Tr. 1293).

There was no dispute that neither the $87,000 profit nor the $125,000 short margin loan was reported in Congressman Hansen's financial disclosure forms covering 1979.

D. Loans from Virginia Businessmen

In late 1979 or early 1980 Congressman Hansen met Carl McAfee, an attorney from Norton, Virginia (Tr. 508). Mr. McAfee was representing the family of one of the Iranian hostages, and Congressman Hansen was active in the Iranian crisis (Tr. 509). Mr. McAfee was a business partner of an Arthur Odell Rodgers and represented Mr. John Meade, a former Virginia banker who was convicted of various bank fraud charges in 1982 (Tr. 510–11).

Congressman Hansen told Mr. McAfee of his debts and asked him for some money (Tr. 512). While he asked for a larger amount, McAfee agreed to lend the Congressman $25,000 and did so on July 20, 1981. In return for the loan, the Congressman gave Mr. McAfee a note, payable on demand by July 17, 1982 (Tr. 516). Mr. McAfee and his business partner, Odell Rodgers, borrowed a like $25,000 from Miners & Merchant Bank (Tr. 518). Miners & Merchants Bank, in turn, was the institution at which McAfee's client John Meade was president. Congressman Hansen deposited the $25,000 in his own account (Tr. 515). On August 14, 1981, McAfee made another loan to Congressman Hansen, this time in the amount of $60,000 (Tr. 524). McAfee testified that he recalled that Congressman Hansen said that the purpose of the two loans was for the congressman to promote a book he had written (Tr. 525). Again Congressman Hansen wrote a note for the loan payable this time on August 14, 1982 (Tr. 526). Also, as with the $25,000, McAfee and Rogers themselves took a like $60,000 loan from Meade's bank to cover the loan they made to Hansen (Tr. 529). McAfee testified that these two loans were paid back after the FBI contacted them about Congressman Hansen and after they reported that contact to Hansen himself (Tr. 532, 555). The $60,000 was paid back in August, 1982 after the FBI contacted McAfee about an investiga-

tion into the workings of the bank (Tr. 555). The $25,000 was paid back on June 16, 1983 after the Congressman's indictment (Tr. 556, 882, 897).

At around the same time of the loans, Messrs. McAfee, Rogers and Meade were involved in a plan to develop a hydrogen powered automobile (Tr. 559). During the course of these men's plans, they contacted Congressman Hansen to have him set up an appointment with the Secretary of the Army about the car (Tr. 564). They wanted to get the Army to determine whether the hydrogen car was feasible, and the meeting with the Secretary was to try and persuade him to send engineers to Australia and verify the workability of the car (Tr. 565). Even though Mr. McAfee was an acquaintance of the Secretary of the Army, he nevertheless sought the appointment through Congressman Hansen because "he could get it faster" (Tr. 565). A meeting was set up, and Congressman Hansen accompanied Messrs. McAfee, Rodgers and Meade to it. Shortly after it started, both Congressman Hansen and the Secretary left (Tr. 566–67). Evidence showed that Congressman Hansen deposited the first $25,000 on the same day that Messrs. McAfee and Rodgers came to Washington and met with the Congressman and the Army personnel. Mr. Meade described the reason for seeking Hansen's involvement with the Army was the need to convince the Army to become involved with the project (Tr. 704). Mr. Meade also testified that he might have thought to use Congressman Hansen to see if he could not convince the Army to send personnel to Australia to look at the car (Tr. 722). In addition, Congressman Hansen called Pentagon officials on October 15, 1981 to urge Army investigation of the car (Tr. 854).

In November, 1981 Congressman Hansen called Meade directly to ask him for additional money. Mr. Meade testifed that he recalled the money also was to promote the Congressman's book (Tr. 685). Pursuant to that conversation, Meade did lend Hansen another $50,000 for a note executed on November 21, 1981 (Tr. 684–85). In contrast to the McAfee loans, Meade's was payable on demand, with no specific date or level of interest specified (Tr. 689). The $50,000 was paid back early in 1984, soon before the Congressman's trial (Tr. 690). Mr. Meade's conviction was for "misapplication of bank funds, false entries and making false statements in order to get a loan" (Tr. 659).

Congressman Hansen did not pay the interest due on the notes for some time. The first time interest was due, Meade and Rodgers paid one-third each; the remainder was paid by someone else (Tr. 653–56, 670–76). Congressman Hansen first paid interest on the loan on April 14, 1983, after Meade and his bank were under investigation (Tr. 659–60).

It is not disputed that the McAfee, Rodgers or Meade loans of $135,000 were not included in Congressman Hansen's financial disclosure reports for 1981.

E. Blackmail Attempt of Hunt

The government first became aware of the Congressman's various financial transactions because of a blackmail attempt that was made on Nelson Bunker Hunt.

On March 31, 1981, Mr. Hunt received an anonymous letter from a person who charged that "During January of 1979 you gave $87,000 to Rep. George Hansen of Idaho" (Def.Ex. 2; Tr. 133). The letter went on in great detail describing how the 1979 silver transaction had been done and how the $125,000 margin payment had been arranged. The blackmailer alleged that the payment was made "to secure Rep. Hansen's support in your bid for a large silver mine in Idaho." The letter asked that, in return for silence, Mr. Hunt make a $440,000 loan in 120 days by depositing some of the money into a Caribbean bank account. When Mr. Hunt received the letter, he called one of his attorneys, Ivan Irwin (Tr. 138). Hunt and Irwin discussed whether the letter was from a "crank" (Tr. 139). Mr. Hunt then called Congressman Hansen about the letter, and Hunt testified that the Congressman said that the matter had to be reported "to the Attorney General or the Justice Department" (Tr. 140). On April 1, the day after the letter was received, Mr. Hunt's attorney flew to Washington to meet with Congressmen Hansen (Tr. 944). Mr. Irwin returned to Dallas to confer with Mr. Hunt (Tr. 950) and also spoke with Congressman Hansen on the telephone (Tr. 951). Irwin testified that Congressman Hansen again said that the matter should be reported to the Justice Department. On April 3, Hunt, Irwin and the Congressman spoke again (Tr. 953). April 3 was a Friday, and on the following Monday, April 6, Congressman Hansen, Mr. Runft, Mr. Irwin and Mr. McKenna went to see officials in the Justice Department to report the blackmail letter (Tr., 958). Later on April 6, Congressman Hansen was first called and then visited by FBI agents who took statements concerning the transactions surrounding the blackmail letter (Tr. 964). Ultimately, the letter was traced to Arthur Emens, an employee of Mr. Ming, the commodities broker who had handled the silver transaction (Tr. 384). This employee pleaded guilty to a misdemeanor blackmail charge and was sentenced to a fine and community service (Tr. 1466).

At the time of the blackmail incident, Mrs. Hansen still owed Mr. Hunt money. Hunt's attorney testified that Mr. Hunt told him that when he went to Washington to meet with Congressman Hansen, to "either come back with some money from the Hansens or . . . come back with some fresh notes to evidence the indebtedness of Mrs. Hansen resulting from Mr. Hunt's payoff of the First National Bank in Dallas" (Tr. 961). Pursuant to Hunt's orders, Irwin did receive two new notes from Mrs. Hansen (Tr. 961). The notes were backdated to reflect the interest payment Mr. Hunt had made prior to assuming the $50,000 debt and another for the amount then owing on principal and interest (Tr. 961).

3. CONGRESSMAN HANSEN'S DEFENSE

Congressman Hansen's defense at trial consisted of a few parts. With respect to the Dallas loan of $50,000 and the various silver transactions, the Congressman stated that (1) these were his wife's loans and transactions, (2) he and his wife had executed a property settlement agreement whereby their financial lives were separate, (3) as a result of that agreement he was advised by legal counsel that he did not have to report his wife's affairs as part of the dis-

closure required by either the House rules or EIGA and (4) he kept the appropriate House committee informed of his practices and it acquiesced to them. With respect to the Virginia loans, the Congressman's position was (1) that the money was borrowed for the nonprofit tax reform organization with which he was affiliated, (2) the money borrowed was spent for that organization and (3) he was advised by his counsel that he did not have to report those loans.

A. John Runft's Advice

For part of the legal advice on which he relied, Congressman Hansen turned to John L. Runft, his personal attorney from Boise, Idaho with whom he dealt since 1974 (Tr. 1013). Mr. Runft wrote the letters Congressman Hansen sent to the FEC seeking approval of his solicitation plan (Tr. 1022). After the advisory opinions prohibited the solicitation, it was Mr. Runft who devised the plan in which the family debts, shared by Congressman and Mrs. Hansen, would all be transferred to Mrs. Hansen through a property settlement, enabling her to solicit funds because they would now be exclusively hers (Tr. 1016, 1048–50).

In the spring/summer of 1978, Mr. Runft also was consulted about the effect of the Hansen's property settlement on the existing financial reporting requirement of the House rules (Tr. 1077). In his 1978 financial report, Congressman Hansen had not listed any of Mrs. Hansen's debts (Tr. 1079). Newspaper articles reported this omission and Congressman Hansen solicited Mr. Runft's advice (Tr. 1079). Mr. Runft said that he told Congressman Hansen "to get in contact with the Ethics Committee again and make sure that everything is known and above aboard" (Tr. 1079). Mr. Runft further advised the Congressman that, under House Rule XLIV, there was no need to report Mrs. Hansen's financial activities and that the House Ethics Committee had the obligation to notify Congressman Hansen if "he was wrong in any way" (Tr. 1080). Accordingly, on May 9, 1978, Congressman Hansen again wrote to the House Ethics Committee (Def. Ex. 38). His letter initially was prompted by and recounted the newspaper articles apparently quoting a member of the Standards Committee staff criticizing Congressman Hansen's financial filing statements. Congressman Hansen then recapitulated the procedure he had gone through to receive FEC and Committee advice concerning soliciting funds and the property settlement he made with his wife. Then, referring to Advisory Opinion No. 12, issued by the House Ethics Committee in December, 1977, the Congressman concluded that his property settlement put Mrs. Hansen in the category of spouses who were not in the "constructive control" of the member and whose transactions did not have to be reported. Finally, after restating what he had done in the past and his decision not to report, the Congressman stated:

> I am confident that my filing, done carefully with the advice of counsel, is completely in accord with the appropriate Rules of the House and in accord with the course of action of which we have kept your office completely advised. At this time I respectively request confirmation of the validity of my report.

(Def. Ex. 38; Tr. 1398). Two days later, Mrs. Hansen sent another letter prepared by Mr. Runft to the Ethics Committee advising it of the property settlement and her decision not to include her transactions on the Congressman's report (Def. Ex. 39; Tr. 1081). She too declared herself not to be under the Congressman's "constructive control." [Evidence about whether and what the Ethics Committee responded to Congressman Hansen was not available to the prosecutors and outside the scope of trial because of the Speech and Debate Clause. As it turns out, Special Counsel has uncovered several documents which confirm that the Committee and/or its staff did respond. These documents, which contradict one of the implications of the Congressman's defense, are referred to and summarized in Section 5 of this Report.]

Following these incidents, Congress passed the Ethics in Government Act of 1978 ("EIGA"). The Act *inter alia,* codified as to Congress and other government officials the reporting requirements which used to be contained in congressional and agency rules. After passage of the Act, Congressman Hansen asked Mr. Runft whether the Act changed his reporting responsibilities (Tr. 1083). Mr. Runft explained the request as follows: "Congressman Hansen asked me . . . , under the new Act, was there a reasonable interpretation available under the Act that would allow [him] to continue not to report Mrs. Hansen's income under that Act" (Tr. 1984). Mr. Runft researched the purpose of the Act and concluded:

> My conclusion . . . consists of two parts. First, I believed or I concluded that in light of the property settlement agreement, . . . that a reasonable interpretation of the Act, particularly Section 702(d)(2) would allow the Congressman not to file information concerning wife's income.
>
> The second part of my opinion was that this was a new Act, just passed. It had not been interpreted yet, and that the provisions . . . of the Act required that the designated Committee, which was the Select Committee on Official Conduct [sic] of the House of the Representatives, was required to review these reports and to set up a procedure whereby the Committee would determine whether the reports were correct, whether they were complete and whether they were in proper form and advise the Congressman if they were not.

(Tr. 1086–87). Congressman Hansen accepted this advice and continued not to report Mrs. Hansen's assets or debts. Section 702, on which Mr. Runft relied for his advice, states that no report is required with respect to a spouse "living separate and apart from the reporting individual with the intent of terminating the marriage or providing for permanent separation . . ." (Tr. 1151). Mr. Runft read that exception to include the Hansens, even though they were not separated or living apart or contemplating divorce, because they had executed a property settlement agreement (Tr. 1152). Under cross-examination, Mr. Runft testified that, despite his general advice, he did not recall giving the Hansens specific advice concerning the reporting of the $50,000 Dallas loan (Tr. 1162). He further stated that he did not know about a number of Congress-

man's and Mrs. Hansen's financial transactions, including the fact that Congressman Hansen spent the $87,000 silver profit (Tr. 1162).

B. Jim McKenna's Advice

In addition to Mr. Runft, Congressman Hansen consulted with Jim McKenna about his financial disclosure requirements (Tr. 1340). At the time of soliciting the first advice in May 1978, Mr. McKenna was not yet on the Congressman's staff, but was close to the Congressman and worked for a public interest law firm in Washington (Tr. 1336–38). Mr. McKenna stated that he looked at the applicable House rules and the correspondence between Congressman Hansen and the Ethics Committee, and confirmed Mr. Runft's opinion that, under the House rules, Congressman Hansen did not have to report his wife's assets and liabilities (Tr. 1342). After he joined the staff, Mr. McKenna testified that he had a number of conversations with Ethics Committee staff about the existence of the Hansen's property settlement agreement and the Hansen's decision not to report Mrs. Hansen's activities (Tr. 1348). [Again, correspondence back to Congressman Hansen and staff version of the conversations were unavailable at trial because of congressional immunit. 1 Counsel has interviewed some members and staff of the then Ethics Committee. The correspondence which documents the Committee's actual response to Congressman Hansen and the staffs' different recollection of the conversations with Mr. McKenna are summarized in Section 5 of the Report.]

After EIGA was passed, Mr. McKenna also was asked to advise Congressman Hansen concerning the reporting requirement (Tr. 1349). Mr. McKenna concluded that, given the property settlement agreement, reporting Mrs. Hansen's situation was not required and actually would violate her right to privacy (Tr. 1350). McKenna based his decision on the fact that the Hansens repeatedly had told the Committee of their agreement and his interpretation that the purpose of EIGA was to include only those spouses whose finances had not been separated, as were the Hansens (Tr. 1351).

Mr. McKenna also testified that he was extensively involved with the Congressman's establishment and involvement in the Association of Concerned Taxpayers ("A.C.T."), a tax reform association which sought membership and funds through a direct mail effort (Tr. 1369–80). McKenna said that Congressman Hansen spent over $135,000 for that organization (Tr. 1410). Finally, McKenna stated that two days before the 1982 EIGA report was due, Congressman Hansen told him that some of the funds used by him for the organization resulted from loans made to him by Messrs. McAfee, Rodgers and Meade (Tr. 1424). McKenna then stated:

> In view of the promise of confidentiality [made to those people solicited by direct mail], in view of the fact that at that time A.C.T. was acknowledging, and as far as I know still acknowledges, the liability to Mr. Hansen for the funds he advanced, I advised him that it would be prudent to leave it [his loans] off the form in the apprehension that: one, we had promised confidentiality to donors, or to financial supporters in any one of several categories, donors, whatever; that A.C.T. had by that time acknowl-

edged its obligation; and that in fact the money had been spent as he represented to the lenders.

(Tr. 1425). In other words, McKenna advised Congressman Hansen not to report the $135,000 in loans because the Congressman had borrowed the money for use by A.C.T. and because A.C.T. had been promising confidentiality to any person who it solicited for direct mail contributions. To rebut Mr. McKenna's description of large expenditures over $135,000 on behalf of A.C.T., the prosecution introduced evidence that showed that at a time close in proximity to when Congressman Hansen actually spent $95,000 on behalf of A.C.T., the Congressman obtained $95,000 in new loans from still another Idaho bank (Tr. 1632–39). The government's suggestion was that it was this later $95,000 which was spent on behalf of A.C.T. and the $135,000, or part of it, was spent by Congressman Hansen for something else.

McKenna testified that Congressman Hansen had told him that he [Hansen] had told the lenders [McAfee, Rodgers and Meade] that the loans would be used for A.C.T. (Tr. 1428). He also stated that he never had seen the Hansen's property settlement agreement (Tr. 1475), that he knew nothing about the soybean transaction (Tr. 1497), that he did not know that Congressman Hansen had solicited Bunker Hunt for money (Tr. 1497), that he did not know where the proceeds from the $50,000 Dallas loan had gone or that the Congressman spent some of it (Tr. 1498), that he was not involved with the disclosure of the $87,000 silver profit and that he was not very familiar with the extent of Congressman Hansen's activities on behalf of Messrs. McAfee, Rodgers and Meade (Tr. 1506).[4]

4. THE VERDICT

On April 2, 1984, after a ten-day trial, the jury found Congressman Hansen guilty on all four counts of the indictment (Tr. 1978).

5. CONGRESSMAN HANSEN'S CORRESPONDENCE WITH HOUSE ETHICS COMMITTEE

Correspondence and communications between Congressman Hansen, his attorneys and the House Committees on Ethics and Standards of Official Conduct are particularly important in this case because the Congressman relied on those contacts as part of his trial defense and because the transactions for which he was convicted occurred at a time when House disclosure rules and the law were changing. The significance of this correspondence is outlined by a statement Congressman Hansen's trial attorney made to this Committee on May 17, 1984:

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[4]Special Counsels' consideration of Congressman Hansen's defense assumes that the attorneys called to the stand gave the advice they assert. However, it is possible to question whether events occurred precisely in the way asserted. When Congressman Hansen was interviewed by the FBI about the blackmail letter and asked why he did not report the transactions with Nelson Bunker Hunt, he said that he decided not to do so after extensive discussions with his counsel. However, John Runft said he knew little about that transaction (Tr. 1092), and Jim McKenna directly contradicted the Congressman by stating that he had never discussed that transaction at all (Tr. 1500). In addition, the attorneys' testimony about the May 9, 1978 correspondence to and lack of response from the Ethics Committee, *see* Section 5, *infra*, also bears on the credibility of these witnesses.

Given those facts, the committee did not, certainly it did not say we need more information, it did not say you must report those things because they are reportable under the Act or House rule.

(May 17 Transcript, at 14.)

Of special importance was Congressman Hansen's May 9, 1978 letter to the Ethics Committee (Def.Ex. 38) complaining of the staff comments to the press and inviting the Committee to confirm that his decision not to report Mrs. Hansen's liabilities was correct. The Congressman based a good deal of his defense at trial and before the Committee on the position that the Committee was made constantly aware of his position and "acquiesced" to it. There also was the implication that the Committee did not respond to the May, 1978 inquiry. This implication was given by:

A. John Runft

Congressman Hansen's Idaho attorney first gave the advice concerning the Committee.

Q. What was your opinion, Mr. Runft, concerning whether the debts that had been assigned to Mrs. Hansen under the property settlement agreement had to be reported to the House Ethics Committee . . .?

A. My opinion was that under those particular conditions . . . [it] was not an item that needed to be reported . . .

Furthermore, and always along with this advice . . . was the Committee had the authority and duty to review these reports . . . and advise Congressman Hansen if he was wrong in any way. (Tr. 1079–80)

* * * * *

So on that basis, if my decision or my interpretation . . . was wrong, if the Committee were advised of what was being done, *the Committee then had a duty to advise Congressman Hansen that this is not the right way to go.* (Tr. 1087) (emphasis added)

B. Jim McKenna

When the issue of disclosure first arose in May, 1978, Jim McKenna was not yet on the Congressman's staff. He was, however, consulted for his opinion.

Q. And had you come to any conclusion at that time regarding whether or not Mrs. Hansen's assets and liabilities had to be reported . . . ?

A. Yes, sir it was my opinion based . . . principally and somewhat independently . . . on a *review of the correspondence* that had occurred between the committee and the Hansens with reference to the matter in which the filing were to occur—and I satisfied myself . . . that the wife's assets and liabilities were not subject to report.

(Tr. 1342) (emphasis added). To give this opinion, McKenna stated that he thoroughly reviewed the "entire file of Mr. Hansen's file of correspondence with the then Ethics Committee" (Tr. 1343).

> Q. And included in that file were what kinds of correspondence, what kinds of letters.
>
> A. Well, they were letters from Mr. Hansen, letters from Mrs. Hansen, and my recollection is that *there was very little back,* . . .

(Tr. 1343) (emphasis added). McKenna was further drawn out by the Congressman's trial counsel:

> Q. You testified yesterday that the House Committee on Ethics was advised of the property settlement agreement and then continued to be advised . . .
>
> A. As I testified yesterday, I spoke to staff on this specific issue at least four, and I think five times.
>
> Q. To your knowledge, did Congressman Hansen ever receive a response from Mr. Preyer to this [May 9, 1978] letter asking—which in any way rejected the validity of his report?
>
> A. My personal recollection is no. And I have searched the files, and *we can't find a response.*
>
> Q. So there has been no response to this letter.
>
> A. As far as I know.

(Tr. 1398–99) (emphasis added). Then on cross examination, McKenna again gave the same impression:

> Q. Mr. McKenna, you testified about a May 9, 1978 letter . . .
>
> Q. And the request [in the letter] is "At this time I respectfully request confirmation of the validity of my report."
>
> Now, did you receive a response from the House Ethics Committee, in writing, sir?
>
> A. I did not, and I do not know that the Congressman did.
>
> Q. Did you follow up and request a written response?
>
> A. I thought this was that request.
>
> Q. Did you follow up?
>
> A. Did we make a subsequent one?
>
> Q. Yes.
>
> A. I did not. I do not know whether Mr. Runft did.
>
> Q. Is there a piece of paper, sir, from the House Ethics Committee, anywhere, that represents that Congressman Hansen, prior to the Ethics in Government Act, that he needn't report his wife's assets?
>
> A. A piece of paper?
>
> Q. Yes.
>
> A. I doubt it. *In fact, I think I testified that we had no response from the House,* and I suspect the House had an obligation to us.

(Tr. 1484–85) (emphasis added). On re-direct, McKenna reiterated:

> Q. Mr. Weingarten asked you whether there was even any answer to the letter to Congressman Preyer, and you answered that there was not, to your knowledge. On what basis did you conclude that the House Committee had some obligation to respond?
>
> A. On the basis of the Act itself, . . . having performed the act required under the statute, the Congressman brought that act to the attention of the committee and then subsequently wrote them a letter saying, "I am relying on this state of facts in filing my form, and I ask you to tell me whether I am right or wrong."
>
> I believe they had an affirmative duty to decide right or wrong and tell him at that point.

(Tr. 1525-26). McKenna went on to state that the Committee's response, or lack of it, to the earlier request became one basis for later decisions not to report Mrs. Hansen's transaction because they had "acquiesced" to the Hansens' approach (Tr. 1350).

C. Congressman Hansen

In his statement before this Committee, Congressman Hansen also emphasized the importance of the May 9 letter:

> That conclusion [not to report] was communicated to this committee in language that could not be misunderstood. And I think if you read the letters you will see what I mean . . . but because we had a Property Settlement Agreement and *the Committee knew and acquiesced in the way I was treating Mrs. Hansen's debts and assets after the Agreement.*

(May 14 Transcript, at 45) (emphasis added).

Special Counsel undertook its own review of the correspondence and communications between Congressman Hansen and the Ethics Committee and also interviewed members of the Committee and staff of the time. This review uncovered documents, particularly a June 15, 1978 letter, which contradict the statement or implication that the Committee did not respond to the May 9 letter. The actual chronology of the correspondence is as follows:

—May 9, 1978 Congressman Hansen writes House Ethics Committee complaining of leaks to the press and seeking committee confirmation of his disclosure (Def.Ex. 38)

—May 12, 1978 Committee staff member sends letter of apology to Congressman Hansen and reiterates staffs' view that the disclosure was inadequate (Comm.Ex. 1) [5]

—May 17, 1978 Committee staff writes memorandum to Congressman Preyer and Wiggins advising them of conclusion that Congressman Hansen's disclosure is inadequate (Comm.Ex. 2)

—June 9, 1978 Committee staff send draft letter intended for Congressman Hansen to Congressman Wiggins for his approval (Comm.Ex. 3)

—June 15, 1978 Congressmen Preyer and Wiggins send draft letter and a cover to Congressman Hansen concluding that his

[5] "Comm.Ex." refers to a document which was not introduced at trial but which has been incorporated into this Report.

disclosure is inadequate; draft encompasses explanation of staff's May 17 memorandum; cover letter solicits any additional information from Congressman Hansen before draft is made final (Comm.Ex. 4)

After the June 15 letter was sent, one of Congressman Hansen's attorneys, John Runft, visited or called the staff to take issue with the conclusion that had been reached in the draft. This discussion with Runft is memorialized in an August 10, 1978 memorandum to the file (Comm.Ex. 5) written by Don Terry, the staff director with whom Runft talked. There is no written explanation of why the June 15 draft letter was never finalized.

Special Counsel notified Congressman Hansen's attorneys about the correspondence that was found. John Runft stated that he had no recall of any draft or cover letter, but that he now did recall discussing with Don Terry by telephone the staff's conclusions concerning the May 1978 disclosure. Runft's view was that he was able to persuade the staff that they misunderstood the property agreement and its effect on disclosure. The staff has no such recollection and state that they did not change their opinion. On June 5, 1984, Congressman Hansen's trial attorney wrote Special Counsel a letter explaining how the discovery of the Committee's reply only substantiated the defense theory of the case (Comm.Ex. 6).

Don Terry, Roy Dye, Richard Powers and John Swanner, staff of the then Ethics and Standards Committees, confirm that they spoke with Mr. McKenna on a number of occasions. However, it is their recollection that most of these conversations concerned their request for a copy of the property settlement agreement which was promised but never delivered and that they did not "acquiesce" to the Congressman's interpretation.

Of course, the correspondence and statements by the Committee and staff were not available at Congressman Hansen's trial. The prosecutors sought this type of evidence, but were successfully blocked by assertion of the Speech and Debate Clause and the trial court's finding of that privilege. This Committee, however, has access to these internal records and evidence, and they do reveal that, by June 15, 1978, Congressman Hansen and at least one of his attorneys knew that the Ethics Committee staff and Congressmen Preyer and Wiggins did not concur in their judgment about not having to disclose Mrs. Hansen's liabilities. The implication that the Congressman wrote the Committee, asked for guidance and then was not answered, is not substantiated by the evidence and raises the question of whether Messrs. Runft and McKenna forgot or were being less than candid at the trial.

6. CONGRESSMAN HANSEN'S STATEMENT TO THE COMMITTEE

In his statement and answers to questions before this Committee, Congressman Hansen repeated the explanations of the various transactions which had been testified to by other witnesses at his criminal trial. The Congressman also alluded to some of the legal arguments he has been pursuing, especially his contention that the violations of EIGA should not be subject to criminal penalties (May 17 Transcript, at 33).

In addition, calling the past ten years a "tale of terror" (*id.*, at 21), a "horror story" (*id.*, at 39) and a "witch hunt" (*id.*, at 40), Congressman Hansen stated that the EIGA prosecution was nothing more than a political vendetta. He said the vendetta also included IRS leaks of his financial data to his political opponents (*id.*, at 28), the Justice Department condoning prosecutorial misconduct (*id.*, at 40) and the trial judge in his case being partial (*id.*, at 40).

With respect to the property settlement agreement, Congressman Hansen stated ". . . that she [Mrs. Hansen] was an independent individual and she ought to have the right to survive . . ." (*id.*, at 30). Then, with respect to reporting the various transactions, he said it would be "inconsistent" (*id.*, at 35) with the property agreement to report. The basis was ". . . if it is hers, not mine, you don't put it down" (*id.*, at 37).

During his appearance, Congressman Hansen maintained the positions that ". . . we advised the committee, there was no effort to ever hide any of this" (*id.*, at 30–31). Concerning his communications to the House Ethics Committee about the property settlement agreement and about his decision not to report his wife's transactions for 1978, Congressman Hansen said "That conclusion was communicated to this Committee in language that could not be misunderstood . . . the committee knew and acquiesced in the way I was treating Mrs. Hansen's debts and assets after the Agreement" (*id.*, at 45).

Congressman Hansen stated that, to protect his privacy, he did not send a copy of the property agreement to the Committee and that he did not give the Committee specific information concerning how he and Mrs. Hansen continued to maintain their financial lives after the settlement was entered.

In summary, Congressman Hansen stated: "I don't know, maybe there is a time in this government that makes things so convoluted and complex that you get in trouble for being up front and on the table and honest . . ." (*id.*, at 48–49).

7. SPECIAL COUNSEL'S REVIEW AND DISCUSSION

On the basis of this preliminary inquiry, the Committee is required to determine whether "the evidence of such offense[s]," of which Congressman Hansen was convicted, constitute violations "over which the Committee is given jurisdiction." Rule 14, Rules of Procedure, Committee on Standards of Official Conduct. The Rules of the House of Representatives provide that the jurisdiction of the Committee extends to any alleged violation by a member "of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member . . . in the performance of his duties or discharge of his responsibilities." Rule X, cl. 4(e), Rules of the House of Representatives ("House Rules").

Special Counsel submit that a review of the evidence at the trial, the instructions given, the verdict and the information heard or provided to this Committee reveal the possible violation of two separate statutes applicable to his conduct as a member, the Code of

Ethics for Government Service (by prior precedent [6] the Code is an "other standard of conduct applicable to the conduct of" members under House Rule X, cl. 4(e)(1)) and four rules of the House governing conduct by members.

Special Counsel begins with the offenses for which Congressman Hansen was convicted, and then the rules, laws and standards of conduct applicable to a member's conduct which may form an additional basis for the Committee's jurisdiction.

A. Financial Disclosure

During the time period under consideration, Members were required to submit financial information about themselves and their spouses under House Rule XLIV and then also under EIGA. From October, 1977 until January 1979, Rule XLIV required information about spouses assets and liabilities "unless the reporting individual indicates that: (a) he or she neither derives, nor expects to derive, any economic benefit from such interests; and (b) such interests were not obtained in any way from the assets or activities of the reporting individual." Advisory Opinion No. 12, reprinted in Ethics Manual for Members and Employees of the U.S. House of Representatives, 98th Cong., 2d Sess., at 176 (1984). After January, 1979, Rule XLIV was amended to incorporate the provisions and exceptions of EIGA. Under EIGA, a member must include information about the assets and liabilities of a spouse with two exceptions. The first is if a member can show that the item (i) . . . "represents the spouse's . . . sole financial interest . . . and which the reporting individual has no knowledge of, (ii) [spouse's transaction] . . . are not in any way . . . derived from the income, assets or activities of the reporting individual, and (iii) [is one] from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit." 2 U.S.C. § 702(d)(1)(D).[7] The second exception in EIGA, the one relied on by Congressman Hansen's attorneys, excludes information about a spouse "living separate and apart from the reporting individual with the intention of terminating the marriage . . ." 2 U.S.C. § 702(d)(2).

The "evidence" in Congressman Hansen's trial revealed a number of different, potentially reportable transactions or events: (1) the soybean transactions, (2) the original Dallas bank loan, (3) the extension of the Dallas loan, (4) the Hunt pay-off of the Dallas loan, (5) the $125,000 margin loan, (6) the $87,000 silver profit and (7) the $135,000 loans from Messrs. McAfee, Rodgers and Meade. Congressman Hansen's conviction involved (3), (4), (6) and (7), but

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[6] *See, e.g.,* In The Matter of Representative Daniel J. Flood, H.R. Rep. No. 856, 96th Cong., 2d Sess., at 5 (1980); and In The Matter of Representative John J. McFall, H.R. Rep. No. 1742, 95th Cong., 2d Sess., at 3 (1978); and In the Matter of Raymond J. Lederer, H.R. Rep. No. 110, 97th Cong., 1st Sess., at 118 n.6 (1981).

[7] Prior to the change in Rule XLIV in 1977, a member could exclude information about the assets of a spouse if that spouse was not in the member's "constructive control." That phrase was opined to encompass spouses who had property separation agreements. Advisory Opinion No. 12, supra, at 179. It was this prior rule and interpretation which Congressman Hansen asserted in his May, 1978 letter to the Ethics Committee. The June, 1978 draft reply explained that the "constructive control" test applied only to assets, not liabilities and that it had been superceded in any event (Comm. Ex. 4).

the others occurred when House Rule XLIV, in addition to EIGA, was applicable.[8]

Congressman Hansen did not deny his failure to report these various transactions. Instead, he argued that he was justified in his actions because of his correspondence with the Ethics Committee and the advice he had received from counsel. In other words, to paraphrase the Congressman's explanation, he stated that he had a property agreement with his wife, the Committee knew about that agreement, that agreement made him financially separate from his wife, his attorneys advised him that financially separated spouses are not included in the House Rule or EIGA, and he relied on that advice. It is Special Counsel's view that Congressman Hansen's explanation does not hold up, especially under the "clear and convincing" standard of evidence applicable to Committee proceedings.[9]

To rely on advice of counsel (and the same can be analogized to relying on advice or correspondence from the Committee), Congressman Hansen would have to seek the advice in good faith, provide all material facts and then follow the advice given. *See Williamson* v. *United States,* 207 U.S. 425, 453 (1908). There is evidence that he failed all three requirements.

It is fairly clear that Congressman Hansen approached his attorney with a prejudice toward non-disclosure. His request was not "What does the law require," but "Was there a reasonable interpretation available . . . that would allow [him] to continue *not to report* Mrs. Hansen's income under that Act" (Tr. 1984) (emphasis added). In addition, now that the Committee's response to the Congressman's May 9 letter is known, it would have been far better evidence of good faith to seek further written clarification, especially after new rules were enacted and a new reporting law passed. Congressman Hansen showed that he knew how to seek formal advice from the appropriate Committee, and such a solicitation, rather than reliance on his personal or staff attorney, would have better supported his assertion of good faith. This especially is the case after EIGA was passed because that law specifically provides for advisory opinions which then become absolute defenses to any sanction under the law (Tr. 1599).

Even if he sought legal advice in good faith, Congressman Hansen did not follow that which he was given. With respect to both his advice under House Rule XLIV and EIGA, John Runft said he told the Congressman he did not have to report *and* to keep the Committee totally advised of his decision. The evidence showed that Congressman Hansen did *not* keep the Committee apprised. He sought advice on his solicitation scheme, was turned down and

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[8] The soybean transaction (1) and the original Dallas loan (2) occurred during the hiatus in reporting resulting from the change in old to new Rule XLIV. Since only transactions occurring from October to December, 1977 were reportable, *see* Advisory Opinion No. 12, supra, at 178, these could not amount to violations of any rules. In addition, the $125,000 (5) was large enough and lasted long enough to be a separate loan, but Congressman Hansen could have thought of it as a temporary overdraft which might not have to be included.

[9] By now, it is well-settled that disciplinary actions undertaken by this Committee and the House of Representatives are governed by the "clear and convincing" standard of evidence, falling somewhere between "preponderance" of the evidence required in civil cases and "proof beyond a reasonable doubt" required in criminal matters. *See* Manual of Offenses and Procedures, Korean Influence Investigation Pursuant to H. Res. 252, 95th Cong., 1st Sess., at 40 (Comm. Print 1977).

then developed the property settlement agreement idea. He did not then go back to the Committee and seek the same type of formal advice on the efficacy of the scheme. More important, despite a number of requests, he never gave the Committee a copy of the actual agreement. In addition, he may have told the Committee that a property settlement agreement was in effect, but he certainly did not tell the Committee that some of the funds raised by Mrs. Hansen pursuant to the direct mail campaign were deposited in their joint account and used by the Congressman, that they continued to maintain numerous joint financial transactions, including cars, homes and bank accounts, that he endorsed and spent the proceeds from the $50,000 Dallas loan, or that he arranged for and spent the $87,000 silver profit. Special Counsel believe that all of those facts would have been relevant and material to the Committee. Without communicating them, Congressman Hansen hardly can state that he kept the Committee "totally" advised, as his lawyer suggested.

Furthermore, Congressman Hansen was put on notice from very early on that the Committee disagreed with his interpretation of the House rule. He asked for confirmation in May 1978. A month later he was sent a letter from the chairman and ranking minority member advising him that they differed with his view and that he should include Mrs. Hansen's liabilities on his disclosure form. The Congressman's attorneys then called the Committee staff to further discuss the Committee's view. Consequently, Congressman Hansen had no reasonable basis to continue not to report Mrs. Hansen's transactions. No subsequent advice of counsel, rendered on an interpretation of the former version of House Rule XLIV, could overcome the conclusion communicated in the June 15 draft letter and the subsequent conversations with counsel. The fact that the draft letter was not finalized cannot, in retrospect, be interpreted as acquiescence to a position totally opposite to what the letter itself concludes. If there was any possible continuing doubt by the Congressman that the Committee or its leadership thought he should include Mrs. Hansen, he should have sought further clarification.

Even if the Committee's failure to formalize its June 1978 letter could be considered ambiguous with respect to his reporting obligations in 1978, changes in subsequent years, including a further amendment to House rule and the enactment of EIGA, should have given him reason to seek additional, current advice. These intervening events should have put a reasonable person on notice that earlier representations to and contacts with the Committee had become stale and required additional discussion or clarification. This is even more the case because EIGA itself included a procedure for a member to solicit and rely upon formal advisory opinions. Instead, perhaps worried about still another adverse ruling, Congressman Hansen relied on advice of counsel which contradicted the only written Committee correspondence on the subject.

Furthermore, while a defendant may rely upon advice of counsel sought in good faith, even if erroneous, Runft's interpretation of Section 702(d)(2) of EIGA—that the Hansens could liken themselves to persons living apart in contemplation of divorce—was so without basis and devoid of legal substantiation, that it undercuts the proposition that the advice, as described at trial, actually was given in

that way or that Congressman Hansen, a legislator with experience in reading the plain language of statutes and their history, could rely on it in good faith.

Finally, the evidence established at trial and Congressman Hansen's statement to the Committee revealed that he did not tell his attorneys all of the material facts concerning his situation. Any legal advice they did give did not encompass some things which may have made a difference. Mr. Runft, for example, knew little about how the $50,000 Dallas loan was spent or the Congressman's access to it and did not know that the Congressman also spent the $87,000 silver profit. Mr. McKenna testified that he never saw the Hansen's property agreement, knew nothing about the soybean transaction which started the whole disclosure issue, did not know about the Congressman's solicitation of Bunker Hunt, did not know how the $50,000 was spent or about the Congressman's efforts on behalf of McAfee, Rodgers and Meade. Special Counsel views these facts to be very material in determining whether, under the letter and spirit of the rule and statute, Mrs. Hansen's transactions had to be reported. The fact that Congressman Hansen's attorneys today testify that these facts would not change their advice is unpersuasive. First, such testimony is too self-serving to be adopted on its face. Second, there is evidence—assertions about correspondence with the Committee—which raises questions about the credibility of those witnesses. Third, "materiality" is an issue for Special Counsel, the Committee and the House to determine on their own. What Congressman Hansen's attorneys conclude is "material" is just one consideration in that determination.

Consequently, because he took actions which contradicted advice he solicited and was given, because he did not follow the legal advice on which he relied and because he did not give his attorneys enough facts on which to base their legal advice, Congressman Hansen was not justified in failing to report his wife's transactions. His actions, therefore, violated House Rule XLIV and EIGA. These violations clearly are within the jurisdiction of this Committee and should subject Congressman Hansen to disciplinary action by the Committee and the House.

B. Filing False Statements

The offenses for which Congressman Hansen was convicted under the false statements statute, 18 U.S.C. § 1001, make it illegal for any person to knowingly and willfully make a false statement or representation on a matter within the jurisdiction of any department or agency of the United States which is material to such matter.[10] The House has determined that false statements or swearing on material matters in the performance of a Member's duties constitutes conduct which violates the Rules of the House, specifically House Rule XLIII, cl. 1, which requires members to conduct themselves in a "manner which shall reflect creditably on the House of Representatives." *See* In The Matter of Representa-

[10] The House of Representatives and its component offices and committees have been held to be "departments or agencies" of the government within the meaning of § 1001. *United States* v. *Bramblett*, 348 U.S. 503 (1955); *United States* v. *Diggs*, 613 F.2d 988, 999 n.64, cert. denied, 446 U.S. 982 (1980).

tive Edward S. Roybal, H.R. Rep. No. 1743, 95th Cong., 2d Sess., at 3-4 (1978), 124 Cong. Rec. H 12820-12828, H 13249-13261 (daily ed. Oct. 13, 1978) (false testimony before the committee).

The House has viewed the filing of false statements with the finance office of the Clerk as subject to sanction as well, even though not under oath or proffered in the course of a committee investigation. In The Matter of Representative Charles C. Diggs, H.R. Rep. No. 351, 96th Cong., 1st Sess., Vol. I, at 19 (1979) (false payroll authorization forms).

It is Special Counsels' view that a false statement on a form submitted to the Standards Committee is particularly within the Committee's jurisdiction where, as under EIGA and the procedures adopted by the House, the Committee is itself the "agency" to which responsibility for reviewing the forms has been committed. The Committee, *inter alia,* is specifically directed to determine whether the reports required to be filed under the Ethics in Government Act are "filed in a timely manner, are complete and are in proper form." 2 U.S.C. § 105(a) In addition, the substantive requirements of House Rules prohibit the receipt of gifts of over $100 from persons with a direct interest in legislation, House Rule XLIII, cl. 3, and limit earned outside income to 30 percent of the aggregate salary of a Member per year, House Rule XLVII, cl. 1(a). The filing of false information or omission of information would influence, or tend to influence, the decision of the Committee with respect to matters committed to it concerning compliance with substantive and procedural rules of the House.[11] For the reasons described under "Financial Disclosure" above, Special Counsel concludes that Congressman Hansen willfully failed to disclose material information and did not have a reasonable "advice of counsel" defense. This willful failure violated Section § 1001 and House Rule XLIII. These violations also should subject Congressman Hansen to further disciplinary action.

C. Other Rule Violations

While Congressman Hansen was convicted for filing false information having to do with financial disclosure, the events which were testified to at this trial do indicate other potential violations of House rules.[12]

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[11] Congressman Hansen argued both before and at trial that the omissions from the financial disclosure forms were not material because the committee is not required, and does not, review the forms for compliance with the rule. Citing to the legislative history discussing the purpose to foster public disclosure, not internal enforcement, the Congressman contended that the committee could not rely on the forms with respect to a decision "required to be made," because no decision is ever made by the committee other than to print the forms. Special Counsel reject this contention as unjustified by the legislative history and an overly narrow reading of the committee's responsibility to assure compliance with House rules. Like any disclosure scheme, whether it be the federal securities laws, or the federal election laws, great dependence is placed upon voluntary truthful and full reporting. It is no defense to failure to file under such a scheme that the committee does not act on the information it receives, for it relies upon complete reporting by members and staff.

[12] Rule 14 of this Committee's rules of procedure states that the purpose of a preliminary inquiry is "to review the *evidence* of such offense [that for which the Member was convicted] and to determine whether it constitutes a violation over which the Committee is given jurisdiction . . ." (emphasis added). Because of the rule's use of the word "evidence" of the offense rather than the offense itself, Special Counsel believe that a preliminary inquiry is *not* confined solely to those rules which are analogous to the statute for which the member ultimately was convicted. In other words, if a member is convicted for statute x, and the evidence at trial shows that

Continued

1. SOLICITATION CAMPAIGN

The first related violation involves the Hansens' solicitation campaign, the episode which can be said to have started this incident. The Hansens were told through Advisory Opinion Nos. 4 and 11 that they could not raise funds through a direct mail campaign for the Congressman's personal debts. This advice was predicated on House Rule XLIII, cl. 7 which, in pertinent part, states "[a] Member . . . shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events." Advisory Opinion No. 4, *reprinted in* Ethics Manual for Members and Employees of the U.S. House of Representatives, 98th Cong., 2d Sess., at 159 (1984).

The Hansen's solution was to transfer the debts to Mrs. Hansen and then allow her to raise funds. As previously noted, the Hansens did not provide the Committee with a copy of their Agreement or the specifics about how the Agreement would affect their day-to-day finances. Special Counsel doubts that the property separation scheme is consistent with the spirit of Advisory Opinion Nos. 4 and 11. The possibilities for abuse are readily apparent, and a member should not be allowed to circumvent the intent of a rule, if not its specific language, by such a paper reorganization of his or her financial affairs. *However, even assuming that Mr. Runft's device technically complied with the advisory opinions, the evidence at trial revealed that the Hansens did not maintain the scheme as presented.* Mrs. Hansen admitted that some funds which were raised as part of the direct mail campaign were taken out of her special account and placed in hers and the Congressman's joint account (Tr. 1281). In addition, the evidence at trial showed that a careful accounting of what money was spent for which debts was neither kept nor possible to keep, and that co-mingling probably occurred. The results of the transfer of solicited funds to a joint account and the loose financial practices are exactly what the Committee had disallowed—Mrs. Hansen's solicitation of funds through direct mail which were used by Congressman Hansen. Having asked for advice and having devised a procedure to allow the solicitation plan, the Hansens were under a special duty to implement that plan carefully. The evidence clearly shows that this was not done, and the resulting practice, in Special Counsels' view, violated Advisory Opinion Nos. 4 and 11 and House Rule XLIII on which they were based.[13]

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the member violated a rule analogous to statute x *plus* some other related rule, the Committee would be remiss if it did not consider the related standard of conduct. This is *not* to say that any or all potentially applicable statutes and rules should be included in a preliminary inquiry. To do so would be unfair to the member who, in the Rule 14 context, would not have enough opportunity to adequately defend the new charges. However, those rules which are so fundamentally related to the principal offense that they are almost central to it can and should be considered, especially, as in this case, when the conduct prescribed by those related rules was put in issue at the trial and addressed by both the prosecution and the defense. In this specific case, the motivation for Congressman Hansen's failures to disclose was very much at issue in trial and part of each side's presentation.

[13] In addition, the critical property settlement agreement may have become invalid under Idaho law itself. Where spouses with separate assets co-mingle that property and blur the distinction, it reverts to the status of "community property." *See Martsch* v. *Martsch,* 103 Idaho 142, 645 P.2d 882 (1982); *Gapsch* v. *Gapsch,* 76 Idaho 44, 277 P.2d 278 (1954). If the Hansen's bookkeeping and finances had this result, the settlement agreement would have had no effect whatsoever on the ban on solicitation and on the disclosure requirements.

2. ACCEPTING GIFTS

House Rule XLIII, cl. 4, provides that a member may not receive gifts of more than $100 in value per year directly or indirectly from any person having a direct interest in legislation before the Congress. Through interpretation of the rule, the Committee has defined persons having a direct interest in legislation as any person who is, or employs, a registered lobbyist, maintains a political action committee or anyone who has an interest in legislation distinct from the "general public interest" in legislation. Advisory Opinion No. 10, *reprinted in* Ethics Manual for Members and Employees of the U.S. House of Representatives, 98th Cong., 2d Sess., at 173 (1984). Indeed, the purpose of the rule was to instill public confidence that Members of the House would not be influenced, or have their impartiality questioned, by gifts from persons with interests in legislation before the Congress. The intent of the rule, as clarified by later interpretations, was to prevent and deter apparent as well as actual conflicts of interest. *See Manual of Offenses and Procedures, Korean Influence Investigation Pursuant to House Resolution 252,* 95th Cong. 1st Sess., at 29 (Comm. Print 1977).

The evidence showed that Congressman Hansen solicited money from Mr. Hunt and then accepted what Special Counsel concludes were gifts in the pay-off of the $61,000 Dallas loan and in the receipt of the already-made $87,000 silver profit. Given his wide and varied interests in matters before the Congress and the direct impact which the actions of Congress have upon his business activities, Nelson Bunker Hunt obviously is a person with a direct interest in legislation within the definition and intent of that term.

As the Committee has previously stated, "[t]he more the donor's interest is shared with the public at large, the less likely it is that the provision was meant to prohibit the acceptance of the gift . . . At one extreme, a large gift from the head of an energy company during the pendency of an energy company divestiture bill would be barred. But a similar gift from the same source during the pendency of general minimum wage or economic stimulus legislation might not amount to a "direct interest." *Manual of Offenses and Procedures, supra,* at 29. And the Committee has determined that "legislation before the Congress" should be "read broadly to include an ongoing special interest in or affecting the legislative process." Advisory Opinion No. 10, *supra,* at 174.

Under these circumstances acceptance of the loan pay-off and the silver profit from Nelson Bunker Hunt, whose interest in matters pending before the Congress was open and notorious, evidences a direct violation of Rule XLIII, cl. 4.

3. APPEARANCE OF CONFLICT OF INTEREST

The Code of Ethics for Government Service, House Concurrent Resolution 175, 72 Stat. pt. 2, B12 (July 11, 1958), provides that: "Any person in Government Service should . . . [ ] (5) . . . never accept, for himself, or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties." The Code has been deemed to carry the force of law and by precedent has been deemed to apply to Members of the House. *See* In the Matter of

Representative Robert L.F. Sikes, H.R. Rep. No. 1364, 94th Cong., 2d Sess., at 8 and n. 11 (1976); In the Matter of Representative Raymond F. Lederer, H.R. Rep. No. 110, 97th Cong., 1st Sess., at 118 n. 46 (1980); Constitution, Jefferson's Manual and Rules of the House of Representatives § 63, H.R. Doc. No. 271, 98th Cong., 2d Sess., at 26 (1983).

The acceptance of constantly extended loans and ready-made commodities profits from Mr. Hunt and of loans and interest payments from the three Virginia men (including deposit of the first $25,000 on the same day that Messrs. McAfee and Rodgers came to Washington to attend a meeting with the Army arranged and attended by Congressman Hansen) certainly calls into question whether reasonable persons might construe acceptance of such largesse as influencing the performance of his governmental duties or whether these favorable loans and arrangements were made solely because Mr. Hansen was a Congressman.[14] Review of the precedents indicate that such direct and substantial financial involvement with persons for whom the Member seeks to expedite or advance government decision-making constitutes an appearance of conflict, in violation of an ethical standard previously applied to Members. In the Matter of Representative Robert L.F. Sikes, H.R. Rep. No. 1364, *supra,* at 21.[15]

8. RECOMMENDATION

Special Counsel recommends that the Committee conclude that Congressman Hansen has committed violations of law and House rules, that the Committee has jurisdiction over such violations and that the Committee should proceed promptly to hold a hearing, pursuant to Rules 16 and 17 of the Committee's rules, for the purpose of determining what sanction to recommend to the House of Representatives in this matter.

Respectfully submitted.

STANLEY M. BRAND,
ABBE DAVID LOWELL,
Special Counsel.

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[14] This is not to say that the time-honored role of members as ombudsmen for their constituents and the public is not an accepted, legitimate and necessary part of their responsibilities of office; only that a member cannot receive such large personal financial rewards under circumstances which "might be construed as influencing the performance of his governmental duties."

[15] Part of the prosecution's presentation of its case involved its implying bribery of Congressman Hansen by Messrs. Hunt, McAfee, Rodgers or Meade. This implication raises additional statutes and rules which Special Counsel reviewed as part of this preliminary inquiry. *See* 18 U.S.C. §§ 201(c) (bribery), 201(g) (gratuity) and 203 (conflict of interest). The government did not indict under these statutes and was unable to show any direct "quid pro quo" required for bribery, any correlation between an official act for which a gratutity might have been done and the loans, or activities substantial enough to constitute an actual conflict of interest. *See* Defendant's Motion in Limine to Exclude Evidence, at 3–10 (March 15, 1984). Special Counsel does not believe sufficient proof for any of these charges exists in the evidence or that the charges form a basis for exercising Committee jurisdiction.

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, D.C. 20515

12 May 1978

The Honorable George Hansen
1125 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Hansen:

As you requested, I have attempted to recall the series of conversations I have had with Mr. David Morrissey and the subject matter of each. To the best of my recollection, the first time I talked with Mr. Morrissey was on or about Tuesday, April 25th. At that time he asked when the Financial Disclosure statements would be available to the press. I told him not before May 1st, but probably a day or two after that due to the expected number of last-minute filings. He also asked if the Idaho Congressmen had filed yet and could I tell him what had been disclosed. I told him at that time I could not tell him any specific Financial Disclosure information over the phone, including who had or had not filed.

Mr. Morrissey called our office several more times during the last week in April with basically the same demands. On each occasion he was told by me that I could not tell him any information on any Financial Disclosure statement or who had filed. I suggested that he might check with the Secretary of State in Idaho to determine what statements had been received by them. Each Secretary of State was apparently handling the Financial Disclosure statements received by them differently and I thought it possible he could find out what he wanted to know from that source.

On or about Monday, May 1st Mr. Morrissey called wanting a specific date we could give him the information on your form. This was the first time I recall his mentioning you by name. I reiterated the committee's position. When he called the following day, I told the secretary here to tell him I was out. On Wednesday, May 3rd he called saying he knew you had filed and the statements were to be public now and he wanted the information. By that date the committee was firm upon the 9:00 A.M. Thursday, May 4th time for making the statements available in this office.

Thursday, May 4th Mr. Morrissey called for me and stated he was "really burned" because the information on your form had been released by this committee to another reporter on Wednesday. I told him that was not correct; that no information had been released by the committee in any form to anyone prior to 9:00 A.M. Thursday. He insisted he was correct and I responded "that's a lie". He assured me the other reporter told him he got the information from our committee on Wednesday. I told him "If he is telling you that, he is lying to you". I then told him I still could not give him the information he wanted beyond the fact that all Members had filed prior to May 4th. I believe I told him the House Press Gallery might give him the information because they had purchased a copy of all Member's statements, but I would not.

EXHIBIT 1

On Friday, May 5th, Mr. Morrissey called and I talked to him for 20 to 30 minutes. By this time, I was reasonably familiar with your property division with your wife and the source of the liabilities Mr. Morrissey felt should have been disclosed and were not. He maintained your wife's debts resulted from your activities and according to Advisory Opinion #12 of the Select Committee on Ethics, should have been disclosed. I told him my reading of Advisory Opinion #12 was the same as his, but I was not familiar with the circumstances of the property division or with what interpretation the Select Committee might give in a specific case. When asked for my personal opinion, I did respond as quoted - "my impression is that the Congressman is probably incorrect". I regret the use Mr. Morrissey made of that statement. I erroneously felt that I had sufficiently explained the following: 1) without the facts, my opinion was of no value whatever and should not be represented as an authoritative source nor attributed; 2) if a determination were to be made, it would not even be made by my committee, much less by me, and; 3) your previous statements about the debts indicated you had considered the matter and arrived at a different conclusion than I.

When asked what this committee would do about your situation, I told him all Financial Disclosure statements had been reviewed by me for completeness and yours was found to be complete on its face. Any question about your statement had not been raised except by him.

The remainder of the conversation consisted of an explanation by me of the authority of the committee to investigate allegations of misconduct or other violations of the Rules of the House. This background information was apparently used by Mr. Morrissey in the newspaper article shown me on Monday, May 8th, as specifically applying to you, presupposing you had filed an incomplete Financial Disclosure statement. Since that conversation, I have not talked to Mr. Morrissey.

Throughout the time I received calls from Mr. Morrissey, the staff of the Select Committee on Ethics, with whom I was in frequent contact, advised me he had also been calling them regularly about this matter. I believe he was told by them the provisions of Advisory Opinion #12 and told to draw his own conclusions as to its application to your situation; a judicious course I regret I did not follow to the letter.

I hope this information will be helpful to you in understanding my part in the events described. If I may provide additional information as to these events, please call on me.

Sincerely,

Jim Haltiwanger

James N. Haltiwanger

Possible violation of ethics code

5-7-78 Times News

Hansen report may be incomplete

REP. GEORGE HANSEN
wife's debts unlisted

By DAVID MORRISSEY
Times-News writer

Second District Congressman George Hansen may be in violation of House ethics codes for not reporting debts of his wife, an attorney with the House Committee on Standards of Official Conduct said Friday.

Although a formal determination of a violation would have to be made by the full committee, a question exists whether Hansen's ethics reports contain all necessary information, committee staff member and attorney Jim Hallivanger said.

Should a determination be made that an intentional violation of the codes has occured, it is possible the congressman might face legal penalties, including fines and imprisonment. A determination that an unintentional violation has occurred might result in Hansen being asked to file additional information with the House Committee on Standards of Official Conduct.

The new codes of ethics, passed by the House last year, went into full force May 1. On that date congressmen were required to file disclosure reports listing most assets and debts. The intent of the codes, representatives said last year, was to ensure voters recent sexual and monitary scandals in the Congress were a thing of the past. The reports require congressmen to make public most private holdings which might be interpreted as a conflict of interest.

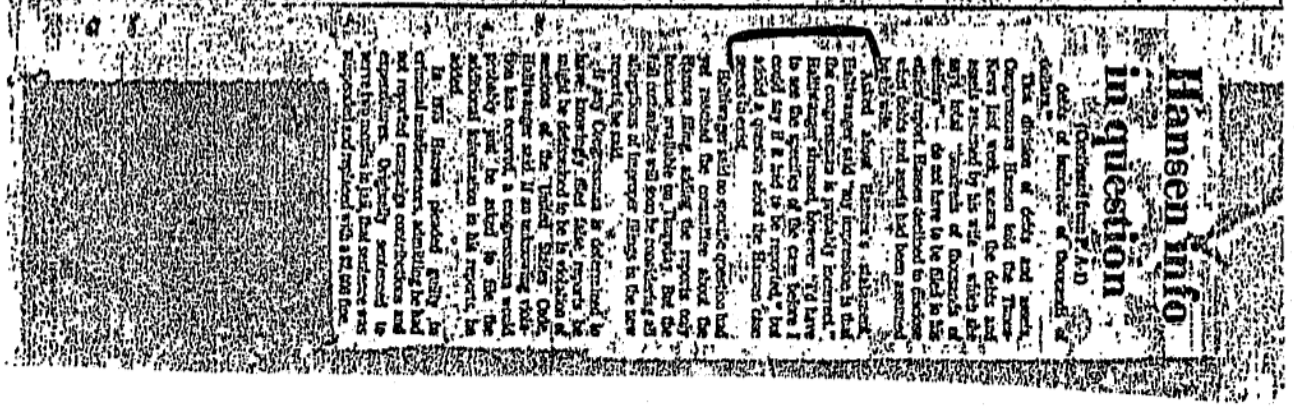
One part of the new codes, which were formulated by the temporary Select Committee on Ethics, require a congressmen to list debts and assets of a spouse unless those debts or assets were acquired by the spouse in a manner totally independent of their relationship to the congressman.

Hansen's report, filed last week, lists debts owed in seven banks, one law firm and one certified public accountant. Those debts are not required to be itemized by specific dollar amounts, but rather are listed as falling into amount categories, showing the debt if less than one specified figure but greater than another amount. Hansen's debts were listed as totaling between $50,000 and $150,000.

But last year Hansen and his wife legally divided their debts and assets, prior to Mrs. Hansen beginning a nation-wide fund-raising effort to pay her half of their personal, non-campaign debts.

"George and I have arrived at a legal and equal division of property and indebtedness", Mrs. Hansen wrote in a fund-raising letter last year, "I have assumed a substantial portion of those debts arising from the political dirty tricks

(Continued on p. A3)



Hansen info in question

May 17, 1978

MEMORANDUM TO: Congressman Richardson Preyer and Congressman Charles Wiggins

FROM: Select Committee Staff

RE: Advisory Opinion Request of Congressman Hansen

Congressman Hansen has written to the Select Committee asking for an opinion regarding disclosure of spouse liabilities under House Rule XLIV. If the Chairman and Ranking Minority Member can agree on the response then the matter can remain strictly confidential. If there is no agreement, then the matter should be referred for consideration by the full Committee.

ISSUE

The request for an advisory opinion results from the following fact situation:

In June of 1977 Congressman and Mrs. Hansen entered into a legal property settlement wherein their liabilities were sepa rately divided between the two parties. The reason for the division was to allow Mrs. Hansen to solicit funds to pay some of the debts in a manner which would not personally benefit Congressman Hansen, and therefore would not be in violation of House Rule XLIII.

House Rule XLIV as amended provides that items of a spouse which are under the "constructive control" of the reporting individual should be disclosed. Congressman Hansen contends that since his spouse's liabilities are not shared by him in any way, they are not under his "constructive control"; and therefore need not be disclosed. Mr. Hansen has asked the Select Committee to confirm his contention.

The following summarizes the development of spouse disclosure requirements of House Rules in the context of the situation discussed above.

OLD RULE

In 1968 the House adopted financial disclosure requirements for Members, officers, and certain employees. At that time the House Rule required only disclosure of certain types of holdings and the source of certain types of income. The Rule also required the disclosure of those holdings which were under the "constructive control" of the reporting individual.

The Committee on Standards of Official Conduct adopted the following interpretation of "constructive control" for the first filing made in April 1969:

EXHIBIT 2

"...financial interests are regarded as constructively controlled ... if enhancement of those interests would substantially benefit the person reporting. Normally, in the absence of specific property division agreements, trusts, etc...the interests of spouses ...would be constructively controlled."

Congressman Hansen heavily relies on this past interpretation of "constructive control" to claim an exemption from disclosure under the current rule. However, it appears that the old interpretation adopted by the Standards Committee applied only to holdings and was never intended to refer to liabilities.

This conclusion is based on the fact that the requirement to list certain unsecured liabilities in excess of $10,000 did not become effective until 1972. The question of how the "constructive control" test would apply to liabilities never came up from 1972-1977, and therefore the issue was never addressed by the Committee on Standards of Official Conduct. Consequently, it seems that the application of the "constructive control" test under the old Rule had reference only to "holdings" and that any reliance upon such interpretation in relation to liabilities would be misplaced. However, even if the old interpretation had applied to liabilities, any new or additional interpretation or clarification issued by the Select Committee on Ethics would supersede the old interpretation.

NEW RULES

When the new rules were adopted on March 2, 1977 the "constructive control" language or "beneficial interest" test was retained. However, the Commission on Administrative Review recognized that additional interpretation would undoubtedly be necessary given the greatly increased disclosure requirements, and it was understood that the Select Committee on Ethics would clarify and interpret application of the new rules as they become effective. Accordingly, the Select Committee on Ethics was given authority to adopt regulations, and issue advisory opinions respecting application of the new House Rules adopted on March 2, 1977. Additionally the Select Committee was given jurisdiction over any legislation to incorporate the new House Rules into statute.

At first, it was decided that the Select Committee should report a bill incorporating the new disclosure requirements into statute, applying the requirements to candidates for Congress and "fleshing out" the rule with definitions and clarifications. If enacted, it was anticipated that the bill would take effect before the first disclosure report, and the House Rules would have then been amended to conform to the statute.

However, when consideration of the statute became delayed, because it was extended to government-wide disclosure, and questions concerning application of the House disclosure rules Rules began to multiply, the Select Committee, issued a four page advisory opinion concerning application of the new House Rule XLIV. One major issue that was addressed was the requirement of spouse disclosure.

Because the "beneficial interest" interpretation that had been adopted for holdings in 1968 had little or no reasonable application to the new disclosure requirements concerning income, gifts, reimbursements, and liabilities, the Select Committee acted to interpret and clarify spouse disclosure requirements in a manner consistent with the spirit and intent of House Rule XLIV as amended.

For instance it would have been overkill to require that any and all gifts or reimbursements received by a spouse had to be listed simply because the reporting individual might theoretically benefit from such gift (e.g. a silver tea set received from a grateful client of a spouse; or a stipend received from the employer of the spouse in recognition of superior work, etc.). Additionally, it was decided that no purpose would be served by requiring the exact income of a spouse (even though such income would probably benefit the reporting individual), and therefore disclosure was limited to the source, but not amount, of earned income.

In order to apply common sense considerations and a "rule of reasonableness" in the application of the intent of the new disclosure rule the Committee adopted the following language in Advisory Opinion # 12:

> "In view of the more detailed information now required to be disclosed, the Select Committee believes that clarification of spouse disclosure requirements is necessary.
>
> Accordingly, the financial interests of a spouse should be reported as follows: (1) source, but not amount, of spouse earned income exceeding $1,000; (2) gifts or reimbursements to the spouse, unless received independent of the relationship to the reporting individual; and (3) assets and liabilities of the spouse unless the reporting individual indicates that: (a) he or she neither derives, nor expects to derive, any economic benefit from such interests; and (b) such interests were not obtained in any way from the assets or activities of the reporting individual."

Under the Select Committee's interpretation, it seems clear that liabilities of a spouse should be listed unless they were acquired independently of the reporting individual. Therefore, it appears the liabilities which were transferred to Mrs. Hansen ought to be disclosed.

Additional Considerations

The Select Committee has adopted a middle ground between those who would require full disclosure of all income, gifts, assets, liabilities, etc. of spouses and dependnet children, and those who would require little, if any, such disclosure. The Senate has already passed legislation which leans heavily towards full disclosure of everything. Although the motivation to enter into this particular property agreement was not to circumvent disclosure, under the interpretation Mr. Hansen has proposed, a reporting individual could literally transfer his liabilities to a spouse on December 30 and thereby circumvent the disclosure rule because it was not his liability "as of the close of the calendar year".

Common sense would indicate that this is an unacceptable interpretation. However, if such an interpretation were accepted, then those who would require absolute spouse and dependent disclosure would have made their point. Additionally, there is some question as to whether an individual can legally waive his responsibilities to creditors, although it may be that this particular property division was made with the consent of creditors.

Even though application of the rule seems clear in this case, Congressman Hansen has some extenuating circumstances which ought to be given careful consideration.

First, there is great reluctance to disclose apparently because some of the liabilities involved are owed to friends who made personal loans, and Mr. Hansen does not wish to have them involved publicly. Nevertheless, other Members of Congress have already made disclosure of such personal loans because the Rules provide no exemption for personal notes, even from relatives.

Secondly, Mr. Hansen states that, since the loans are no longer his responsibility, any disclosure of his wife's situation is impossible because it would invade her privacy and intrude upon her independence. Although this in undoubtedly true of other Members as well, probably few, if any, have entered into separate property agreements with their spouses by dividing formerly shared liabilities.

CONCLUSION

Given the "uniqueness" of this particular case, it might be possible to provide for some "middle ground" and allow Mr. Hansen to simply disclose those legal liabilities (e.g. some personal loans may not have been secured by a legal note) which he transferred to his spouse in June 1977. Mr. Hansen may then wish to assert that what happened since that time is beyond his knowledge and none of his business, and it would be possible to support such a contention when inquiries are made from the press and his political opponents. In the alternative, he may disclose any such legal liabilities transferred to his spouse less those which were paid off or reduced to below $2,500 as of December 31, 1977.

U.S. House of Representatives
SELECT COMMITTEE ON ETHICS
Washington, D.C. 20515

June 9, 1978

Mr. David Shurtz
c/o Honorable Charles E. Wiggins
2371 Rayburn House Office Building
Washington, D.C. 20515

Dear Dave:

Attached is a possible draft to respond to Congressman Hansen's inquiry. Basically, page 1 of the draft follows Mr. Wiggins' suggested response.

I talked to Congressman Hansen two weeks ago and requested that his attorney call me if there had been any arrangements made with creditors to release Mr. Hansen of any personal liability at the time of the transfer of the debts to Mrs. Hansen. There has been no response, but I do not believe that it would be proper to draw any conclusions from this fact. I should also point out that Congressman Hansen might well be concerned about the implications of the response suggested by Congressman Wiggins. The reason for the transfer of debts was to allow Mrs. Hansen to raise funds which would not accure to the personal benefit of Congressman Hansen. If we now state that the sole reason why he has to disclose these debts is because he is still liable, then there would be concern about the propriety of his spouse's fund-raising efforts under House Rules.

Nevertheless, Mr. Preyer is anxious to arrive at the correct result and to minimize any publicity, etc., surrounding this matter (apparently there has yet to be an official complaint filed). Therefore, it seems appropriate to accept Mr. Wiggins' suggestion with the additional "dicta" contained on page 2. Please note that the terms are couched in language such as "appear to" so that Mr. Wiggins and Mr. Preyer would not be definitively ruling on the "constructive control" question at this time. However, I think it is almost certain that they would rule in this manner, if required, and to so indicate at this time would probably put the matter to rest instead of prolonging the debate.

EXHIBIT 3

Although Mr. Wiggins did not fully participate in the Committee mark-up of Advisory Opinion #12, and is not comfortable with some of its implications (particularly in regard to disclosure of spouse assets), we do have to summarize and rely on its existence. Otherwise, we have no basis for the rather lenient treatment of spouse income, gifts, and reimbursements provided for in Advisory Opinion # 12.

Simply put, Advisory Opinion #12 requires disclosure of spouse liabilities if they were originally the liabilities of the reporting individual. Such a provision only makes common sense, because otherwise one could easily transfer the liability to the spouse and circumvent disclosure. It is quite possible that a creditor who is a friend would agree to such an arrangement, but since the Rules provide no exception for liabilities to "friends", such a "loophole" would be unacceptable.

Finally, I want to emphasize that the language in the fourth paragraph on page three would provide Congressman Hansen with a response to any critics, both in the media and potential political opponents, concerning this subject, as well as provide Mr. Hansen with a basis for asserting that he has acted properly throughout this entire matter.

After you have had a chance to discuss this with Mr. Wiggins, please give me a call.

Sincerely,

Don

DON TERRY

U.S. House of Representatives
SELECT COMMITTEE ON ETHICS
Washington, D.C. 20515

June 15, 1978

Honorable George Hansen
1125 Longworth House Office Building
Washington, D.C. 20515

Dear George:

Enclosed is a draft of our proposed response to your recent inquiry concerning the requirements of Rule XLIV.

We are sending this draft to you so that you might have an opportunity to bring to our attention any additional relevant information before we issue a formal letter within the next two weeks.

Sincerely,

RICHARDSON PREYER
Chairman

CHARLES E. WIGGINS
Ranking Minority Member

EXHIBIT 4

June 15, 1978

Honorable George Hansen
1125 Longworth House Office Building
Washington, D.C. 20515

Dear George:

This letter is in response to your request for an advisory opinion regarding spouse disclosure requirements pursuant to House Rule XLIV. Specifically, you asked whether certain personal liabilities which were transferred to your wife before December 31, 1977 needed to be disclosed on the financial disclosure statement filed by Members of Congress on or before April 30, 1978.

Rule XLIV requires disclosure of "the identity and category of value of each liability owed, directly or indirectly, which exceeds $2500 as of the close of the preceding calendar year". Basically, the assertion is made that any liabilities transferred to your spouse before December 31, 1977 were no longer under your "constructive control", and therefore are not subject to the disclosure requirements.

However, we have no indication that the affected creditors released you from your personal liability to them at the time of the transfer. Accordingly, it is probable that you remain in some way ultimately liable for the debts originally incurred by you.

Under such circumstances, our decision would appear to be simple and clear-cut. You should disclose those liabilities exceeding $2500 as of the close of calendar year 1977 which were originally incurred by you. There is no requirement, of course, to disclose any liability whose balance was reduced below $2500 as of December 31, 1977.

Since this decision is based on rather narrow grounds, it does not necessarily involve any interpretation of the "constructive control" question. Nevertheless, it would appear that the transferred liabilities may also be subject to disclosure under the "constructive control" test of Rule XLIV depending upon the factual circumstances of a given case.

The following summarizes the development of spouse disclosure requirements of House Rule XLIV in the context of the situation discussed in your letter.

In 1968 the House adopted financial disclosure requirements for Members, officers, and certain employees. At that time Rule XLIV required only disclosure of certain types of holdings and the source of certain types of income. The Rule also required disclosure of those financial holdings which were under the "constructive control" of the reporting individual.

The Committee on Standards of Official Conduct adopted the following interpretation of "constructive control" for the first filing made in April 1969:

> "Financial interests in the name of another should be regarded as constructively controlled...if enhancement of those interests would substantially benefit the person reporting. Normally, in the absence of specific property division agreements, trusts, etc., the interests of spouses...would be constructively controlled."

You heavily rely on this past interpretation of "constructive control" to assert an exemption from disclosure under the current Rule. However, it appears that the original interpretation adopted by the Standards Committee applied only to holdings and was never intended to refer to liabilities.

This conclusion is based on the fact that the requirement to list unsecured liabilities in excess of $10,000 did not take effect until 1972. The question of how the "constructive control" test would apply to liabilities of the spouse never arose from 1972-1977, and therefore the issue was never considered by the Committee on Standards of Official Conduct.

Consequently, it seems that the "constructive control" test under the old Rule had reference only to "holdings" and that any reliance upon such interpretation in relation to liabilities would be misplaced. However, even if the old interpretation had applied to liabilities, any new or additional interpretation or clarification issued by the Select Committee on Ethics would supersede the old interpretation.

The "constructive control" interpretation that was adopted for holdings in 1968 has little or no reasonable application to the new disclosure requirements concerning income, gifts, reimbursements, and liabilities. Accordingly, the Select Committee acted to interpret and clarify spouse disclosure requirements in a manner consistent with the spirit and intent of new House Rule XLIV as amended.

For instance, it would have been unreasonable to require that any and all gifts or reimbursements received by a spouse must be disclosed simply because the reporting individual might theoretically benefit from such items, (e.g. a gift received from a grateful client of a spouse; or a bonus received from the spouse's employer in recognition of superior work, reimbursements or travel in connection with a spouse's business trip, etc.). Additionally, it was decided that no purpose would be served by requiring the exact income of a spouse (even though such income would probably benefit the reporting individual), and therefore disclosure was limited to the source, but not the amount, of earned income.

In order to apply common sense considerations and a "rule of reasonableness" in the application of the intent of the new disclosure rule, the Committee adopted Advisory Opinion # 12 on December 1, 1977. That advisory opinion states that spouse liabilities should be disclosed unless the reporting individual indicates that they "...were not obtained in any way from the assets or activities of the reporting individual."

Under the Select Committee's interpretation, it seems clear that liabilities of a spouse should be listed unless they were acquired independently of the reporting individual and the reporting individual was not substantially benefited therefrom. Therefore, it would appear that the liabilities which were transferred to Mrs. Hansen ought to be disclosed under the "constructive control" test, as well as the unambiguous text of the Rule.

To hold otherwise would allow for the circumvention of the Rule. Although the motivation to enter into this transfer was certainly not to avoid disclosure, under the interpretation you propose, any reporting individual could simply transfer liabilities to a spouse on December 30, and thereby circumvent the Rule because it was not his liability "as of the close of the calendar year".

Please be assured that we are of the opinion that the treatment you have received in the press concerning this subject is unwarranted, and that we are convinced any failure on your part to list required information under House Rule XLIV was based on your good-faith interpretation of that Rule. Therefore, there would be no grounds for any possible action against you based on an assertion of willful falsification or failure to file required information.

However, it does seem to us that the information discussed above should have been listed in your disclosure form.

If you have any further questions concerning this matter, please do not hesitate to contact us.

Sincerely,

RICHARDSON PREYER
Chairman

CHARLES E. WIGGINS
Ranking Minority Member

In mid-June, Congressmen Preyer and Wiggins sent a proposed draft of a letter clarifying spouse disclosure requirements to Congressman George Hansen for his comments. Mr. Hansen's attorney subsequently discussed two major points of the draft letter with Donald Terry of the Select Committee staff:

1) The draft asserted that since affected creditors apparently did not release Congressman Hansen from any personal liability, he would most likely still be legally liable for those debts. Therefore, any such debts would be subject to disclosure if they exceeded $2,500 as of December 31, 1977.

We are now informed that Congressman Hansen made a number of courtesy calls to his personal creditors in advance of the public statement announcing his property settlement. Mr. Hansen made these calls to most, if not all, of the creditors because he wanted his friends and supporters to understand the circumstances surrounding the property settlement and to tell them that the marriage itself would remain unaffected by the property settlement.

While Mr. Hansen apparently did not specifically ask anyone to be personally released from any further liability, none of the creditors objected to or questioned the procedure when they were advised of the plan.

(2) The draft letter states that regardless of the legal liability at this point, House Rule XLIV, as interpreted by the Select Committee requires disclosure of any spousal debts "unless they were not obtained in any way from the activities of the reporting individual." Since the debts were "transferred", at least in part, from Mr. to Mrs. Hansen, the draft concludes that they should be disclosed.

Mr. Hansen's attorney argues that there was no "transfer" of debts or liability. Instead the property settlement was actually a legal reformation of the old debts which, in effect, created a new situation without connection to any former liabilities.

Since Mr. Hansen wrote to the Select Committee there has not been any formal complaint filed with the Committee on Standards of Official Conduct. However, the attached letter was recently forwarded to the Committee.

EXHIBIT 5

HERBERT J. MILLER, JR.
JOHN JOSEPH CASSIDY
RAYMOND C. LARROCA
NATHAN LEWIN
MARTIN D. MINSKER
WILLIAM H. JEFFRESS, JR.
R. STAN MORTENSON
THOMAS B. CARR
JAMIE S. GORELICK
JAMES E. ROCAP, III
STEPHEN L. NIGHTINGALE
SETH P. WAXMAN
DAVID O. STEWART
JONATHAN B. SALLET
ANNE SHERE WALLWORK
RANDALL J. TURK
STEPHEN L. BRAGA
JAMES L. VOLLING*
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89-2343

June 5, 1984

BY HAND

Abbe David Lowell, Esq.
Committee on Standards of
Official Conduct
U.S. House of Representatives
Washington, D.C. 20515

Dear Abbe:

Pursuant to our telephone conversation of last evening and our meeting this morning, I have done some additional investigation and have thought some more about the documents which you have recently found in the files of the House Select Committee on Ethics. Although I do not, at present, have copies of these documents in my possession (because you explained that you would be checking first with the Committee to determine whether they could be released to me), I have a general recollection of their contents. Since I will be unavailable on June 6 and 7 and I know that you are busy preparing the final draft of the report you will be submitting to the Committee, I am taking the liberty of commenting on these newly-raised matters in this letter.

1. I advised you this morning that neither Congressman Hansen nor Mr. Runft has a specific recollection of having seen the draft letter that you showed me this morning. I understand that is consistent with the present memory of others who were involved at the time. For example, you advised me that Don Terry also did not recall that there had been a letter either drafted or sent. It is not surprising, of course, that by this date -- almost six years after the events -- a particular document is not recalled by any of the parties.

2. The attorney with whom Mr. Terry spoke in June 1978 was John Runft. I understand that Mr. Runft called you this morning and told you his recollection of the discussion he had with Mr. Terry. It was Mr. Runft's impression that the conversation ended with Mr. Terry having a more correct understanding of the purpose and effect of the Property Settlement Agreement and its consequence for financial disclosure obligations than he had had prior to their lengthy discussion. Indeed, it was Mr.

EXHIBIT 6

Runft's feeling that he had satisfied Mr. Terry that the treatment of Mrs. Hansen's liabilities on the financial disclosure form was correct.

3. I have had Mr. Runft check his time sheets and bills for the month of June 1978. He has advised me that they reflect the following entries:

> 6/23/78 -- Telephone conference with George re proposed House Ethics Committee ruling.
>
> 6/27/78 -- Telephone conference with George re Ethics Committee. Rough draft of opinion; telephone conference with Don Terry of the House Ethics Committee re disction [sic] between property settlement involving vested interest and transfers of property and re verbal agreement; consistent with Property Settlement Agreement consisting [sic] reformation of contract; telephone conference with George re above
>
> 6/30/78 -- Telephone conference with George reviewing House Ethics Committee position and conference with attorney for Committee

These entries make it clear that in the week between June 23, 1978, and June 30, 1978, Mr. Runft had telephone conferences regarding the draft which you found in the House Committee files. Following these conversations, the House Committee determined not to send the letter that it had proposed to send to Congressman Hansen.

4. If anything, this exchange demonstrates that Congressman Hansen did not simply send a letter in the hope that the letter would be filed away and forgotten and could be brought out as a self-serving defense whenever it seemed useful. The letter plainly prompted discussion within the House Committee and provoked questions to the Congressman's attorney. Those questions were answered, apparently to the satisfaction of the Committee members. To my mind, this exchange strengthens -- rather than weakens -- the Congressman's position that he received implied consent from the House Committee for his decision not to report his wife's liabilities. Indeed, requests for a copy of the Property Settlement Agreement made in later years by the staff of the Committee on Standards of Official Conduct indicated that the House Committee did not subscribe to the view expressed in the draft letter that you showed me. If the Committee had agreed with that letter, there would have been no relevance whatever to the language of the Agreement.

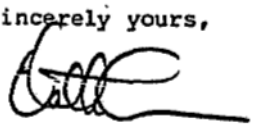
5. I hope it is clear to you that no portion of the Congressman's defense in this matter is intended to criticize the Committee on Ethics or the Committee on Standards of Official Conduct in any way. It is, and always has been, Congressman Hansen's view that he expressed his position to the Committee on Ethics in his correspondence in May 1978, and that the Committee did its job by reviewing that correspondence and determining not to take any action based upon it. The documents that you have now found provide further support for that proposition. The matter was amply discussed, questions were directed to Congressman Hansen's counsel, and the questions were answered. The Committee then determined not to send to the Congressman the letter which a staff member had drafted.

6. In our conversations you have used, at various times, the term "political reasons." I do not assume that the Committee's actions in either preparing the draft which you showed me this morning or in determining not to send it were based on considerations other than those appropriate to the Committee. If one were to take account of "political reasons," it is the Congressman's strong belief that there were more "political reasons" for the Committee to issue an opinion telling him his financial disclosure form was incomplete than not to do so. Indeed, the Committee had shown no hesitation to rule adversely to the Congressman in Advisory Opinion No. 11.

7. You have mentioned that the one individual with a "clear recollection" of the events in 1978 was a staff member by the name of Mr. Dye. You should know, in this regard, that I have been advised that Mr. Dye has been, for the past four years, on the staff of the Democratic Study Group, an organization which lists Congressman Hansen as one of its chief adversaries. I do not mean to impugn anything that Mr. Dye has said. But it is relevant, I believe, for anyone evaluating the facts to know whether the witness with the most "clear recollection" harbors any bias in the matter.

I will try, within the next two days, to have my office get to you any documents that are relevant to this new subject. Please feel free to contact Stephen Braga of my office if any questions do come up tomorrow or the next day.

Sincerely yours,



Nathan Lewin

NL/clb

DISCIPLINARY HEARING

WEDNESDAY, JUNE 20, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC.

The committee met, pursuant to call, at 10 a.m., in room 2359–A, Rayburn House Office Building, Hon. Louis Stokes (chairman of the committee) presiding.

Present: Representatives Stokes, Spence, Rahall, Jenkins, Myers, Dixon, Brown, Fazio, Hansen of Utah, Coyne, and Bliley.

Also present: Stanley M. Brand and Abbe David Lowell, special counsel; Representative George V. Hansen; Nathan Lewin, Frank A.S. Campbell, and Stephen Braga, counsel for respondent.

The CHAIRMAN. A quorum being present, the committee will please come to order.

The Chair will request the electronic media to remove any and all electronic or other recording or taping equipment from the room. Under the Rules of the House, there can be no recording of this proceeding.

The Chair at this time will make a brief opening statement. To recap our proceedings, in April Congressman Hansen was convicted in Federal Court of filing false statements. Under House and Committee Rules, this conviction had the automatic effect of requiring that a preliminary inquiry into Mr. Hansen's conduct be initiated. As part of this preliminary inquiry, Special Counsel were appointed. Congressman Hansen and his counsel addressed the committee, and the entire record of the criminal trial was considered by the committee.

On the basis of this review, Special Counsel prepared a report recommending that the committee find that violations occurred over which the committee has jurisdiction.

Numerous meetings occurred between Special Counsel and Representative Hansen's attorneys to discuss this matter. Counsel for both sides agreed to what would be the record in this case.

Pursuant to Rule 14 of the committee's rules, the committee on June 14, 1984, determined that offenses were committed by Representative George V. Hansen of Idaho and constituted violations over which the committee is given jurisdiction under clause 4(e) of Rule X of the House of Representatives, including House Rules XLIV and XLIII, clauses 1, 4 and 7.

In accordance with the motion offered in committee, and approved by a vote of 10 to nothing, the committee resolved to hold a disciplinary hearing for the sole purpose of determining what sanction to recommend that the House of Representatives impose on

Representative Hansen for these offenses. We are meeting at this time for that purpose.

The committee now affords Special Counsel for the committee and counsel for Representative Hansen the opportunity to present oral and/or written submissions as to the sanction the committee should recommend to the House. Testimony by witnesses will not be heard, except by a vote of a majority of the committee. It is my understanding that no witnesses will be requested.

On a preliminary matter, the Chair received a request from respondent's counsel on June 15, 1984, requesting reconsideration of the committee's June 14 action, and to reopen the proceedings to hear various witnesses under oath including staff. By letter dated June 19, that request was denied for the reasons adequately stated therein, and the letter will be made part of the record.

For today's hearing, therefore, the sole issue is to determine what sanction this committee should recommend to the House. Each side will be recognized for 30 minutes beginning with Special Counsel for the committee. At this time the Chair will recognize either Mr. Lowell or Mr. Brand.

Mr. LOWELL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lowell, you may proceed.

Mr. LOWELL. Members of the committee, to recapitulate Special Counsel's position in this case, we refer the committee and the record to two reports which we submitted to the committee, one dated June 12, 1984, a 50-some-odd page report in which we analyzed the record in the case and made our recommendation that the committee find Congressman Hansen in violation of a number of House rules; the second dated June 19, 1984, submitted to the committee yesterday with our recommendation, which we will return to in a moment.

The chairman has placed the committee proceedings in its procedural context. I would only flesh out a little bit of the factual context. Congressman Hansen was charged in the District Court with a violation of Federal Statute 18 USC 1001 for knowingly and willfully making false statements to an agency of the Government, in this case the U.S. House of Representatives. The basis of those false statements was the financial disclosure requirements of another statute, the Ethics in Government Act, which also is embodied in House Rule XLIV.

The transactions to which the indictment and the conviction related were a Dallas loan from a bank to Mrs. Hansen, the extension of that loan at some later point, the payoff of that loan by a Mr. Nelson Bunker Hunt, the acquisition of an $87,000 silver commodities profit, and the acquisition of loans totaling $135,000 from three Virginia gentlemen. None of these four transactions were reported on financial disclosure forms in the years in which they were due.

Congressman Hansen did not deny that these nondisclosures occurred, but relied instead on the defense that he did not disclose these transactions upon the advice of counsel.

Based on the transcript of the trial, our own review of the testimony, and the meetings that we had with counsel for Congressman Hansen, we concluded that there were four violations of House

rules from Mr. Hansen's conduct, and that his conduct was willful and knowing and was without justification.

Those were violations of House Rule XLIV on financial disclosure for all of the transactions enumerated, violation of Rule XLIII for a solicitation scheme by which Mr. and Mrs. Hansen raised over $100,000 in small contributions, and violations of the appearance of conflict statute and rule, and the acceptance of gifts rule in acquiring the extensions of the loans, the loan payoff itself, and the already made $87,000 profit.

On the basis of that, we recommended to the committee on June 14, that it find those violations had occurred and that it go ahead with phase two of the proceeding. The chairman has just stated that we are in phase two, which is to direct the attention of the committee on the sanction to recommend to the House of Representatives.

Special Counsel, in its June 19, 1984 report, has made the recommendation that the violations not being technical, having been willful and knowing, that the committee do recommend a sanction to the House and that the sanction be a reprimand and a fine, and Mr. Brand will explain the basis for that recommendation.

Mr. BRAND. Mr. Chairman and members of the committee, the source of power for the committee to recommend and the House to impose disciplinary sanctions is the Constitution, which provides in article 1, section 5, clause 2, that each House may punish its Members for disorderly behavior and with the concurrence of two-thirds expel a Member.

The sanctions available to the committee are spelled out in committee Rule 17. These include expulsion, censure, reprimand, fine, denial or limitation of any right, power, privilege or immunity available to Members, and, six, any other appropriate sanction.

The committee has issued general guidelines in its rules, not binding in any sense, where it has stated that "Reprimand is appropriate for serious violations, censures appropriate for more serious violations and expulsion is appropriate for only the most serious violations." In examining the prior precedents, expulsion has been imposed only four times in the history of the House of Representatives, three times for treason in the Civil War era, and once for a Member accepting bribes in connection with his official responsibilities.

Censure has been imposed 19 times. Because the Constitution itself does not define the range of possible sanctions with the exception of the procedural prerequisites for expulsion, it is within House precedents and canon that the appropriate sanctions are to be found for offenses of various kinds.

If there is any distinction to be drawn in the precedents between censure and reprimand, it is that censure appears to have been reserved for offenses which are related to the misappropriation of either appropriated or other funds, or unjust enrichment by a Member. The offenses for which the committee under its rules has found Congressman Hansen to have violated, reduced to their bare essentials, are disclosure-related offenses, even the other rules violations which the committee has found, based on acceptance of gifts or the appearance of a conflict, relate to the failure to disclose.

Indeed, we found, based on the record and the trial, that it was to avoid explaining the relationship with certain persons outside the Congress that Congressman Hansen failed to list these transactions. In our view, neither does the solicitation campaign, which we found to have violated Advisory Opinions Nos. 4 and 11, relate to or bring the offense, bring the offense up from reprimand to any greater offense. The House has previously deemed such conversion offenses, even when coupled with failure to disclose, to be subject to reprimand.

As these precedents indicate, it has been the character of the offense disclosure and conversion which establishes the level of punishment imposed, not the cumulative nature of the offenses. Accordingly, in our view, the appropriate punishment in this case would appear to be a reprimand under the House precedents.

Committee Rule 17(b)(1)(D) also includes, as I have mentioned, a fine component as an appropriate sanction, and committee Rule 17(c)(3) states that a fine is appropriate in a case in which it is likely that the violation was committed to secure a financial benefit. The imposition of fines is a relatively recent innovation in the House's range of disciplinary powers, but it has been used twice in recent cases, once most recently in the case relating to Congressman Charles Diggs of Michigan.

Accordingly, Rule 17(c)(3), because it seems to speak of fine as an appropriate sanction for an offense where a Member obtains pecuniary benefits, it is safe to say, in our review of the evidence, that some degree of benefit was derived by Congressman Hansen's nondisclosed transactions, as those have been described by Special Counsel. In our view, therefore, based on what the record reveals, and on the applicable House precedents, we recommend the committee vote a sanction of reprimand and a fine of $10,000.

The CHAIRMAN. Does counsel reserve any of their time?

Mr. BRAND. We reserve the remainder of the time.

The CHAIRMAN. How much time has the Special Counsel consumed?

Mr. SWANNER. Ten minutes, Mr. Chairman.

The CHAIRMAN. The balance of Special Counsel's time is reserved.

The Chair at this time recognizes counsel for respondent, Mr. Lewin.

Mr. LEWIN. Thank you, Mr. Chairman. Good morning. I would like at this time on my behalf, and I am sure on the Congressman's behalf, although he will be speaking briefly himself as well with leave of the committee, to thank the committee for its courtesies, and Special Counsel for their courtesies, with regard to this hearing and the procedures heretofore. We have met at times with Special Counsel in the past and discussed the procedures and discussed various aspects of the evidence.

Having said that, I think I also should reiterate what I did say in a letter to the chairman on the date that we first received Special Counsel's report, which is that with all the courtesies, we believe that unfortunately the procedures that the committee has followed since the last time we met, since the hearing at which the Congressman testified, and I made a presentation on his behalf, we think did violate the spirit of the committee's rules and we think

the constitutional rights of the Congressman, and because they relate specifically to the allegations that the committee has found by its decision of last week, I think I would like to speak to that just briefly.

The committee's rules provide, in Rule 14, that in the event of a conviction in a court, after a criminal conviction, there is to be a procedure which I think, as the chairman described it in his letter to me of yesterday, is a "truncated procedure designed to utilize the trial record and not relitigate a member's case," and it is true that after a trial in which a Member of Congress has had an opportunity to meet particular charges, it certainly makes good sense in terms of the economical use of the time of Members of Congress not to relitigate those issues that have been presented in that case, but to utilize that trial record instead.

It is important, however, to emphasize the fact that that really turns on three presuppositions. One is that in the proceeding before this committee, there is a fair evaluation of that trial transcript. Obviously, either the committee members can read the entire trial transcript, which is an enormous burden, or have before them a fair appraisal of what the trial transcript and the evidence actually shows.

The second presupposition and premise is that if there is going to be any new evidence beyond what was available at the trial, that that new evidence would be presented to the Member who is being charged with an opportunity for him to respond and deal with it in a way that the committee can meaningfully understand.

The third, I think, presupposition and premise of that is that in fact what was litigated at the trial, which resulted in the criminal conviction, is actually what is being considered by the committee. The obvious unfairness of any contrary procedure I think is apparent. In other words, if there is not a litigation of any particular issue in the criminal case, then there is no reason for the Congressman in that proceeding to present whatever defense, or no opportunity to present whatever defense he may have to that particular charge.

Unfortunately, the procedures since May 17 have violated all three of those premises. Let me explain briefly why.

With regard to the limitation concerning the charges that were actually pending in the criminal case, Mr. Lowell, in his preliminary statement this morning before the committee, said, well he had recommended to the committee, and the committee had found by its determination the other day, that there had been a violation of rules relating to financial disclosure.

That claim was before the criminal case. But also violations relating to solicitation of funds, to the acceptance of gifts and to the appearance of conflicts. None of those three items—if the committee is in fact contemplating any discipline based on it—none of those three items was actually before the court in which there was a criminal conviction. Let me be very specific.

Special Counsel's report, beginning at page 45, speaks of those three items, speaks, for example, of the solicitation campaign. The only evidence relating in any way to Congressman Hansen's and Mrs. Hansen's—really Mrs. Hansen's—running of that solicitation campaign was a question that was asked of her on cross-examina-