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1 P R O C E E D I N G S
2 Whereupon,
3 EARL F. HILLIARD,
4 business address at 1314 Longworth HOB, Washington,
5 D.C., was called as a witness by counsel for
6 Defendants, and having been duly sworn by the Notary
7 Public, was examined and testified as follows:
8 EXAMINATION BY COUNSEL FOR DEFENDANTS
9 BY MS. GACKI:
10 Q. Could you please state your name?
11 A. Earl F. Hilliard.
12 Q. Congressman Hilliard, my name is Andrea
13 Gacki, and I represent the United States in these
14 consolidated proceedings. Have you ever been deposed

15 before?

16 A. Yes.

17 Q. So you know that I'm going to be asking
18 you a series of questions to which you will provide
19 answers. Your attorney may object to some of my
20 questions. Unless your attorney instructs you not to
21 answer, you are to answer my question. If you don't
22 understand what I say or want me to clarify it,
23 please tell me and I will do so.

24 In addition, you have to answer either yes
25 or no to my questions. The court reporter can't

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1 transcribe the nod of the head or a shake. Do you
2 understand?

3 A. Yes.

4 Q. Is there anything that could prevent you
5 from giving your best or most honest testimony here
6 today?

7 A. Things that are not of my knowledge.

8 Q. Anything else?

9 A. No.

10 Q. Could you tell me, briefly describe your
11 educational background?

12 A. I finished high school in Birmingham,
13 Alabama. I have a B.A. degree. I have an MBA, and I
14 have a Juris Doctorate.

15 Q. From which schools?

16 A. B.A. from Moorehouse College, MBA from
17 Atlanta University, and Juris Doctorate from Howard
18 University School of Law.

19 Q. What was your work background before
20 becoming a representative from Alabama?

21 A. I practiced law, I think, for about 25, 26
22 years.

23 Q. And what year were you elected to
24 Congress?

25 A. I was elected to Congress in 1992.

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1 Q. And you have served consecutive terms
2 since then?

3 A. Yes.

4 Q. Did you review any documents to prepare
5 for this deposition?

6 A. No.

7 Q. Did you talk to anyone to prepare for this
8 deposition?

9 A. I talked with my counsel.

10 Q. Anyone else?

11 A. No.

12 Q. I'm going to ask you some questions about
13 the allegations you have made in your lawsuit now,
14 and I'm going to make your complaint Exhibit 1 to
15 your deposition.

16 (Exhibit No. 1 was
17 marked for identification.)

18 BY MS. GACKI:

19 Q. Congressman Hilliard, in paragraph 22 of

20 your complaint, you have alleged that you are a
21 campaign fund recipient using both hard and soft
22 money. That's on page 5. Could you explain that to
23 me about being a campaign fund recipient using both
24 hard and soft money?

25 A. At the time that the lawsuit was filed I

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1 was a member of the United States Congress and as
2 such I was the principal recipient of the funds from
3 the campaign Hilliard for Congress. Also I was a
4 member of the Alabama Democratic Conference. I was
5 also a member of the Alabama Citizens Coalition and
6 the -- also a member of the Alabama New South
7 Coalition, the Alabama Democratic Conference. The
8 Alabama New South Coalition and the Alabama Citizens
9 coalitions are organizations that raise money,
10 primarily soft money, for getting out the vote
11 efforts and my hard money that I received in my
12 campaign, I used for political advertisements.

13 The money that the Alabama New South
14 Coalition, the Alabama Citizens Coalition and the
15 Alabama Democratic Conference raised, they used to
16 basically take people back and forth to polling
17 places. They used it to educate the voters through
18 materials and through political ads. They also used
19 the money to register voters and to do other things
20 along those lines.

21 One of them is an organization my campaign
22 organized under the rules of the Federal Election
23 Commission. The other three organizations are
24 organizations that are organized on the Internal
25 Revenue tax code, and each one of those organizations

0011

1 are categorized as 502 organizations in some respect,
2 and 501(c)(3) organizations in other respects and
3 there are certain things they can and cannot do in
4 the political arena.

5 Basically, they can't do anything but
6 educational work, registration type work, and
7 anything along those lines. Whereas, my Hilliard for
8 Congress campaign can engage in political activities
9 that are specifically related to the re-election, to
10 the efforts of my re-election efforts in the past
11 campaigns that I have had.

12 Q. Did you receive any soft money from the
13 DCCC?

14 A. I do not ever recall receiving any soft
15 money from the DCCC.

16 Q. Not for any campaign, no soft money?

17 A. I believe that the -- not for any campaign
18 that I recall.

19 Q. How about did you receive any soft money
20 from the Congressional Black Caucus?

21 A. I did not ever remember receive any money
22 from, soft money from the Congressional Black Caucus.

23 Q. Let me not talk in terms of receipt. Has
24 the DCCC ever expended soft money in a campaign that

25 benefited you?

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1 A. I think so.

2 Q. You think so. And what forms have those
3 taken?

4 A. I don't understand forms.

5 Q. What did they do? How did they spend that
6 money to benefit your campaign?

7 A. Well, the money that they spent benefited
8 the campaigns of Democrats running in the entire
9 election, and because I was running on the Democratic
10 ticket, I benefited from it. And those campaign
11 forums could have been in the form of getting out
12 money that was paid to have, to help transport voters
13 to and from the polling places.

14 Q. DCCC would transfer funds for getting out
15 the vote in order to aid your campaign?

16 A. I don't know in order to aid my campaign,
17 but in order to aid the political process. And the
18 more people that came out to vote in the past one --
19 until the last election any way, the more votes I
20 received.

21 Q. So it benefited you is what you are
22 saying?

23 A. Yes.

24 Q. How about the Congressional Black Caucus?

25 A. Same thing.

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1 Q. So they expended soft money that benefited
2 your campaign in Alabama?

3 A. Yes.

4 Q. Do you know anything about the decisions
5 made by the DCCC or the Congressional Black Caucus as
6 to whether or not to support your candidacy with soft
7 money or to spend soft money in Alabama in ways that
8 would benefit your candidacy?

9 A. No.

10 Q. Do you know why they chose to expend funds
11 there?

12 A. No.

13 Q. Do you have any idea why they would have
14 picked your district to expend funds in as opposed to
15 others?

16 A. I was an incumbent and I was a Democrat.
17 I would think that the objective of the DCCC was to
18 aid and assist any Democrat that was up for
19 re-election.

20 Q. Do you know anything about the factors
21 that the DCCC might take into account in deciding
22 whether or not to expend soft money in a given
23 district?

24 A. No. That was based on the fact that you
25 were a Democrat running for re-election. There may

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1 have been other factors I'm not aware of.

2 Q. Is it your opinion that the DCCC fund
3 expended soft money adequately in the most recent

4 primary election?

5 A. I don't know whether it was adequately --
6 or insufficient. In fact, I don't know exactly
7 whether they spent any.

8 Q. Did the Congressional Black Caucus spend
9 money to benefit get out the vote efforts or any
10 other efforts in Alabama during your recent primary?

11 A. There was an article in the newspaper
12 stating that it had. I think it was something in the
13 paper yesterday or today that said that it had.

14 Q. Were you aware of those efforts when they
15 were happening?

16 A. When they were happening? I don't know.
17 I was told that that was help coming from places, and
18 I don't know whether the help came, but if it came,
19 it was inadequate and insufficient. It did not
20 achieve its objective.

21 Q. Do you think these expenditures of soft
22 money by the DCCC were important to your Federal
23 candidacy?

24 A. I would think that any effort that was
25 made to get out the vote would be very important to

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1 my campaign and my re-election efforts.

2 Q. What about the fact that those were made
3 with soft money? Is there any reason why similar
4 efforts can't be made with hard money?

5 A. If those organizations could acquire hard
6 money, I don't know whether they can or not. I know
7 it's difficult for me to get hard money, and I
8 imagine since those organizations are such as they
9 are, it would probably be difficult for them to get
10 hard money also.

11 Q. Do you want to tell me why it's difficult
12 for you to get hard money?

13 A. Well, I'm from a very poor Congressional
14 district, and traditionally, most of my support comes
15 from outside of the district, and it comes in nickels
16 and dimes, especially hard money. And if I have a
17 fundraiser in Birmingham, Tuscaloosa, Montgomery, I
18 might be able to have invitations to write people to
19 come and contribute \$500, but if I do it in Selma,
20 Demopolis or Epes or Fairfield, I'm out of my league
21 if I go beyond 250, \$250.

22 And then I'm straining to get people to
23 come and participate and look at my campaign
24 statement. You will find that I receive very few
25 donations, period, from individuals. And

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1 historically, those donations were very limited in
2 number and most of them were below \$500.

3 Q. Have you done any fundraising of soft
4 money?

5 A. Any fundraisers for soft money?

6 Q. Yes.

7 A. I have received soft money that I have had
8 to send back from fundraisers I have had. When we do

9 fundraisers, when I do fundraisers, we try as much as
10 possible according to the FEC rules to let people
11 know what they can contribute and how, what form or
12 shape they can contribute. But every time we have
13 fundraisers, people bring corporate checks, people
14 bring money from nonprofit organizations. I have to
15 send money back.

16 Q. How about events organized by the DCCC or
17 by the Congressional Black Caucus where soft money
18 has been raised? Have you gone to any of those
19 fundraisers?

20 A. I have gone and I have actively tried to
21 raise money for those organizations. I have tried to
22 raise money for the NAACP. I have attempted to raise
23 money from all types of soft money organizations but
24 once again they are in accordance with the House
25 rules and regulations and the FEC rules and

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1 regulations.

2 Even though I have helped raise money for
3 those organizations, that money does not flow to my
4 campaign and it's not under my control, and most of
5 the time, my goal is just a matter of an appearance
6 or maybe speaking at a banquet or something to help
7 those organizations or to assist them in raising the
8 money.

9 Q. How frequently do you attend functions
10 such as that where you help raise soft money for
11 these other groups? Like the DCCC?

12 A. It's kind of difficult to separate, but on
13 a weekly basis I attend all these type events,
14 especially between Washington and my district almost
15 every weekend, there is some type of event that I go
16 to, especially back home, and these organizations are
17 chapters of SELC, chapters of the NAACP, chapters of
18 the Urban League, chapters of some local
19 organization.

20 I got to represent 14 counties, 210
21 cities, and every county has a chapter of each one of
22 those organizations that I mentioned. Alabama
23 Democratic Conference, Alabama New South Coalition.
24 There are so many other local political organizations
25 or local 503(c) organizations that raise soft money

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1 that I go to and almost every week I go back to the
2 district and I go to some function that raises soft
3 money or uses soft money for campaigns.

4 Q. What kinds of functions are they?

5 A. Mainly banquet type functions, but there
6 are also cocktail type functions and there are also
7 spaghetti dinners and dinners of that nature.
8 Barbecues. Fish fry.

9 Q. Anything else?

10 A. Those type of things.

11 Q. When you are at these functions, do you
12 socialize with the soft money donors?

13 A. Well, I talk to the persons who are there

14 because I don't have a list of those people who
15 contribute or what they contribute. I don't know
16 whether I'm talking to a donor or nondonor.

17 Q. Is there ever an admission fee that one
18 pays to get to go to these functions?

19 A. In many instances, there is.

20 Q. Do you know how much this usually is?

21 A. No. It varies.

22 Q. If you go to a given function, do you have
23 an idea of how much people pay to gain entrance into
24 that function?

25 A. Sometimes. Sometimes I don't.

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1 Q. Have you gone to the Tunica fundraisers
2 organized by Representative Thompson?

3 A. Organized by him?

4 Q. I don't know that it's organized --

5 A. Yes. I don't know whether it's organized
6 by him either. I think it's in his Congressional
7 district, but I have been there. Yes.

8 Q. Maybe he sponsors it or something. I
9 don't know.

10 A. Well, I don't think he can sponsor it as a
11 member of Congress. I don't think he can sponsor
12 that. I think he is one of the hosts because it's in
13 his Congressional district.

14 Q. And you have attended these fundraisers?

15 A. Yes.

16 Q. At these banquets, are you seated at
17 tables with the donors?

18 A. Generally I'm on stage because I'm
19 participating as a speaker and someone who is
20 introducing someone or somehow I'm a participant.
21 Generally, that's where I am. But there have been
22 occasions when I am seated at the table and once
23 again I'm seated at a table of individuals. I don't
24 know what they do or what they give or if they give.

25 Q. Do you ever have your picture taken with

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1 the donors at these functions?

2 A. Well, I have had my picture taken with
3 individuals. I don't know whether they are donors or
4 not.

5 Q. But by virtue of the fact that they are at
6 these functions, they have usually given something to
7 attend these -- would you assume that?

8 A. No. I don't make any assumptions. If
9 someone was to take a picture with me, I'm always
10 ready to do it, and anxious, and I hope they put it
11 on the wall where people can see.

12 Q. Did the DCCC put any requirements on you
13 to raise a certain amount of money, or do they put
14 any requirements on you to raise a certain amount of
15 money?

16 A. I don't know. If they did, it was not to
17 my knowledge.

18 Q. How about the Congressional Black Caucus?

19 Was there some kind of agreement that members would
20 raise a certain amount of money, be it hard or soft?

21 A. Not to my knowledge.

22 Q. Do you know whether Federal candidates or
23 members who raise large amounts of money, whether
24 hard and soft, whether they, do you know whether they
25 get any special benefits from raising that money?

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1 A. Not to my knowledge.

2 Q. Do you think leadership positions come
3 more easily to people who raise a lot of money, to
4 members who raise a lot of money?

5 A. I think over the years, there has been an
6 effort to promote those persons who were able to aid
7 and assist other people in fundraising, and I think
8 there is a natural flow to those individuals that can
9 raise money. I think that they received more votes
10 and more support than those that cannot raise money
11 for political offices both in the caucus and even
12 outside of the caucus.

13 Q. Do you think those members who raise large
14 amounts of soft money, do you think that improves
15 their chances of getting a leadership position?

16 A. Well, I would think that any person, any
17 member who raised soft money and hard money would be
18 rewarded with the support of others because of their
19 ability or because of their effort.

20 Q. How about for state and local parties in
21 Alabama. Have you attended fundraisers for state and
22 local parties?

23 A. On a continuing basis. Yes.

24 Q. Has soft money been raised at these fund
25 raisers?

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1 A. I'm certain.

2 Q. Have you encouraged donations of soft
3 money to state and local parties in Alabama?

4 A. I have encouraged donations. I have asked
5 people to give. I don't know whether they gave. I
6 don't know how much they gave. And I don't know
7 whether they gave soft money or hard money, but I
8 know that my own efforts without that fundraising, I
9 would ask people to give, they have given both and I
10 have had to send soft money back.

11 Q. But with respect to the state and local
12 parties, there is no such restriction for them?

13 A. There is no restriction, so I imagine they
14 raised both, but I don't know. And there are
15 restrictions, too, on the amount that can be given
16 and what type organizations that can give. Once
17 again, I don't think 503(c)'s can give. I don't
18 think any of the 503(c)'s one through seven can give.
19 I think corporations can give. I think they are
20 limited by the amount. There are some restrictions.

21 Q. Restrictions by Alabama law?

22 A. Yes.

23 Q. Did you have, do you know how the Alabama

24 state and local parties spent this money, this soft
25 money that they would have raised at these events at
0023

1 which you attended?

2 A. Well, they did that in the political
3 process either by getting people registered, either
4 by transporting people to the polling places,
5 educating people about the elections taking place,
6 when is it taking place, where you can call and get
7 information, even educating the people about the
8 candidates. So a great deal of that soft money is
9 used for that effort.

10 Q. And do these efforts, have they aided your
11 campaign efforts?

12 A. Oh, definitely. Yes. On a continuing
13 basis.

14 Q. Have they done anything else besides that,
15 other forms besides the very good things that they
16 are doing. Is there anything else that state and
17 local agencies have done?

18 A. I didn't understand your question. Would
19 you repeat it?

20 Q. You said state and local parties have done
21 things like driving voters to the polls. Is there
22 anything else?

23 A. Providing funds for people, transportation
24 to polls.

25 Q. Yes.

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1 A. Okay.

2 Q. And what other things did they do?

3 A. I don't know what all they do. I mean,
4 generally I'm so involved with my own campaign, I
5 don't coordinate with organizations that use soft
6 money, and I don't get involved with what all they
7 do.

8 It's just in the campaign, I see some
9 things that I know my campaign cannot do because we
10 don't have the funds. And I see them being done,
11 such as bus loads of people coming to the polling
12 places. I don't have the funds for that because I
13 have -- the little hard money I have, I try to
14 promote myself.

15 So I know these 501(c)(3) organizations
16 and Alabama New South and Alabama Democratic South
17 are doing this and I know they are receiving money
18 from the state parties to carry out some of those
19 efforts, but I don't know what else or what all they
20 do.

21 Q. Has any, have you or has anyone from your
22 campaign had any input as to how state and local
23 parties spend their money, spend their soft money on
24 these voter mobilization efforts?

25 A. I have not. Well, let me rephrase that.

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1 When I came to the United States Congress, since that
2 time, I have not been involved, but prior to that

3 time, I was very much involved. I was a state
4 Senator for 12 years and I was a member of the House
5 of Representatives for six years prior to then, and I
6 was involved very much in state politics, and very
7 much with the efforts of nonprofit organizations in
8 raising money, and even how the money was expended.

9 But I was always at home. I always had
10 the time, but now I'm in Washington probably 40 to 50
11 percent of my time, even during campaign time, so I'm
12 unable to get involved. So just depends on the
13 period of time you are speaking of whether or not I
14 have been involved.

15 Q. So of the tax exempt organizations that
16 have aided your campaign, those include the Alabama
17 Democratic Conference, is that right?

18 A. Well, I don't know whether Alabama
19 Democratic Conference is tax exempt. I think it is.
20 I know that what it has done has aided my campaign in
21 an indirect manner because they have brought people
22 to the polling places. They have -- they make
23 endorsements, and they get out that balance of who
24 they have endorsed and most of the time, but not all
25 the time, I have been the recipient of the

0026

1 endorsements. So when they put out ballots and put
2 out information about candidates when I have been
3 endorsed, I have been on that ballot. That helps.

4 Q. And have you helped solicit funds for the
5 Alabama Democratic Conference?

6 A. Yes. From the standpoint that I have
7 spoken at their banquet, and I always attend. I'm
8 always there, and I think that they have always
9 announced that I was going to be there as a
10 participant in some way or another.

11 Q. Do you know in what amounts you raised
12 money for them? Do you know how large the amounts
13 were that you were able to get people to donate to
14 the Alabama Democratic Conference?

15 A. No.

16 Q. And you say the Alabama Citizens Coalition
17 has also aided your campaign efforts?

18 A. I'm sorry. I may have misled you.
19 Jefferson County Citizens Coalition and Alabama New
20 South Coalition. I sometimes get the two confused.

21 Q. So the Jefferson County?

22 A. Citizens Coalition.

23 Q. What have they done?

24 A. And the Alabama New South Coalition.

25 Q. Taking the Jefferson County Citizens

0027

1 Coalition, what have they done in the past to help
2 your campaign efforts?

3 A. They have endorsed me. They have gathered
4 literature such as -- the type of literature that it
5 put out is a ballot, and on the ballot, they put the
6 names of those persons, the position that they are
7 seeking, and they highlight them as their endorsee,

8 and they mail that out to voters. They distribute it
9 to beauty shops, barber shops and places, food
10 markets, food stores where people are, and they have
11 people who pass out that ballot on election day at
12 polling places so those are things that I know they
13 do and have done and those things have aided and
14 assisted my campaign.

15 And it's something that is very important,
16 by the way, especially when you have the endorsements
17 of these organizations that use nonprofit because I
18 have 14 counties, and 11 of those counties are rural,
19 and I have over 600 precincts, and many of those
20 precincts are rural, some have less than 100 voters,
21 and sometimes only 25, 30, 40, 50 people vote there,
22 and if they didn't have a representative there giving
23 out their ballots, those endorsements, then it
24 wouldn't help me, especially if I -- because I would
25 not be able to contact all of those people over the

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1 district. I have a very large rural district, and
2 money is very important. You have to have money to
3 reach the voters.

4 Q. And you have raised money to help the
5 Jefferson County Citizens Coalition make these
6 efforts on your behalf?

7 A. Yes.

8 Q. Do you know what amounts you have raised?

9 A. I have no idea, except for the fact that
10 in the past, up until this year, the amount we have
11 raised have always been adequate and sufficient to
12 help me and others get elected.

13 Q. When you say others, who are you talking
14 about?

15 A. People that they have on the ballot. I'm
16 not the only candidate that they have on that ballot.
17 They have a full slate for almost every position.

18 Q. So state candidates, you are talking
19 about?

20 A. Well, that depends on the election. I'm
21 talking about different elections and on some
22 elections it's on the Federal elections. I think I
23 remember once where there were only, because they are
24 off year elections, off year means that you don't
25 have your state senators, your state representatives

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1 running. You may not know, but in Alabama the terms
2 are four years, so you only run every four years.

3 Whereas, on my level, Congressional, I
4 have to run twice a year, so -- I mean twice every
5 two years and twice compared to the four-year
6 election. So the off years, sometimes I am the only
7 candidate on the ballot. I think one time I was
8 there with someone running for United States Senate,
9 so there was no state candidates on the ballot, and I
10 would say that in some counties, in some of those
11 elections, even when there are, when there are
12 elections where we have constitutional offices

13 running, I'm the only person on the ballot sometimes
14 because most of the time in the primary, you don't
15 have challengers.

16 Q. Did you say constitutional offices?

17 A. Yes. Term used to denote those persons in
18 Alabama who are running for positions that are set
19 out in the constitution of Alabama, and that would be
20 anywhere from Governor, Lieutenant Governor down to
21 Secretary of State and certain judges and everyone
22 below that is a county officer. They would be a
23 District Court judge or county commissioner,
24 something like that or tax assessor or tax collector
25 or probate judge, they are not constitutional.

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1 Q. And the efforts of some, a group like the
2 Jefferson County Citizens Coalition would benefit
3 your campaigns as well as all these other offices if
4 they are on the ballot with you?

5 A. Yes.

6 Q. What has the Alabama New South Coalition
7 done to help out your campaign in the past?

8 A. It's the same thing. Same type of
9 organization. It has a greater geographical area.
10 The Alabama New South Coalition is statewide. It's
11 in probably all 67 counties, whereas the Jefferson
12 County Citizens Coalition is basically in Jefferson
13 County and in the Birmingham area.

14 Q. Do these groups help you because you help
15 them raise money?

16 A. No. They do not. In fact, almost each
17 one of them at one time or another has opposed me. I
18 have never -- I think maybe Jefferson County has
19 endorsed me, but I do know that Alabama New South
20 Coalition and Alabama Democratic Conference have not
21 always endorsed me and sometimes when they have
22 endorsed me, their local chapters, the state, the
23 county chapters, have not endorsed me or have not
24 supported me. So just because you raise money does
25 not automatically mean you are going to get their

0031

1 support.

2 Q. You have raised money for the Alabama New
3 South Coalition?

4 A. I helped them raise money. Yes.

5 Q. Do you know in what amounts?

6 A. No. But I know that they raise far more
7 money than I do. It's easier for them to raise money
8 than for me.

9 Q. Why is it easier?

10 A. Because they do not have the same
11 restrictions that I have. I can only raise money in
12 certain amounts from individuals and in certain
13 amounts from political action committees. In
14 Alabama, we do not have caps on political action
15 committees. We do not have caps on individuals. We
16 only have a cap on corporations, the amount that they
17 can give to organizations.

18 Q. When you have solicited money or
19 encouraged people to donate money for these groups,
20 who have you asked, individuals, political action
21 committees?

22 A. Well, you used the term solicit and I
23 don't know whether I do that, but as I said, I appear
24 at these banquets. I go to the fundraisers. People
25 come. People sometimes know that the money that they
0032

1 gave, they have several candidates, not just me and
2 they give for that. Now, when you come down to
3 solicit, when you say that, when I'm calling a person
4 for hard money, I'm trying to get them to give to my
5 campaign where I have control over their spending. I
6 don't recall calling anyone since I have been in
7 Congress for another organization.

8 Q. But have you encouraged people to give
9 money to these groups that have, like the New South,
10 New South Coalition -- Alabama New South Coalition?

11 A. Yes. I have. People have asked me.
12 Sometimes people have asked me what organization
13 would help get out the vote and once again, these can
14 be other candidates. They are, almost in every
15 election there is some candidate who wants to be on
16 the ballot that endorsed me and wants to be -- so
17 they want to also make sure that their name gets on
18 the ballot and that their name gets out to all the
19 polling places, all the precincts. So many times
20 they asked me about organizations that might endorse
21 them, or sometimes they want to know what
22 organizations would help them if they contribute, so
23 I talk to them from that standpoint.

24 Q. Has it been your experience that donors
25 who get, who give soft money, has it been your
0033

1 experience that they get more or different access to
2 elected officials?

3 A. Well, I don't know whether that's true or
4 not, because like I said, I don't even know in many
5 instances how much people give. I don't even know
6 sometimes who they are. When you look at the average
7 Congressman, we are invited to participate, just take
8 Tunica for an example. I go to Tunica and they have
9 many events I have participated in. I have
10 participated in some of the other things. I don't
11 play golf so I don't participate there.

12 And I go to these events and you have
13 hundreds of people at these events, and you talk to
14 people and sometimes you may know the person,
15 sometimes you may not, and they may introduce
16 themselves and give you a card and you have 10 or 15
17 cards and out of the 10 or 15, you might remember one
18 or two persons, but the same way back home when I go
19 to a banquet for the Montgomery County chapter of
20 ADC, I meet people. They give me cards. We talk,
21 and I don't know what we talk about. They may say
22 I'm going to call you on something and I say fine,

23 wonderful, and when they call me and the embarrassing
24 part they go through trying to make me remember them.
25 There may be 50, 100 people that night.

0034

1 Even though I try my best, I may not. Access, I
2 don't see where it's any greater with them than
3 anyone else. If they call, the person is going to
4 try to do everything they can to keep them from
5 talking to me. So I probably receive only 2 or 3
6 percent phone messages to return on people who would
7 call and I got five offices. One here and four in
8 the district, because I have a large geographical
9 district, and it's about the same.

10 They talk to people to try to do
11 everything they can to help persons before to resolve
12 the issues they have or they communicate to me what
13 they are calling about, so I don't get a chance to
14 talk to probably 97, 98 percent of the people who
15 call. I have what you call an open door policy, so
16 anyone who comes to Washington, they automatically
17 get a chance to see me. And anyone who comes to my
18 district office, they may have to wait until 6:30,
19 7:00, 8:00 to get a chance to see me.

20 So in my case because they contribute
21 money, it doesn't mean anything. They don't get any
22 more access than anyone else. That's because of my
23 policies.

24 Now, as to what other candidates do and
25 why, I don't know.

0035

1 Q. Have you developed relationships at all
2 with people who you have met at fund raisers who give
3 money to help your campaign or to help groups that
4 help your campaign?

5 A. Well, some of them, yes, and that's
6 because I knew them before I came to the United
7 States Congress, especially those people from
8 Alabama, but then, those people, well, some are not
9 from Alabama. These are not -- in years past, the
10 political community has been very small. When I came
11 to Congress, I knew many of the lobbyists for the
12 national organizations because at one time or
13 another, during my 18 or so years of being an elected
14 official in Alabama, they have been through that on
15 some issue. They have come down for some reason.

16 Q. Have large soft money donors, to say the
17 party, do they -- do those donors have any, do you
18 know of any examples in which they have greater
19 access to elected officials?

20 A. Now, are you talking about in general or
21 are you talking about specifics for me.

22 Q. In general.

23 A. Well, I can't answer that.

24 Q. Do people who donate money, to say
25 organizations that support you or parties that

0036

1 support you, do they have better chances to bring up

2 issues of importance to them?

3 A. I don't understand the question, and the
4 reason why I don't understand is because I told you,
5 I have an open door policy. I have had one ever
6 since I have been an elected official. If they come
7 to my office and I am there unless I have an
8 appointment out of the office, they get a chance to
9 see me and anything they want to discuss, they
10 discuss.

11 So whoever is in the office, whether they
12 are donor, nondonor, supporter, nonsupporter, hard
13 money or soft money, they get a chance to talk to me,
14 and if I'm not there, someone stays, no one leaves
15 anybody in my office that have not been talked to who
16 comes there with a problem. It's always been my
17 policy. For about 28 years, that's the way it has
18 been. So no one gets any greater access because they
19 gave or didn't give or because they gave larger
20 amounts than someone else.

21 Q. Sure, but my question goes more to not
22 actual access, but opportunity.

23 A. Well, with me opportunity is the same for
24 all. I have what we call, anyone who calls my office
25 who wants to see me, they automatically get 10

0037

1 minutes. In Washington and in Birmingham, automatic,
2 and they, my telephone people are instructed to ask
3 them what is the issue of why they wish to see me,
4 and the only reason they do that is to prepare me for
5 their position on any issue that they may have, or to
6 try to get any information that I may need to answer
7 any questions that they may have, but they
8 automatically get to see me if they just call and
9 ask.

10 And if I can't see them that day, I have
11 what I call listening sessions and what happens, my
12 district is geographically very large. 155 miles by
13 285 miles, so people call me, 155 miles away and they
14 want to talk to me. Well, I may not be able to talk
15 to them that week. Sometimes that month. But we
16 always try to see if there is something that someone
17 else can do in between the time I can see them, they
18 can talk to me, and sometimes I have staff people to
19 go and help them with whatever they want, and then I
20 see them at another date when I'm in that county.

21 But other -- and that person, it doesn't
22 have to be someone who contributes and to be
23 perfectly honest with you, there is only one person
24 on my staff -- no. There isn't anyone on my staff
25 who knows everybody who does give or anyone who

0038

1 doesn't give to me. I don't know everyone who gives
2 or who don't give, so a person is treated as if they
3 are a donor regardless.

4 Q. In your recent primary, did your opponent
5 outspend you?

6 A. Absolutely. Absolutely. He had so much

7 hard money, it was unreal.

8 Q. So he had hard money?

9 A. He had hard money left over. Because the
10 FEC reported that I raised \$791,000. He raised
11 \$1,334,962. He raised almost twice as much money as
12 I did and I think 90-some percent of his money was
13 hard money. It came from individuals and I think
14 about 80-some percent of mine came from political
15 action committees.

16 And he even -- I realized the problem of
17 the legislation we are talking about even before my
18 campaign this time, but this time, it was really
19 brought out how even hard money for people from poor
20 districts -- and how people can be taken advantage of
21 when you have hard money, especially when hard money
22 comes in greater forms than other types of hard
23 monies. Individual hard money, as opposed to
24 political action hard money and hard money as opposed
25 to soft money.

0039

1 Q. Did your opponent raise his hard money
2 from out of your district then, I assume, from out of
3 your district?

4 A. He raised hard money from the state. But
5 I believe -- I'm trying to cite the percentage, but
6 the greater percentage came from three states.
7 California, New Jersey, New York. Of his hard money.
8 And I think 90 some percent came from individuals.
9 And next time I run against him, he will be able to
10 get twice as much because instead of \$1,000, they
11 will give \$2,000. Because of new campaign finance,
12 it increased the amount that the individual can give
13 to the detriment of someone like me, but it did not
14 increase the amount that political action committees
15 could give.

16 Q. But could you perhaps get, seek donations
17 from more political action committees?

18 A. They are very limited in their giving, and
19 to be perfectly honest, they are about \$250 million
20 more individuals than there are hard money political
21 action committees. There are more individuals that
22 give than political action committees. I doubt if
23 you got more than two or 3,000 political action
24 committees. You got hundreds of millions of
25 individuals.

0040

1 Q. The political action committees that have
2 donated to you, they have not been Alabama specific
3 political action committees, have they?

4 A. No. Not really. Well, yes and no. Let
5 me put it this way. Most of the political action
6 committees that give to me are unions. They have a
7 local in Alabama generally. So that there may be a
8 few of them headquartered in Alabama, but I think
9 most of them would have the national office somewhere
10 else other than, other than Alabama.

11 In the future, this bill is going to make

12 it even more difficult for people in similar
13 situations like me because it allows individuals to
14 give twice as much as they gave in this cycle, but
15 they still restrict political action committees to
16 the same amount.

17 Q. Can you direct your fundraising efforts to
18 individuals then to --

19 A. I did. I did. I have tried that. And it
20 still doesn't work.

21 Q. Why doesn't it work?

22 A. Because individuals give specifically in
23 special interest cases, and poor people's issues are
24 so different from individuals who have money to give.
25 And most of the people I represent are poor people.

0041

1 I think my county is number five, I mean my district
2 is number five of the top 100 poorest Congressional
3 districts in the country. I think I rank number
4 five.

5 Q. But you can solicit hard money from
6 individuals who don't live in your district, right?

7 A. Yes, you can. But once again, their
8 issues are so different. You know, there are
9 organizations with issues. I can't get money from
10 either side because I'm representing the interests of
11 the people of my district. A clearcut example is the
12 abortion issue. Both sides fight me. I believe, and
13 my constituents from the poll that I have done, my
14 constituents wants a woman to have the right of
15 abortion.

16 But they are against, they want the parent
17 to be notified and they want the parent to consent.
18 I have done polling for over 30 years on the issue,
19 ever since I was in the statehouse, so I end up
20 voting for a woman's right to an abortion so the
21 other side who are the right to life people, you
22 know, don't contribute to me, and I end up voting for
23 parental notification and parental consent so the
24 people of choice don't vote for me, but I have to
25 vote that way because I know that's the way my

0042

1 district thinks, so I don't get no money from either
2 one of them. And both of them max out with the
3 people that.

4 There are issues like that, like the NRA.
5 My district is rural and I got huge gun clubs in some
6 of my counties, but I also represent inner city
7 Birmingham, inner city Montgomery, whether they have
8 drive-by shootings and they don't want anything to do
9 with a gun and they don't want anybody but the police
10 to have a gun. I don't care how I vote on that
11 issue. Both sides are going to be against me. NRA
12 has opposed me. Gun control has opposed me and in
13 this election, I have both sides in almost all the
14 issues fighting every bit of me. It's true.

15 I mean, I have both of the abortion
16 groups, I mean, they had a mass of people to fight

17 me. I had gun control against me. I had NRA against
18 me. And there were other similar issues, so yes, I
19 could solicit money, but when you really represent
20 the interests of poor people, and when you represent
21 a diverse district, according to geography, as well
22 as rural or urban, you have real problems. You have
23 real problems representing the interests of all of
24 those people. And those situations, you are guilty
25 whether you do or whether you don't.

0043

1 And so sure, I can solicit from other
2 organizations. It's not going to happen, because of
3 my voting record. Some of these organizations, if
4 you don't vote 100 percent for them, they don't
5 contribute. In the case with the abortion people,
6 NRA, gun control, all of them. They want 100
7 percent. In my district, I can't be 100 percent and
8 really and truly represent the interests of my
9 district.

10 MS. GACKI: Let's take a break.

11 (Recess.)

12 BY MS. GACKI:

13 Q. You were talking about groups that might
14 support you if you voted their way before we broke,
15 correct?

16 A. Yes.

17 Q. How would those groups support you if you
18 did vote the way you wanted to, they wanted you to?

19 A. Almost all these groups are organized
20 locally, state level, nationally, and in some cases,
21 internationally, and they have political action
22 committees, and they endorse, in some cases based on
23 your record, other cases based on questionnaires that
24 they sent in the matter where you don't have a
25 history, and that generally is done with candidates,

0044

1 first-time candidates, candidates who are seeking
2 office for the first time.

3 It's basically on the record you have
4 created since you have been in Congress. And most of
5 the time they have not -- they don't even send you
6 questionnaires if you are in Congress. They look at
7 your voting history.

8 Q. Let's say your voting history was such
9 that a group said we are really going to represent
10 Representative Hilliard's campaign. How would they
11 do that? Would they spend money on ads and run ads
12 in your district?

13 A. Well, they are prohibited, really. They
14 can't campaign for me. The only ad that they can run
15 has to be something in a group ad, they can say Earl
16 Hilliard voted for -- well, they can't even say that,
17 because see, every time my name is mentioned, there
18 has to be a political disclaimer by my organization,
19 if I recall that rule, so they can't, they can
20 recommend to their members to support me because I
21 have supported their issues, but that cannot be, I

22 don't think, in the form of a newspaper ad but
23 leading to the primary, and some of these rules I'm
24 thinking are maybe Alabama rules, but they would
25 apply to my case in Alabama.

0045

1 They cannot, I don't think they can
2 mention my name but one time -- and I think the way
3 it is in Alabama, you take the Teamsters. They can
4 list everybody they have endorsed one time in a
5 newspaper ad. And because they can only list the
6 person one time, generally what they do, they -- it's
7 in the newspaper probably a week before the election.
8 Those persons they have endorsed, and they have all
9 of the names there in the ad.

10 Sometimes, some of them will set up a
11 ballot type, and highlight the name of the person
12 they endorse, and the people clip the ballot. Some
13 of them put out newsletters and they advertise in a
14 newsletter. They can say, we endorse him because he
15 has been here. He has voted for us on all these
16 issues. They can do a phone bank only to their
17 members saying these things, but other than that,
18 they couldn't put a TV ad out to my knowledge saying
19 that they endorse me or so and so unless -- no, they
20 couldn't do it.

21 I would have to say that I received the
22 endorsement of the Teamsters Union. My opponent did
23 not. They can't give an endorsement, a disclaimer
24 for me, so they can't mention my name within 60 days
25 out, I think something like that. It's something

0046

1 really -- I don't know what the rules are in our
2 state, but they can't campaign for me. The only
3 thing they can do is say what I have done for the
4 membership in a newsletter going to their members or
5 in a telephone bank going to their members.

6 Q. What about radio ads, can they not
7 directly for you, but mention you, say, in a radio
8 ad?

9 A. If they mention me by name, I would have
10 to do a disclaimer, and that is charged against the
11 amount of money that they can give me. For an
12 example, I remember one year I received an
13 organization -- they gave me \$4,500, and they had,
14 the FEC reports showed that they gave me \$5,000, and
15 the FEC wanted to know what the discrepancies were,
16 and -- because I put that I only received \$4,500.

17 I received a copy of what they sent to the
18 FEC and based on that, they had done, they had
19 somehow given an approximation of the cost of putting
20 the newspaper ads in the paper and they had said on
21 the radio station that they had endorsed me, along
22 with all the other candidates that they listed, and
23 they had put that cost in to me and it had come up to
24 about \$5,000.

25 But I think the law is they cannot mention

0047

1 me by name just before the election without doing a
2 disclaimer. No one can. And I'm the only one that
3 can give a disclaimer.

4 Q. On the subject of the allegations in your
5 complaint with respect to minor contributors, have
6 minors --

7 A. What page?

8 Q. Sorry. That would be beginning on --

9 A. Oh, yes. As it relates to my fraternity?

10 Q. Yes.

11 A. Okay.

12 Q. Some general questions. Have minors
13 donated to your campaign in the past?

14 A. Not to my knowledge. But I do know that
15 they have contributed to my fraternity because we had
16 people 15, 16, 17 years old and my fraternity has a
17 get out the vote program, and they also take college
18 kids to vote because you can vote at 18 in some
19 states where my fraternity is, and some minors give
20 -- persons under the age of 21 give funds to my
21 fraternity for their efforts. And my fraternity
22 takes them to the polling places to vote, provide
23 transportation. Also provide them with information
24 concerning me, and in that sense, minors give.

25 Q. Let me see if I understand this. They

0048

1 give to your fraternity, which gives to you?

2 A. No. Well, my fraternity did send me a
3 contribution this past election. I recall it because
4 I know I had to send it back to them.

5 Q. Why is that?

6 A. Because it is a 501(c)(5), I believe, but
7 it cannot give to political candidates, and so
8 unfortunately, I had to send that one back, and it
9 was one I needed to keep.

10 Q. Do you know how many members of your
11 fraternity have donated to your campaign in the last
12 five years?

13 A. I don't know how many, but there have been
14 many.

15 Q. Can you approximate?

16 A. I have no idea.

17 Q. Of these, do you know how many were
18 college students?

19 A. No, I do not.

20 Q. And of those, do you know how many were
21 under the age of 18?

22 A. No. I do not.

23 Q. Do you know of any minors, people under
24 the age of 18, who have volunteered for your
25 campaign?

0049

1 A. You mean by name?

2 Q. Not necessarily. Do you know of minors
3 who have volunteered?

4 A. I have seen young people working in my
5 campaign. Unfortunately, I do not know their age,

6 but I would think that they would be minors. And
7 they worked on the campaign.

8 MS. GACKI: That's all I have.

9 EXAMINATION BY COUNSEL FOR ADAMS PLAINTIFFS

10 BY MR. BONIFAZ:

11 Q. Good afternoon, Congressman.

12 A. Hello.

13 Q. My name is John Bonifaz. I'm the director
14 of the National Voting Rights Institute based in
15 Boston, Massachusetts and I serve as co-counsel for
16 the plaintiffs in the Adams v. FEC case, which is one
17 of the 11 consolidated cases along with yours dealing
18 with the Bipartisan Campaign Reform Act. To my right
19 is Professor Spencer Overton, who is a law professor
20 at George Washington University, and is also a member
21 of the board of directors of the Fannie Lou Hamer
22 project, which is one of our clients, one of the
23 organizational plaintiffs in our case and to his
24 right is Adam Lioz, who is an organizer for U.S.
25 PIRG, who is another one of our clients.

0050

1 Just to give you further background on
2 this case, the lead client is Victoria Jackson Gray
3 Adams, and Victoria Jackson Gray Adams, as you may
4 know, is one of the co-founders of the Mississippi
5 Freedom Democratic Party with, along with Fannie Lou
6 Hamer and Annie Devine led the Mississippi Freedom
7 Democratic Party's delegation to the 1964 convention
8 and challenged the all white Mississippi delegation.

9 She and a number of other voters and
10 candidates and organizations like the Fannie Lou
11 Hamer project and U.S. PIRG have challenged the
12 increases in the hard money contribution limits in
13 the Bipartisan Campaign Reform Act, and I'm just
14 going to read for you the first three paragraphs of
15 the complaint to give you a sense of the claims.

16 A fundamental principle of democracy, rule
17 by the people, is that all of the people must have
18 equal opportunity to participate in the electoral
19 process. The multiple divisions of the Bipartisan
20 Campaign Reform Act of 2002 that increase hard money
21 contribution limits threaten to undermine this
22 fundamental principle of democracy, as guaranteed by
23 the equal protection guarantee incorporated by the
24 Due Process Clause of the Fifth Amendment to the
25 United States Constitution.

0051

1 Paragraph 2, by dramatically increasing
2 the maximum hard money contributions that donors may
3 make, BCRA allows the voices of the few to drown out
4 the voices of the many, thereby precluding a large
5 segment of the voting populace from commanding
6 candidates' attention to issues that concern them,
7 rendering them voiceless and without influence in the
8 political process, and denying their right to equal
9 participation in the electoral process. Similarly,
10 the millionaire amendment denies the right to equal

11 participation to candidates with high levels of
12 grassroots support but without access to large
13 contributors.

14 And finally, paragraph 3. By creating
15 these economic obstacles to equal participation in
16 the political process, the multiple BCRA provisions
17 that increase hard money contribution limits violate
18 the equal protection guarantee incorporated by the
19 Due Process Clause of the Fifth Amendment to the
20 United States constitution.

21 First, do you have any overall comment on
22 these claims that the Adams plaintiffs have made?

23 A. Well, yes. Alabama and Mississippi are
24 very similar in size and also very similar
25 geographically. We have very few large metropolitan

0052

1 areas, and so does Mississippi and the problems in
2 the Mississippi Delta are very similar to the
3 problems in the Alabama black belt. You have a large
4 number of poor people, undereducated, underserved,
5 and the problems that Fannie Lou Hamer had for
6 political activities we had in Alabama, are almost
7 identical.

8 The things she had to do, we had to do,
9 and politically now, we have that as an additional
10 problem to the problem in which I sued for. And she
11 is exactly right on that -- I mean, Ms. Adams is
12 exactly right on that point because what you have
13 done, you have allowed individuals who have the
14 means, that can give to give more.

15 So they are going to command greater
16 access to media. They are going to be able to get
17 their message out, and they are going to be able to
18 be more influential than the poor and in my
19 situation, as in her situation, the majority of the
20 people in the black belt and in the Mississippi Delta
21 are poor. So you have one large banker or one, one
22 manufacturer who can give now instead of \$10,000,
23 \$20,000 and we saw it in my past campaign.

24 The family, the mother gave \$1,000. The
25 father gave \$1,000 and five kids gave \$1,000 so you

0053

1 have a family that sent in \$7,000 to my opponent.
2 And because of the increase, after this election,
3 they will be able to give \$14,000. And when you have
4 a district like mine, you have very few of those
5 people in a county that can give that kind of money,
6 so they have a great deal of control politically in
7 that county.

8 I run in 14 counties, and you get five
9 committed families or five committed individuals, you
10 know like I do, college-age kid is not going to be
11 interested in a campaign to give \$1,000 to someone he
12 never heard the name of. The father gives it. And
13 it's acceptable. By FEC rules.

14 So the family ends up now being able to
15 give \$14,000. You got five families, my goodness,

16 you are going to have, what, \$70,000 now. In the
17 past -- in the future, you are going to have
18 \$140,000. I could have spaghetti dinners, fish
19 fries, barbecues and I'm not going to raise anywhere
20 near that kind of money, and most of them will get an
21 individual to give me, probably is going to be out of
22 that county or those counties, is going to be 250 or
23 \$500, because the individuals I represent, even
24 though the law says that I represent everyone in that
25 county, but from an ideological process, I only

0054

1 represent that poor person.

2 That person of means that can afford to
3 give, that family can afford to give \$7,000 is going
4 to be the one who oppose me because of philosophical
5 reasons. So the increase in that amount of money
6 from \$1,000 to \$2,000 is really going to drown out
7 the poor. No question. It's going to be very
8 detrimental to our campaign and our poor areas.

9 Q. Following up on that, I'd like to, if I
10 may, show you your biography which you obviously
11 know. It's on your website and introduce it as an
12 exhibit and have you read into the record, if you can
13 read into the record, Congressman, just that opening
14 paragraph.

(Exhibit No. 2 was
marked for identification.)

15 THE WITNESS: Congressman Hilliard, a
16 native of Birmingham, Alabama, was elected in 1992 as
17 Alabama's first African-American member of Congress
18 since Reconstruction. As a life-long resident of
19 Alabama, the birthplace of the modern civil rights
20 movement, he has seen firsthand the difference one
21 person can make to effectuate positive change.

22 As a full time civil rights activist, he
23 has marched, protested and stood up for equal justice

0055

1 most of his life. He has a long-standing commitment
2 to uplifting the poor, the disenfranchised and the
3 everyday laborer. Congressman Hilliard understands
4 that the measure of a civilized society is gauged by
5 the treatment of those less fortunate.

6 BY MR. BONIFAZ:

7 Q. Thank you. Could you comment on how,
8 based on your background and your ideological
9 perspective, how these increases will impact your
10 ability and other candidates like you to represent
11 the interests of the poor and disenfranchised and
12 every day laborer?

13 A. Well, it's going to make it very difficult
14 because we are not going to be able to raise money to
15 compensate for the additional monies that those
16 persons of means can put up now twice as much under
17 the new law. So that means we are going to have to
18 work twice as hard in raising money and we are not
19 going to, it's not going to translate into twice as
20 much money, the effort we put into raising the money,

21 because we have a very small base of individuals that
22 can even give 250.

23 You have to understand that the district I
24 represent is, without me putting forth any effort, is
25 going to be the number one recipient of welfare aid

0056

1 in my state and that's because of transfer payments,
2 Social Security, aid for independent mothers, I'm
3 sorry, aid for children, and aid for Title I kids in
4 school.

5 You know, I have schools where 100 percent
6 of everybody who goes have qualified for breakfast
7 and for lunch, free breakfast and free lunch, and you
8 know, unemployment is rampant, institutionalized, 25,
9 32 percent for many reasons. Those people cannot
10 afford to give. The money, the income they have
11 comes from some governmental agency, a majority are
12 on some type of government program. That's the
13 income for the area.

14 Q. And what impact will these increases have
15 on their perception about their ability to
16 participate?

17 A. It would mean that the few employers in
18 the area, the few people of means would be able to
19 give twice as much money as they have given in the
20 past, and because they will be able to give twice as
21 much money, there is no question they are going to
22 have that much more influence.

23 I was asked the question earlier about
24 influence based on the amount of money that people
25 give. The influence is not what the individual

0057

1 elected official, but the influence is what the
2 general public -- is the perception that if you do
3 not vote in the interest of someone, we are going to
4 come after you with money, and if you do vote my
5 interests, then I'm going to support you.

6 That's the type of influence you get.
7 It's not access as such. They don't have to come see
8 you. They can say it in words. They put it in a
9 newspaper. I'm serious. They let it be known that
10 they don't like the way you voted a certain way, and
11 it's effective. When you have large donors or
12 individuals who can give money, and who can cause
13 money to be given, you know, you get a committed
14 individual and I have seen it happen. He not only
15 has his kids give money. He has his mother, his
16 brother, his sister, all -- the whole family.

17 You know, I have some very poor counties,
18 and you have one family giving 30 and \$40,000 in an
19 election, and I can't get 30 or \$40,000 out of five
20 of those counties combined. If we have one family
21 from one county being able to do that, and now they
22 are going to be able to give 60 or \$80,000 because
23 they can give twice as much. And this is bungling to
24 the nth degree.

25 Q. Do you believe these increased

0058

1 contributions will discourage participation by poor
2 voters both in terms of voting and in feeling part of
3 the process?

4 A. Absolutely. But it's also going to
5 discourage representation of these people because any
6 politician would know that if he cannot get the
7 necessary funds to get his message out, he is going
8 to be defeated, and it's going to wreak havoc on the
9 national level and definitely on the local level.

10 When you look at my race this year and
11 Cynthia McKinney's race next year, I bet you next
12 year if they pass the same resolutions that they
13 passed last year concerning the Israeli-Palestinian
14 question, you are going to have 100 percent, even the
15 Arabs in the United States Congress will vote for the
16 resolution. And it's the perception once again what
17 individuals can do with money, and this time,
18 everyone knows they will be able to give twice as
19 much.

20 So it's twice as devastating, and it's not
21 all the time the amount that's given. But it's the
22 potential or even the thought, the perception of what
23 the money can do to you or for you that controls your
24 vote.

25 Q. Right. You spoke earlier about the

0059

1 abortion issue, the gun control issue. I'd like to
2 focus on some economic issues where this may have
3 come up.

4 A. That's a good one.

5 Q. Can you give some examples where --

6 A. Bankers. Bankers. Since I have been in
7 the United States Congress, I have never had the
8 support of the Bankers Association. The Savings and
9 Loan Association. The Financial Institutions
10 Association. On the state level, I always fought
11 increases in bank fees, especially for cashing
12 checks, insufficient funds because these are the type
13 things, even the maintenance fee for having a
14 checking account, these are the types of things that
15 really affect poor people.

16 And so because I have done that, and you
17 got to understand now that I represent a very poor
18 district, even in the inner city, the part I
19 represent is the poorest part. I don't represent all
20 of Birmingham, I represent really from an economical
21 standpoint the poorest part of Birmingham, the
22 poorest part of Tuscaloosa and everything is rural
23 and that's poor in Alabama, Alabama black belt.

24 Now, what happens, if I vote their
25 interests, I'm voting against the interests of

0060

1 savings and loan associations, of banks, you know,
2 any financial institutions. So they don't support
3 me, and I understand that. I don't have a problem
4 with that. I know what's going to happen at election

5 time.

6 I could -- I could tell you in every
7 election, the support I have lost because of my vote
8 for the people, and this time around, I'm not going
9 to be able to go, you know. I had the support of the
10 credit unions in past years. I lost their support
11 this time. Why? Because of the bankruptcy bill.
12 The bankruptcy bill that we passed is an atrocity to
13 poor people, and supporting and voting for their
14 interests, I could not in good conscience support
15 that bill.

16 But at the same time, the credit unions
17 who had supported me in the past because basically if
18 I was against the banks, I was for them, they
19 thought. They disliked my vote on the bankruptcy
20 law, so they went against me. So this time, I had, I
21 had all of those who traditionally have been against
22 me and half of those who have been for me, you know.
23 So they saw an opportunity. And it worked for them.

24 But once again, if I had played the game,
25 I would not have to worry about how much they were

0061

1 able to contribute because the bankers not only would
2 have gotten money for their political action
3 committee, but they would have invited me to come to
4 the board room as they did my opponent and 12 people
5 gave him \$57,000 because they gave as individuals and
6 they got checks from their sons and daughters and
7 they gave him \$57,000 in the run-off because they
8 figured that money could take me out.

9 They did it. They sent out no
10 invitations. Next time they will be able to give
11 \$114,000. Not counting what the bank political
12 action committee could give. So this law is really
13 an atrocity to America because the majority of people
14 in America are poor. They are not able to give at
15 the level that the banker can give.

16 Q. When you say this law, you are referring
17 to the increased contribution limits?

18 A. Absolutely. Yes.

19 Q. And you also mentioned the bankruptcy bill
20 as being an atrocity. Just for the full record, can
21 you explain why the bankruptcy bill harms poor people
22 and why it is that the bankers want it?

23 A. Because this bill is written in favor of
24 the industry, in favor of industry, and it now is
25 more difficult for a person to -- actually to go

0062

1 bankrupt. And really, let me put it this way. The
2 judge would understand it. Title VII of the
3 Bankruptcy Act allows you to bankrupt and beat this
4 charge. Title XI of the current, the old Bankruptcy
5 Act allows you to pay your debts over a period of
6 time.

7 But now the bankruptcy law for all
8 practical purposes is Title XI. You never discharge
9 as such, but you pay forever over a period of time,

10 and if the debt is reduced, you still got to pay it,
11 and that says under the theory of a fresh start,
12 which is what the original authors of the bankruptcy
13 law had in mind, you would never be able to have a
14 fresh start, fresh start in our country again, and
15 once you are bankrupt, you are going to be penalized
16 for 10 years on your credit record.

17 So even if you are able to buy a car, for
18 an example, after you get out of bankruptcy, after
19 you pay off your debt, you are going to be penalized
20 because it's on there. You are going to have to pay
21 at a higher interest rate. If you buy a house.
22 Anything you buy, you are going to be penalized by
23 higher interest rate, higher up-front fees. So it's
24 an atrocity to poor people.

25 Q. And the banking industry and credit card
0063

1 industry lobbied heavily for it?

2 A. Oh, yes.

3 Q. And did they have greater influence
4 because of their ability to give large sums of money?

5 A. Yes.

6 Q. And did you see any kind of lobbying by
7 poor people on the bankruptcy bill?

8 A. I honestly didn't. I had a couple of
9 lawyers that called me on a continual basis about it
10 because they were the ones that represented,
11 basically a large number of people who had been
12 bankrupt, had gone through the process and they
13 realized what it would do to their clients.

14 No. I didn't have poor people contacting
15 me about the bill. I don't know whether they
16 understood the ramifications of the proposed
17 legislation. I would think that they did not. But I
18 understood it and I'm their representative here and
19 in a real sense, they didn't have to call me. I knew
20 and I understood and if I vote their interests, then
21 I vote against the bankruptcy bill, but at the same
22 time, I vote against the banks, the credit unions,
23 the Savings and Loan Association and all the big
24 money people.

25 Q. Right. Congressman, did you have large
0064

1 numbers of people lining up to give you large
2 contributions to oppose the bankruptcy bill?

3 A. Are you kidding? Absolutely not. No. In
4 fact, I don't think anyone gave me any money because
5 I opposed that bill or voted against it. On the
6 contrary. I know that my opponents received several
7 hundred thousands of dollars from financial
8 institutions because I did oppose the bill.

9 Q. You are speaking of Mr. Artur Davis?

10 A. Yes.

11 Q. Let's turn to your campaigns and have a
12 discussion on that. When did you first run for
13 Congress?

14 A. 1992.

15 Q. And approximately how much money did you
16 raise and spend in that campaign? Do you remember?

17 A. I really do not remember.

18 Q. That's okay. Do you have a general sense
19 of what the average individual hard money
20 contribution has been over the years that you are
21 able to raise?

22 A. In two categories, from individuals it's
23 going to be probably something in the neighborhood of
24 about \$400. From political action committees,
25 something in the neighborhood of 13 or \$1,400.

0065

1 Q. \$400 would be the average amount or more
2 or less toward the top end?

3 A. That would be, that would be probably the
4 average amount.

5 Q. You --

6 A. Because you have to understand, first of
7 all, I did receive many, and those I received would
8 be somewhere between maybe 250 and \$500, a few
9 thousand dollars.

10 Q. How do you go about raising these
11 individual hard money contributions?

12 A. Fundraisers. Fundraisers in the district
13 and fundraisers here and in the district. Well, here
14 we have mostly cocktail parties. In the district,
15 spaghetti dinner, barbecue, fish fry, something like
16 that.

17 Q. And who comes to these spaghetti dinners,
18 fish fries, barbecues?

19 A. The common person. The person not of
20 means. The person that -- the poor person.

21 Q. What kind of contribution are they coming
22 with usually?

23 A. They come in to buy a spaghetti dinner.

24 Q. Which costs?

25 A. If it costs more than \$10, you are not

0066

1 going to get them there.

2 Q. What about people who max out to the
3 thousand dollars level? How frequent is that for
4 your campaigns that you get for maximum donors?

5 A. Coming from individuals?

6 Q. Yes.

7 A. It's infrequent.

8 Q. And why would you say it's infrequent?

9 A. Because of there are not very many persons
10 that -- coming from individuals in the district is
11 infrequent. There are not very many individuals that
12 will give me a thousand dollars contribution in the
13 district. First of all, there are very few people
14 that can afford it and there are very few people of
15 that means that can afford it that agree with my
16 politics. And if they don't agree with my politics,
17 they aren't going to give me the money.

18 Q. And what about outside the district and
19 outside of the state?

20 A. Outside of the district, and I have had
21 very few fundraisers outside the district that was
22 not held here in D.C. We have tried them in Atlanta
23 and other places. Up until this year, we stopped
24 doing it because it was -- and we stopped doing it
25 because they didn't raise the amount of money and it
0067

1 was a whole lot of work.

2 We stopped doing these spaghetti dinners
3 and barbecues because the only thing it does, it
4 brings the people there, it gives them opportunities
5 but their expense outweighed the benefits and you
6 know, you go into a planning stage of a barbecue and
7 3 or \$400, I'd rather go to a church meeting or pick
8 any time and speak to the people and shake their
9 hand. I think I get more mileage than trying to set
10 up a barbecue and having all arranged and trying to
11 raise money. I stopped years ago trying to do -- it
12 just didn't raise money. You can't raise the money
13 that way.

14 Q. Why is it difficult to raise, for you, to
15 raise hard money at the maximum level around the
16 country?

17 A. Well, two reasons. The first reason is I
18 don't have many people who can afford it in my
19 district. If you look at the median income for my
20 district, you are going to be shocked. It's among
21 the lowest in the country, in the country. And the
22 second reason is because of my politics. If you
23 represent the interests of poor people, believe me,
24 that's where your interest is going to be, and that's
25 where your support is going to be and you are not
0068

1 going to be anywhere else on it because their
2 interests are so diverse to the interests of even
3 the, maybe the average American.

4 Their issues are probably to 80 to 90
5 percent economic issues, and they are going to be
6 against anything that they got to pay for that's
7 going to be increased. They are going to be
8 interested in more aid for dependent children. They
9 are going to be interested in more aid for Title VII
10 of the education act where they can get free lunches
11 and free dinners for their kids in school. Those
12 are the types of issues they have, more health care
13 for the poor, those things.

14 And believe me, when you vote for them,
15 you offend those people out there that's interested
16 in bankers making money, interested in the bottom
17 line for the stockholders, and to be honest with you,
18 if you truly represent your interests in a district
19 like mine, the interests of the people, eventually,
20 you are going to be -- money is going to kill you
21 because you are going to elevate all those other
22 people out there that you have the interest to
23 protect.

24 Q. And in your campaigns over the years,

25 excluding this past primary election for the moment,
0069

1 do you believe that you have been able to raise
2 sufficient funds under the existing thousand dollars
3 hard money contribution limits to compete effectively
4 for public office?

5 A. I have not been able to raise sufficient
6 funds, but the alternative to that is that my
7 opponents have not been able to raise more funds, and
8 if I can't raise it and he can't raise it, it keeps
9 us at more of an equilibrium. But if he can raise
10 more and I cannot, then I'm at a disadvantage and
11 this law as proposed is going to put me and every
12 American that's similarly situated in the same type
13 disadvantaged position.

14 In fact, this bill, if you look at it, is
15 geared towards the wealthy Americans exerting more
16 political influence over our electorate process, and
17 let me tell you what I mean by that. First of all,
18 it means that an individual can give twice as much as
19 they have been able to give in the past. Now, that
20 may not sound like much going from 1,000 to 2,000,
21 but that individual, it means his whole family can
22 give, his extended family can give, his employees can
23 give, and at the same time, you have someone who is
24 wealthy who runs, he can put in any amount he desires
25 almost. Because a poor person can't.

0070

1 Q. Congressman, you said it doesn't seem like
2 a lot to jump from 1,000 to \$2,000, but is it a lot
3 for your constituents to jump?

4 A. They can't jump that high. They can't
5 make it. They can't even get to the thousand. If
6 you go through and look at people like Earl Hilliard,
7 Jim, Bennie Thompson, Sanford Bishop and you look at
8 their campaign contributions you will understand
9 because you will see \$50, \$100 and since the FEC
10 allows you to bunch together under \$200, you may not
11 see them.

12 Let me tell you something, I received some
13 checks for \$15 and \$25 in this election, and a
14 considerable amount of them bounced. What this tells
15 me is that people earnestly wanted to give but they
16 really couldn't afford it, but they were sending it
17 anyway.

18 Now, these people are disadvantaged by
19 this law. They can't give in any significant amount
20 initially, and you allow for those who would have
21 opposing views to give twice as much as they have
22 been able to give in the past, so you create a
23 further disparity between those who can give and
24 those who can't give. These are the type problems
25 that create unrest in other countries because those

0071

1 of means can control elections, whereas those not of
2 means cannot adequately and sufficiently participate
3 in the election process.

4 Q. And related to that point, how does it
5 affect the integrity of the election process in the
6 United States?

7 A. Well actually, it sets up a rich man, a
8 rich man political system. You know, when I was
9 growing up in the South, if you didn't have money,
10 you couldn't run for anything. You couldn't run.
11 Whether you are black or white, you couldn't run, and
12 if you ran, you wouldn't get, you wouldn't get
13 anybody's support. Nobody would recognize you.

14 Well, we are getting back to that era
15 where the big boys in the inner city controls
16 everything. Those big boys, those with money
17 controls the political process. We are getting back
18 there, because the way we made the laws this time,
19 the school teachers who we consider as being probably
20 at the lower level of the middle class, according to
21 income, they can't give the thousand dollars.

22 My goodness. They start out in Alabama at
23 \$22,000. They can't give \$1,000 and if they gave me
24 \$1,000, it would strain, so they don't give. But we
25 have a process where they can give over the year,

0072

1 maybe \$50 or \$25 deducted from each paycheck where
2 they can give to a political action committee.

3 But because we did not increase the amount
4 of what all these teachers put together can give, we
5 created this disparity. We made it, we widened the
6 gap between the rich and the poor participation in
7 the election process. We widened the gap by aligning
8 those of means, those wealthy individuals that can
9 give \$1,000, we have now allowed them to give \$2,000
10 but that little teacher and all her friends cannot
11 give any more than what their group could give in the
12 beginning, because we did not increase it.

13 Q. To further explore that point,
14 Congressman, I'd like to also give you a profile from
15 opensecrets.org, which is the Center for Responsive
16 Politics profile of your last race, this past
17 primary, as well as another page from that website
18 documenting the total amount raised and spent by your
19 opponent.

20 (Exhibit Nos. 3-4 were
21 marked for identification.)

22 BY MR. BONIFAZ:

23 Q. Congressman, just reviewing these
24 profiles, it shows that the bulk of your source of
25 funds came from political action committees. Is that

0073

1 right? Do you see that?

2 A. Yes.

3 Q. And some 32 percent of your money came
4 from individual contributions, is that right?

5 A. Yes.

6 Q. And also under the PAC contribution
7 breakdown, the bulk of the PAC contributions you
8 received were from labor PACs, is that right?

9 A. Yes.
10 Q. Almost 50 percent. Turning to the
11 following exhibit, Artur Davis, his breakdown is
12 quite different. Is that right?
13 A. Yes.
14 Q. Can you explain and describe that
15 breakdown difference?
16 A. Well, from PACs, political action
17 committees, he only received 12 percent, and that was
18 only \$157,000. From individuals, he received
19 \$1,176,000, which was 88 percent of the total amount
20 he received. Under the new deal and everything being
21 equal, the individuals would be able to give
22 \$2,300,000, whereas -- and he would receive them and
23 I would receive less than half a million dollars from
24 these individual contributions.

25 Q. So if you were to run against Artur Davis
0074
1 in the next election, would you find it to be more
2 difficult under these new increased contributions to
3 compete effectively?

4 A. It would, it would be more difficult for
5 me to compete because his supporters would, because
6 of the law, would have an opportunity to give him
7 twice as much as my supporters gave me last time
8 because the contributions for individuals were
9 raised, whereas the contribution limit for political
10 action committees were not raised.

11 Q. And can you explain for the record the
12 distinction you see between labor PAC money and
13 individual hard money, the bulk of which went to
14 Mr. Davis' campaign?

15 A. Oh, yes. Individual money is self-serving
16 and generally is for one or two issues, whereas the
17 labor interests or the interests of a political
18 action committee is generally for a broad array of
19 activities, and a broader view, and it can be
20 multiple views. The individual views are generally
21 single issues, and more concentrated.

22 Q. And in general, based on your background,
23 experience, do contributions that come to labor PACs
24 come in smaller amounts, as opposed to contributions
25 from individuals to campaigns?

0075
1 A. It may come in larger amounts because
2 labor, these political action committees can give up
3 to \$5,000, but there are so few of those labor PACs,
4 compared to the individuals that the individual money
5 swamps the political action money as we see in this
6 example.

7 Q. I want to restate my question because I
8 obviously wasn't clear. What I was focusing on was
9 the kind of money that comes to the labor PAC in
10 order to make that large labor contribution?

11 A. It comes from individuals and generally
12 money is deducted, \$25 a month, \$50 a month. So on
13 an annual basis, someone may give only \$500 or \$600

14 or less, or less, but they are able to take that
15 money and give it to individuals who have an interest
16 in that group issue.

17 Q. These are not generally wealthy people to
18 give to labor PACs?

19 A. No. It's not. Definitely not. They are
20 workers. They are consumers.

21 Q. Let's focus again -- sorry. Let's focus
22 again on the impact of these increased contribution
23 limits in several ways. We have talked about the
24 competitiveness in the election. Do you have
25 anything more to add both in terms of the impact it

0076

1 will have for future elections in your district, but
2 also nationwide with respect to the increased
3 contribution limits on the competitiveness in
4 elections?

5 A. Well, if we are going to have a political
6 system where individuals who are not wealthy are
7 going to be represented, it has to be a system that
8 allows poor people to participate on equal footing
9 and on an equal and balanced level, and raising the
10 amount that a person of means can give without
11 raising the amount that an individual or an
12 individual acting in a group could give is not only
13 devastating, is not only widening the gap, but it
14 puts them at a disadvantage and it makes the
15 political contribution system even less equal in
16 terms of financial participation.

17 Q. Congressman, you talked about large
18 individual contributions that came from individuals
19 to your opponent. Did the bulk of those come from
20 within the district or outside the district, outside
21 the state to your opponent?

22 A. It came from outside the district and even
23 outside the State of Alabama. It came from basically
24 three areas, California, New York, New Jersey.

25 Q. What impact does that have on the

0077

1 representation of the constituents in your district?

2 A. Well, basically it means that the views of
3 the constituents in the district would be similar to
4 those of California, New York, and New Jersey, and
5 because of the money and the way it came and how it
6 came, it means that they will have no one to really
7 articulate the views of the people that they
8 represent. You know, in essence, it gives New York
9 another Congressman.

10 Q. To your knowledge, were those
11 contributions small contributions to your opponent
12 from fish fries, spaghetti dinners, or were they a
13 different kind?

14 A. No such thing. At one fundraiser there
15 were present 280 persons, and he raised \$322,000.

16 Q. At one event?

17 A. Right. That means that some persons there
18 gave for their wives, gave for their children, and

19 from what I understand, I forgot the breakdown, but
20 more than 90 percent of the people gave \$1,000 or
21 more and I don't think anyone gave less than \$500.

22 Q. Based on your background and experience
23 what impact will the increased contribution limits
24 have on the ability of candidates like yourself to
25 compete for public office?

0078

1 A. It makes it extremely difficult for me to
2 get my message out. My opponents said I have not
3 done anything for the district. And there were so
4 many things I wanted to talk about. I couldn't put
5 them on the air or on the radio.

6 When I started talking about the
7 enterprise zones, the jobs, the 502 programs I had
8 started, when I talked about the amount of money I
9 have gotten for the schools, I ran a commercial and
10 as one of my friends who came down to help me said,
11 from the time you got in the car from the airport in
12 a taxi from the airport to my campaign headquarters,
13 he heard three commercials for my opponent and we
14 were getting out of the car, I came on with the
15 commercial, and that's the way it was.

16 He has swamped any message that I tried to
17 get out. Claims that he makes are extremely
18 difficult for me to encounter. I'm trying to say
19 what I have done. He not only says that I have not
20 done anything but he goes on to attack me in those
21 areas. It takes money from me saying what I have
22 done.

23 As a result, the amount of money raised
24 and spent because of individuals, contributions being
25 so large and so many, it controlled the election. If

0079

1 you can't get your message out on radio and on TV,
2 then you are at a stand still. You are hurting. You
3 are devastated. And comparing this election and
4 looking forward, fast forward in the similar
5 situation, I know that under this proposed law, under
6 the law that is law, he would be able to raise twice
7 as much if circumstances were the same.

8 Q. And that would make it more difficult for
9 to you get your message out?

10 A. Yes. And I would be at a greater
11 disadvantage.

12 Q. How important, Congressman, are things
13 like debates compared to raising money in campaigns?

14 A. Debates?

15 Q. Yes. Political debates.

16 A. As many times as you can appear on radio
17 or on TV, it's to your advantage. So a debate is
18 good from the standpoint that you get that exposure.
19 But when someone raised the kind of money that my
20 opponent raised, they don't want to debate you,
21 because they got the money to be on TV and radio, and
22 they have control of the forum, the venue, what is
23 said and what is asked. So it's very important, but

24 it doesn't happen, and even the press reacts to the
25 amount of ads that you buy.

0080

1 For an example, in the runoff, there was a
2 -- in the primary, there was a third candidate. The
3 third candidate called a press conference to announce
4 who he was going to endorse. When the press found
5 out he was going to endorse me, neither one of the TV
6 stations showed up. That's because he had bought so
7 much time, the campaign manager asked them not to
8 cover it, and they did not cover it. Once again, it
9 was more difficult for me to get out my message
10 because it's the amount of money that my opponent had
11 spent on the major network.

12 Q. And my understanding is that there was one
13 debate where your opponent showed up via videotape,
14 is that right?

15 A. Absolutely. He didn't come. He didn't
16 need to come.

17 Q. Where was he?

18 A. He was in New York raising money. He sent
19 a videotape to the debate that we had in Tuscaloosa,
20 I think it was at the University of Alabama. It was
21 a big debate. Everyone came to see what was
22 happening and well attended. He didn't show.

23 Q. You debated a video?

24 A. I debated a video. Yes. But once again,
25 when you have money, you don't want a forum. You

0081

1 don't want a debate. You can ask for one but you
2 never can make it. He kept asking for debates.
3 Fine. I will debate you. He always wanted to debate
4 on Tuesday or Wednesday. I can't debate on Tuesday
5 or Wednesday. I represent the people. I'm here in
6 Washington on Tuesday and Wednesday. And it's a big
7 thing.

8 And with his campaign war chest, they went
9 on, they even set up debates on Tuesday and Wednesday
10 and said we hope that the Congressman will come, you
11 know, and every time there is some issue that I got
12 to be able to vote on. I think I missed one time,
13 and the Democratic Party was looking for me because
14 they needed some vote on some issue and they were
15 counting everybody and they noticed I hadn't been
16 voting. The newspaper noticed it.

17 They came out and said I missed this
18 important vote. It was on some budget bill and once
19 again, because he spent so much money with them, they
20 were, the articles they printed favored him. So the
21 money shows up and reactions to it in so many
22 different ways.

23 Q. Let's talk specifically about the impact
24 of the increased contribution on communities of
25 color. What will be in your view the impact on

0082

1 candidates of color going into the future with these
2 increased contribution limits?

3 A. The people in the district, unless they
4 are well off, will not be able to elect their
5 representative of choice, and in almost each one of
6 the 38 districts, now where you have members of the
7 Congressional Black Caucus, there are generally only
8 about three districts that will be able to not fit
9 the category as such.

10 That's the district that Al Wynn
11 represents in Maryland, right outside of Washington
12 where you have a large number of African-Americans,
13 well educated and work for the government here in the
14 District.

15 The same is true in Atlanta, and one other
16 place. I can't think of it right now. But the other
17 CBC districts are basically inner city poor or rural
18 poor, and in those cases, you know, I got 14
19 counties. I can tell you who is the richest person
20 in each one of those counties. I can probably tell
21 you the top 10, and all of them are going to be
22 opposed.

23 And when you deal with economics in poor
24 counties, even well-off blacks do not philosophically
25 agree with your politics. They may not be outspoken

0083

1 as the white wealthy people would be, but you would
2 see it because they do not contribute to you, and do
3 not invite you to fundraising and do not participate
4 in your fundraisers when you are invited.

5 Q. So Congressman, what is this set of
6 provisions increasing the contribution limits mean
7 for the future of the CBC and the voters that it
8 represents?

9 A. It means we are going to have people that
10 are really not going to represent the interests of
11 the poor people in the district. They are going to
12 be very careful to satisfy the interests of those
13 people who are able to give contributions and give
14 sizable contributions.

15 Q. And as you know, Congressman, the BCRA
16 also includes provisions increasing contribution
17 limits to as much as \$12,000 for individuals in races
18 involving self-financed candidates. What will that
19 impact be on those communities of color as well as
20 candidates in general trying to represent poor
21 interests?

22 A. That's a provision in the bill.

23 Q. Yes.

24 A. It means what it says. You almost have to
25 be a millionaire to win. If you, you know, in a

0084

1 district like mine, and I keep saying like mine, most
2 members of the CBC have districts like mine. Both
3 rural and urban or all poor urban or all poor rural,
4 you have to be well off to run yourself because you
5 got to live in two districts, and the money you get
6 won't compensate for living two households.

7 But beyond that, just getting back to the

8 campaign side, you got to have your own money to
9 finance your campaign when you are running against
10 someone wealthy, because as much money as you can put
11 in, he can triple it.

12 Q. So Congressman, hypothetically, if the
13 millionaire were to run against Artur Davis next time
14 and you were to also be running, how would that
15 impact your ability?

16 A. I'd come in third. I would come in third.
17 I would come in third because the money that I would
18 have had to get my message out will be drowned by the
19 messages that Artur Davis and the millionaire would
20 be able to get out because they would have more money
21 to be on TV and radio more than I could. If I put up
22 a billboard, they put up three. I have a radio ad,
23 they buy five. I buy a TV ad, they buy four. It
24 happened that way in this election.

25 And the law did not take, does not take

0085

1 effect until the next election cycle. So they have
2 twice as much so it will be twice as difficult.
3 Actually, that's not a good multiplier. Probably
4 four or five times more difficult for me to run
5 because I just will be at a disadvantage raising
6 money because I can't raise money from people who I
7 support who I tries to help kill the Bankruptcy Act
8 for.

9 I can't raise money from people who I
10 fought the banks from increasing the limit on banking
11 accounts, just mentioning one. They don't have the
12 money to even maintain an account. You know they
13 don't have money to give to me. You can't raise
14 money from these people. But if their interests are
15 to be protected, they need Earl Hilliard.

16 Q. As you also know, many public surveys show
17 that voters perceive that money has undue influence
18 on our democratic process and that ordinary citizen
19 voices are shut out of the process. What impact do
20 you believe these increased limits will have on
21 public perceptions?

22 A. It will accentuate that perception. Let
23 me tell you, let me go back to some questions I was
24 asked about access. Everybody is always talking
25 about big donors always having access to the

0086

1 candidates or Congressman or the elected official.
2 That may or may not be true. He doesn't have to have
3 access. He has money. And he can move that money
4 around and that money can determine a whole lot of
5 things in terms of influences on you. And an elected
6 representative, and you can see that money move, and
7 you know the problems you have got based on your
8 voting for or against something.

9 And you know it as you vote. But if you
10 vote the interests of the constituents, in the long
11 run, it will not pay off. It will not pay off.
12 Because the theory is when you vote for somebody, you

13 vote against somebody. In our society, if you vote
14 for the poor, you vote against someone who is
15 powerful. If you vote against banks or any financial
16 institution raising the amount of a checking account,
17 you voted for the consumer. You are voting for poor.
18 You are voting for even middle income people. But
19 you're voting against the banker. You are voting
20 against the Savings and Loan Association. You are
21 voting against the credit union.

22 And eventually, it's going to work against
23 your interests. Because, see, each bank has a
24 political action committee, the bank association.
25 And there are many bank associations, different

0087

1 kinds, small banks, medium banks, large banks,
2 company owned banks, individual owned banks, banks
3 that are listed on the stock exchange. All of them
4 have different PACs.

5 Whenever the financial community decides
6 that, look, this guy got to go, not only do you have
7 to fight the PACs, but now you got to worry about
8 them having the board meeting where they invite the
9 candidate and they can give twice as much money now,
10 because the law passed that said they can give twice
11 as much.

12 So you go to a board meeting where you got
13 12 people and you walk away with \$50,000 in the past,
14 you now walk away with \$100,000 because they can give
15 twice as much and when they come to the board
16 meeting, they know what the meeting is about. It's
17 against the candidate. It's against the Congressman
18 who has been voting to keep bank charges down and
19 they raised the money and it just so happened that
20 they brought their checkbook and they write a check
21 for the wife. They write a check for their son.
22 They write a check for their mother. They write a
23 check for themselves, and 12 people on the board end
24 up giving in the future \$100,000 plus dollars.

25 Q. And what impact do you think these

0088

1 increased contribution limits will have on the time
2 pressures facing elected officials when raising money
3 for the election?

4 A. They say that May 15th, you start working
5 for yourself and any time between January 1st and May
6 15th you are working for Uncle Sam. Well, let me
7 tell you something. The day you are elected is the
8 day you start raising money for the next race. Under
9 this bill, that is definitely true, because you got
10 to have money early on so that as you vote over the
11 two years, and you vote your interests, the interests
12 of your district, all the people you alienate, you
13 will have gotten early on so that they would not be
14 able to come in and withhold money from you. But at
15 the same time, they will be able to still raise an
16 even greater amount of money against you.

17 Now, let me give you an example of what

18 happened. I raised money and when you raise money,
19 you spend money. But not only do you spend money but
20 the idea is not to wait until the last six weeks to
21 buy radio ads and TV ads. So you have these regular
22 TV ads that are nonpolitical, but you run an ad that
23 says you are going to have a town hall meeting in
24 Demopolis, so you run an ad in four or five counties,
25 TV ads, radio ads.

0089

1 Now, you pay for that out of hard money.
2 It's not a political ad because you are not saying
3 vote for me but your face is there and you are
4 inviting the people to come to the town hall meeting
5 where you are going to discuss the issue, so you
6 don't spend your money just at the last minute.

7 And you know, if you are a seasoned
8 person, not to do it any way because everybody else,
9 the market is going to be saturated. So they run 10
10 ads between a program and your ad is going to be
11 drown out. So when it came down to the election, I
12 think I had \$22,000. I woke up one morning with
13 \$22,000. My opponent had three hundred some thousand
14 dollars. And when they called me from Washington and
15 told me that and it was on a Friday morning. I had
16 just got home from Washington late that night, that
17 Thursday night, and I said how can he get that kind
18 of money. He had it.

19 So the pressure was on for me to raise
20 money. I was out there trying to set up fundraisers
21 and he was running ads because remember, I had run
22 ads before. I had spent the little money that I had
23 raised. So like it showed that I raised, it shows
24 that I raised here \$784,000. I probably raised
25 \$200,000 of that early in the cycle. It shows he

0090

1 raised 1,333,000. I bet you he raised 1,333,000
2 dollars in the last six weeks of the election and he
3 had less than 10 fundraisers. They had already been
4 preplanned and he had all of that money to spend the
5 last two months of the election, which made a big
6 impact. He drown out the ads of the Governor, and
7 the candidates that were running.

8 Q. So under the increased contribution
9 limits, the problem of elected officials having to
10 spend a lot of time raising money will be worsened,
11 in your view?

12 A. Yes, it will. And you really have to
13 work. You got to work. You are going to have to
14 really work. Now, it takes away time from your
15 actual campaign, but it also takes away time from
16 your serving the district, and if you have a job, you
17 got to take time off from the job.

18 What that means is that a person who is
19 running for office, he has to be of means almost to
20 even submit his name because if he doesn't have the
21 money, and he got to raise it, as opposed to someone
22 who is wealthy, he really has a problem. He not only

23 has to raise money, and campaign at the same time,
24 but he got to feed his family, so you are taking out
25 of the political process a person who may be the John

0091

1 Doe school teacher running for the elected office,
2 running for Congress maybe or running for U.S.
3 Senator, and that gets to be a problem.

4 And I've served on three levels of
5 government, and I've seen people of means, how they
6 vote, and it's almost in some cases a natural
7 instinct, and people don't understand, man, if
8 someone bounced a check they ought to pay \$25 for a
9 bounced check. It costs the bank because of all the
10 electronic and computerized equipment they have, you
11 know, it really costs them a dollar and some to cover
12 the costs of it. They charge \$25, whatever it is,
13 and that bounced check becomes a profit center.

14 So to protect that, that bank is going to
15 protect its interests but even before you get there,
16 here is a man that's of means that's running for the
17 office, he has no problem balancing his checkbook, so
18 he thinks that someone who bounces checks is a
19 deadbeat. So he has no problem with voting to
20 increase the fees for it. So the poor people in the
21 district has no one who even philosophically
22 understands their problem, and understands the issue
23 enough to know how to intelligently represent him.

24 Q. Under the new increased contribution
25 limits, Congressman, does someone who represents the

0092

1 more disenfranchised, those who do not have a lot of
2 money, need to spend even more time raising money to
3 compete against somebody who has those means?

4 A. Yes. Whether he is an incumbent or
5 whether he is a candidate for the first time, he is
6 going to have to spend more time raising money for
7 the election than his opponent.

8 Q. I now have some additional exhibits to
9 introduce. This is for the opposing counsel.

10 (Exhibit No. 5 was
11 marked for identification.)

12 BY MR. BONIFAZ:

13 Q. This, Congressman, is an executive summary
14 of The Color of Money study which was produced by
15 Public Campaign, a campaign finance reform
16 organization here in Washington, D.C. which analyzed
17 a number of zip codes around the country and found
18 that those of the top 100 donor communities, they
19 were 80 percent white and they gave an average of 1.4
20 million and the 100 communities with the highest
21 concentration of people of color gave an average of
22 \$7,000.

23 There is a bold quote there on the second
24 page. I'm wondering if you can read that from Nelson
25 Rivers, III of the NAACP. If you could read that

0093

1 into the record.

2 A. "We're impacted in a negatively
3 disproportionate way. Since African-Americans have
4 decidedly less income, less disposable money than
5 other people in the country, we're at a disadvantage
6 when money is the deciding factor on whether you can
7 participate."

8 Q. Do you agree with that statement?

9 A. Absolutely.

10 Q. Why?

11 A. It is very true because once again, money
12 is about, in a campaign, is used to get your message
13 out, is used to influence people as to what you are
14 capable of doing. It's also used in another way to,
15 in a negative way, to tell the voters that your
16 opponent cannot do anything for you. You have the
17 money and you have more money than your opponent, you
18 can tell them all the things you can do or that you
19 will do.

20 And if you have the money, you also can
21 talk about your positives, but you can talk about the
22 negatives. And if there aren't any negatives, you
23 can create them. Good example is just
24 generalization. He hasn't done anything or he is not
25 going to do anything, and you are running it long

0094

1 enough and if you do it through, everybody is going
2 to believe he is not going to do anything because he
3 couldn't raise money for the campaign.

4 Q. Mr. Rivers says African-Americans are
5 affected in a negatively disproportionate way. Why
6 is that true?

7 A. Because when you look at the amount of
8 disposable income that they have to give is less than
9 that of their counterparts, white counterparts,
10 because their income, their salaries are less, that's
11 a fact, and if you look at the districts, you will
12 find that the white communities give more. They give
13 more because they make more and because they have
14 more. And because they have more and give more, they
15 give mostly to those candidates that articulate their
16 views and those candidates don't articulate the views
17 of those with lesser income. It's always those with
18 the average income and the greater income.

19 (Exhibit No. 6 was
20 marked for identification.)

21 BY MR. BONIFAZ:

22 Q. The next article is from The Washington
23 Post dated September 23rd, 1998. In the third column
24 over there is a quote that starts out those who give,
25 do you see that?

0095

1 A. Yes. "Those who give the most are the
2 ones who have the most influence," the report says.
3 "It is an indisputable fact of our political system
4 that those candidates and laws favored by wealthy
5 contributors usually prevail over those whose backers
6 or would be backers cannot afford to give large

7 sums."

8 Q. Do you agree with that statement?

9 A. Yes, I do. Because those people who give,
10 they are the ones that, they are the ones that you
11 think about every time you cast a vote. And you said
12 now -- especially on something very controversial.
13 You think, now, who am I going to make angry by this
14 vote. Who am I going to please. These are valid
15 things that you think about when you vote.

16 (Exhibit No. 7 was
17 marked for identification.)

18 BY MR. BONIFAZ:

19 Q. The next exhibit is a column by Bob
20 Herbert of the New York Times dated July 19, 1998.
21 This is a column that Bob Herbert of the New York
22 Times wrote in July 1998 reporting on a study in
23 which the Joyce Foundation of Chicago had funded this
24 study focusing on large donors and found that 95
25 percent of those contributors were white, 80 percent

0096

1 were men, 80 percent were over the age of 45 and
2 nearly half were over 60. 81 percent had annual
3 family incomes higher than \$100,000.

4 On the second page of that column, there
5 is a quote from Ellen Miller, the executive director
6 of Public Campaign, third paragraph down that starts
7 out Congress is consistently. Do you see that?

8 A. Yes.

9 Q. Could you please read that statement into
10 the record.

11 A. The entire paragraph?

12 Q. Just the --

13 A. "Congress is consistently more responsive
14 to the economic interests of those who fund election
15 campaigns. It does not have ordinary citizens'
16 interests at heart."

17 Q. Do you agree with that statement?

18 A. Yes. As you get more and more people in
19 the United States Congress that are wealthy, that
20 have more money, once again, they don't even
21 understand why you can't have bank fees, high bank
22 fees for a bounced check because they do not even
23 understand the whole problem surrounding people who
24 do not have money.

25 Q. Do you find based on your background and

0097

1 experience that the finding of this study correlate
2 with what you understand in terms of who the big
3 donors are, that they are largely for the most part
4 white, wealthy men?

5 A. Definitely. That's a given.

6 (Exhibit No. 8 was
7 marked for identification.)

8 BY MR. BONIFAZ:

9 Q. The next exhibit is a study that came out
10 this year entitled Campaign Finance as a Civil Rights
11 Issue. And the study reports on findings from eight

12 focus groups conducted among California voters in
13 March of 2002. The study was co-sponsored by the
14 National Voting Rights Institute, the Fannie Lou
15 Hamer project, the Lawyers Committee for Civil Rights
16 in the Bay area and the Green Lining Institute.

17 I would like to turn your attention to
18 page 9 of this study and at the top there in bold is
19 a statement, one of the findings. Could you please
20 read that statement into the record.

21 A. "Many voters, especially African-American
22 and Latinos believe nonwealthy people are effectively
23 shut out of politics and are victimized by the
24 decisions made." True statement. They are
25 definitely shut out and they are victimized by the

0098

1 decisions that we make in Congress and it's going to
2 get worse when the effect of this bill becomes
3 effective.

4 Q. With respect to the increased
5 contributions?

6 A. Yes. Yes. Definitely.

7 Q. And on page 23 of that study, there is
8 another finding.

9 A. "All groups believe that many of the
10 issues that really matter to their communities,
11 especially economic concerns, are largely ignored or
12 paid only lip service, because big money contributors
13 have other priorities."

14 Q. Is that true, in your view?

15 A. This is very true. This is very true.
16 This is very true.

17 Q. Care to elaborate at all? I know you have
18 already spoken on it.

19 A. Yes. I have spoken on it. It's very
20 true. You know, you could agree with a person
21 politically and not agree with them philosophically.
22 But as a rule, you attempt or you try as much as
23 possible to vote the interests of your district and
24 when you really vote the interests of your district,
25 you offend people. You offend groups and most of the

0099

1 time these groups are organized groups, the interests
2 of bringing them together -- that bring people
3 together.

4 And if you vote a clearcut case, if you
5 vote for the right of the person to have a choice,
6 then clearly, you alienate everybody on the other
7 side and if you vote for the right of mother to be
8 able to determine whether or not her daughter should
9 have an abortion, you alienate the people on the
10 other side.

11 But at the same time, you represent the
12 interests of your constituents, you can forget about
13 your constituent interest if you are thinking about
14 being re-elected if you see your opponent with
15 \$300,000 in the bank and you got 22. You need
16 somebody to -- you cannot win an election without

17 being adequately financed at this time in America.
18 You cannot -- they don't give free TV and
19 radio time for you to articulate your views. If you
20 cannot get your views out to the public, I don't care
21 how effective you are, I don't care how good you are,
22 even how bad you are, you can't get your message out
23 if you don't have the money. And that is going to be
24 a greater overriding consideration in the future.

25 Q. With the increased contribution?

0100

1 A. Absolutely. With the increased
2 contributions.

3 Q. On page 24, there is another finding.
4 Next page. Can you please read that into the record.

5 A. "The influence of money on politics makes
6 many voters feel disengaged and discourages them from
7 participating." That's true.

8 Q. And what impact would the increased
9 contributions have on voters feeling further
10 disengaged?

11 A. We are seeing it already. More people do
12 not vote, but more and more people also do not
13 register to vote and more and more people -- and I
14 hear it all the time. They tell you and you can talk
15 to them until you are blue in the face and they tell
16 you, it doesn't matter what I do, my vote doesn't
17 make a difference.

18 We put the same group in. We can change
19 the people, but the same type of people go back and
20 they don't vote for me. When we do surveys, we will
21 find that more and more people feel that they are not
22 a part of the elective process.

23 And I have been to places where -- there
24 is one precinct, it's isolated. It's a little town
25 and is about 2,700 registered voters there at this

0101

1 precinct called Fairfield, Alabama. And I have
2 talked to the people because sometimes 100, 150 can
3 go out and vote. I have talked to them about going
4 out to vote, I have had meetings there how important
5 it is and they come in and they tell me -- now, I'm
6 on this side and they tell me, you are going to do
7 what so and so wants and they mention someone before
8 he dies. It was a rich, black man.

9 Are you going to do what Hess wants you to
10 do? Hess is the guy that owns the regional stores,
11 Sacks Fifth Avenue and extremely wealthy. Went over
12 the country raising money for my opponent. He is the
13 rich man now in Birmingham, in Alabama. It's that
14 type of thing that makes them, that discouraged them
15 from participating in the political process, and they
16 feel disengaged because what happened, sure, I voted
17 against the Bankruptcy Act. But it passed.

18 And I voted against raising fees for a
19 whole lot of different bank services, but it passed.
20 So when I go and talk to them about my position, it's
21 meaningless to them because they said, well, what

22 does it mean. I won't have to pay an increased fee
23 for maintaining my checking account and I do keep
24 using that because more and more and more I hear
25 people talking about the fees that they have to pay

0102

1 for a checking account. You know, I have a very poor
2 district.

3 Q. I understand.

4 A. And let me tell you how bad that is on the
5 economic side. When you have these fees for
6 maintaining a checking account, and you don't
7 maintain it, you go, you have to pay 5 or 10 percent
8 to have your check cashed. I'm talking about a
9 government check. I'm not talking about a personal
10 check, and you have to buy money orders that pay your
11 bills. You have to pay a service to pay your bills.
12 You go to these money exchange places and to pay your
13 bills you have to pay 50 cents to pay your bills.

14 Q. And the increased contribution limits will
15 make this feeling of discouragement and alienation
16 worse?

17 A. Definitely.

18 Q. Finally, from this study, page 30, if we
19 can turn to that. On page 30, there is another
20 finding I would like you to read into the record.

21 A. "In discussing changes to the political
22 system, the fundamental goals of Latino and
23 African-American voters are fairness and equal
24 opportunity. They all want citizens to have an equal
25 right to participate in the process." True. Very

0103

1 true.

2 Q. And what impact will the increased
3 contribution limits have on that goal?

4 A. It will make the political system more of
5 a rich man's game. The wealthier you are, the more
6 you participate, the less you will have, the less you
7 will participate. And it works in so many different
8 ways, even from a perception standpoint, people don't
9 participate because they feel that if they give a
10 dollar, they give \$10, \$15, the contribution will be
11 drown out by someone who gives \$2,000. They won't
12 even give you 5 or 15.

13 Q. It will make the system less equal?

14 A. Definitely.

15 Q. The next exhibit is an article from USA
16 Today dated May 8th, 2001.

17 (Exhibit No. 9 was
18 marked for identification.)

19 BY MR. BONIFAZ:

20 Q. And you are quoted in this article. It's
21 bracketed down there, the fifth paragraph down. Do
22 you see that?

23 A. Yes.

24 Q. Could you please read that quote into the
25 record?

0104

1 A. "They cloak it under the name of reform,
2 as if it is going to be something good for the
3 people, but I challenge that," said Representative
4 Earl Hilliard, Democrat, Alabama. "This is bad for
5 unions, consumers, school teachers, soccer moms, and
6 any candidate in a poor district."

7 Q. That is your quote, is that correct? You
8 did say that?

9 A. That is correct. Yes.

10 Q. And were you speaking in part about the
11 increased hard money contribution limits?

12 A. I was speaking exactly about the increase
13 in the hard money contribution from \$1,000 to \$2,000

14 (Exhibit No. 10 was
15 marked for identification.)

16 BY MR. BONIFAZ:

17 Q. Thank you. I'm going to -- I'm not going
18 to go over the next couple of exhibits. The next
19 exhibit, because I know I'm running out of time here.
20 The next exhibit, Congressman, is the article from
21 The Washington Post, December 8th, 2001. It's
22 actually a letter to the editor from Congresswoman
23 Eddie Bernice Johnson. And this is in response to an
24 editorial in The Washington Post, and there is a
25 statement on the fifth paragraph down that starts

0105

1 off, if soft money corrupts. Do you see that? The
2 paragraph starts first, we believe, but then the
3 second statement?

4 A. Yes.

5 Q. Could you read that second statement, the
6 sentence starting if soft money corrupts into the
7 record?

8 A. "If soft money corrupts, then it is safe
9 to assume that hard money will too. For this reason
10 we are opposed to doubling the limits on individual
11 hard money contributions to \$2,000."

12 Q. And when Congresswoman Eddie Bernice
13 Johnson speaks of "we are opposed," is she speaking
14 for the CBC in that letter?

15 A. Yes, she is.

16 Q. So this was a position of the
17 Congressional Black Caucus opposing the hard money
18 contribution limits, is that correct?

19 A. Increases.

20 Q. And why is it that the entire caucus came
21 out in opposition to these increases?

22 A. Because we understand how difficult it is
23 for us to raise hard money in our district,
24 especially hard money from individuals, and to
25 increase the amount, put us at a disadvantage.

0106

1 (Exhibit No. 11 was
2 marked for identification.)

3 BY MR. BONIFAZ:

4 Q. The next article is an op ed by Professor
5 Overton in The Washington Post May 10th, 2001

6 entitled Reform for the Rest of America. And there
7 is a paragraph here that starts out in the second
8 column, economic and racial disparities. Do you see
9 that?

10 A. Yes.

11 Q. Could you please read that paragraph into
12 the record?

13 A. "Economic and racial disparities would
14 only increase under the amended McCain-Feingold.
15 While the soft money ban narrows the political gap
16 between the upper middle class and the super rich,
17 the increase in hard money limits broadens the gap
18 between these wealthier interests and all other
19 Americans. Just like the poll tax, increased hard
20 money limits further shut out those in our society
21 who are most marginalized."

22 Q. That's okay. You don't have to continue.
23 Do you agree with that paragraph?

24 A. Yes, I do. Yes, I do.

25 Q. Do you believe that this will be like the

0107

1 poll tax?

2 A. Absolutely. Absolutely. Once again, you
3 are forbidding people who can't pay from
4 participating. You do it -- and we are doing it by
5 law.

6 Q. Thank you. And nearing the end here,
7 there is another exhibit, this is an article from The
8 New York Times entitled For Black Politicians, Two
9 Races Suggest a Rise in New Tactics.

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

12 BY MR. BONIFAZ:

13 Q. I'd like to turn your attention to the
14 second to last page, last page of the article, page 3
15 of 4, and there is a quote from David Bositis, a
16 senior political analyst, it begins for Democrats to
17 do well this year, so forth.

18 A. Yes.

19 Q. The second quote that starts out, but if
20 black voters. Could you read that quote into the
21 record.

22 A. The second quote?

23 Q. The second one.

24 A. "But if black voters perceive that
25 elections in their districts are ultimately being

0108

1 decided by whites and powerful outside sources with
2 money," Mr. Bositis said, "they may conclude their
3 votes don't matter and decide not to vote at all."

4 Q. Do you agree with that?

5 A. Yes.

6 Q. So there is a danger that --

7 A. That it is happening.

8 Q. And do you believe that the increased
9 contribution limits will exacerbate that danger?

10 A. Yes. It's happening. I have said it in

11 speeches that the more money in races, the less
12 number of people go out and vote, and we have seen it
13 over the last 25 years. I mean, we had a race where
14 only 18 percent of the people came out and voted.

15 In my race this past time, even in a
16 run-off, only 32 percent came out and there was more
17 money in that race than any political race that we
18 have ever had in the history of the 7th Congressional
19 District, even when we have more candidates. When I
20 ran the first time, there was 17 candidates and we
21 didn't have as much money as we did, as we had in the
22 run-off in this election. But guess what, about 68
23 percent I think of the people participated in that
24 first election. In this one we had 32 percent and we
25 are only talking about a 10-year span.

0109

1 Q. Congressman, you participated in the civil
2 rights movement, is that right?

3 A. Yes. Yes.

4 Q. Marched?

5 A. I was a foot soldier.

6 Q. And is it true that a key purpose of that
7 movement was to lift up the promise of political
8 equality?

9 A. Yes.

10 Q. What impact will these increased
11 contribution limits have on that promise of political
12 equality?

13 A. It will kill it. It will make it more
14 difficult for the average person, the average person
15 to participate in the election process, not just in
16 terms of the contributions, but in terms of seeking
17 office, being a candidate, making it more difficult
18 for someone who is not of means to run and make it
19 more difficult for consumers to have a voice.

20 It is going to make it more difficult for
21 the poor to have a voice. Or the disenfranchised.
22 You know, I tell people all the time that those
23 people who are disabled, they are going to find in
24 the future that they are not going to have ramps in
25 buildings. They are not going to have ramps in

0110

1 churches and other institutions because they are not
2 able to raise the money that the developers can, that
3 the commercial builders can, and they chopped away at
4 those laws the last two years of this Congress and I
5 see how the voting trend is going.

6 So disabled people, if there is not an
7 elevator in the building and all new buildings, they
8 are going to have problems having access and this is
9 the result of money in the political process.

10 Q. Based on your background and experience,
11 do you believe the increased contribution limits will
12 move us closer to or further away from that promise
13 of political equality?

14 A. It's going to move us further away. Any
15 time you create this type of disparity, it creates

16 problems for those who are disadvantaged, and not
17 just blacks but poor, handicapped, and others.

18 Q. Do you know of any particularly qualified
19 individuals in Alabama who have decided not to run
20 for Federal office because of the existing campaign
21 finance system? Do you know of any?

22 A. Because of the existing? Or because of
23 this law?

24 Q. Well, both. Both.

25 A. Yes, I do.

0111

1 Q. You do.

2 A. Yes.

3 Q. Can you elaborate on that?

4 A. Yes. Earl Hilliard. There is no question
5 that if I should seek office again, that whoever my
6 opponent is, he will be able to raise 10 times as
7 much money as me. And I don't fool myself. I
8 recognize my political views and how it affects my
9 races. My races have been getting closer and closer
10 and closer and closer.

11 The state office, the first time I ran, I
12 received 97 percent of the votes. That was 20 years
13 ago. And this time I received 44 percent. Last time
14 I got maybe 58 percent but before that I got 60
15 something but then it was 70, 80. Now, I have not
16 changed anything. I have been -- I bring in more
17 money to my district in Alabama than any other
18 Congressman. I'm not on the major committees. I
19 bring it in because I know the process, and I know
20 how to get money because I know how to access
21 programs, and I have all these various programs
22 coming to the district.

23 Q. For people who need it?

24 A. For people in need, but that doesn't make
25 any difference if you have money to go on TV. The

0112

1 people that I serve can't give contributions. They
2 can't give \$1,000, so \$2,000 means that I'm at a
3 greater disadvantage so it's no use for me going out
4 there running when I know my opponent is going to be
5 able to raise far more money than me.

6 Now, that means that that won't be a
7 question or a problem about how my, how the
8 bankruptcy law will affect my district. No one will
9 be concerned, and the same is true about bank
10 charges. My opponent, of the political action money
11 he got, most of it came from financial institutions.

12 They also dislike me because of my stance
13 on redlining. So no one is going to be concerned
14 about redlining in the 7th Congressional District and
15 if they do, then they are running against the big
16 boys, the bankers, and Birmingham, Alabama is the
17 third largest banking community in the country. It's
18 second only to, it's third only to Charlotte, who is
19 second only to Wall Street. And that's because of
20 concentration of banks in Alabama.

21 The law has been that so they have been
22 able to thrive and grow and acquire banks all over
23 the country. So five of the top 50 banks are located
24 in or headquartered in Birmingham in my district, so
25 it's so important how they feel. And they put their
0113

1 money in places and there are thousands of employees
2 in places against you, so 642,000 people that's in
3 that district will not be represented, but 20 some
4 thousand banking employees will be.

5 There is no question, because they are
6 able to give the \$1,000 contribution. \$2,000
7 contribution. So why should I run when I know I have
8 these problems already. Money defeated me. Money
9 defeated Cynthia McKinney and money will defeat
10 anybody.

11 We got a problem trying to raise money for
12 Maxine who doesn't have to run for two years from
13 now. We know she is going to have a problem. The
14 bankers have already told her because of her views on
15 redlining, her views on the amount of money it costs
16 to cash checks and so forth and she is on that
17 committee. They have been fighting her over the
18 years so they see what money can do so we know what's
19 going to happen.

20 Q. And the defendants in this case are likely
21 to point to statements made during the debate that
22 these limits need to be increased in order to deal
23 with the new costs of campaigns, that they had to go
24 from 1,000 to 2,000 because campaigns had gotten more
25 expensive. Can you comment on that?

0114

1 A. Yes. There is some truth to that, and
2 because that is the truth, then the hard money on the
3 hard money side, the amount that political action
4 committees are able to give should have been
5 increased also by a factor of two. So instead of
6 keeping them in a situation where they only can give
7 five, they should be able to give 10.

8 You are talking about soccer moms, school
9 teachers, workers that are in unions. In fact, you
10 have created inequality when you allow one group to
11 be able to put more money in the political process
12 and denied it to another group. You effectively
13 discriminated against workers, against consumers, and
14 even against the poor with this law.

15 Q. By not increasing the PAC --

16 A. By not increasing the PAC limit
17 correspondingly with the individual limit.

18 Q. And Congressman, are there instances in
19 which wealthy interests recruit candidates to run
20 against someone like Maxine Waters or yourself?

21 A. Yes. I have had candidates recruit
22 against me and the business community have come out
23 and said this is our candidate, and fortunately, they
24 didn't know how, but the formula is there now. It
25 works against me and it worked against Cynthia. They

0115

1 see the road map. They know now what has to be done.

2 Q. What is that formula?

3 A. Money. Increase money. My opponent
4 raised twice as much as me. Unheard of. But
5 Cynthia's opponent raised three times as much as she
6 did. And we are talking newcomers to the process.
7 We are talking about people who had no history of any
8 election.

9 Q. So under the increased contribution
10 limits, will we see more instances of wealthy
11 interests recruiting candidates to run?

12 A. Especially in African-American districts
13 and in Latino districts and in districts that are
14 inner city.

15 Q. Why especially in those districts?

16 A. Because they realize that those districts
17 are basically the poorest districts in America, and
18 that their incumbent is not going to be able to raise
19 the kind of money from the district as they can raise
20 so when they have a special interest to protect they
21 can draw on their interests from all over the
22 country. The bankers or the Jews or anybody. They
23 can draw from all over the country.

24 Q. And would they want to challenge those
25 incumbents because they are not representing wealthy

0116

1 interests? Is that why they would target especially
2 those?

3 A. Not just wealthy interests, but special
4 interests.

5 Q. And will small donor PACs have less
6 influence and even have more trouble raising money
7 because of the perceptions of the irrelevance in the
8 political process under these increased limits?
9 Small donor PACs?

10 A. Well, it's going to be more difficult
11 anyway, especially from the candidate's standpoint
12 because even if they increase, even if they raise the
13 amount they have, they can't give it to the candidate
14 so it doesn't make any difference about them being
15 able to increase the amount of money that they
16 collect.

17 The PAC can only give \$5,000. That's the
18 max, and if they gave more per month to the PAC, it's
19 only irrelevant and immaterial from the standpoint of
20 the candidate because he can't receive any more.
21 What they should have done if they really wanted to
22 be fair, if they wanted to be equal and balanced in
23 the political process, they should have increased the
24 amount that a PAC can give from 5,000 to 10,000 for
25 the election cycle, just like they increased the

0117

1 amount from 1,000 to 2,000 to raise money.

2 Q. But the increase alone on an individual
3 side makes it more unequal?

4 A. It makes it unequal and unconstitutional

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in my view.

MR. BONIFAZ: I have no further questions,
Congressman. Thank you for your time.

(Whereupon, at 6:10 p.m., the taking of
the instant deposition ceased.)

Signature of the Witness

SUBSCRIBED AND SWORN to before me this _____ day
of _____, 2002.

NOTARY PUBLIC

My Commission expires: _____