

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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SENATOR MITCH McCONNELL, <i>et al.</i> ,)
	Plaintiffs,)
)
v.)
)
FEDERAL ELECTION COMMISSION,)
<i>et al.</i> ,)
	Defendants.)
<hr/>)
REPUBLICAN NATIONAL COMMITTEE,)
<i>et al.</i> ,)
	Plaintiffs,)
)
v.)
)
FEDERAL ELECTION COMMISSION,)
<i>et al.</i> ,)
	Defendants.)
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Civ. No. 02-582 (CKK, KLH, RjL)

Civ. No. 02-874 (CKK, KLH, RjL)

All consolidated cases.

DECLARATION OF THOMAS JOSEFIK

I, Thomas Josefiak, hereby swear and depose as follows, based on my own personal knowledge:

1. I am currently the Chief Counsel of the Republican National Committee ("RNC").
2. The various RNC exhibits attached to this declaration are to the best of my knowledge true and correct copies of records prepared and kept by the RNC in the course of its regularly conducted business activities.

Background

3. I attended college at Fairfield University and graduated in 1969. I then attended Georgetown University Law School and received a law degree in 1974. I am currently admitted to practice law in Texas.

4. My legal career has been focused heavily on the practice of federal and state election law, and I have developed substantial expertise in election law issues.

5. I first joined the Republican National Committee Counsel's Office in February 1992. As Chief Counsel, I am primarily responsible for the day-to-day legal operations of the RNC, including ensuring that all activities of the RNC, its officers, and its employees comply with applicable federal and state election laws.

6. In 1985, President Ronald Reagan appointed me to a six-year term as Commissioner on the Federal Election Commission ("FEC"). I served as the Chairman of the FEC in 1988, during the 1988 presidential election, and as Vice Chairman and Chairman of the Finance Committee in 1987.

7. From 1981 to 1985, prior to serving as an FEC Commissioner, I was Special Deputy to the Secretary of the United States Senate, in which position I represented the Secretary as a full-time, Ex-Officio Commissioner of the FEC.

8. From 1977 to 1980, I served as Counsel to the National Republican Congressional Committee, and served on the staff of Rep. Silvio Conte.

9. During the period from 1977 to 1979, I served at various times as Special Counsel to the Minority of the Committee on House Administration, where I assisted Republican members in proposing and amending election law legislation. During my tenure as a committee staff member, Congress passed the 1979 amendments to the Federal Election Campaign Act.

10. The information contained in this declaration is based on the personal, non-privileged observations I have made while serving in the various positions I have described above; my review of the RNC's FEC reports, the documents which the RNC produced in connection with this litigation, and the RNC's designated exhibits; and the interviews I personally conducted with Jay Banning, Janice Knopp, Beverly Shea, Ann McCord, and others during my preparation to be the RNC's designated witness under Rule 30(b)(6). By submitting this declaration, I do not waive and do not intend to waive any attorney-client, work product, or any other privileges that may otherwise be available to my current or former employers, including the FEC and RNC.

Structure of the Republican Party

11. The Republican Party comprises several interacting, independent entities that work together on a daily basis to promote Republican ideals at the local, state, and federal levels, help elect candidates who espouse these ideals at all levels, and govern after elections according to these ideals.

12. Established in the early 1850's, the Republican Party has grown to become one of the two major political parties in the United States. Throughout its history, tens of millions of Americans who believe in the Republican Party's ideals, and support the Republican Party's candidates at all levels of government, have affiliated themselves with the Republican Party.

13. One of the most visible parts of the Republican Party is the RNC. The RNC is an unincorporated political association created and governed by The Rules of the Republican Party ("Rules"), as adopted on July 31, 2000 by the Republican National Convention in Philadelphia, Pennsylvania. See RNC Exhibit 1, attached as Attachment A hereto. The RNC

will be governed by these rules until the 2004 Republican National Convention. The Rules are reviewed, revised, and adopted at each quadrennial convention.

14. The RNC has held a national convention every 4 years since 1856. The purpose of these conventions is to adopt party rules; discuss, debate and adopt a platform of policy issues; nominate presidential and vice presidential candidates; rally Republican supporters; and promote the Republican message. A copy of the Republican Platform, as adopted on August 31, 2000 by the delegates to the 2000 Republican National Convention is RNC Exhibit 862, attached as Attachment B hereto.

15. The RNC is a federation of state and territorial Republican parties and currently has 165 members. As indicated in the Rules, the RNC's membership consists of one national committeeman and one national committeewoman from each of the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa. The state and territorial Party chairmen also serve as members of the RNC.

16. The RNC's officers, consisting of a chairman and co-chairman, eight vice chairmen, and a secretary, treasurer, and other officers that the RNC may deem necessary, are elected by the 165 members of the RNC. Accordingly, each state has an equal say in choosing the leadership of the RNC.

17. The Chief Counsel position, in which I currently serve, is appointed by the chairman of the RNC.

18. Although the numbers vary at different points in the election cycle, the RNC currently employs 378 individuals. In addition, the RNC relies on thousands of dedicated volunteers for assistance with important party building activities across the country and relies on the generous contributions of millions of Americans each year. The average amount of these

contributions is relatively small. Between 1993 and 2002, the average donation to the RNC was approximately \$57.00.

19. The RNC's national focus should not be misunderstood as a federal focus. Rather, given the RNC's state-based structure, it is not surprising that the RNC actually focuses many of its resources on purely state and local election activity. This frequently involves devoting significant resources to grassroots activities, some of which exclusively benefit state and local candidates.

20. Although the national structure of the Republican Party starts with the RNC, each state has its own Republican State Committee with a Chairman and staff. The RNC works hand-in-hand with these state committees, each of which is a private political association operating under its own bylaws and direction. Although primarily focused on the promotion of Republican issues at the state and local levels and the election of state and local Republican candidates, these state committees also work closely with the RNC, the National Republican Senatorial Committee, and the National Republican Congressional Committee to help elect candidates for federal office.

21. In addition to the RNC and state parties, the Republican Party also includes numerous local party committees. For example, the Dallas County (Iowa) Republican County Central Committee, a co-plaintiff in this litigation, is independent of the RNC and Iowa Republican Party. This committee, which is actively involved in supporting candidates for office in Iowa and promoting its issue agenda, is not treated as a "political committee" under the FECA because it does not raise or spend \$1,000 per cycle on activities influencing federal elections. See 11 C.F.R. 100.5.

Goals of the Republican Party

22. The Republican Party has a long and rich history advocating some core principles: a smaller federal government, lower taxes, individual freedom, and a strong national defense. The RNC achieves these principles through three primary means: (1) promoting an issue agenda advocating Republican positions on issues of local, state, regional, national and international importance; (2) electing candidates who espouse these views to local, state and national offices; and (3) governing in accord with these views. Although these efforts sometimes overlap, they also frequently occur independently of one another. Accordingly, as discussed in greater detail below, the RNC often seeks to promote Republican positions on important issues, even in contexts outside of elections.

23. In accomplishing its objectives, the RNC pays for its activities in a manner consistent with the FEC's allocation regulations. Since the FEC has long recognized that the RNC is heavily involved in activities at the federal and state levels, the RNC has historically paid for its overhead using an allocation, or "split," between federal and nonfederal funds: activities that are purely federal are paid for with 100% federal funds; activities that are purely state or local are paid for with 100% nonfederal funds; and activities that relate to both federal and state elections are paid for with a combination of federal and nonfederal funds. The split between federal and nonfederal funds varies depending on whether it is a presidential election year. During non-presidential election years, the RNC is required to pay for these expenses with no less than 60% federal funds. This percentage increases to 65% during presidential election years. Accordingly, even though the vast majority of the candidates on the ballot in any given year are for state and local offices, the RNC must pay at least 60% of its expenses using federal funds, according to the FEC regulations currently in effect.

Coordination Between the RNC and State Parties on Electoral Issues

24. Throughout its history, the RNC has worked closely with state and local parties on electoral activity. This coordination occurs regardless of whether any federal candidates appear on the ballot.

RNC's Victory Program

25. Nothing better exemplifies the close working relationship between the various components of the Republican Party than the Victory Plans and Programs that are crafted and implemented every year on a collaborative basis.

26. During the past several election cycles, the RNC, in close collaboration with the state parties, has engaged in an effort known as the "Victory Program," a state-by-state full-ticket effort involving voter registration, voter identification, get-out-the-vote, generic advertising, and other grassroots activities undertaken by state parties with the active assistance and involvement of the RNC. By providing its expertise, guidance, partial funding, and fundraising ability, the RNC, in collaboration with the various state Republican parties, has successfully used this program to stimulate grassroots activism and increase voter turnout throughout the country. These Victory Programs contain local, state, and federal components and are designed to benefit candidates at all three levels.

27. The state Republican parties' Victory Programs during the 2000 election cycle were generally called "Victory 2000." Working hand-in-hand, the RNC and state parties used Victory 2000 as a highly effective tool for promoting grassroots activity and increasing voter turnout.

28. Victory 2000 was the result of extensive and continuous collaboration between the RNC and the state parties. Recognizing that each state has unique needs and that a

Victory Program that works well in one state may not work well in another. the RNC assisted the state parties in developing and implementing programs tailored to the particular needs of each state.

29. This collaborative effort began when the RNC asked the various state parties to develop a Victory Plan consisting of a combination of the grassroots and get-out-the-vote activities that each believed would be the most effective for their particular state. Over the course of several months, each state party then developed a Victory Plan for addressing voter registration, voter identification, absent ballot initiatives, direct mail programs, and other grassroots activities. The RNC's field personnel were often consulted by the state parties at this stage of the planning process.

30. Next, the RNC conducted regional meetings where representatives from the RNC met individually with each state party to review and discuss their Victory Plans. During these meetings, the RNC listened to the needs of the state parties, provided advice where appropriate, and helped revise each of the states' proposals. For example, a memorandum from the RNC to the political director of the North Carolina Republican Party providing feedback and suggestions on North Carolina's Victory 2000 Plan is RNC Exhibit 918, attached as Attachment C hereto. By working closely together, the end result was a Victory Program for each state that was designed to benefit candidates at all levels of the ticket.

31. The funding for Victory 2000 was shared between the RNC and the state parties. After developing an appropriate Victory Plan, the RNC and state parties worked together to develop a budget and set fundraising goals. These fundraising goals varied significantly depending on the state. For example, in a limited number of states, particularly those that raise large amounts of nonfederal money, the state party was able to pay for a

significant portion of the program. In contrast, other states that do not raise as much nonfederal funds could not commit to raising the funds needed to pay for the program. Because the RNC believed these programs were important, it committed to sharing the funding with the state parties. In total, the RNC transferred approximately \$42 million strictly for grassroots and get-out-the-vote activities to supplement the state parties' fundraising. This \$42 million does not include broadcast issue advertising. Because of the FEC's state allocation formulas, approximately 60% of this total was nonfederal money.

32. In the end, by working closely together, sharing their expertise, and sharing the costs, the RNC and state parties were able to design, fund, and implement Victory Programs containing extensive grassroots and get-out-the-vote initiatives that were unique to the needs of each state and designed to benefit candidates at all levels of the ticket.

33. Although generally similar in scope, the Victory Plan for each state varied depending on the needs and characteristics of the state. Three examples of these plans are those implemented in California, Missouri, and New Mexico.

34. The California Victory 2000 Plan was "designed to assist all Republican candidates on the November 7, 2000 ballot." A copy of this plan is RNC Exhibit 762, attached as Attachment D hereto. This plan was developed, funded and implemented through close collaboration between the RNC and the California Republican Party. The Plan states that it was "designed to utilize the core pillars of modern direct voter contact: voter registration, absentee ballots, get-out-the-vote, non-allocable mail and voter file development and access." Each of these programs, as well as several others that were part of the California Victory 2000 Plan, are described in detail in Attachment D.

35. The total expected operating budget for the California Victory 2000 Plan was \$23,735,100. The RNC contributed approximately \$8.3 million of this total for certain of the state party's activities as allowed by law. Of this amount, approximately \$2.5 million was federal money and approximately \$5.8 million was nonfederal money. The allocation between federal and nonfederal money was determined based on the percentage of federal candidates on the ballot, among other factors.

36. The Missouri Victory 2000 Campaign Plan was designed to accomplish three fundamental objectives: (1) "To maximize GOP turnout in base Republican areas that will produce winning margins sufficient to produce state-wide Republican victories for president, governor and U.S. Senate"; (2) "To identify, persuade and turn out voters in key 'swing' precincts where voters choose candidates regardless of partisan labels"; and (3) "To fully integrate, for the first time ever, all aspects of successful grassroots activity by capturing the output of volunteer efforts in [the Missouri Republican Party's] database along with the output of paid services." A copy of the Missouri Victory Plan is RNC Exhibit 770, attached as Attachment E hereto. As indicated in the Missouri Victory 2000 Campaign Plan, the Missouri Republican Party, working together with the RNC, sought to accomplish these objectives through a combination of voter identification and voter registration activities, absentee ballot initiatives, direct mail (including slate mail and issue advocacy mail), get-out-the-vote activities, collateral materials (including bumper stickers, label stickers, and yard signs), and direct and in-kind support for the candidates.

37. The RNC contributed approximately \$5.7 million to the Missouri Victory 2000 Program for certain of those programs as allowed by law. Of this amount, approximately \$1.5 million was federal money and approximately \$4.2 million was nonfederal money.

38. The New Mexico Victory 2000 Plan was also the product of significant collaboration between the RNC and the New Mexico Republican Party. A draft of this plan is RNC Exhibit 2306, attached as Attachment F hereto. This plan consisted of voter registration and voter identification activities, an absentee ballot initiative, and get-out-the-vote mailings and telephone calls.

39. The RNC contributed approximately \$1.5 million to the New Mexico Victory 2000 Program for certain of the state's programs as allowed by law. Of the total amount, approximately \$500,000 was federal money and approximately \$1.0 million was nonfederal money.

40. As discussed above, the activities included in the Victory Programs have historically been paid for using a combination of federal and nonfederal funds, with the percentage of each type of funds based on the ballot composition in each state and other factors. Under the BCRA, however, state parties will be forced to pay for these activities in federal election years with federal money or a combination of federal and "Levin money," all of which must be raised by the state party. If the RNC participates in the program by raising, transferring, spending or directing money, the entire program must be paid for with 100% federal money; and no Levin money. Thus, there is a strong disincentive for state parties to work with national parties on these important activities.

Electoral Activity When No Federal Candidates Appear on the Ballot

41. The close working relationship between the RNC and state and local parties with regard to state and local electoral activity is most apparent during odd-numbered years when several states and major cities hold elections with only state and local candidates on the ballot. These states include Kentucky, Louisiana, Mississippi, New Jersey, and Virginia.

Among the major cities that hold mayoral elections during odd-numbered years are Los Angeles, New York City, Minneapolis, Indianapolis, and Houston. Absent a special election for a vacant federal office, no federal candidates appear on the ballots in these cities and states during the odd-numbered years. Yet, the RNC frequently devotes significant resources to these elections.

42. Using nonfederal funds raised consistent with applicable state law, the RNC, through the Republican National State Elections Committee ("RNSEC"), frequently makes direct donations to state and local candidates, pays for the nonfederal share of the party committee's administrative and overhead costs, and pays for the nonfederal share of party building activities such as voter registration and get-out-the-vote efforts. Due to variations among the various states' election laws, RNSEC currently maintains 12 separate accounts for state and local election activity to assure compliance with each state's laws. These accounts are described in the Declaration of Jay Banning.

43. By providing money for rent, electricity, and other operating and administrative costs, the RNSEC's assistance is essential in literally keeping several of the state parties operating. In fact, without this assistance, I believe that some state parties would not be able to function at more than a nominal level.

44. The RNC also provides significant fundraising assistance to state and local candidates, as well as to the state and local parties. These efforts frequently include fundraising letters sent by RNC officers on behalf of state and local candidates. For example, in October 2001, Jack Oliver, the Deputy Chairman of the RNC, sent a fundraising letter on behalf of Brett Schundler's campaign for Governor of New Jersey. See RNC Exhibit 292, attached as Attachment G hereto. The RNC's officers also send fundraising letters on behalf of state and local parties. For example, in August 1993, Haley Barbour, then the chairman of the RNC, sent

a fundraising letter on behalf of the New Jersey Republican Party. See RNC Exhibit 1766, attached as Attachment H hereto. Chairman Barbour sent a similar letter on behalf of George Allen's candidacy for Governor of Virginia in 1993. See RNC Exhibit 1762, attached as Attachment I hereto. The RNC generally does not receive or handle the money received in response to these solicitations; nor is the RNC necessarily informed about who contributes. It is inconceivable to me that anyone could believe these direct mail fundraising solicitations for state and local candidates corrupt, or appear to corrupt, any federal (or state or local) officeholder. Yet, such solicitations will be a crime under the BCRA.

45. As permitted under state law, the RNC also assists state and local candidates through direct contributions. For example, during the Virginia 2001 elections, pursuant to Virginia state law, the RNC made approximately \$4.0 million in contributions through RNSEC to state and local candidates. This total included, among others, direct contributions to the Early for Governor Campaign, the Katzen for Lieutenant Governor Campaign, and the Kilgore for Attorney General Campaign. The RNC also transferred approximately \$1.8 million to the Republican Party of Virginia. The RNC's total spending in the 2001 Virginia elections was approximately \$5.8 million.

46. The RNC, through RNSEC, made similar contributions during the New Jersey elections in 2001. This included approximately \$451,200 in direct contributions to state and local candidates (including the Schundler for Governor Campaign) and transfers of approximately \$72,000 to the Republican State Central Committee. The RNC also spent approximately \$1,167,000 on independent expenditures and made approximately \$2,489,104 in in-kind contributions. The RNC's total spending in the 2001 New Jersey elections was approximately \$4.2 million.

47. The RNC's involvement in the 2001 Virginia and New Jersey elections, however, extended far beyond direct contributions. In fact, the RNC played a significant role in organizing and supporting grassroots activities that were designed to increase Republican and unaffiliated voter participation in both states.

48. In New Jersey, for example, the RNC devoted significant resources to a grassroots program that included a strong absentee ballot initiative, voter identification program, get-out-the-vote mailings, get-out-the-vote telephone banks, and field programs. In addition to providing funding for these activities, the RNC, working closely with the New Jersey Republican Party, also was actively involved in developing and implementing these programs.

49. To achieve its goal of maximizing voter participation, the RNC funded a significant absentee ballot initiative during the 2001 New Jersey elections. This effort began in early October with a mailing to almost one million householders containing two absentee ballot applications and a slate card of the entire Republican ticket. These applications were pre-filled out and personalized for each election district. A copy of this mailing is RNC Exhibit 2291, attached as Attachment J hereto. Coinciding with the delivery of this first mailing, approximately 340,000 automated telephone calls were made to answering machines. The message left on the voters' answering machines notified them that an absentee ballot application had been sent and urged them to "take the time to make sure [their] vote is counted." A copy of the proposed script for these automated telephone calls is RNC Exhibit 533, attached as Attachment K hereto. The third component of the absentee ballot initiative consisted of an oversized postcard mailing sent to almost one million householders. This postcard, which was personalized and sent one week after the first mailing, reminded voters that they could participate in the general election by mail and urged them to return their absentee ballot

applications. A copy of this mailing is RNC Exhibit 2289, attached as Attachment L hereto. In total, the RNC spent more than \$523,000 on this absentee ballot initiative.

50. The RNC also funded get-out-the-vote efforts designed to maximize turnout among the Republican base and unaffiliated voters. These efforts included two direct mailings (one sent to approximately 800,000 householders and the other to approximately 555,000 householders), three telephone calls (one of which occurred on election day), and door hangers that were delivered door-to-door by volunteers organized by the county Republican organizations. In total, the RNC spent approximately \$500,000 on these get-out-the-vote efforts. A copy of one of these direct mailings is RNC Exhibit 534 and attached as Attachment M hereto.

51. The RNC's efforts in New Jersey during 2001 also included persuasion programs designed to reach out to key swing voters. These programs consisted of three separate direct mailings containing issue advocacy messages and follow-up telephone calls that were designed to reinforce the message delivered by the mailings. A copy of one of these mailings is RNC Exhibit 234, attached as Attachment N hereto.

52. The RNC's persuasion efforts during the 2001 New Jersey elections also included spending approximately \$1.0 million on television advertising that touted the "GOP Tax Cutting Team."

53. In total, through RNSEC, the RNC spent approximately \$1.6 million (excluding RNC salaries and overhead) on all of these efforts during the New Jersey 2001 election for the sole purpose of benefiting state and local candidates and promoting the Republican Party's issue agenda.

54. The RNC engaged in similar grassroots and get-out-the-vote efforts in Virginia during 2001. As in New Jersey, even though no federal candidates appeared on the

November ballot (a special election occurred in June 2001 for a vacant congressional seat), the RNC believed it could play an important role in Virginia by boosting grassroots activity and voter turnout throughout the state.

55. The RNC's grassroots and get-out-the-vote efforts in Virginia were extensive. For example, the RNC paid for polling for the Early campaign, made approximately 2,300,000 get-out-the-vote phone calls, sent approximately 1,950,000 get-out-the-vote mailings and 2,857,000 persuasion mail pieces, spent approximately \$80,000 on radio advertisements, and placed numerous full-time staffers in the field (reaching a total of between 45 and 50 during the final days of the campaign) to assist the grassroots and get-out-the-vote efforts. Again, because no federal candidates appeared on the November 2001 ballot, this effort was designed entirely to benefit state and local candidates and promote the Republican Party's issue agenda.

56. In addition to New Jersey and Virginia, the RNC was also involved in elections in Louisiana and Mississippi during 2001. Through RNSEC, the RNC spent over \$10 million in these four states even though no federal candidates appeared on the ballot in any of these states (other than the Virginia June 2001 special election).

57. Sometimes, states have special elections for state and local offices in odd-numbered years. This recently occurred in South Carolina, when by virtue of a retirement, an important state Senate seat was on the special election ballot in 2001. Pursuant to requests from the South Carolina Senate Republican Caucus, the RNC committed \$35,000 of nonfederal funds to this election. If federal funds are required for these situations, the RNC may be much less favorably disposed to provide assistance to the candidates, and some states may prohibit use of federal funds for state election activities.

58. As indicated above, the RNC also frequently provides assistance to state and local parties in key mayoral races, even when no federal candidates appear on the ballot. This includes providing support for Republican mayoral candidates, either directly or through state Republican party organizations, in such cities as Los Angeles, Houston, Indianapolis, and Minneapolis, among others.

59. The RNC's activities during most odd-year elections in Kentucky, California, Mississippi, New York, New Jersey, and Virginia, and in the odd-year mayoral races, are critically important to the mission of the Republican Party, but have no effect on federal elections.

Electoral Activity When Federal Candidates Appear on the Ballot

60. Although the RNC's activities relating exclusively to state and local elections are most apparent in the 5 states and numerous localities with odd-year elections, the RNC engages in the very same activities during even-numbered years when federal candidates do appear on the same ballot. These elections are sometimes referred to as "mixed" elections. The RNC, of course, is actively involved in all these elections at the local, state, and national levels.

61. Some of the RNC's activity during these mixed elections continues to involve purely state and local activity. This activity includes making direct donations to state and local candidates, making direct donations to state parties for purely state and local activities, and providing fundraising assistance to state and local candidates and parties. For example, during 2000, the RNC (through RNSEC) donated approximately \$5.6 million of nonfederal money to state and local candidates. In 2000, the RNC also transferred approximately \$123.9 million to state and local parties, of which approximately \$88.2 million was nonfederal funds.

62. In fact, even though federal, state, and local candidates appear together on the ballot, the RNC's deployment of resources is sometimes dictated by the state and local levels rather than the federal level. This is demonstrated by the fact that the RNC sometimes devotes significant resources towards states with competitive gubernatorial races even though the races for federal offices are less competitive. For example, during 2000, most observers believed (correctly, as it turned out) that Indiana was a safe state for George W. Bush. This state also lacked a competitive Senate race (Senator Lugar easily won reelection). Nevertheless, the RNC committed significant resources to the state in hopes of influencing the gubernatorial race. Similarly, California has a competitive gubernatorial race this year, but no Senate race. Even without a Senate race, the RNC has been heavily involved in the state to support the gubernatorial candidacy of Bill Simon.

RNC Involvement in State Party Fundraising

63. The RNC provides assistance with state party fundraising in two important ways: (1) transferring money directly to the state parties; and (2) assisting the state parties with various programs and efforts that allow them to raise money on their own.

64. The RNC transfers both federal and nonfederal money directly to the state parties for a variety of purposes. As discussed above, this includes nonfederal funds to assist in the implementation of a state party's Victory Program, as well as to assist with state and local races. The RNC also frequently transfers nonfederal money to the state parties. Many of the state parties are heavily dependent on these transfers to cover the costs of their operations, as discussed in the Declaration of Jay Banning. Many state parties do not have, and are unlikely to develop, the fundraising capability to replace these transfers, as discussed in the Declaration of Beverly Shea.

65. The RNC also goes to great lengths to assist the state parties in raising money on their own. Among the methods frequently used are donor list exchanges, fundraising events, facilitating contributions from interested donors to particular state parties, supporting fundraising activities through letters or appearances by RNC personnel, and providing matching incentives.

66. Donor lists are an important asset to any organization that seeks to raise money, because they enable the organization to direct its solicitations to those individuals who either have a history of making contributions or who have indicated a desire to do so. Over the years, the RNC and state parties have separately developed comprehensive donor lists. Accordingly, by exchanging these lists, the RNC and state parties are able to increase their prospective donor pools, thereby increasing their ability to raise money.

67. The RNC and state parties also frequently plan separate fundraising events in the same city, commonly referred to as “tiered fundraising events.” As explained in the Declaration of Beverly Shea, “tiered” fundraising events typically involve two or three separate events occurring on a single date at locations in the same vicinity or city. Typical tiered events will consist of a large low-dollar event for federal donors to candidates in the first tier, a middle-tier “photo op” event with larger donors, and often a separate top-tier dinner for the event Host Committee. The proceeds of the large first-tier event typically go to a candidate for state office, the proceeds of the middle-tier “photo op” go to the state party, and the proceeds of the top-tier dinner go to the RNC. So-called “tiered” fundraising events such as these serve to benefit state parties because they are able to increase their fundraising success through direct association with the RNC. In fact, without the RNC holding an event in the same city and on the same date as the state party event, it would likely be logistically and financially impossible for the state party to

convince major-drawing surrogates to be the featured guest at their own event. Further, the RNC has a highly professional and experienced fundraising staff, which many state parties do not. Indeed, some state parties have no fundraising employees at all. Therefore, state parties necessarily benefit from the involvement of RNC personnel in tiered fundraising activities, both because RNC fundraising staffers are highly competent and because their involvement supplements the efforts of state party personnel.

68. It is also not uncommon for the RNC to put interested donors in touch with various state parties. This often occurs when a donor has reached his or her federal dollar limits to the RNC, but wishes to make additional contributions to state parties. When this happens, the RNC will often suggest that the donor make contributions to certain state parties that are most in need of funds at that time.

69. As explained above, RNC personnel frequently sign fundraising letters on behalf of state parties. An example of one of these letters is RNC Exhibit 1769, attached as Attachment O hereto. In addition to signing fundraising letters, RNC officers, including Chairman Marc Racicot, Co-Chairwoman Ann Wagner, and Deputy Chairman Jack Oliver, spend a significant amount of their time attending fundraisers across the country that benefit state and local parties and candidates. For example, Ann Wagner and Jack Oliver attended a fundraiser on behalf of the Missouri Republican Party in October 2001. A copy of the invitation to this event is RNC Exhibit 297, attached as Attachment P hereto. In September 2001, Ann Wagner was also the keynote speaker at a Shelby County Republican Women's Club fundraising dinner in Memphis, Tennessee. A thank you letter sent to Chairwoman Wagner is RNC Exhibit 301, attached as Attachment Q hereto.

70. Since becoming Chairman in January 2002, Governor Racicot has made 82 trips in which he visited a total of 67 cities in 36 states. Similarly, since January 2001, Ann Wagner and Jack Oliver have traveled to 31 and 33 states, respectively, in their capacities as RNC officers. The majority of these trips have had significant fundraising components to them.

71. Finally, the RNC has implemented matching incentive programs designed to benefit state and local parties and candidates. For example, during 2000, the RNC created the State Legislative Campaign Fund. The goal of this program was to improve the Republican's chances of regaining control of the state legislatures.

72. As part of the State Legislative Campaign Fund, the RNC approached 15 states and offered to match a percentage of the funds raised by the state party. By adding its credibility and fundraising expertise to this effort, the RNC was able to raise between \$3.0 and \$4.0 million for this program. All of this money benefited state candidates.

RNC Involvement in Redistricting

73. The RNC also has provided redistricting staff to the state parties. Although redistricting has an impact on federal elections, its impact on state and local elections is much more immediate and significant. In fact, as indicated in a letter from David Wilkins, the Speaker of the House in South Carolina, the RNC's assistance "has proven to be invaluable to the South Carolina Republican Party's efforts to expand [its] influence in state government." A copy of this letter is RNC Exhibit 2435, attached as Attachment R hereto.

74. The RNC's redistricting efforts also include litigating challenges to various redistricting plans throughout the country. During the 2000 election cycle, the RNC spent approximately \$880,000 on redistricting efforts, including redistricting litigation. A substantial portion of this was nonfederal money, as allowed under current law. During 2002,

the RNC has budgeted more than \$3.0 million on redistricting litigation. Overall, the RNC spends more on state legislative redistricting than on congressional redistricting.

Impact of the BCRA on the RNC's Ability to Assist and Interrelate With State Parties

75. The BCRA will have a significant -- and highly detrimental -- impact on the RNC's ability to associate with and assist the state parties. The unfortunate result will be less interaction between the RNC and state parties, less sharing of expertise and resources, and significantly less resources devoted to core grassroots and get-out-the-vote activities that are crucial to increasing voter turnout.

76. As an initial matter, because the BCRA prohibits the RNC from raising, spending, or directing nonfederal money, the RNC may be banned from any state and local activities in certain states that prohibit the use of federal money in state and local election activity. In Connecticut, for example, state law requires national political parties to form a state-regulated political committee, and then raise money directly into that committee, in accordance with state law. Transfers of federally-regulated money into such a Connecticut-regulated political committee to benefit state and local candidates are prohibited by state law. Since the BCRA prohibits the RNC and other national political parties from raising non-federally-regulated funds, without a significant change in state or federal law, national parties may be precluded from participating in Connecticut state and local campaigns. Similar issues may be presented in Massachusetts, North Carolina, and perhaps other states.

77. Moreover, in those states where the RNC can still spend money, any involvement by the RNC or its officers, staff, members, or any its "agents" in drafting and implementing Victory Plans might constitute "spending" or "directing" nonfederal funds (including Levin funds), and thus result in the "federalization" of the entire program. Therefore,

state parties will face the prospect of being punished for simply associating with the RNC: these state parties will be forced to use 100% federal money to pay for programs they could otherwise pay for with a combination of federal and Levin money. Indeed, given the difficulty state parties face in raising large amounts of federal dollars, most states will be forced to significantly reduce -- or perhaps eliminate -- their grassroots and get-out-the-vote activities. Even with the increased federal contribution limits for state parties, competition for federal contributions within the \$37,500 aggregate limit will make it extremely difficult for state parties to raise federal funds. As a result, these important activities will be left to unregulated outside interest groups, many of whom do not disclose any information about their donors.

78. This “federalization” may occur even in odd-numbered years when no federal candidates appear on the ballot. Thus, should the RNC’s officers, members, or agents seek to assist a state party during an odd-numbered year when only state and local candidates appear on the ballot by advising the state party on how to allocate funds for these activities, the state party might be forced to pay for all of these programs with federal dollars. In effect, by punishing the state parties for associating with the RNC, the BCRA severely burdens the ability of the RNC and state parties to work together during even odd-year elections.

79. Moreover, the BCRA actually places greater limits on the RNC’s ability to help state and local parties and candidates than it does with respect to federal candidates and officeholders. After all, the RNC cannot even raise nonfederal money up to the federal limit for these state and local parties and candidates. By contrast, the BCRA created two exceptions that allow federal officeholders to raise nonfederal money for the state and local candidates and parties, but neither exception applies to the national parties or their agents.

80. The problem that this creates is particularly acute with respect to the various state party chairmen who also serve in executive roles at the RNC. For example, Ann Wagner, the Co-chairman of the RNC, is also the Chairwoman of the Missouri Republican Party. The BCRA makes it a crime for Ms. Wagner to solicit funds on behalf of the Missouri Republican Party, or for that matter any other state or local party or candidate.

81. The RNC is very concerned about the financial viability of several state parties that depend on the RNC for a large portion of their funding. The BCRA's prohibitions on the RNC's fundraising assistance to states, and RNC transfers of nonfederal funds, will have a debilitating effect on such parties as the Republican Party of Arkansas. Just this year, the RNC made a nonfederal transfer to the Arkansas party just to allow it to pay its current bills.

The RNC's Relationship With Other Republican Associations

82. The RNC works closely with several other organizations on a daily basis for the purpose of electing Republican candidates to state and local offices and promoting the Republican agenda. Among others, these organizations include the Republican Governors Association ("RGA"), the Republican Attorneys General Association ("RAGA"), and the National Republican Legislators Association ("NRLA"). The BCRA will prohibit the RNC from working with these organizations.

83. Since its founding in 1963, the RGA has served as the official public policy and political organization of the Republican governors and governors-elect of the United States. In this role, the RGA has worked closely with the RNC to elect Republican gubernatorial candidates. Two examples of this close working relationship were the Virginia and New Jersey 2001 gubernatorial races, where the RNC and RGA joined efforts to support the candidacies of Mark Earley and Bret Schundler. Although the Republican gubernatorial candidates in these

states were ultimately unsuccessful. the combined effort of the RNC and RGA played an important role in assisting other Republican candidates on the ballot.

84. The RAGA is modeled after the RGA and serves similar purposes: (1) assisting in the election and reelection of Republican candidates for the office of attorney general; and (2) facilitating communications among the Republican attorneys general, RGA, RNC, state and local parties, and other Republican elected officials. Since RAGA's establishment in 1999, the RNC has worked closely with the RAGA to accomplish its objectives. A memorandum providing an overview of the RAGA is RNC Exhibit 978, attached as Attachment S hereto.

85. The NRLA currently represents more than 3,500 Republican state legislators across the country and, with the RNC's support and assistance, has become an important part of the Republican Party.

86. The BCRA will have a significant impact on the RNC's ability to work and interact with Republican organizations such as the RGA, RAGA, and NRLA. The BCRA not only prohibits the RNC from helping these groups raise state-regulated money, but also, by prohibiting the RNC from soliciting, receiving, or directing nonfederal money to any such entity, the BCRA effectively precludes the RNC's involvement with these organizations.

RNC Issue Advocacy

87. The Republican Platform, established by the delegates at each quadrennial convention, describes the positions the Republican Party espouses on many of the critical issues facing the Nation. In remarkable detail, the Platform outlines the Party's goals for local, state, and federal legislative and regulatory policy. Although individual Republican candidates

sometimes disagree with the Party's platform on particular issues. the Platform nevertheless remains the Party's guiding statement.

88. The RNC devotes substantial resources annually to advocating its positions on these issues. This includes significant efforts to communicate with RNC members and the general public through a variety of means, including direct mail, press releases, e-mail, and broadcast advertisements.

89. The RNC airs many public communications that expressly advocate the election or defeat of clearly identified federal candidates and pays for all of these "express advocacy" communications with 100% federal money. The RNC also airs other public communications that do not expressly advocate the election or defeat of any clearly identified federal candidates. These "issue advertisements" are, by FEC precedent, funded with a split of federal and non-federal money. Although not required by law, as a matter of policy, the broadcast issue advocacy efforts undertaken by the RNC do not mention any election; in all or virtually all instances, they also avoid referring to any individual as a candidate.

90. Proponents of the BCRA have suggested that the primary use of nonfederal funds by national party committees is for so-called "electioneering" broadcast advertisements, by which they mean candidate-specific broadcast advertising aired within 60 days of a general and 30 days of a primary election, but which does not expressly advocate the election or defeat of a clearly identified federal candidate. This suggestion is inaccurate for two reasons. First, in recent election cycles, less than half of the RNC's nonfederal funds have been used for broadcast issue advocacy efforts; therefore, only a relatively small subset has constituted "electioneering" broadcast advertisements as that term is used in the BCRA. Second, although the RNC does, like interest groups, air broadcast issue advertisements that mention federal

candidates close to elections. it also engages in non-candidate issue advocacy and party building communications. And it should not be overlooked that, unlike interest groups, the RNC is required under current law to pay for all of its issue advertising with a significant portion of federal money.

91. There are instances in which the RNC pays for broadcast issue advertising for the exclusive purpose of influencing the legislative and policy debate.

(a) One area in which the RNC was particularly active with broadcast issue advertisements was the debate over a constitutional amendment that would have required the federal government to have a balanced budget (“Balanced Budget Amendment”). In February 1995, the RNC determined that it could make an important difference in this debate. The RNC’s goal was to garner additional support for the amendment, an issue of great importance to many Republicans throughout the country. Accordingly, and even though the closest federal election was over 20 months away, the RNC decided to fund a major broadcast advertising campaign. The RNC ran these advertisements to encourage particular Senators to support the amendment, regardless of whether those Senators were up for reelection 20 months later. For example, one key Senator who expressed opposition to the amendment, but who was considered persuadable, was New Mexico’s Jeff Bingaman. As described in a letter Senator Bingaman sent to the RNC on March 3, 1995, the RNC funded advertisements in New Mexico in early 1995 specifically to call attention to this issue. See RNC Exhibit 1711, attached as Attachment T hereto. Given that Senator Bingaman had been reelected to the Senate in 1994 and would not be up for reelection for another 5 years, the RNC’s decision to run advertisements in New Mexico was clearly designed to promote the Republican Party’s stance on this issue and to influence the public debate.

(b) The RNC continued to run broadcast issue advocacy -- including additional 30-second spots and a feature-length GOP-TV program described in greater detail below -- throughout 1995 and the beginning of 1996 for the purpose of communicating its views on the balanced budget issue. A copy of one of these advertisements is RNC Exhibit 2438, attached as Attachment U hereto.

(c) In fact, in May 1996, the RNC produced and aired one of the most memorable and effective broadcast advertisements in its history, again in the context of the continuing public debate on the balanced budget. The purpose of this advertisement was to communicate the Republican Party's position that the federal government must control its reckless appetite for deficit spending. This particular advertisement featured President Clinton, and included numerous clips of him stating a different number of years in which he would balance the budget. The advertisement explained, "Talk is cheap. Double talk is expensive. Tell Mr. Clinton to support the Balanced Budget Amendment." A copy of this advertisement is RNC Exhibit 2439, attached as Attachment V hereto. Eventually, President Clinton signed a balanced budget resolution.

(d) Later in the summer of 1996, when the legislative agenda and accompanying public debate turned to welfare reform, the RNC again effectively communicated its views through broadcast issue advertising for the purpose of putting pressure on President Clinton to sign welfare reform legislation. Beginning in late May 1996, the RNC aired advertisements comparing President Clinton's rhetoric on welfare reform with his record on welfare reform. A copy of this advertisement is RNC Exhibit 2440, attached as Attachment W hereto. The advertising campaign was successful and culminated in President Clinton finally signing a welfare reform bill into law after he vetoed the bill twice. The RNC would like to

believe that its issue advocacy campaign played a role in President Clinton's decision to ultimately sign this legislation into law.

(e) In addition to its efforts to influence the legislative debate, the RNC also seeks to educate the public about the positions for which the Republican Party stands. The balanced budget amendment advertisements are examples of these efforts. Another example is the advertising campaign the RNC is currently running nationwide in support of the Republican education agenda. The RNC is currently airing a 60-second radio spot entitled "Leave No Child Behind." The script of this advertisement is RNC Exhibit 2428, attached as Attachment X hereto. This advertisement, which features a man and a woman discussing education issues, concludes with the following exchange:

Male: Republicans are working for better, safer schools...

Female: ... so no child is left behind.

Male: That's right ... Republicans.

The advertisement mentions President Bush's name for the purpose of identifying the precise proposal supported by the Republican Party ("President Bush's No Child Left Behind Law"), but mentions no federal candidate currently facing reelection. It concludes with a request that listeners call a toll-free number to learn more about Republican education reform.

92. Many of the RNC's broadcast issue advertisements are run in response to, or in anticipation of, "attack" advertisements paid for by special interest groups using unregulated and undisclosed funds. The RNC's ability to respond to these advertisements is critical in ensuring a full and accurate debate on the issues. In 1998, for example, the RNC funded a portion of a multi-million dollar issue advocacy campaign announced by the NRCC called "Operation Breakout." The express purpose and intent of Operation Breakout was to

respond to an anticipated blitz of labor union and other interest group broadcast issue advertisements attacking Republican Congressional candidates.

93. Many of the RNC's broadcast issue advocacy efforts are primarily directed to media markets in which the RNC believes the public is most attuned to the particular issues the RNC intends to address with each advertisement. Often, these broadcast issue advocacy efforts are directed to media markets in which a competitive federal election campaign is ongoing. In those specific instances, the RNC believes that the public is closely following the issues which divide the candidates, and that advertising promoting certain of the messages espoused by the Republican Party will receive more attention and discussion than they might during times when no election is pending.

94. The RNC also communicates its message through GOP-TV, which is essentially the RNC's television studio. As part of GOP-TV, the RNC produces feature-length video programming that it subsequently airs on cable television nationwide. Many of the GOP-TV programs are designed as simulated news broadcasts: a GOP-TV anchor interviews officeholders, RNC staff, and members of the public -- often several of whom are admittedly not Republicans -- about various important issues and the Republican Party's proposals for addressing them. One relatively recent program addressed education and tax reform. See RNC Exhibit 334B, attached as Attachment Y hereto.

95. Party building is another important goal of GOP-TV, and an important mission of the GOP-TV effort is to define the Republican Party as a "big-tent" party that is especially eager to recruit women and minorities who traditionally may not have identified with the Party. One recent GOP-TV program featured prominent Republican leaders J.C. Watts, Elaine Chao, and Ileana Ros-Lehtinen in an effort to reach out to minority communities that do

not traditionally associate themselves with the Republican Party. See RNC Exhibit 1910, attached as Attachment Z. Another particularly effective production highlighted the role of Republican women in the current Administration, again with the message that the Republican Party welcomes the participation and leadership of women. See RNC Exhibit 334A, attached as Attachment AA.

96. The GOP-TV program is funded in part with non-federal dollars and is an integral part of the RNC's party building and education campaigns that could not be effectively undertaken without the use of such funds.

97. Many of the issue advocacy and party building programs I have described are duplicated on the RNC's state-of-the-art website, located at www.mc.org. Paid for in part with non-federal funds, the website provides access to press releases, GOP-TV videos, talking points, biographies of selected Republican leaders, and many other features designed to disseminate the Party's views to the world and to allow a broader understanding of those views.

98. The RNC also engages in significant non-broadcast communications with the public. For example, the RNC ran an advertisement in Reader's Digest magazine in 1994 to promote the Contract with America. A copy of this advertisement is RNC Exhibit 1760, attached as Attachment BB hereto.

99. The RNC's non-broadcast communications also include, among others, the magazine Rising Tide, which is distributed to anyone who contributes at least \$25 per year to the RNC. Rising Tide is designed to provide readers with a more in-depth education about the Republican issue agenda than is possible in the more traditional 30-second television advertisements. A copy of Rising Tide is RNC Exhibit 977, attached as Attachment CC hereto. The RNC also communicates its message through its eChampions program, which allows anyone

who is interested to sign up on the RNC's website to receive frequent e-mails from the RNC. One e-mail program, called "The Weekly Team Leader," provides timely updates about issues of importance to RNC members. Examples of recent The Weekly Team Leader e-mails are RNC Exhibits 2425 & 2426, attached as Attachments DD & EE.

100. Finally, in addition to the RNC efforts to educate its members and the public, the RNC also seeks to educate Republican officeholders at all levels of government. For example, the RNC recently committed substantial resources to educate Republican officeholders about the expected effects of the BCRA. As part of these efforts, the RNC advocated against the passage of this legislation. I understand that allegations have been made that the Republican Party had threatened to cut-off contributions to Republicans who voted in favor of this legislation. No such threat was made to the best of my knowledge. It is a fact that, at this very moment, the Republican party committees have committed to provide the maximum amount of coordinated expenditures in certain House races in which a Republican who voted for the BCRA is facing stiff competition. Coordinated spending is being allocated today, as it always has been, based on the competitiveness of the races, not on the basis of this or any other legislative votes.

101. The RNC believes its ability to communicate to its members and the public -- whether through broadcast issue advertisements or any of the other discussed above -- is an important part of its mission. By prohibiting the raising and spending of nonfederal funds, the BCRA will significantly reduce the amount of resources available for issue advocacy. As a result, the BCRA will result in less advocacy about issues of importance to the public.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'T. Josefiak', written over a horizontal line.

Thomas Josefiak

Executed on October 4, 2002