

IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____	)	Civil Action No.
VICTORIA JACKSON GRAY ADAMS,	)	02-cv-877-KLH-CKK-RJL
<i>et. al.,</i>)	
	)	<i>consolidated with</i>
<i>Plaintiffs,</i>	)	02-cv-582-KLH-CKK-RJL
	)	(lead case)
)	
-vs-	)	<i>and</i>
	)	02-cv-581-KLH-CKK-RJL
	)	02-cv-633-KLH-CKK-RJL
)	
THE FEDERAL ELECTION COMMISSION	)	02-cv-751-KLH-CKK-RJL
<i>et al.,</i>	)	02-cv-753-KLH-CKK-RJL
	)	02-cv-754-KLH-CKK-RJL
	)	02-cv-781-KLH-CKK-RJL
<i>Defendants.</i>	)	02-cv-874-KLH-CKK-RJL
	)	02-cv-875-KLH-CKK-RJL
_____	)	02-cv-881-KLH-CKK-RJL

DECLARATION AND EXPERT REPORT OF CRAIG MCDONALD

I, Craig McDonald, hereby declare as follows:

1. I am the Director of Texans for Public Justice, a non-profit research organization based in Austin, Texas. I have served as director of Texas for Public Justice since its establishment in 1997. Prior to that I was employed by Public Citizen, Inc. and the Center for New Democracy and as an employee of those organizations, I have accumulated over 20 years of experience in studying and analyzing campaign financing practices and policy with a focus on both federal and state campaigns. My curriculum vitae is attached to this declaration as Exhibit A. I have not received any compensation for providing this declaration and expert report.



2. Texans for Public Justice monitors, documents and analyzes political campaign donation activity of political candidates and political committees. In July 1999, Texans for Public Justice began monitoring and gathering information on the Governor George W. Bush Presidential Exploratory Committee, Inc. and its successor organization, the George W. Bush For President Committee. A particular focus of our research was the establishment and activity of the Pioneer fundraising network that was established by the Bush Exploratory Committee and functioned as an ongoing activity of the George W. Bush for President Committee. Since July of 1999, Texans for Public Justice has produced several reports documenting the operation of the Pioneer network and detailing the identities, occupations and economic interests of the Bush Pioneers.

3. The existence of the Bush Pioneer program first became public in May 1999, two months after the creation of Bush's presidential exploratory committee on March 7, 1999. The program was designed to circumvent the \$1,000 limit on individual contributions to the Bush Presidential Exploratory Committee and the Bush For President Campaign Committee. The Pioneer program solicited individual campaign supporters to commit to raising a minimum of \$100,000 for the campaign by reaching out to a network of personal contacts and encouraging those contacts to contribute directly to the campaign. To reach their goal of \$100,000 a Pioneer would have to build a network of at least 100 donors who could contribute the \$1,000 maximum amount allowed under law. Each volunteer participant in the Pioneer program was assigned an identification, or tracking number, which was to appear on all checks the individual Pioneer successfully solicited for the campaign. The Bush campaign monitored the progress of each volunteer at it Austin headquarters. In May 1999, when the existence of the Pioneer program

became public, Mr. Donald Evans, the Bush campaign fundraising chairman, acknowledged that 150 individuals had signed up for the Pioneer program, but noted he did not expect all to reach the \$100,000 goal.

4. To build the fundraising network and meet the campaign's goal of raising \$50 million by the end of 1999, Bush had courted hundreds of money men who had traveled into Austin to lunch with the Governor either in a downtown restaurant or at the Governor's mansion. While the campaign initially refused to publicly disclose the identities of the 150 participants in the Pioneer program, the campaign revealed that Bush had enlisted the help of an undisclosed number of Republican governors and Washington lobbyists. Texas-based lobbyist Tom Loeffler was named as a Pioneer, as was Washington-based lobbyist Haley Barbour.

5. Essentially, the Pioneer program is what is commonly referred to as a "bundling" operation. Bundling is the term used when supporters of a particular candidate or campaign assist the campaign in raising money from their own networks of family, employees, friends, co-workers, etc. A "bundler" is often a donor that has pledged or contributed the maximum contribution allowed by law, but is willing to engage in further fundraising outreach to their own networks and encourage an unlimited number of other individuals to contribute to the candidate or campaign. Bundlers, therefore, facilitate the delivery of—and often take and receive credit for—amounts of money that are many times the amount allowed by law for individual contributions. The practice of "bundling" campaign contributions and delivering them to candidates or campaigns is not new and is practiced by many modern federal campaigns. However, the Bush Pioneer program elevated this practice to new levels of sophistication. The practice of bundling

campaign contributions, while contrary to the spirit of the federal campaign laws limiting individual contributions to candidates to \$1,000 per election, is not prohibited as long as those who engage in it do not coerce others to give a campaign contribution.

6. In July of 1999, the campaign revealed further information about the Pioneer program. Jim Francis, Director of the Texas Public Safety Commission, served as the head of the Pioneer program. According to Francis, 115 individuals had reached the goal of bundling \$100,000 each. Francis acknowledged there were close to 400 Bush supporters working toward the \$100,000 goal, including the 115 that already there.

7. The degree to which the Bush Pioneer program was systemically tracking—and crediting—donors with contributions exceeding the individual limits, was further brought to light when a May 27, 1999 memo from Pioneer and Edison Electric Institute president, Tom Kuhn to electric utility industry executives became public. The Kuhn memo, written on Bush campaign committee stationary, revealed that the campaign was not only tracking and crediting individuals for bundling over the limits, but was tracking bundlers with respect to the industries they represented. An excerpt from the Kuhn memo:

“My personal thanks to all of you for taking a leadership role in gathering support for the June 22 reception honoring Governor George W. Bush...As you know, a very important part of the campaigns outreach to the business community is the use of tracking numbers for contributions. Both Don Evans and Jack Oliver have stressed the importance of having our industry incorporate the #1178 tracking number in your fundraising efforts. Listing your industry’s code does not prevent you, any of your individual solicitors or your state from receiving credit for soliciting a contribution. It does ensure that our industry is credited, and that your progress is listed among the other business/industry sectors. If you have any questions about your industry’s tracking information, please do not hesitate to let me know...”

8. Clearly, the conclusion that can be derived from the Bush campaign's own characterization of the program and the explicit description by Tom Kuhn of the importance of making sure the proper "codes" were included on donations so that the individual, state and industry would receive "credit for soliciting a contribution" from the campaign's key staff, must be that some benefit(s) would accrue to those who delivered the largest amounts or share of money. If there were no expectation of special access, rewards, or favors, there would have been no need to "track" contributions and "credit" them according to the industries, states and individuals generating them.

9. The Bush campaign made public a list of 115 Pioneers on July 19, 1999. According to the campaign, these 115 individuals were those who had met the goal of bundling a minimum of \$100,000 in contributions to Bush. According to campaign spokespersons, individuals who had not yet fulfilled the goal of reaching the \$100,000 mark were not considered Pioneers and their names were not disclosed. Neither did the campaign publicly disclose (at the time or anytime subsequently) the total amounts that Pioneers were credited with raising. This and subsequent limited disclosures by the campaign were criticized by TPJ. We believed the public had the right to know the total amounts Pioneers were being credited with raising, and the right to know the names and amounts credited to any individuals the campaign might be tracking regardless of whether they had reached the magic \$100,000 number.

10. Periodic disclosures of those considered to be Pioneers according to the campaign's definition resulted in the release of 226 names. In July 2000, TPJ published an analysis of the occupations and economic interests of 212 Pioneers whose names had been disclosed through June 2000. The report concluded that the ranks of the Pioneers

were dominated by corporate executives and lobbyists. The report classified the known Pioneers by their business and primary economic or ideological interests, tracked the total money each spent on politics, and provided individual profiles of each. The major findings of the report were:

- 133 Pioneers were business executives, 16 of whom George W. Bush appointed to state government posts.
- The 212 identified Pioneers, who by definition had raised a minimum of \$21.2 million for Bush's presidential effort, had also personally contributed an additional \$7.1 million to federal candidates and PACs since the '96 election cycle.
- When the 212 were identified by their primary economic interest or profession 44 of the Pioneers were classified as Lawyers & Lobbyists, 38 represented the Financial sector, 28 were from the Energy & Natural Resources sector (dominated by oil and gas), 24 were from the Real Estate sector, and 23 were classified as representing Miscellaneous Businesses.

11. Members and/or potential members of the Pioneer network enjoyed special access to Governor Bush and the campaign, prior to the official announcement that he would pursue the presidency, and during the campaign itself. Governor Bush met with Pioneers and future or potential Pioneers on a number of occasions as documented in the media:

- On December 18, 1998 a group gathered at the Governors Mansion to discuss the campaign. That group included California financier Brad Freeman and California agribusiness tycoon Howard Leach, both later designated by the campaign as Pioneers.
- In the Spring of 1999, Bush met in Austin with Christine Toretti, head of Pennsylvania drilling company who pledged to deliver \$1 million to the primary campaign yet was never designated a Pioneer.
- At least seven "Pioneers" stayed at least one night in the Texas governor's mansion between February 1, 1999 and March of 2000. These Pioneers included Don Jordan of Reliant Energy, investment banker Brad Freeman, Craig Stapleton of Marsh and McLellan, and Roland Betts of Chelsea Piers Management.

- According to the Center for Responsive Politics, in June 1999, Charles Cawley, president of MBNA America Bank, hosted a dinner at his summer home in Kennebunkport, Maine. More than 200 guests gathered to help underwrite the presidential campaign of George W. Bush, the party's guest of honor. Over the next year, Cawley would personally raise at least \$100,000 for the Bush campaign, qualifying him as a Pioneer, helping to secure MBNA's slot as Bush's single top contribution with more than \$240,000 in contributions from its employees during 1999-2000.
- On November 15, 1999, the Bush campaign hosted a gathering of 300 top fundraisers in Austin, TX, 150 of whom had been designated "Pioneers."
- August 16, 2002, Bush held a gathering at his Crawford, TX residence for the "Pioneer" network.

12. Many of the Pioneers were rewarded with government appointments. A report released by Texan for Public Justice on March 5, 2002 shows that 43 of the publicly named Pioneers had received presidential appointments of some kind. Again, by definition, these 43 Pioneer appointees delivered more than \$4.3 million to Bush's presidential race. Pioneers who received Bush appointments include:

- 19 U.S. ambassadors to countries from Austria to Uruguay;
- Five members of the Energy Department Transition Team that first envisioned Bush's supply-side energy policy (including ex-Enron CEO Ken Lay); and
- Two seats on the President's Foreign Intelligence Advisory Board.

13. It is impossible to determine exactly how much money the Pioneer network was responsible for raising for the Bush campaign, given the fact that the campaign has not publicly disclosed that information nor produced that information for this litigation. At a bare minimum, relying on the Bush campaign's limited public disclosure, the Pioneers were responsible for raising \$22.6 million, or approximately one-fifth of the private money raised by the campaign. (Based on the campaign's public release of the names of 226 Pioneers who achieved their "goal" of raising \$100,000.)

14. It is likely that the Pioneer network raised many millions more than the acknowledged \$22.6 million. According to documents produced by the Bush for

President Committee for this litigation, the campaign was tracking a total of 431 individuals as part of the Pioneer program. This means there were at least 207 individuals who pledged to raise \$100,000 but apparently fell short of the goal, or achieved the goal but were not disclosed by the campaign. It is also quite likely that several, if not many of the Pioneers raised well more than \$100,000 for the campaign. Again, documents produced by the Bush for President Committee for this litigation reveals that 34 Pioneers pledged to raise more than \$100,000 with 29 of them committing to raise \$250,000 or more and three pledging to raise more than \$1,000,000. When considering that the campaign did not disclose how much the “underachieving” and “overachieving” Pioneers delivered, it is reasonable to speculate that the total amount of money raised by the Pioneer bundling operation may have reached \$50,000,000 or more.

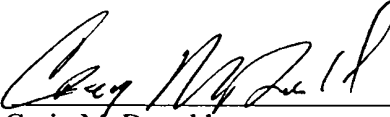
15. The increased limits on individual contributions called for under the Bipartisan Campaign Reform Act of 2002 (BCRA) would undoubtedly increase the ability of elite fundraisers, such as those who comprise the Bush Pioneers, to deliver larger amounts of money to political campaigns. With those larger amounts of funds, would likely come more access and potential influence over public policy and governmental actions. I believe it is reasonable to speculate that under the more indulgent contribution limits of BCRA, the same Bush Pioneer network might have been able to provide the campaign with many millions of dollars more than it delivered for the 2000 election effort. It is not unrealistic to speculate that, under BCRA, the Pioneers would be able to double the amount of contributions delivered in 2000, meaning that a relatively small handful of citizens could be responsible for delivering anywhere from

\$45 million up to \$100 million to a federal presidential effort—enough money to fund an entire campaign.

16. The sources that I have relied on in forming my opinions are attached as Exhibits B–Q.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 19, 2002



Craig McDonald



Vitae

Craig L. McDonald

Craig McDonald is the founder and director of Texans for Public Justice, a non-partisan, non-profit policy research and advocacy center which focuses on issues of corporate and government responsibility. Established in 1997, Texans for Public Justice has served as an aggressive watchdog over the role of big money in Texas politics. The organization has published numerous reports and articles detailing campaign finance practices by Texas candidates and political committees.

Prior to relocating to Texas, McDonald spent 15 years in Washington, D.C. He is a former Director of Public Citizen's Congress Watch, the Washington-based consumer advocacy organization. At Public Citizen, McDonald was responsible for developing and analyzing campaign finance and related legislation and policy. McDonald also served as co-director of the Center for A New Democracy, a non-partisan organization that provided technical support to citizen organizations working for fundamental campaign reform at the state and local levels.

McDonald is the author of numerous articles on government and corporate reform policy. McDonald began his organizing work as a community-based organizer in his hometown of Grand Rapids, Mich.

McDonald is a graduate of Grand Valley College with a B.A degree in political science.