

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL,  
*et al.*

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION,  
*et al.*

Defendants.

Civil Action No.  
02-0582 (CKK, KLH, RJL)

Consolidated Actions

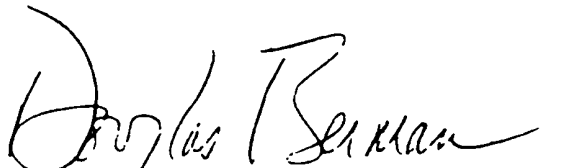
DECLARATION

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
AUG 15 2 19 PM '02

DECLARATION OF DOUGLAS BERMAN

My name is Douglas Berman. I provided a sworn affidavit in *Republican National Committee v. Federal Election Commission*, in the United States District Court for the District of Columbia, Civ. No. 98-CV-1207. That declaration is attached as Exhibit A.

- I reaffirm that the statements I made in the prior declaration are true and correct.
- Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the forgoing is true and correct.

  
\_\_\_\_\_  
Douglas Berman

Executed on August 14, 2002.

**Exhibit A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

REPUBLICAN NATIONAL COMMITTEE,

and

GANT REDMON,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civ. No. 98-CV-1207 (WBB)

AFFIDAVIT OF DOUGLAS BERMAN

DOUGLAS BERMAN, being duly sworn, deposes and says as follows:

1. My name is Douglas Berman. I was employed as the President of The Campaign for America Project ("Campaign for America") from March 1997 to December 1998. Unless otherwise indicated, this affidavit is based on my personal knowledge.

2. Campaign for America is a 501(c)(4) non-profit corporation whose mission is working to pass meaningful campaign finance reform legislation, promoting a nonpartisan dialogue around a set of common-sense principles that the public can understand and embrace, and conducting projects and programs aimed at mobilizing citizen support for campaign finance reform. Campaign for America was founded in April 1995. The late Congressman Mike Synar was Campaign for America's first

RNC 98-CV-1207 23381

president. After Congressman Synar's death in January 1996, Campaign for America was inactive until March 1997. At that point, Campaign for America resumed activities to advance its mission.

3. On October 22, 1998, Campaign for America filed a report with the Federal Election Commission reporting certain disbursements for independent expenditures, i.e., communications expressly advocating the election of Scotty Baesler and the defeat of Jim Bunning in the 1998 U.S. Senatorial election in Kentucky. A true and correct copy of this report is attached as Exhibit A to this Affidavit. Apart from this report, Campaign for America has not filed any other reports with the Federal Election Commission.

4. Pursuant to the Lobbying Disclosure Act of 1995, since March 1997 Campaign for America files lobbying disclosure reports with the United States Congress. True and correct copies of those reports for 1997 and 1998 are attached as Exhibit B to this Affidavit. As disclosed in those reports, Campaign for America has engaged in efforts to lobby Members of Congress on campaign finance reform.

5. Pursuant to applicable provisions of the Internal Revenue Code and consistent with Campaign for America's status as a tax-exempt 501(c)(4) corporation, Campaign for America

files Form 990 with the Internal Revenue Service ("IRS").  
Through these forms Campaign for America discloses to the IRS  
the identities of contributors whose contributions aggregate  
more than \$5,000 in a calendar year. Although Campaign for  
America's Forms 990 are generally available for public  
inspection, my understanding is that the portion of the reports  
that discloses the identities of contributors whose  
contributions aggregate more than \$5,000 in a calendar year is  
not required to be made available for public inspection. True  
and correct copies of Campaign for America's Forms 990 for 1995  
through 1997 are attached as Exhibit C to this Affidavit.

6. Except as described in paragraphs 3-5 above,  
Campaign for America does not disclose the amount of its  
contributions or the amount and purpose of its disbursements to  
any government entity, but has generally disclosed to the public  
that its principal source of funding is Mr. Jerome Kohlberg.

7. A list of contributions received by Campaign for  
America from April 10, 1995, through February 10, 1999, is  
attached as Exhibit D to this Affidavit. This list shows each  
contribution received, the amount of each contribution, and the  
source of each contribution. My understanding is that this list  
was prepared by an employee of Kisco Management Corp., which  
maintains Campaign for America's financial books and records.

This list was generated from a computerized spreadsheet that, in turn, was derived from a substantially similar spreadsheet that is maintained as a business record for Campaign for America and used by Campaign for America to keep track of contributions.

8. Consistent with Campaign for America's mission, Campaign for America representatives (including me and a former Campaign for America employee, Amy Kauffman) met with Members of Congress and their staffs. The nature of the meetings varied, but consisted of lobbying activities in which Campaign for America representatives attempted to persuade Members of Congress to adopt positions on campaign finance reform that were supported by Campaign for America, and meetings in which Campaign for America (and sometimes other pro-reform groups) would work with Members of Congress and their staffs to craft campaign finance reform legislation and campaign finance reform legislative strategy. For example, during a meeting on August 14, 1998, Campaign for America discussed a message positioning with Senators Levin (in person) and Feingold (via speakerphone), Congressman Shays (via speakerphone), various Congressional staff, and other pro-reform groups including Common Cause, League of Women Voters, Public Citizen, PIRG, Public Campaign, Consumer Federation of America, and two or three church groups. The message positioning was to be used as a common rhetorical

- 4 -

RNC 98-CV-1207-23384

framework for promoting campaign finance reform in the fall of 1998 on Capital Hill, in the press, and with the public generally.

---

9. In my capacity as President of Campaign for America, I occasionally prepared memoranda discussing strategy and summarizing meetings such as those described in paragraph 8 above. I prepared the memoranda for the purpose of keeping Campaign for America's principal donor, Jerome Kohlberg, apprised of Campaign for America's contacts with Members of Congress, and for other purposes. True and correct copies of redacted versions of these memoranda are attached as Exhibit E to this Affidavit.

10. In October 1997, Campaign for America and Common Cause conducted a joint issue advertisement campaign. The campaign consisted of 60-second radio advertisements that ran in Colorado, Indiana, Nebraska, and Kansas. Common Cause paid approximately \$10,000 of the cost of this advertising campaign. The remainder -- approximately \$39,000 -- was paid for by Campaign for America. True and correct copies of the scripts of these radio advertisements are attached as Exhibit F to this Affidavit. Campaign for America, in consultation with Common Cause, chose to run the radio advertisements in these four states because it believed that Senators in these states might

be susceptible to public encouragement to support campaign finance reform.

11. From January 20, 1998, to September 15, 1998,

Campaign for America conducted a series of radio and cable television advertising efforts advocating campaign finance reform. All but one or two of these advertisements identified a federal candidate or officeholder and urged listeners to contact the federal candidate or officeholder and tell him to support a ban on soft money. True and correct copies of the scripts of the television and radio advertisements that were broadcast in Arkansas, Georgia, Michigan, Mississippi, New York are attached as Exhibit G to this Affidavit. Campaign for America spent approximately \$1.1 million on the production and broadcast of these advertisements. Of this amount, approximately \$149,666.80 was spent to broadcast the one advertisement, entitled "Calculator," that did not identify a federal candidate or officeholder. Campaign for America ran the advertisements in states in which it believed that the Senators or Congressmen might be susceptible to public encouragement to support campaign finance reform

12. Between February 25, 1998, and August 3, 1998, Campaign for America placed several newspaper advertisements in The Washington Post, The New York Times, Roll Call, and The

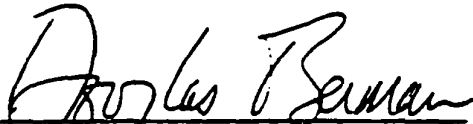


Hill. True and correct copies of these advertisements are attached as Exhibit H to this Affidavit. For example, on July 22, 1998, Campaign for America published a full-page advertisement highlighting Speaker Newt Gingrich's refusal to let the House of Representatives consider campaign finance reform legislation. See Exhibit H. The cost to publish this advertisement in the New York Times was \$64,581.30, as documented by the invoice dated July 31, 1998, from The New York Times Co., a true and correct copy of which is attached as Exhibit I to this Affidavit. For another example, on February 25, 1998, Campaign for America published a full-page advertisement highlighting Senators McConnell's and Lott's refusal to let the Senate move forward on campaign finance reform. See Exhibit H. The cost to publish this advertisement as a full-page, and then as a quarter-page, in February 1998, was \$66,658.02 as documented by the check dated February 20, 1998, from Campaign for America to The Washington Post Co., a true and correct copy of which is attached as Exhibit J to this Affidavit.

13. During October 1998, Campaign for America conducted an independent expenditure campaign urging the election of Scotty Baesler and the defeat of Jim Bunning based on the clear division of their opinions on campaign finance

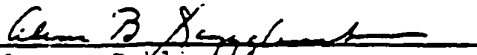
reform. The campaign consisted of two television advertisements titled "Dog" and "Again." True and correct copies of the scripts of those advertisements are attached as Exhibit K to this Affidavit. The gross cost of the media buy for these advertisements was approximately \$466,029, as documented by the copy of the invoice dated October 13, 1998, from The Communications Company which is attached as Exhibit L to this Affidavit.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Douglas Berman

March 25, 1999

Subscribed to and sworn before me this 25 day of March, 1999.

  
\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_ ALINA B SCZYGLINSKI  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Oct 22, 2000

- 8 -

-----  
RNC 98-CV-1207 23388