

1 MS. TENNERIELLO: What exhibit
2 number are we up to? Number 4?

3 BY MS. TENNERIELLO:

4 Q I'd like to show you what's been
5 labeled Exhibit No. 4. I apologize for
6 these. These documents were produced on
7 Friday, and I was only able to make a
8 limited number of copies. I apologize. We
9 only have three extras.

10 (McConnell Deposition Exhibit
11 No. 4 was marked for
12 identification.)

13 MS. TENNERIELLO: Could you review
14 this document, please.

15 (Witness examined document)

16 BY MS. TENNERIELLO:

17 Q Have you had a chance to review
18 the document, Senator?

19 A Yes, um-hmm.

20 Q Could you describe it for me,
21 please?

22 A It appears to be follow-up notes

1 to phone calls I was making to raise funds
2 for my '02 senate race.

3 Q So the first two pages would be
4 lists of people that you were calling, and
5 then following it, it appears that there is
6 a note from you to each of the people, and
7 behind each note appears to be a
8 contribution history of that individual. Is
9 that a correct characterization?

10 A I think that's what it is, yes.

11 Q Now, these letters appear to be
12 thanking the donors in question for
13 contributing the maximum amount permitted by
14 law. Is that not right?

15 A Well, thanking them for making a
16 commitment to do something, yes, I think
17 that's what they are for.

18 Q Was this list, then, generated to
19 be a list of people likely to contribute the
20 maximum amount possible?

21 A Right.

22 Q Can you tell me, was there a

1 standard sort of format that each phone call
2 would have? Can you give me the outlines of
3 what a phone call to one of these
4 individuals might consist of?

5 A Looking down the list, most of
6 these people, if not all of them, are
7 long-time supporters who'd supported me in
8 previous elections, and I was simply making
9 an effort to get them to do again what they
10 had done in the past.

11 Q Would you chat with each of these
12 people for a few minutes, or how long did
13 each call go on for, Senator?

14 A It would vary.

15 Q Vary from how long to how long?

16 A From very short to a little bit
17 longer, depending upon the circumstance. I
18 mean, many of these are personal friends of
19 mine, so we could be asking about children
20 and that sort of thing.

21 Q Speaking of children, if you will
22 look at what's Bates stamped on the bottom,

1 the bottom right-hand corner. If you would
2 turn to page 737 -- I'm sorry --

3 A I don't have that.

4 MS. TENNERIELLO: Let me introduce
5 the next exhibit. I'd ask you to take a
6 moment to review this as well.

7 (McConnell Deposition Exhibit
8 No. 5 was marked for
9 identification.)

10 THE WITNESS: I've thumbed through
11 it.

12 BY MS. TENNERIELLO:

13 Q It appears that you've looked at
14 each page of the exhibit?

15 A Tried to.

16 Q This is Deposition Exhibit No. 5,
17 and this appears, again, to be notes to you
18 following up on phone calls to likely
19 contributors, is that correct?

20 A Yes, that's what it appears to be.

21 Q These are also people who
22 committed to giving the maximum?

1 A In some instances, yes, yeah.

2 Q Again, would these have been from
3 a list of people considered likely to give
4 the maximum that you were calling?

5 A Yes, these were people who'd
6 contributed in the past.

7 Q It appears that I said these
8 appear to be notes to you. These are notes
9 from you --

10 A From me.

11 Q To the contributors, or to the
12 potential contributors who had committed to
13 give the maximum.

14 A In many instances, yes.

15 Q In many instances.

16 A Yes.

17 Q Again, from a list of those likely
18 to give the maximum, to your knowledge.

19 A Yes. Most of these were prior
20 donors.

21 Q Again, how long would you spend on
22 these calls? Can you give us a range on

1 each of these calls?

2 A On each individual call?

3 Q Yes.

4 A It would depend on how much the
5 person -- many of these -- most all these
6 people, I knew. It depended upon how much
7 they wanted to talk.

8 Q Might one of these calls go on for
9 half an hour?

10 A Usually not, but, you know,
11 usually been shorter than that.

12 Q Do these folks, these individuals,
13 raise policy issues of concern to them when
14 you speak with them?

15 A Very seldom. Most of them were
16 personal friends. Occasionally.

17 Q But on occasion, some might.

18 A Yeah, on occasion.

19 Q Are you ever given a list of
20 people to request less than the maximum
21 amount permitted by law?

22 A Yes, I've done that some, too.

1 Q How many times has that happened?

2 A I don't recall.

3 Q If you would look at Exhibit No. 5
4 in the lower right corner, No. 737 --

5 A Um-hmm.

6 Q It appears that this is a note to
7 "Dear Rich." It appears to be Mr. Richard
8 Sherman, from the contribution history
9 behind this note. In the note, it says,
10 "Thanks for your willingness to speak to
11 Debra Jean about contributing \$2,000 as
12 well."

13 A Yes.

14 Q Debra Jean appears from the
15 contribution history to be his --

16 A Apparently his new wife.

17 Q Apparently his wife.

18 A Um-hmm.

19 Q So that is his wife.

20 A Um-hmm.

21 Q So you apparently spoke to him
22 about asking his wife to contribute --

1 A I did.

2 Q Money as well. And again, if you
3 look at No. 760.

4 A Seven what?

5 Q I'm sorry, No. 760, 0760 on the
6 bottom right-hand corner. It's a note that
7 says, "Dear Vincenzo." It appears to be
8 Vincenzo Gabrielle. I'm not sure if I'm
9 pronouncing his name correctly.

10 A Yes, um-hmm.

11 Q He appears to have agreed to
12 contribute the maximum, and it appears that
13 he had asked Pat --

14 A Who is his wife.

15 Q Pat is his wife.

16 A Um-hmm.

17 Q So from this note, it appears that
18 you spoke with him about asking his wife to
19 give the maximum as well?

20 A It appears that's what I did, yes.

21 Q Is it fair to say that it's common
22 for you to speak with maximum donors about

1 having family members contribute the maximum
2 as well?

3 A Occasionally.

4 Q When you say "occasionally," could
5 you define "occasionally" for me, Senator?

6 A "Occasionally" means occasionally.

7 Q I mean, was this not a regular
8 practice? Is it not part of your routine
9 with maximum donors?

10 A No, I wouldn't say it's part of
11 any particular routine. I know Pat. I know
12 Vincenzo and Pat well, and I'm sure it came
13 up in the course of the conversation.

14 Q Senator, I would like to speak
15 with you about fund-raisers that you have
16 held. Now, I have a packet of materials
17 reflecting these fund-raisers, which were
18 taken from the documents that your office
19 produced. I wonder if we can put these
20 together and make them one exhibit. I
21 apologize that they're not clipped. I have
22 a set. Could I ask you to review these

1 materials, to flip through it.

2 MS. TENNERIELLO: This is
3 Deposition Exhibit No. 6.

4 (McConnell Deposition Exhibit
5 No. 6 was marked for
6 identification.)

7 MS. TENNERIELLO: I'm not going to
8 be questioning you about the details of each
9 of these documents but about the general
10 format of the fundraisers and the follow-up
11 to the fundraisers in general terms.

12 BY MS. TENNERIELLO:

13 Q Do these documents reflect
14 fundraisers that you can recall?

15 A Yeah, most of them I can recall.
16 They appear to be from a current campaign.

17 Q Now, the format appears to be that
18 each fundraiser will generally have a
19 steering committee of people who commit to
20 encouraging participation in raising money
21 for the fund-raiser, is that not correct?

22 A Some of them have used that

1 approach; others have not.

2 Q Each steering committee member
3 would give \$1,000?

4 A It varies, depending on the event,
5 and my staff sort of works with the host.
6 Once you get the host, you sort of work the
7 rest of it out and it varies, depending upon
8 what the host is willing to do in terms of
9 trying to get others involved.

10 Q As a rule, will each steering
11 committee member contribute a thousand
12 dollars?

13 A There is no particular rule. Each
14 one is different.

15 Q A minimum of \$1,000.

16 A Depends on the county.

17 Q What are the criteria for
18 membership in the steering committee?

19 A It varies from county to county.
20 In some counties, the approach has been not
21 to have a suggested amount at all; you just
22 invite people, they come in, and you hope

1 that they're so inspired that they
2 contribute whatever they would like to. So,
3 it varies. Each one is done differently
4 based upon the judgement of the fellow that
5 works for me in the campaign.

6 Q In numerous events, steering
7 committee members have committed to
8 contribute \$1,000 each, is that not right?

9 A I certainly hope so, yeah.

10 Q In numerous events, steering
11 committee members have agreed to gather
12 contributions from others, is that not
13 correct?

14 A Sure.

15 Q In the documents produced by your
16 campaign, the co-hosts agreed to give
17 \$1,000.

18 A It depends on the event. I mean,
19 the documents would really speak for
20 themselves that -- here or in the record.

21 Q Frequently, co-hosts will commit
22 to giving \$1,000, is that right?

1 A Sometimes they do and sometimes
2 they don't.

3 Q And then there's a category of
4 sponsors who commit to paying \$500, is that
5 not correct?

6 A Sometimes that's the way it's
7 structured; sometimes it's structured
8 differently.

9 Q Is that not common?

10 A Common? No, I'd say sometimes
11 it's done that way and sometimes it isn't.

12 Q In your campaign's practice, is it
13 not common?

14 A It depends on the county.

15 Q Is it not a common practice for
16 there to be another category of guests
17 who -- I'm sorry, the sponsors and co-hosts
18 are generally listed on the event
19 invitations, is that not correct?

20 A Sometimes that's done.

21 Q Commonly done?

22 A Sometimes it's done; sometimes it

1 isn't. It all depends on whether in this
2 particular given county, you've got a lot of
3 people who are interested or only a few
4 people who are interested or whether you've
5 got a host that wants to do everything
6 himself or herself or whether they want to
7 spread the work around. There's no one way
8 to do one of these events.

9 Q Those who have already contributed
10 the maximum amount permitted by law to your
11 campaign will be given complimentary
12 admission, is that not correct?

13 A Gosh, I would hope so. I can't
14 imagine that we would want to keep them
15 away.

16 Q Frequently, these events will be
17 structured to have a private reception
18 followed by a general reception, is that not
19 correct?

20 A Occasionally, um-hmm.

21 Q You say occasionally.

22 A Um-hmm.

1 Q When you say "occasionally," what
2 do you mean by occasionally?

3 A Sometimes we do it that way and
4 sometimes we don't. It depends on the
5 county, how many people are actively
6 interested in helping, whether it's just a
7 small group or a large group. It varies
8 from event to event.

9 Q It's not a standard practice for
10 your campaign.

11 A It's not a standard practice.
12 There is a -- each county is approached in a
13 different way based upon how many
14 enthusiastic supporters we think we have.

15 Q On those occasions where you have
16 a private reception and then a general
17 reception, guests at the private reception
18 will be those contributing at a higher level
19 than those at the general reception, is that
20 not true?

21 A That's usually the case, yes.

22 Q Is it usually the case that those

1 at the private reception will be those who
2 have given \$1,000, sponsors and steering
3 committee members?

4 A Well, that depends on the county,
5 you know. It varies from county to county,
6 but what typically happens is that people
7 who come to the private reception stay for
8 the rest of it.

9 Q Can you recall a two-tiered event
10 with a private reception where the private
11 reception was for those who had given less
12 than \$1,000?

13 A No, that typically would not be
14 done that way; it would probably be done the
15 way you described earlier. But most events
16 are not tiered. Tiered events are the
17 exception rather than the rule.

18 MS. TENNERIELLO: Let me ask you
19 one more question along these lines. I'd
20 like to call your attention to Exhibit
21 No. 2 -- I'm sorry. This is not ready to
22 introduce yet.

1 THE WITNESS: Are we through with
2 this stack?

3 MS. TENNERIELLO: No, if you would
4 please keep that. Actually, yes. You will
5 not need to refer to that stack again. This
6 will be Exhibit No. 6, I believe, that I'm
7 showing you? Seven.

8 (McConnell Deposition Exhibit
9 No. 7 was marked for
10 identification.)

11 BY MS. TENNERIELLO:

12 Q Have you had a chance to review
13 the document?

14 A Yes, um-hmm.

15 Q These appear to be documents
16 related to a fundraiser held for your
17 campaign with a special guest, then-Senate
18 Majority Leader Trent Lott, on
19 February 20th, 2001.

20 A Yes.

21 Q It appears that the first page is
22 a list of co-hosts and sponsors followed by

1 a copy of the invitation followed by another
2 list of co-hosts and sponsors followed by a
3 contribution history, presumably of those
4 being invited to the event. Would that not
5 be likely?

6 A Yes, I would assume so.

7 Q Followed by notes from you, first
8 to Mac and then to Russell and Jill. Now,
9 can you tell me, first of all, who Mac is?

10 A Apparently, he was the principal
11 host here along with Russell Travis and his
12 wife, who are right here on the invitation,
13 a copy of which you have. I thanked them
14 for their efforts and putting, you know,
15 recruiting the hosts, co-hosts, and sponsors
16 and working on the event.

17 Q This is something that you would
18 generally do after a fund-raising event,
19 send a personal note to the host.

20 A It's a good idea to thank people
21 who help you.

22 Q Senator Lott apparently was

1 present at the private reception in this
2 event?

3 A He was --

4 MR. ABRAMS: I object to the form
5 of the question.

6 MS. TENNERIELLO: Let me lay some
7 foundation for that.

8 BY MS. TENNERIELLO:

9 Q It appears in this event that
10 there was a co-host reception and then a
11 general reception, is that not right?

12 A It appears from the invitation
13 that that was the way it was structured.

14 Q It appears that the co-hosts gave
15 \$1,000 each?

16 A That's what the invitation
17 suggests.

18 Q Those present at the general
19 reception would have been those giving \$500
20 or \$250?

21 A That's what the invitation
22 suggests.

1 Q Senator Lott apparently was
2 present at the co-host reception for the
3 thousand-dollar donors, is that not true?

4 A He was there for the whole event.

5 Q He was present at the general
6 reception.

7 A Yes, for all of it.

8 Q Let me ask you: You've said
9 earlier that this is something that you do
10 occasionally, have the initial reception for
11 the higher-level donors and then a reception
12 for the entire body, including the
13 lower-level donors. You said that this is
14 something that you -- I believe the word you
15 used -- "occasionally" do in your campaign.

16 A It depends on the county.

17 Q Right.

18 A This is a larger county with more
19 people than -- by tiering it, you could have
20 one event instead of two.

21 Q Now, the co-host receptions for
22 the thousand-dollar donors in these such

1 events, can you tell me the format of this.

2 Tell me what happens in these co-host
3 receptions, these receptions for the
4 thousand-dollar donors.

5 A Well, in this one, Senator Lott
6 and I each spoke for a while, not very long,
7 and opened it up for questions so that
8 people could talk about, ask about or talk
9 about whatever was on their minds.

10 Q Will you mingle with people, and
11 is there time to chat with the co-host?

12 A I think it's safe to say that you
13 talk to people who are there, yes.

14 Q Will they sometimes raise policy
15 issues of concern to themselves?

16 A This is not a particularly good
17 forum for that, but what typically happens
18 is you have a question-and-answer session,
19 and of course they ask about government,
20 about politics, ask your views on current
21 issues. Yes.

22 Q Now, with the the co-host

1 reception, in events where such format is
2 used, would the entire reception be this
3 question-and-answer, or would you --

4 A Yes. We didn't do that until
5 everyone was there so everybody got a chance
6 to participate in the Q&A.

7 Q But there would also be
8 unstructured time which was not Q&A where
9 you would simply mingle and chat with the
10 guests.

11 A Sure. I mean, the idea would be
12 to speak everyone at such an event.

13 Q On this occasion, Senator Lott
14 would have done the same.

15 A I hope so.

16 Q Let me ask you this: Has your
17 wife attended such two-tiered events with
18 you?

19 A Occasionally, when she's in town.
20 But she's got a job and she's not always
21 around.

22 Q As you've alluded to, would your

1 wife come with you to both events, the
2 general reception as well as the earlier,
3 higher-level donor meeting?

4 A Typically, she's not available for
5 these events, but our home is in Kentucky.
6 She is occasionally down there on the
7 weekends, and if she's there, I certainly
8 like to take her along.

9 Q There might be other reasons,
10 besides the fact that she is your wife, that
11 guests might want to speak with Secretary
12 Chao, is that not correct?

13 A Actually, they've always wanted to
14 speak with her. She's been my wife before
15 she was Secretary of Labor, and has always
16 been someone people enjoyed meeting and
17 talking to. And I've always had a policy,
18 if she's in the state and she's not
19 otherwise occupied, of trying to get her go
20 along with me.

21 MS. TENNERIELLO: I'd like you to
22 look at one more --

1 THE WITNESS: Return this one?

2 MS. TENNERIELLO: Yes. Well, I
3 would appreciate if you would keep these
4 exhibits somewhere nearby in case we need to
5 refer to them later, but I believe so.

6 If we could mark this -- Senator,
7 I'm not going to ask you to characterize the
8 entirety of this exhibit. I don't know if
9 you want to -- well, I'll give you a chance
10 to review it in summary fashion. I'm not
11 going to ask you details about most of it.

12 (McConnell Deposition Exhibit
13 No. 8 was marked for
14 identification.)

15 BY MS. TENNERIELLO:

16 Q Have you had a chance to review
17 this briefly?

18 A Yeah, part of it, I can't quite
19 figure out what it is, but --

20 Q Which part is this?

21 A This early part.

22 Q Of the e-mail? If I represent to

1 you that having read this, it appears to be
2 e-mail correspondence between your
3 staffperson Scott Douglas and Kelly Abell
4 regarding an event held on May 31st, 2001,
5 at the Valameda Carriage House in Anchorage,
6 Kentucky, would that make sense to you?

7 A It sounds like it might.

8 Q If you look at page 2, with the
9 Bates stamp 0888 on the bottom right corner,
10 you'll see that Mr. Douglas wrote to -- if
11 you look at the second --

12 A Which e-mail are you looking at?

13 Q I'm looking at the second
14 paragraph from the bottom.

15 A Okay.

16 Q This appears to be an e-mail sent
17 on April 30th, 2001, 12:05 p.m., where it
18 starts out, "Kelly, thanks."

19 A Okay.

20 Q It says, "To further ensure that
21 contributions are credited to the
22 appropriate steering committee member, I

1 will inc double back the steering members
2 when any of their pledges come in. FYI -- I
3 just mailed you a confirmation letter
4 informing you that your solicitor number
5 is 15280001."

6 MR. ABRAMS: I think you added one
7 extra zero there.

8 MS. TENNERIELLO: I'm sorry, thank
9 you. 1528001.

10 THE WITNESS: Do you have any
11 questions?

12 BY MS. TENNERIELLO:

13 Q Yes. Was it common for steering
14 committee members to track the contributions
15 of other people that they had solicited?

16 A I was unaware that we had such a
17 system, but it would make sense that
18 somebody who is -- excuse me -- soliciting
19 donations would want to get credit for the
20 people that they solicited, so I guess this
21 is just an internal control mechanism to do
22 that.

1 Q We may return to the subject
2 later. I simply wanted to get this document
3 out of the way. I'm interested now in
4 having you turn to the next page, Bates
5 stamped 0889. This is a long e-mail from
6 Scott Douglas -- the date is unclear when it
7 was sent. The large paragraph, that is, the
8 fourth paragraph from the bottom, where, in
9 it he says, "I know some of you are
10 concerned about making a private reception
11 too large and, consequently, losing its
12 exclusiveness. We can compensate for this
13 by lengthening the private reception to one
14 hour. For an event that is going to be
15 successful as this one promises to be, the
16 Senator will be happy to stay longer."

17 Have you had a chance to read
18 that?

19 A Yeah, I have.

20 Q So there was some concern that the
21 private reception for this event have some
22 exclusiveness, is that not right?

1 A It appears that that's what he was
2 talking about, yeah.

3 Q Can you tell me why there would be
4 concern that the private event be exclusive?

5 A I can't -- I can't tell you that.
6 But I do remember this event and there was
7 not much exclusive about it. It was huge
8 and very successful.

9 Q If I were to represent to you that
10 the higher-level donors expected more of an
11 opportunity to talk with you than those
12 giving at a lower level and unable to come
13 to the private reception, would that make
14 sense to you?

15 A I don't know what their --

16 MR. ABRAMS: Are you representing
17 that?

18 BY MS. TENNERIELLO:

19 Q Would that be an adequate
20 explanation to you? Would that explanation
21 make sense to you?

22 MR. ABRAMS: I object to the form

1 of the question.

2 MS. TENNERIELLO: Well --

3 THE WITNESS: I don't know what
4 their expectations were, but what I do at
5 events like this is try to spend time with
6 everybody who's there, whether they're at
7 the earlier event or the later one. Of
8 course, both the earlier one and the later
9 one are typically held at the same place and
10 the people who come to the earlier ones stay
11 on for the later one and the Q&A period is
12 always done at the later event so that
13 everybody has an opportunity to ask whatever
14 questions and share their thoughts with
15 others and listen to what I have to say
16 about the questions that are asked.

17 BY MS. TENNERIELLO:

18 Q The Q&A is at the later event and
19 the earlier, more exclusive event is
20 generally no Q&A, there's just chatting.

21 A Well, it wasn't very exclusive, as
22 it turned out, because an awful lot of

1 people were there. It was an extremely
2 successful event.

3 Q I'm asking in general terms. You
4 said, "I always do the Q&A at the later
5 event." Is that true?

6 A To make sure that everybody gets a
7 chance to hear me say a few things and
8 everybody gets an opportunity to ask
9 whatever is on their minds, because
10 typically what happens prior to that is it's
11 small talk. You move from one to another to
12 another, shaking hands, asking about the
13 children --

14 Q At the private reception.

15 A Right. It's typically just kind
16 of social interaction, and most people would
17 like to talk about issues and we try to put
18 that off until everybody's there, and then I
19 say what's on my mind and they ask
20 questions.

21 Q Is it fair to say that the earlier
22 events for the higher-level donors are

1 smaller than the later events?

2 A If an event is tiered, that's the
3 typically the case.

4 Q To your knowledge, is it a common
5 practice in Senate campaigns to hold these
6 kinds of tiered events?

7 A I really don't know about other
8 campaigns. We do it occasionally, as I've
9 indicated, and sometimes we don't.

10 Q Do you know if any other Senator
11 uses tiered events where maximum donors will
12 go to an earlier, smaller reception and
13 those giving at other lower levels will come
14 to a later portion of the program?

15 A I can only speak for my own
16 campaigns. You'd have to ask them about
17 theirs.

18 Q Senator, is it your practice to
19 write thank-you letters to all those giving
20 you thousand-dollar contributions?

21 A It is my practice to write a
22 thank-you letter to every single donor, no

1 matter what the amount they contribute.

2 Q Is it your practice to personally
3 sign every single thank-you to every single
4 donor?

5 A Every single letter.

6 Q So you personally sign, not with
7 an autograph machine, but with your hand?

8 A I personally sign every single
9 letter, and I put, typically -- even if it's
10 a typed letter, put some additional comment
11 over to the side, like "Thanks so much" or
12 "Appreciate your help" or that sort of
13 thing.

14 Q Including to a \$5 donor.

15 A Every single donor. I've signed
16 letters to \$1 donors and 50-cent donors.

17 MS. TENNERIELLO: Are we up to 8
18 now?

19 THE WITNESS: Are we through with
20 this one?

21 MS. TENNERIELLO: Yes. I'm sorry,
22 number 9? This is Exhibit No. 9.

1 (McConnell Deposition Exhibit
2 No. 9 was marked for
3 identification.)

4 BY MS. TENNERIELLO:

5 Q It appears to be an invitation to
6 a fundraiser held in the home of Paul Singer
7 on April 10th. The year is not given. Can
8 you tell me what year this might have been?

9 A It would have been either this
10 year or last year. I'm not sure which year,
11 actually.

12 Q It appears that only those giving
13 \$1,000 were invited to this reception.

14 A It appears that way from the
15 invitation.

16 Q Or were admitted, I should say, to
17 the reception.

18 A Although it also appears from the
19 invitation that there's a place for those
20 contributing less than that, too, so, I
21 don't know, I assume that most of the donors
22 gave \$1,000, but there might have been some

1 there that didn't.

2 Q Where do you see an opportunity
3 for those paying less to attend?

4 A "Yes, I will attend the April 10th
5 reception. Enclosed is my contribution
6 of 'blank' for 'blank' guests."

7 Q Would it not be logical to assume
8 that that means for those wishing to buy
9 more than one ticket, they could contribute
10 a multiple of \$1,000?

11 MR. ABRAMS: I object to the form
12 of the question.

13 THE WITNESS: That could be the
14 case. I think it could also be the case
15 that there could have been people there who
16 gave less. That was the only point I was
17 making.

18 MS. TENNERIELLO: I'd like to turn
19 your attention to what will be marked
20 Plaintiff's Exhibit 10. Could you briefly
21 review that.

22 (McConnell Deposition Exhibit

1 No. 10 was marked for
2 identification.)

3 BY MS. TENNERIELLO:

4 Q This appears to be a letter from
5 Bruce Burton to you in August of 2001,
6 apparently written after he had hosted a
7 reception for you and Secretary Chao.

8 A For me, yes.

9 Q For you. To benefit your campaign
10 at which Secretary Chao was present. It
11 appears to be a handwritten letter
12 requesting a photograph from you and asking
13 you and Secretary Chao to sign, to autograph
14 the President (sic) and also asking you if
15 President Bush might sign some puzzle
16 pieces. Is that correct?

17 A Some what?

18 Q Puzzle pieces. The bottom of the
19 first page.

20 A Oh, yeah.

21 Q Then it appears that you did sign;
22 there is a copy of a photo inscribed by you

1 and Secretary Chao.

2 A Yeah, obviously taken by them and
3 sent up for inscription.

4 Q Yes. It's followed by a thank-you
5 letter from you to the Burtons, to Cheryl
6 Lynn and Bruce Burton. Is it common for you
7 to take photographs with those attending
8 your campaign events?

9 A Yeah, it's fairly common.
10 Usually, it's their cameras.

11 Q Is it common for there to be a
12 camera available at the earlier private
13 reception for the thousand-dollar donors?

14 A Provided by my campaign.

15 Q Provided by the hosts or your
16 campaign or any --

17 A Not by us. I mean, it's not at
18 all -- in fact, I can't remember a
19 fundraiser where people have not brought
20 cameras and wanted to get pose shots with me
21 or, if the Secretary is there with me, with
22 both of us, or many times, to my chagrin,

1 only with her.

2 Q So are there not photo
3 opportunities formally set up for the
4 private receptions?

5 A No, not formally set up.

6 Q May I ask, did President Bush
7 autograph the puzzle pieces?

8 A I have no idea.

9 MS. TENNERIELLO: I believe we are
10 up to Exhibit 11 now. Is that correct?

11 I'd like you to briefly look at
12 Exhibit No. 11.

13 (McConnell Deposition Exhibit
14 No. 11 was marked for
15 identification.)

16 BY MS. TENNERIELLO:

17 Q Now, this appears to be an
18 invitation to a private reception, again
19 \$1,000 for co-hosts, \$500 for sponsors, \$250
20 for others, followed by a list of the
21 co-chairs, co-hosts, and sponsors on the
22 invitation. Starting on page 4 of this

1 exhibit, which is Bates stamped 1398,
2 through the following three pages, through
3 Bates stamp 1401, there are letters --

4 THE WITNESS: I don't have
5 anything with those numbers on it. What are
6 you referring to? That's not what I have.

7 MS. TENNERIELLO: I apologize. I
8 apologize. I'll return to this question in
9 a moment.

10 On this exhibit which I've just
11 shown you, I have one question for you.

12 THE WITNESS: Yes.

13 BY MS. TENNERIELLO:

14 Q If you look at the second
15 paragraph from the bottom of this letter on
16 the front page, which appears to be a letter
17 written June 30, 1999, to Carl Linder?

18 A Right.

19 Q Bates stamped 0987?

20 A Um-hmm.

21 Q It says in the third paragraph
22 from the bottom, "In addition to your \$2,000

1 contribution in the last election cycle, I
2 was also proud to receive \$1,000 each from
3 Edyth, Courtney, Keith, Robert, and Craig."
4 Can you tell me who you are referring to?

5 A I think they were family members
6 of Mr. Linder's. He's been a very generous
7 supporter of Republican candidates and
8 Republican committees, and obviously these
9 family members had contributed to me in the
10 last election and I was hoping to -- I was
11 asking him to see if they would be willing
12 to do it again.

13 Q Would they be his children? Are
14 you aware of how they're related to him?

15 A They're relatives. I don't know
16 which are which, whether they're children or
17 cousins or brothers or what.

18 Q Can you tell me his profession;
19 Mr. Linder, Carl Linder?

20 A He is a very wealthy man in
21 Cincinnati, and I don't know what his
22 various professions are. I know he

1 currently owns the Cincinnati Reds, among
2 other things.

3 Q The pages in this document appear
4 to relate to a fundraising event held on
5 August 12, 1999?

6 A Um-hmm.

7 MR. ABRAMS: Is this a single
8 exhibit that you've created or did these
9 documents come together?

10 MS. TENNERIELLO: These are pulled
11 from the -- I might have -- I know there are
12 a couple of pages, pages 1102
13 through 1106 -- they're produced in the
14 order that they were given to us from the
15 campaigns.

16 THE WITNESS: I have 1102 and then
17 I have 1105 and 1106. There's no -- there's
18 no 3 or 4.

19 BY MS. TENNERIELLO:

20 Q Well, let's look at 1102. This is
21 a letter to Scott Douglas from, apparently,
22 Thomas Hiltz? Is that correct?

1 A Yes, um-hmm, it appears to be.

2 Q Who is Mr. Hiltz?

3 A He is a man who sponsored the
4 fundraising event.

5 Q He says at the bottom, "I'll be
6 sending you a check for our son, Peter,
7 within a matter of days."

8 A Um-hmm.

9 Q Is it common for people to send
10 checks -- first of all, how old is Peter?
11 Do you know?

12 A I don't know.

13 Q Is it common for people to send
14 checks on behalf of their children?

15 A Occasionally, but they of course
16 have to be, you know, signed by the
17 children.

18 Q Again, will you define
19 "occasionally"?

20 A It's fairly unusual but it
21 happens.

22 Q The last page is a letter to Tom

1 and Francie.

2 A Um-hmm.

3 Q I would assume that's Tom Hiltz,
4 and would Francie be his wife?

5 A Yes.

6 Q It says, "I continue to enjoy
7 having Allison on the team." Who's Allison?

8 A She was his -- she was, no
9 longer -- was an employee of mine.

10 Q It says, "In fact, I just left her
11 in a meeting with" -- and is Allison related
12 to Tom and Francie?

13 A Yes, she's their daughter.

14 Q She's their daughter.

15 A She's the daughter, yes.

16 Q You say she was an employee of
17 yours?

18 A Yes.

19 Q I see. So when she was in a
20 meeting you referenced, she was
21 participating as your staffperson.

22 A Yes, I was just filling her father

1 in on something important that I thought he
2 would think his daughter was working on.

3 Q When you say that, "I'm sending
4 you a check for our son, Peter, within a
5 matter of days" -- let's return to that
6 question -- just to be sure I understood
7 your answer, the children themselves would
8 have to sign the check?

9 A I don't know what the rule is, but
10 he obviously is implying here that he was
11 soliciting a contribution from his son.

12 Q Now, if you look at the second
13 page of the document I've given you, Bates
14 stamped 1015, regarding the Hiltz
15 fundraiser, it says: "This one had many
16 doctors listed and would have happened
17 during the health care reform debate."

18 Now, this means that you held a
19 fundraiser with many doctors present, is
20 that correct?

21 A I really don't recall. I didn't
22 write this memo and I'm -- I just don't

1 recall.

2 Q Do you have any reason to think
3 that it did not happen during the health
4 care reform debate?

5 A Well, according to this, it was
6 eight years ago. I have a pretty good
7 memory, but it's not that good.

8 Q I'm sorry, the document that I had
9 intended to show you, I will now show you.

10 A Are we through with this one?

11 Q Yes, we're through with that
12 document. I began to characterize this
13 earlier, when I was looking at the wrong
14 paper. These are documents related to a
15 fundraiser held by David and Wendy Novak on
16 November 5, 1999.

17 (McConnell Deposition Exhibit
18 No. 12 was marked for
19 identification.)

20 MR. ABRAMS: Would you give the
21 Senator a chance to look at the document,
22 please.

1 MS. TENNERIELLO: Yes.

2 BY MS. TENNERIELLO:

3 Q Have you read Exhibit 11?

4 A I have.

5 MR. BARAN: Exhibit 12.

6 MS. TENNERIELLO: Are we up to 12?

7 THE WITNESS: Twelve, yes.

8 MS. TENNERIELLO: Excuse me,

9 Exhibit No. 12.

10 THE WITNESS: Um-hmm.

11 BY MS. TENNERIELLO:

12 Q These appear to be documents

13 related to a fundraiser held on

14 November 5, 1999, at the home of David and

15 Wendy Novak?

16 A They appear to be.

17 Q Again, the same format,

18 thousand-dollar co-hosts, couple, \$500

19 sponsor, \$250 others. Is that not correct?

20 A Yes, um-hmm.

21 Q Now, if you turn to the fourth

22 page of this exhibit, Bates stamped 1398 on

1 the bottom right.

2 A Um-hmm.

3 Q If you look at the third paragraph
4 from the bottom, this is a letter from you
5 to Thomas Meeker, and it appears to be a
6 letter asking Mr. Meeker to join your
7 steering committee.

8 A Um-hmm.

9 Q It's followed by identical letters
10 to three other individuals after that.

11 A (Nodding)

12 Q Could I ask you say yes rather
13 than nodding?

14 A Yes, um-hmm.

15 Q The third paragraph from the
16 bottom, it says, "We are assembling a
17 steering committee that will include many of
18 my closest friends and most dependable
19 supporters. I am asking each member to
20 raise at least \$5,000 for the event."

21 A Um-hmm.

22 Q So you used each committee to

1 raise \$5,000 for this event, is that
2 correct?

3 A On this particular event in this
4 particular year, in this particular county,
5 that was the approach that we used.

6 Q On other occasions, have you had
7 steering committee members commit to raising
8 a particular amount of money?

9 A Since this was in the biggest
10 county in the state and was -- and we were
11 only going to do one event in 1999, it made
12 sense to approach this in the way that we
13 did.

14 Q Have you had other events where
15 steering committee members each committed to
16 raise a certain amount of money?

17 A I think we were discussing an
18 earlier event in an election that may have
19 been structured similarly, but I can't
20 recall exactly.

21 Q To your knowledge, would that have
22 been the case in a steering -- for an

1 event -- a fundraiser event that you held in
2 March of 2001 in Washington, D.C.?

3 A Hmm, I don't recall. I'd be happy
4 to review any documents you have if you'd
5 like.

6 MS. TENNERIELLO: I believe this
7 is Exhibit No. 13, is that not right?

8 (McConnell Deposition Exhibit
9 No. 13 was marked for
10 identification.)

11 BY MS. TENNERIELLO:

12 Q To make it easier for you,
13 Senator, I will tell you that each of these
14 letters is identical. This is a stack of
15 letters from yourself directed at
16 individuals, all in Washington, D.C., and
17 the text of each letter is identical.

18 A Okay.

19 Q Do you now recall setting up a
20 steering committee for a March 2001
21 fundraising event in Washington, D.C.?

22 A Yes. It appears as if that's

1 exactly what we did.

2 Q Do you recall if steering
3 committee members committed to raising money
4 from others?

5 A I think some did, yes, um-hmm.

6 Q Do you believe that there were
7 steering committee members who did not?

8 A That is frequently the case. Some
9 do and some don't.

10 Q What was the criteria for
11 membership in the steering committee for
12 this event?

13 A We were asking -- as the letter
14 pointed out, I think we were asking -- gosh,
15 I don't know what we were asking. It
16 doesn't say. But typically, a steering
17 committee is designed to try to get people
18 to additional work by reaching out to others
19 to try to bring them to the event.

20 Q That is what a steering committee
21 typically does.

22 A When you have one, and obviously

1 at this particular event in Washington we
2 chose to have -- to try to have one.

3 Q Apparently, you had a breakfast
4 with steering committee members at 8:30 a.m.
5 on March 1st, 2001?

6 A Apparently, I did.

7 Q Would it be common for you to meet
8 with steering committee members of
9 fundraising events to discuss the events
10 that they were raising money for?

11 A If you were to have a steering
12 committee event in Washington, it would be
13 common to have a meeting of those people to
14 try to encourage them to go out and raise
15 money from others, yes.

16 MS. TENNERIELLO: Could I ask you
17 to flip through the addressees. Look at the
18 names who these letters are addressed for a
19 moment to.

20 (Witness examined document)

21 MS. TENNERIELLO: They are
22 addressed to individuals whose addresses are

1 listed as Kraft General Foods, UST Public
2 Affairs --

3 BY MS. TENNERIELLO:

4 Q Do you know what UST Public
5 Affairs is?

6 A I know what UST is.

7 Q What is UST?

8 A These were letters to political
9 action committees. This is what's typically
10 referred to around town as a "PAC" event, so
11 obviously, the letter would go to people who
12 were in charge of public action committees.

13 Q Is it fair to say that the
14 individual representatives of these PACs
15 would have had policy issues of concern to
16 their PAC?

17 A Yes, many of them on opposite
18 sides of the same issues.

19 Q Can you give me an example of
20 that?

21 A No, I can't, but it's not at all
22 uncommon at these events to have people who

1 have all kinds of different concerns.

2 Q When you meet with steering
3 committee members, do you ever discuss
4 issues of concern to those individuals?

5 A Occasionally, yeah.

6 Q Again, will you define
7 "occasionally" for me?

8 A Well, this is a town in which
9 everyone is discussing issues --
10 constituents, lobbyists, reporters. It
11 would be pretty hard to go through the day
12 in Washington without discussing issues with
13 people.

14 Q Can you tell me how often you met
15 with the steering committee for this
16 March 22nd, 2001 fundraiser?

17 A I'm sure it was one time, that
18 morning.

19 Q Now --

20 MR. ABRAMS: After we go to a new
21 document, could we take a break for about
22 five minutes?

1 MS. TENNERIELLO: Yes, absolutely.

2 (Recess)

3 BY MS. TENNERIELLO:

4 Q Senator, just one more question,
5 if I may, on the last exhibit on the
6 Washington, D.C., fundraiser, Exhibit
7 No. 13. Are these individuals listed on
8 these letters people who you know
9 personally?

10 A Many of them I just simply don't
11 know. Some, I do know.

12 Q Thank you.

13 MS. TENNERIELLO: I would now like
14 to introduce Exhibit No. 14.

15 (McConnell Deposition Exhibit
16 No. 14 was marked for
17 identification.)

18 MS. TENNERIELLO: I will tell you
19 that these are identical letters addressed
20 to various individuals.

21 BY MS. TENNERIELLO:

22 Q Have you had a chance to review

1 these letters?

2 A One of them, yes. You say they're
3 all the same?

4 Q They're identical. These letters
5 are thank-yous for people for committing to
6 serve on a steering committee for a
7 May 31st, 2001 event at the home of John and
8 Annette Schneider. That is what the letter
9 on top states, is it not?

10 A Yes.

11 MS. TENNERIELLO: I represent that
12 the others in this Exhibit 14 are identical.
13 I would like to show you one other exhibit
14 simultaneously, similar letters as to a
15 different event. Exhibit No. 15.

16 I will tell you that text is
17 identical to Exhibit No. 14 except that it
18 refers to those committing to serve on the
19 steering committee for an event held on
20 November 5, 1999, at the home of David and
21 Wendy Novak.

22 Actually, it's not identical.

1 I -- excuse me, it's not identical in its
2 wording. You may wish to review it, and
3 it's the letter in its entirety on top. The
4 letters attached to Exhibit 15 are all
5 identical to the one on top, except that
6 some -- in both cases of these exhibits,
7 some of the letters have personal notes on
8 the bottom.

9 (McConnell Deposition Exhibit
10 No. 15 was marked for
11 identification.)

12 THE WITNESS: None of them are
13 over my signature.

14 MS. TENNERIELLO: Both Exhibits 14
15 and 15 are letters from Scott Douglas, your
16 finance director, to persons agreeing to
17 serve on the steering committee for these
18 two events.

19 BY MS. TENNERIELLO:

20 Q Both of these letters give the
21 recipients a tracking number. If you look
22 at the third paragraph down in Exhibit

1 No. 14 and Exhibit No. 15, they both give
2 recipients a tracking number. Exhibit
3 No. 14 for the event at the Schneider home
4 in May 2001 says: "Also, your solicitor
5 tracking number is 1528026. Please include
6 this number on all checks or reply cards so
7 that we may accurately credit the
8 contributions you have solicited. Also
9 please forward to me a list of those persons
10 who you solicited or plan to solicit so we
11 may coordinate everyone's efforts on the
12 steering committee."

13 Exhibit No. 15 similarly says,
14 "Also, your solicitor tracking number is" --
15 and then it gives the tracking number for
16 each person. "Please include this number on
17 all checks or reply cards so we may
18 accurately credit the contributions that you
19 have solicited."

20 Now, there was no such tracking
21 number used at the Washington, D.C.,
22 fundraiser that we just examined; correct?

1 A I don't know. These are not my
2 letters, and frankly, I was not familiar
3 with the tracking number procedure, but I
4 simply don't know.

5 Q Why would people on a steering
6 committee want to be accurately credited for
7 contributions that they had solicited?

8 A Well, you'd have to ask them, but
9 my assumption is if they worked hard to get
10 additional support, they'd want Scott to
11 know that they kept their commitment.

12 Q They'd want your campaign to know
13 how much money they had --

14 A Well, if you committed to do
15 something in advance, it's sort of human
16 nature to want the person to whom you
17 committed to do something in advance to know
18 that you'd kept your commitment.

19 Q From your campaign's point of
20 view, why would your campaign make a
21 practice of crediting people for the amounts
22 they had solicited?

1 A I can't really answer that. This
2 year -- you're talking about fundraising
3 techniques. Scott Douglas would be a good
4 one to ask that. I simply don't know. But
5 you're always, of course, hoping that people
6 will do what they say they're going to do,
7 which is, in campaigns, a fairly infrequent
8 thing.

9 Q In events such as the ones
10 referenced in Exhibits 14 and 15, are you
11 informed of the amounts the steering
12 committee members raise?

13 A Generally not. I sign all the
14 thank-you letters, but I don't really end up
15 knowing who --

16 Q The thank-you letters -- do the
17 thank-you letters --

18 A To the donors.

19 Q Excuse me, I'm sorry, I
20 interrupted you.

21 A To the donors.

22 Q Thank-you letters to the donors.

1 A Right.

2 Q Do these thank-you letters to the
3 donors indicate how much each has solicited?

4 A To the donor? Typically, the text
5 of the thank-you letter doesn't refer to the
6 amount.

7 Q Is it fair to say that those
8 people serving on steering committees who
9 want to be credited for the contributions
10 they solicit want you to know how much they
11 had gathered?

12 MR. ABRAMS: Object to the form of
13 the question.

14 THE WITNESS: I don't know what
15 their motivation is. Many of these are
16 personal friends of mine who are trying to
17 help me because they believe in what I'm
18 doing and want me to win.

19 BY MS. TENNERIELLO:

20 Q Is it fair to say that your
21 campaign uses this practice because
22 individuals will be more motivated to

1 solicit contributions if they are credited
2 for the amount by the campaign?

3 A I think the reason this procedure
4 must have been used in these two incidences
5 was because we were in a very large county
6 and we were hoping to have a very large
7 crowd, and so the technique would have been
8 different as I had indicated to you earlier
9 in response to other questions, depending
10 upon the size of the county and the number
11 of people involved, and apparently this
12 particular tracking device was considered by
13 Scott as a way to sort of keep up with what
14 we expected would be a very large event.

15 Q Why would you need to keep up with
16 how much each steering committee member had
17 received if it were not so that your
18 campaign had knowledge of how much --

19 A Well, you'd have to ask Scott, but
20 I'm sure he would want to try to motivate
21 people to keep the commitments that they had
22 made at the beginning of the effort.

1 Q So the use of a tracking number
2 was a motivational device used by your
3 campaign.

4 A You'd have to ask Scott. I was
5 unaware, actually, that we'd been using
6 tracking numbers, but just thinking about
7 it, it seems like it probably made sense as
8 a way to monitor a very large number of
9 people with which we were dealing as opposed
10 to an event in a smaller county where he'd
11 be dealing with a smaller number of people.

12 Q Is it fair to say that the
13 steering committee members would want to be
14 credited by the campaign for the amounts
15 they had raised?

16 A Most of these people are friends
17 of mine anyway. They didn't need to do
18 anything to convince me that they were my
19 friends. They wanted to help me win.

20 MS. TENNERIELLO: I do not have
21 more questions on the fundraising. Excuse
22 me, just one moment, let me -- let me make

1 sure of this. I don't have questions on the
2 confidential documents. I believe that the
3 non-attorneys present left, so we can open
4 this part of the deposition. It's no longer
5 confidential.

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1 This document has been designated
2 as "Counsel Only" by you all. Is everyone
3 here counsel of record and subject to the
4 protective order? Thank you.

5 (McConnell Deposition Exhibit
6 No. 19 was marked for
7 identification.)

8 MR. MOGILNICKI: Senator, would
9 you take a moment to read Exhibit 19?

10 For the court reporter, this
11 portion of the deposition is designated
12 highly confidential.

13 BY MR. MOGILNICKI:

14 Q Senator, have you had a chance to
15 read McConnell 19?

16 A I have.

17 Q I'll tell you this document was
18 produced from your files. That's the
19 meaning of the "MMc 0286" in the bottom
20 right-hand corner. Could you tell me, do
21 you know what this document is?

22 A It's a 60-second spot, which could

1 have either been television or radio, paid
2 for by the Kentucky Democratic Party, it
3 appears.

4 Q Do you have any recollection of a
5 spot like this being run in 1996?

6 A This particular one? No, but it
7 sounds familiar.

8 Q What sounds familiar about it?

9 A Well, it certainly mentions my
10 name and makes a number of different
11 comments about, you know, how I might have
12 voted on different issues.

13 Q Do you remember what response, if
14 any, you had to this ad in 1996?

15 A I don't. I don't.

16 Q Do you recall seeing this
17 particular document before?

18 A No.

19 MR. MOGILNICKI: I'd like to show
20 you an ad broadcast by your campaign. It is
21 part of MC-17. It's an ad entitled "On and
22 On."

1 (Videotape shown)

2 BY MR. MOGILNICKI:

3 Q Do you recall running that ad in
4 the 1996 campaign?

5 A I do recall running that ad.

6 Q Do you recall the thinking that
7 led you to run that ad in 1996?

8 A Well, in a campaign, there are a
9 lot of voices being heard. In a free
10 society, that's permissible, and obviously,
11 we concluded at some point that we wanted to
12 defend my record on the issues that were
13 listed in that TV spot that we just watched.

14 Q Was one of the attacks you're
15 defending against contained in Exhibit 19?

16 A It could have been. It could have
17 been.

18 Q Exhibit 19 refers to, and it says,
19 and I quote: "Only one bill sponsored by
20 McConnell has ever become law, and it didn't
21 have anything to do with Kentucky. Instead,
22 he helped Hong Kong business, but that's no

1 surprise."

2 Your ad mentions a group of bills
3 that became law after being sponsored by you
4 and denies that you've been paying attention
5 to Hong Kong rather than Kentucky.

6 Is that all fair?

7 A That's what was in my television
8 ad. This was probably a radio ad because
9 it's 60 seconds. Typically, TV ads are
10 not 60s. So I don't know whether we were
11 responding to a radio ad, whether we were
12 responding to some other ad, but clearly, we
13 were responding to charges that were out
14 there in the atmosphere.

15 Q Do you recall if anyone, besides
16 the Kentucky Democratic Party, made charges
17 that you had been focused on helping Hong
18 Kong?

19 A I don't. I know that since my
20 wife is a Chinese-American, that kind of
21 smear has been tried periodically by a
22 variety of different sources. I don't

1 recall who might have been suggesting that
2 by innuendo in this particular instance.
3 You know, clearly, it was dealt with in this
4 spot, wherever this was run.

5 Q Were you concerned about the
6 attacks made in Exhibit 19?

7 A I might have been or I might not
8 have been. If it was a radio ad, sometimes
9 we ignore radio ads. I just simply don't
10 remember enough about what happened six
11 years ago in terms of which ads were running
12 when to know whether the television ad you
13 just showed me was a specific response to
14 this ad, which was probably -- Exhibit 19
15 was probably a radio ad.

16 Q Do you recall the Beshear campaign
17 running ads that also mentioned this Hong
18 Kong issue in the 1996 election?

19 A I don't recall, but they might
20 have.

21 Q Do you believe this ad could have
22 affected the outcome of the election

1 in 1996; this ad being Exhibit 19?

2 A Well, the discussion of issues in
3 the course of a campaign can often have an
4 impact, so it might have and it might not
5 have. It's very hard to measure those
6 things.

7 MR. MOGILNICKI: We can end now
8 the designation of the deposition transcript
9 as highly confidential and move on.

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1 BY MR. MOGILNICKI:

2 Q Have you reviewed Exhibit 31?

3 A Yes. I've read it.

4 Q Have you seen this article before?

5 A This particular article?

6 Q Yes.

7 A I may have.

8 Q Do you recall the issues described
9 by the article?

10 A I recall the issues described by
11 the article.

12 Q Can you summarize the complaint
13 that was filed by the Campaign for
14 Tobacco-Free Kids?

15 MR. BARAN: I'm going to object,
16 because the complaint itself is a public
17 document and would speak for itself. So you
18 know, if you want to summarize it and ask
19 questions, we can proceed on that basis.

20 MR. MOGILNICKI: Your objection is
21 noted, and I'll ask the Senator to answer
22 the question.

1 MR. BARAN: If the Senator would
2 like to summarize his understanding of what
3 the complaint is about, I will allow him to
4 answer in that fashion.

5 THE WITNESS: Well, the complaint,
6 as I understand it, was about discussions
7 which are covered by the Speech and Debate
8 Clause, and therefore are -- I'm not the
9 lawyer here, but I should probably yield to
10 Mr. Baran to describe this accurately. But
11 I gather they are covered in depositions
12 such as this. Right?

13 MR. BARAN: That's correct. If
14 that's your understanding of the complaint,
15 then you have responded to the question.

16 BY MR. MOGILNICKI:

17 Q I'd like to draw your attention to
18 paragraph 4 of Exhibit 31. I will read it
19 into the record. Mark Russell, a spokesman
20 for the National Republican Senatorial
21 Committee, told BNA June 30th that McConnell
22 made a statement to Republican colleagues

1 before the tobacco vote that he was "merely
2 offering analysis" of the political
3 consequences, not promising anything.

4 A Your question is?

5 Q Does that quote accurately reflect
6 what you told your colleagues?

7 MR. BARAN: I'm going to object on
8 the grounds that the question asks the
9 Senator to discuss anything he may have or
10 may not have said to his Republican
11 colleagues. Such conversations, if they
12 occurred, are subject to the Speech and
13 Debate Clause. I instruct him not to answer
14 that question.

15 MR. MOGILNICKI: Is it counsel's
16 position that discussions of campaign
17 funding are covered by the Speech and Debate
18 Clause?

19 MR. BARAN: You're asking about
20 conversations the Senator had with
21 Republican colleagues. I'm going to
22 instruct him not to respond to any such

1 questions.

2 BY MR. MOGILNICKI:

3 Q Are you going to accept that
4 instruction, Senator McConnell?

5 A Yes.

6 Q At or around this time, Senator,
7 did you have any discussions with
8 representatives of the tobacco industry
9 regarding campaign and/or NRSC funding?

10 A I had a number of discussions with
11 people in the tobacco industry during the
12 pendency of the legislation that this
13 complaint was the subject of, because I had
14 at that time 60,000 tobacco growers in my
15 state. We now regretfully only have 45,000.
16 But still a significant number.

17 This was a piece of legislation of
18 enormous interest to my constituents. So I
19 had great interest in the subject, and was
20 discussing it during this period, certainly
21 weekly if not daily because of the enormous
22 interest in my home state about this

1 legislation.

2 Q I'd like to specifically exclude
3 communications that related to legislative
4 matters, and ask if you had communications
5 with representatives of the tobacco industry
6 regarding potential soft money donations by
7 the tobacco industry.

8 A I don't recall who I might have
9 been soliciting at any given time.

10 Q So it's possible that you were
11 soliciting soft money donations from the
12 tobacco industry at this time?

13 A It's just as possible I would not
14 have been soliciting.

15 Q You have absolutely no
16 recollection?

17 A No.

18 Q You testified earlier that you
19 would brief your Senate colleagues about
20 NRSC activities during Tuesday lunches. Is
21 that correct?

22 A Yes.

1 Q During the period of time referred
2 to in Exhibit 31, did you continue to
3 practice briefing your Senate colleagues
4 about NRSC activities?

5 A I would be surprised if I didn't.

6 Q Did you, in the course of briefing
7 your colleagues about NRSC activities, offer
8 an analysis of the political consequences of
9 the tobacco bill?

10 MR. BARAN: I'm going to object to
11 that, as I will to any questions regarding
12 the content of any communications that
13 Senator McConnell had with his Senate
14 colleagues, on grounds of the Speech and
15 Debate clause.

16 MR. MOGILNICKI: I will inform
17 counsel that his understanding of the Speech
18 and Debate Clause is mistaken, that it does
19 not provide blanket protection for every
20 communication between Senators, and that
21 there must be a legislative nexus with the
22 communication.

1 So my question is perfectly
2 appropriate, and I'll ask the Senator to
3 answer it.

4 MR. BARAN: I will instruct him
5 not to answer your question.

6 BY MR. MOGILNICKI:

7 Q Are you going to accept that
8 instruction, Senator?

9 A I am.

10 Q Senator, when you spoke to your
11 colleagues about the activities of the NRSC,
12 was there a nexus to legislative activities?

13 A No.

14 Q Then I'd like to ask you again if
15 you spoke to your colleagues about NRSC
16 activities at this time, and referred to
17 conversations you'd had with the tobacco
18 industry.

19 MR. BARAN: I'm going to object on
20 any questions regarding communications by
21 Senator McConnell in the course of meetings
22 of the Senators in the so-called Tuesday

1 luncheons that they had. I am going to
2 instruct him not to respond to those
3 questions.

4 MR. MOGILNICKI: Even though the
5 Senator has testified that those
6 communications had no --

7 MR. BARAN: You've asked him a
8 much broader --

9 MR. MOGILNICKI: Let me finish.
10 Even though the Senator's testified that
11 there is no nexus between legislation and
12 those communications, you're still going to
13 instruct him on Speech and Debate not to
14 answer?

15 THE WITNESS: Could I have your
16 question read back?

17 (The reporter read the record as
18 requested.)

19 MR. BARAN: I am going to direct
20 the witness not to respond to that question.

21 MR. MOGILNICKI: Are you going to
22 accept that instruction, Senator?

1 THE WITNESS: Yes.

2 MR. BARAN: Could we have a
3 five-minute break at this point?

4 MR. MOGILNICKI: Certainly.

5 MR. BARAN: Thank you.

6 (Recess)

7 MR. MOGILNICKI: Back on the
8 record.

9 MR. BARAN: Could I attempt to
10 clarify a couple of things before you get
11 started.

12 MR. MOGILNICKI: Why don't you do
13 it off the record so it doesn't count
14 against the seven hours?

15 MR. BARAN: I don't think it's
16 going to take more than a minute.

17 MR. MOGILNICKI: There is no
18 reason for a speaking objection. If you
19 want to speak to me about issues in the
20 case, let's do it off the record.

21 MR. BARAN: First of all, I want
22 to make sure that any time I take at this

1 moment will not be taken from your
2 questioning time.

3 MR. MOGILNICKI: Yes.

4 MR. BARAN: But the reason I wish
5 to do it on the record --

6 MR. MOGILNICKI: Further
7 objection. It is not appropriate for you to
8 make speaking objections on the record.
9 Now, I have given you wide latitude on that.
10 But what you should be saying as objection
11 and instructing the witness not to answer,
12 but I don't know what purpose is served by
13 making a speech on the record.

14 MR. BARAN: Well, I'm not making a
15 speech. I am trying to clarify what I think
16 is your conflation of the questions, which
17 is what I asked be read back before we took
18 our break.

19 You had asked the Senator some
20 questions regarding his reports on NRSC
21 activities at Tuesday event meetings. He
22 had responded that there was no legislative

1 purpose in those reports or those meetings.

2 You are separately asking him
3 questions about a different meeting at a
4 different time that was uniquely
5 legislative. It was a meeting that prompted
6 this complaint that is described in
7 Exhibit 31 and to which I have lodged an
8 objection under the Speech and Debate
9 Clause, because the purpose of that closed
10 meeting of Senators was legislative.
11 Therefore, I am establishing for the record
12 the legislative nexus, as you requested,
13 between the Senator's discussions at that
14 time in that meeting.

15 I also wish to point out that this
16 entire episode that is reported in
17 Exhibit 31 was dismissed by both the Federal
18 Election Commission and the Department of
19 Justice because there was no evidence that
20 even warranted an investigation.

21 Thank you.

22 MR. MOGILNICKI: Are you done with

1 your testimony?

2 MR. BARAN: That was my objection
3 for the record.

4 BY MR. MOGILNICKI:

5 Q Senator, returning to Exhibit 31,
6 Exhibit 31 refers to a closed-door meeting
7 in the second paragraph. Do you recall such
8 a closed door meeting?

9 A I recall a meeting about the
10 tobacco legislation with my colleagues, yes.

11 Q Did you speak at that meeting?

12 A This either is or isn't protected
13 by the Speech and Debate Clause.

14 MR. BARAN: I'm going to instruct
15 you not to answer to questions about what he
16 did or did not say at a meeting with his
17 fellow Senators, which meeting was devoted
18 to discussion of legislative activity.

19 BY MR. MOGILNICKI:

20 Q Senator, did you make any remarks
21 at that meeting that were not devoted to
22 legislative activity?

1 A In the legislative meeting?

2 Q In the closed door meeting
3 referred to in Paragraph 2.

4 MR. BARAN: I object. I object
5 and instruct the witness not to answer that
6 question.

7 MR. MOGILNICKI: So you're the
8 only one who can testify as to what went on
9 at that meeting?

10 MR. BARAN: I have not done so,
11 and I resent your characterization.

12 MR. MOGILNICKI: Are you going to
13 accept your counsel's instruction?

14 THE WITNESS: I am.

15 BY MR. MOGILNICKI:

16 Q Who is Mike Russell, Senator?

17 A Mike Russell, according to the
18 article, was a spokesman for the NRSC.

19 Q Did you know Mike Russell in 1998?

20 A Yes, he was one of our employees
21 over at the NRSC.

22 Q What instructions do spokesmen for

1 the NRSC receive about what they should say
2 to the press?

3 A It would depend on the incident.

4 Q If Mr. Russell was going to
5 characterize remarks that you had made, with
6 whom would he have to speak before doing so?

7 MR. BARAN: I object to the form
8 of the question.

9 MR. MOGILNICKI: I will rephrase
10 it.

11 BY MR. MOGILNICKI:

12 Q If Mike Russell were to tell a
13 member of the press something about you,
14 with whom would he have to clear those
15 comments?

16 A Well, I don't recall who he might
17 have cleared this with four years ago, but I
18 think counsel has already told you that the
19 complaints were thoroughly investigated and
20 found to be baseless.

21 Q Were you concerned at all about
22 these complaints?

1 A I was concerned until they were
2 thoroughly investigated and found to be
3 baseless.

4 Q Why were you concerned?

5 A Because no one likes to be
6 smeared.

7 Q Were you concerned that the
8 complaint gave rise to an appearance of
9 corruption?

10 A I was concerned that the complaint
11 was not based upon fact and was designed to
12 smear me.

13 Q Did you speak with anyone at the
14 NRSC, including Mike Russell, prior to the
15 time Mike Russell spoke to a reporter for
16 the BNA?

17 A It's been four years ago. I
18 really don't remember.

19 Q Do you remember whether or not the
20 tobacco industry promised to mount a major
21 television ad campaign to support those who
22 voted against the tobacco bill?

1 A I don't recall any such suggestion
2 being made.

3 Q Is Mike Russell's comment in
4 Paragraph 4 of Exhibit 1 accurate?

5 A Well, that would require me to
6 characterize the discussion I had in a
7 meeting, which I gather is covered by the
8 Speech and Debate clause.

9 Q Sitting here today, Senator, have
10 you yet suffered any injury due to the BCRA?

11 A Well, I believe it takes effect
12 November 5th, does it not?

13 Q I believe that's correct.

14 A So, as of today, since the law is
15 not yet in effect, it's hard to say what.
16 Do you mean me personally?

17 Q Yes.

18 A As a result of a law that's not
19 yet in effect?

20 Q Yes.

21 A I can't think that I am.

22 Q What injuries do you expect to

1 suffer in the future due to the BCRA?

2 A Well, as the leader of my party in
3 my state, I have been very active in state
4 and local politics and I believe that BCRA
5 is going to make it very difficult for me to
6 continue to carry out my role as the titular
7 head of my party by in effect federalizing
8 my involvement in state and local politics,
9 which would otherwise be governed by state
10 law.

11 Q Can you explain how the BCRA
12 federalizes your involvement in state
13 politics?

14 A Well, the law is so confusing and
15 difficult to understand, which is, of
16 course, one of the reasons for this
17 litigation, that we're all sort of still
18 trying to find out what it's about.

19 But my understanding is that the
20 involvement of federal officials in state
21 and local elections will in effect be
22 governed by federal law rather than by state

1 law.

2 Q What position do you hold in the
3 Kentucky Republican Party?

4 A I don't hold a position.

5 Q Do you raise soft money for the
6 Kentucky Republican Party?

7 A Under Kentucky law, an individual
8 can only give \$2,500 to a State party and
9 corporate funds are not allowable, and yes,
10 I have raised state dollars for the Kentucky
11 Republican Party and I have raised dollars
12 for state legislative candidates, all within
13 the guidelines and restrictions of the
14 Kentucky state law.

15 Q Do you share information about
16 donors with the Kentucky Republican Party?

17 A Of course, my donor list is on the
18 Federal Election Commission report, easily
19 ascertainable.

20 Q Did they provide you with
21 information about potential donors?

22 A Their donors are on the Kentucky

1 Register of Election Finance list, so all of
2 these are a matter of public record.

3 Q Has your campaign ever shared
4 directly donor information with the Kentucky
5 Republican Party, or do they require that
6 they go to the FEC website?

7 A I really don't know what the
8 interaction is between campaigns and party.

9 Q Have you gotten information from
10 the State party about potential
11 contributors?

12 A I simply don't recall.

13 MR. BARAN: For the record, we are
14 no longer in a highly confidential area. I
15 assume we have agreement on that?

16 MS. BUCKLEY: You have to tell the
17 court reporter then to stop that recording.

18 MR. MOGILNICKI: Well, you should
19 have stopped a while ago, but it is
20 occurring to us now, so I want to be sure at
21 least we stop here and we can review later.
22 I'm not sure where the stopping point would

1 have been, but I want to make sure, at least
2 going forward, we were not in a counsel-only
3 section of the deposition transcript.

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