

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF COLUMBIA

3 - - - - -X

4 SENATOR MITCH McCONNELL, et al., :

5 Plaintiffs, : CIVIL ACTION

6 v. : NO.02-CV-582

7 FEDERAL ELECTION COMMISSION, et al., : CKK, KLH, RJL

8 Defendants : Consolidated

9 - and - : Action

10 SENATOR JOHN McCain, SENATOR :

11 RUSSELL FEINGOLD, REPRESENTATIVE :

12 CHRISTOPHER SHAYS, REPRESENTATIVE :

13 MARTIN MEEHAN, SENATOR OLYMPIA SNOWE, :

14 SENATOR JAMES JEFFORDS, :

15 Intervenors. :

16 - - - - -X

17 Washington, D.C.

18 Tuesday, October 22, 2002

19 Deposition of DONALD P. GREEN, a witness

20 herein, called for examination by counsel for the

21 Plaintiffs in the above-entitled matter, pursuant to

22 notice, the witness being duly sworn by PENNY M.

23 DEAN, a Notary Public in and for the District of

24 Columbia, taken at the offices of Covington &

25 Burling, 2445 M Street, N.W., Washington, D.C., at

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<p>1 10:07, a.m., Tuesday, October 22, 2002, and the 2 proceedings being taken down by Stenotype by 3 PENNY M. DEAN, RPR, and transcribed under her 4 direction. 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 APPEARANCES (Continued): 2 3 On behalf of the Adams Plaintiffs: 4 BRENDA WRIGHT, ESQ. 5 National Voting Rights Institute 6 One Bromfield Street 7 Third Floor 8 Boston, MA 02108 9 (617) 368-89100 10 11 On behalf of Intervenors: 12 BRADLEY S. PHILLIPS, ESQ. 13 Munger, Tolles & Olson, LLP 14 355 South Grand Avenue 15 35th Floor 16 Los Angeles, California 90071-1560 17 (213) 683-9262 18 19 20 21 22 23 24 25</p>
Page 3	Page 5
<p>1 APPEARANCES: 2 3 On behalf of Plaintiff Republican National 4 Committee: 5 BOBBY B. BURCHFIELD, ESQ. 6 GARY M. RUBMAN, ESQ. 7 Covington & Burling 8 1201 Pennsylvania Avenue, NW 9 P.O. Box 7566 10 Washington, D.C. 20004-7566 11 (202) 662-5350 12 13 On behalf of the California Democratic 14 Party, et al.: 15 JOSEPH E. SANDLER, ESQ. 16 Sandler, Reiff & Young, P.C. 17 50 E Street, S.E., Suite 300 18 Washington, D.C. 20003 19 (202) 479-1111 20 21 22 23 24 25</p>	<p>1 CONTENTS 2 WITNESS EXAMINATION BY COUNSEL FOR 3 DONALD P. GREEN PLAINTIFF REPUBLICAN NATL. COMMITTEE 4 By Mr. Burchfield 7 5 CALIFORNIA DEMOCRATIC PARTY 6 By Mr. Sandler 233 7 8 Afternoon Session - Page 117 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 14</p>	<p style="text-align: right;">Page 16</p> <p>1 THE WITNESS: Yes, these are the 2 activities that they did so far as I understood them. 3 I should note when I was answering your previous 4 question about my opinion as expressed to the 5 National Voter Fund, I was thinking of the two 6 components of their campaign that I was asked to 7 evaluate through randomized experimentation, namely 8 their direct mail campaign and their commercial phone 9 banking campaign. I asked or I offered to do a 10 randomized evaluation of the 8,000 volunteers who 11 went door to door, but in the end that didn't happen. 12 BY MR. BURCHFIELD: 13 Q. Well, you see here that they -- the NAACP 14 voter fund engaged in such efforts as hiring over 80 15 staff members, registering over 200,000 people to 16 vote, running the get-out-the-vote operations with 17 two literature drops and two canvasses of targeted 18 districts and 8,000 volunteers and so forth. Did you 19 generally understand that all of that was going on in 20 addition to the portions you were asked to evaluate? 21 A. Yes, absolutely. 22 Q. And the NAACP National Voter Fund says at 23 the end of this website printout, "The efforts of the 24 NAACP NVF, National Voter Fund, the NAACP and others 25 helped to increase the African-American turnout by</p>
<p style="text-align: right;">Page 15</p> <p>1 voter fund that their phone bank and direct mail 2 programs were not likely to be very effective? 3 A. I said to them at the time that I 4 suspected that might be the case. I didn't -- I 5 didn't know it for a fact, I conducted the evaluation 6 after the 2000 election and discovered that that was 7 true. 8 Q. Discovered that it -- that they were not 9 effective? 10 A. Correct. 11 MR. BURCHFIELD: Let me ask the reporter 12 to mark as Green cross-examination Exhibit 3 a 13 printout from the NAACP National Voter Fund website 14 discussing their activities during the 2000 election 15 campaign. 16 (Green Exhibit No. 3 was 17 marked for identification.) 18 BY MR. BURCHFIELD: 19 Q. Dr. Green, would you please look at this 20 document and let me know if it comports with your 21 understanding of the activities that the NAACP 22 National Voter Fund engaged in in the year 2000 in 23 connection with their get-out-the-vote campaign? 24 MR. PHILLIPS: Objection, it's overbroad, 25 compound, but you can answer.</p>	<p style="text-align: right;">Page 17</p> <p>1 over 1 million votes in the areas in which we were 2 organizing. The turnout in New York increased by 22 3 percent over 1996 figures and Florida by 50 percent 4 an Missouri by 140 percent." Do you see that? 5 A. Yes. 6 Q. Do you have any view as to whether that 7 statement of the effectiveness of this overall 8 program is accurate or not? 9 A. I would say that those are unsupported 10 assertions. 11 Q. Do you have any contrary information? 12 A. Well the scientific evidence I have based 13 on randomized interventions that I studied, direct 14 mail and phone banking suggested that they had 15 minimal, if any effect. The effects of the media, 16 the effects of the door-to-door canvassing, the 17 effects of some of the other public events are 18 difficult to discern, but let me say this, that when 19 one looks at '96 turnout figures from the current 20 population survey and compares them to 2000, either 21 for states as a whole or for areas we know that they 22 targeted, one does not see evidence that 23 African-American turnout rose in proportion to the 24 amount of effort that was expended at the National 25 Voter Fund in those areas and so I'm quite skeptical</p>

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1 that they had the effects that they claim, which
 2 isn't to say they didn't have the effects that they
 3 claim, I just think that there is a fundamental
 4 difference between asserting these claims and
 5 demonstrating them with a high degree of scientific
 6 rigor.
 7 Q. Well, do you know if in fact turnout in
 8 New York increased by 22 percent over 1996 figures
 9 among African-American voters?
 10 A. I would really like to check that before
 11 misspeaking, but I would be surprised if that were
 12 true.
 13 Q. In the areas in which the NAACP voter fund
 14 was organizing, do you know if that's true or not?
 15 A. I don't know if it is true for New York in
 16 particular.
 17 Q. How about Florida, 50 percent increase in
 18 areas where they were organizing?
 19 A. That doesn't sound right to me.
 20 Q. And how about Missouri by 140 percent?
 21 A. That also doesn't sound right to me.
 22 Q. You do recall various post election
 23 analyses, don't you, Dr. Green, which indicated that
 24 in many of the major urban areas voter turnout was in
 25 fact higher in 2000 than it had been in prior -- in

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1 the immediately preceding election cycles?
 2 A. That was true to some limited extent, but
 3 I think what is surprising about that was the extent
 4 to which it was true regardless of the race of the
 5 people involved. You see, in order for the National
 6 Voter Fund to make the claims that it makes
 7 convincingly, they have to show in some sense two
 8 things, the turnout went up among African Americans
 9 and that it did not correspondingly go up among
 10 non-African Americans, who were not subject to the
 11 same of voter mobilization campaigning.
 12 The problem with their observational data
 13 is that they have no control group. It's true that
 14 turnout may have gone up in some of those areas, but
 15 those could -- those turnout changes could be due to
 16 a variety of factors that have nothing to do with the
 17 specific activities of their campaign.
 18 Q. It is not the case that as a matter of
 19 course, organizations like the NAACP, National Voter
 20 Fund or the AFL-CIO or political parties engage in
 21 this sort of randomization and control group analysis
 22 that you do in your academy work, right?
 23 A. I would say that that is on the increase,
 24 but it's true, it's not common as a rule. However,
 25 in our conversations with the AFL-CIO, Alan Gerber

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1 and I, my colleague, have learned that they purport
 2 to be doing some of these kinds of things. Our
 3 conversations with the Republican leadership suggest
 4 that they are attuned to these types of experimental
 5 methods, so even if it is not typical, it is
 6 certainly on the rise.
 7 Q. Among the Republican leadership you've
 8 spoken to Blaze Hazelwood, I believe?
 9 A. Correct.
 10 Q. Is it your understanding NAACP spent
 11 roughly 10 million on the National Voter Fund project
 12 in 2000?
 13 A. I don't know the exact figure, that sounds
 14 about right.
 15 Q. And do you know that the principal source
 16 of funding from them was a single \$7 million donation
 17 from an anonymous individual?
 18 A. Yes, I didn't know it was \$7 million I've
 19 heard that it was -- in fact, I don't know that for a
 20 fact, I've just heard that.
 21 Q. It's not possible, is it, for us to know
 22 where the funding for the NAACP's voter mobilization
 23 project came from; is it?
 24 A. No.
 25 MR. PHILLIPS: Calls for speculation.

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1 THE WITNESS: No.
 2 BY MR. BURCHFIELD:
 3 Q. Because they don't report, do they?
 4 A. No, not as far as I know.
 5 MR. BURCHFIELD: Let me ask the reporter
 6 to mark as Green cross-examination Exhibit 4 an
 7 article from yesterday's Roll Call magazine.
 8 (Green Exhibit No. 4 was
 9 marked for identification.)
 10 BY MR. BURCHFIELD:
 11 Q. Dr. Green, take a moment to look at this,
 12 you mentioned you've been in conversations with the
 13 AFL-CIO, once you've had a chance to review this
 14 article I'd like for you to tell me whether this
 15 article comports with your understanding of the
 16 AFL-CIO's current get-out-the-vote plans?
 17 MR. PHILLIPS: It's overbroad, compound.
 18 BY MR. BURCHFIELD:
 19 Q. You found something in there humorous?
 20 A. They obviously take a dim view of the New
 21 York Jets. Tell me again what the question is.
 22 Q. The question for you is does this comport
 23 with your -- let me make it a more specific question
 24 and that is, that refers to paragraph 3 of this
 25 article where it says, after it summarizes the

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1 AFL-CIO removed its --
 2 A. Paragraph 3, which ones? Of the first
 3 page?
 4 Q. It says, instead the powerful labor
 5 organization is focusing all of its attention on a
 6 ground war to turn out union and Democratic voters
 7 gambling that this get-out-the-vote campaign will pay
 8 far greater dividends than a TV ad would; do you see
 9 that?
 10 A. Yes.
 11 Q. Do you know in your conversation with the
 12 AFL-CIO that is in fact their current effort?
 13 A. No, I don't.
 14 Q. Do you have -- do you know generally
 15 Dr. Green, that over the last couple of election
 16 cycles the AFL-CIO has, as the election has drawn
 17 nearer, focused its efforts on the so-called ground
 18 war rather than on broadcast issue advertisements?
 19 A. Yes.
 20 Q. And what do you know about that?
 21 A. I don't have direct knowledge of their
 22 expenditures. I think I know what most detached
 23 political observers know, which is there is a sense
 24 that labor unions in this country have decided I
 25 think after 1994 to allocate more of their money to

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1 voter mobilization and less to media expenditures.
 2 Q. The voter mobilization that they engage in
 3 includes some door-to-door canvassing, right?
 4 A. Correct.
 5 Q. It also includes very substantial
 6 expenditures on phone banks, correct?
 7 MR. PHILLIPS: Objection, vague.
 8 THE WITNESS: I just don't know.
 9 BY MR. BURCHFIELD:
 10 Q. It does include expenditures on phone
 11 banks?
 12 A. I does include some expenditures on phone
 13 banks, but I don't know what the admixture of banking
 14 operations and door-to-door canvassing is.
 15 Q. Direct mail?
 16 A. I'm sure it involves direct mail, but what
 17 the relative proportions of those three things are is
 18 unknown to me.
 19 Q. You do understand, don't you Dr. Green,
 20 that under the Bipartisan Campaign Reform Act there
 21 are no restrictions placed upon the ability of the
 22 AFL-CIO or any other group other than political
 23 parties to engage in direct mail phone banking and
 24 door-to-door canvassing?
 25 MR. PHILLIPS: Argumentative, calls for a

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1 legal conclusion, but you can answer.
 2 THE WITNESS: That sounds correct.
 3 BY MR. BURCHFIELD:
 4 Q. And you would anticipate, wouldn't you as
 5 a knowledgeable observer that with the electioneering
 6 communication restrictions precluding such groups
 7 from engaging in broadcast issue advocacy within 60
 8 days of a general election that such activities as
 9 phone banking, direct mail and door-to-door canvassing
 10 will increase among those groups, right?
 11 MR. PHILLIPS: Objection, calls for a
 12 legal conclusion, misstates the law. You can answer
 13 the question.
 14 THE WITNESS: I would agree with the
 15 thrust of what you're proposing, which is that as
 16 money that otherwise would go to mass media
 17 communication is channeled in other ways it will
 18 doubtless find more expression in get-out-the-vote
 19 activities.
 20 BY MR. BURCHFIELD:
 21 Q. Dr. Green, you are by training a broadly
 22 educated individual, but part of your training I take
 23 it is in statistics?
 24 A. Correct.
 25 Q. And you teach college level and graduate

<p style="text-align: right;">Page 54</p> <p>1 that studies that are not published are not really 2 taken very seriously and so studies that go through 3 rigorous academic review are accorded more weight by 4 academics. Who funds these studies is in some sense 5 irrelevant as to whether or not they make their way 6 through the hurdles of academic publication. 7 Q. You rely in your report on a study 8 funded – it is on page 24, by the American Cancer 9 Society that draws some conclusions about voting on 10 tobacco legislation. Are you with me on page 24, 11 footnote 29, the Monardi, Fred and Stanton Glantz 12 article from 1998? 13 A. Well, I think it is a mischaracterization 14 to say that I rely on it. I'm making the point that 15 the evidence is mixed and so I give an example of 16 some analysts who find a strong statistical 17 relationship, but then say on the whole it appears 18 that the relationship is weak. So it's simply an 19 example of such a finding, not something that is 20 materially affecting my conclusion. 21 Q. It is the case that the literature 22 examining relationships between campaign 23 contributions and roll call voting shows no 24 statistically verifiable correlation; is that right? 25 MR. PHILLIPS: Objection, vague.</p>	<p style="text-align: right;">Page 56</p>
<p style="text-align: right;">Page 55</p> <p>1 THE WITNESS: I don't think those are the 2 right terms of art. It's not that they don't find 3 statistically robust findings within a given study, 4 it's that the picture of evidence over a range of 5 studies does not suggest a consistent relationship. 6 BY MR. BURCHFIELD: 7 Q. Some studies have even found a negative 8 correlation. 9 A. True. 10 Q. You rely in your report on the article 11 by – well, you cite in your report the article by 12 Hall and Wayman? 13 A. Yes. 14 Q. Do you reply on it? 15 A. Not on the empirical findings which I 16 criticize, but I think like all political scientists 17 in the wake of Hall and Wayman I make use of the 18 important conceptual distinction that they draw 19 between legislative efforts and legislative votes. 20 Q. So do you or do you not believe that the 21 Hall and Wayman analysis is statistically sound? 22 A. I do not believe it is statistically 23 sound. 24 Q. So you do not believe that the Hall and 25 Wayman conclusion, it will save us a lot of time</p>	<p style="text-align: right;">Page 57</p>

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1 interests to buy or rent votes on matters that affect
 2 them. And then he proceeds to summarize some of the
 3 literature; is that a fair summary of the literature?
 4 A. Yes, to this point, to this point in time,
 5 yes. It was written 1990, I think.
 6 Q. 1990. Now, what literature were you
 7 aware of since 1990 that you consider statistically
 8 reliable on the point of whether PAC contributions or
 9 any political contributions affect roll call voting?
 10 A. This paragraph doesn't say anything about
 11 roll call voting, this paragraph says -- it offers
 12 little support for the popular view this PAC money
 13 permits interests to buy or rent votes on matters
 14 that affect them. Those may or may not be roll call
 15 votes.
 16 Q. Okay, let's stick to roll call votes.
 17 What statistical work are you aware of that you think
 18 is statistically valid since 1990 that correlates
 19 contributions to candidates to roll call votes?
 20 A. None.
 21 Q. Now, this -- I take it the qualification
 22 you have posed on my earlier question is what this
 23 article does, which is to correlate contributions or
 24 attempt to correlate contributions to what they refer
 25 to as legislative effort?

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1 A. That's not the only difference. There is
 2 a difference between votes and roll call votes. For
 3 example, there could be committee votes, there could
 4 be informal votes in markup.
 5 Q. Okay. Other than this study, what
 6 statistically significant analyses have you seen that
 7 correlate contributions to candidates to non roll
 8 call voting activity?
 9 A. I would say that there are 3 and they are
 10 cited in my report. The first would be the analysis
 11 by Professors Romer and Professor Snyder, which
 12 examine how changes in PAC contributions followed
 13 changes in committee assignments. It did not look
 14 specifically at voting as an outcome, but I think in
 15 a very clever research design inferred the purchase
 16 of either votes or effort or something else of value
 17 such as perhaps administrative oversight from the way
 18 in which the money followed the institutional
 19 positions of the members involved controlling for
 20 that putative ideological position, since they were
 21 the same members who were switching committee.
 22 Q. What page are you referring to of your
 23 report?
 24 A. That's page 25. And I also refer on page
 25 24 to a study by Cox and Magar, which gets at the

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1 same issue with respect to the change in the majority
 2 status of the two parties arguing that one way to
 3 infer the value of public office holding in the eyes
 4 of those who seek to buy access, effort, votes,
 5 oversight is to examine the way in way the pattern of
 6 contributions changes after party control changes, so
 7 these are two analyses by either economists or
 8 economically minded political scientists who are
 9 looking at what might be termed the compare statics
 10 of campaign contributions.
 11 Q. But, Dr. Green, isn't that different,
 12 aren't those two studies measuring the effect of
 13 changes in the position of the office holder on
 14 contributors, not the effect of contributions on
 15 office holder behavior?
 16 A. Well, they are trying to make the argument
 17 that those patterns would change -- that that pattern
 18 of change would be what we would expect if these
 19 contributors were investing their resources in
 20 something that -- some service that was provided to
 21 them by the office holders. And like many economic
 22 analyses backs out the effects of the money on the
 23 behavior by looking at how the contributions change
 24 as the power of the legislators change.
 25 Q. But neither of those studies correlates

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1 increases in contribution to different legislative
 2 behavior, voting, or allocation of time by the
 3 member, true?
 4 A. True. It is looking in some sense at the
 5 imputed value of all the things that members might
 6 provide. Again including legislative effort,
 7 legislative access, legislative votes, legislative
 8 oversight and saying the sum total of all of those
 9 services provided can be inferred from the way in way
 10 contributions change as the institutional power of
 11 the members changes.
 12 Q. But you're saying inferred, they are
 13 inferring that the conduct of the member may change
 14 simply because more money is following that member as
 15 his status in Congress changes, right?
 16 A. Yes.
 17 Q. They have not examined the other end of
 18 the coin of whether the member's activities actually
 19 do change, correct?
 20 A. Well presumably if you were on the banking
 21 committee and you are no longer on the banking
 22 committee, your behavior has changed. You can't cast
 23 votes on the banking committee.
 24 Q. But they haven't tracked the substance of
 25 the votes of that person on the banking committee on

<p>Page 66</p>	<p>1 votes and money is murky because the problem is an 2 extremely difficult one to solve, statistically. In 3 that sense, should it be without opinions? Not 4 necessarily, not if the people who are on the scene 5 and engaging in politics on a day-to-day basis form 6 impressions, I would in some ways defer to their 7 sense of what's going on, but I don't regard their 8 view as dispositive. 9 Q. Let me ask you to look please at the 10 tables on page 810 -- let's start with 810, I think 11 the other tables are similar. This is the table in 12 the Hall and Wayman article, Green cross-examination 13 Exhibit 6 dealing with their analysis of the Dairy 14 Stabilization Act of 1982. Are you with me? 15 A. Yes. 16 Q. And you see there are a number of 17 independent variables that they've considered, right? 18 A. Yes. 19 Q. And the effort to put it has, it has been 20 30 years since I've studied econometrics so you have 21 to forgive me but the effort here is in the 22 independent variables to indicate those factors that 23 could affect the result and to place some 24 quantification on the amount of the facts they have 25 on the result you are studying, sir?</p>
<p>Page 67</p>	<p>1 A. Yes, that's correct. 2 Q. Did you see there as independent 3 variables, any variable or any proxy for amount of 4 lobbying efforts spent by the PAC being studied? 5 A. As an independent variable? 6 Q. As an independent variable. 7 A. No. 8 Q. And indeed, if one were trying to find out 9 how much effort a legislator put into a particular 10 piece of legislation, it would be critically 11 important, wouldn't it, Dr. Green, to know how much 12 money that industry spent on case treat lobbyists to 13 get the attention of that legislator? 14 MR. PHILLIPS: Would you read that back? 15 THE REPORTER: "Question: And indeed, if 16 one were trying to find out how much effort a 17 legislator put into a particular piece of 18 legislation, it would be critically important, 19 wouldn't it, Dr. Green, to know how much money that 20 industry spent on case treat lobbyists to get the 21 attention of that legislator". 22 THE WITNESS: Could you do it one more 23 time? 24 BY MR. BURCHFIELD: 25 Q. Sure. To have a study that it evaluates</p>
<p>1 A. I think that actually when Professor 2 Snyder in his rebuttal summarizes the so-called 3 endogeneity problem associated with this vote and 4 access literature or when I summarize it in my report 5 I would say that that is in some sense the 6 conventional wisdom now in political science, that 7 this is a very difficult inference problem for 8 political scientists to crack. Essentially what we 9 would really want to have is an exogenous event take 10 place that causes either money to go into the system, 11 or the institutional opportunities or power of the 12 actors to provide access to change. 13 Professors Romer and Snyder use the later 14 approach, Professors Cox and Magar use the latter 15 approach, they look for these exogenous events like 16 change in party committee structure or change in 17 party role control to infer the effects of money. 18 Another way to do it would be to look for moments 19 when a group exogenously bursts onto the scene to 20 gain access, but unfortunately there aren't very many 21 instances. 22 Q. You're not aware of any statistical 23 studies that address those issues? 24 A. No. And that's why as I say in my report, 25 the literature on the relationship between roll call</p>	

<p style="text-align: right;">Page 70</p> <p>1 the amount of -- that it tries to trace the -- let me 2 start again. 3 A study that tries to trace the causes of 4 a legislator's allocation of time to particular 5 legislation should consider the amount of lobbying 6 effort put into that legislation and that legislator 7 by the industry group, true? 8 A. The point -- the problem that you're 9 pointing to is sometimes a problem of collinearity, 10 that there are two variables here, the amount of 11 money that the PAC contributes and the amount of 12 lobbying effort that they invest and those two things 13 could be correlated. And what you're suggesting is 14 that maybe it's not the money that's really causing 15 this relationship between money and legislative 16 effort. Maybe the correlation between money and 17 legislative effort is a spurious manifestation on the 18 amount of lobbying activity that these dairy 19 interests are engaging in, independent of the money 20 that they are spending and the answer is yes, that's 21 possible. Although, you would think intuitively and 22 I just don't know the nature, the exact nature of the 23 data that they are analyzing, that that money is 24 really distinct from legislative effort -- lobbying 25 effort, excuse me, but I just don't know.</p>	<p style="text-align: right;">Page 72</p> <p>1 table 2, true? 2 A. True. 3 Q. And the 1984 natural gas market policy act 4 examined on table 3? 5 A. True. 6 MR. BURCHFIELD: We can take a break now. 7 (Recess.) 8 MR. BURCHFIELD: Let me ask the reporter 9 to mark as Green cross-examination Exhibit 7 an 10 excerpt from the Encyclopedia of the United States 11 Congress. 12 (Green Exhibit No. 7 was 13 marked for identification.) 14 BY MR. BURCHFIELD: 15 Q. Dr. Green, are you familiar with the 16 publication Encyclopedia of the United States 17 Congress? 18 A. No. 19 Q. Let me ask you to look at the last page of 20 the excerpt that I've just provided you, this excerpt 21 dealing with campaign committees? 22 A. Let me just ask you, what's the 23 publication date? 24 Q. The short answer is, sir, I don't know the 25 answer to that. I can try to ascertain that for you</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Well, you know that the PAC is limited to 2 a \$5,000 per election donation to a particular 3 individual, right? 4 A. Yes. 5 Q. You also know in many industries, the 6 dairy industry, we can go to the lobbying and 7 disclosure act reports and find out, but they 8 probably spend hundreds of thousand dollars on 9 lobbyists, right? 10 A. Yes. 11 Q. They could withhold their \$5,000, still 12 spend the money on lobbyists and have the same effect 13 on legislation as reported here, correct? 14 A. Correct. 15 Q. We just don't know from looking at this 16 report? 17 A. That's correct. 18 MR. PHILLIPS: I'm sorry, this report is 19 the Hall and Wayman? 20 MR. BURCHFIELD: The Hall and Wayman, 21 correct. 22 THE WITNESS: Yes. 23 BY MR. BURCHFIELD: 24 Q. And the same would be true for the 1982 25 job training partnership act that is analyzed on</p>	<p style="text-align: right;">Page 73</p>

<p style="text-align: right;">Page 82</p>	<p style="text-align: right;">Page 84</p> <p>1 A. I think that they do a mix of both. I 2 think that they tend to moderate more than they 3 polarize, but there are certain circumstances under 4 which they are a polarizing force. 5 Q. Can you name me any other groups that are 6 active in the American political process today that 7 are better at moderating extreme interest and 8 political parties? 9 A. Well, you would think that many 10 nonpartisan groups, validly nonpartisan groups, would 11 be somewhat better, but of course they have minimal 12 support. So for all practical purposes, parties 13 would be the main coalition building institution. 14 Q. By a good measure? 15 A. Yes, by a good measure. 16 Q. Let me ask you to look at your report on 17 pages 25 through 26 and the example that you give, 18 one of the examples that you give of a corporate 19 entity that donated money to both parties is Erron, 20 and I'm going to ask you a couple of questions about 21 that. 22 I ask the reporter to mark as Green 23 cross-examination Exhibit 8 and article from the 24 national journal, January 26th, 2002. 25 (Green Exhibit No. 8 was</p>
<p style="text-align: right;">Page 83</p> <p>1 electing a president, they would have a tendency 2 after the convention to moderate. To the extent they 3 are trying to win an election in a given House 4 district, they might not have an incentive to 5 moderate. 6 Q. But in each district I would assume you 7 would agree there may be a different scale, but there 8 is a median on the scale within each district that 9 they are trying to appeal to? 10 A. Yes, yes. However they are also trying to 11 appeal to their ongoing supporters, not only for 12 finance help, but because those are the core voters 13 in their district and voters who would help mobilize 14 others. To the extent those people are more extreme, 15 there seems to be a centrifugal influence on their 16 politics. So I just want to avoid caricaturing 17 parties as inherently moderating elements, because as 18 I believe Professor Milkas points out in his book on 19 party politics quite prominent scholars have taken 20 the opposite point of view arguing that political 21 parties actually galvanize more extreme coalitions 22 under certain circumstances and polarize debate. 23 Q. But as a general proposition, you don't 24 agree that parties are galvanizing extreme coalitions 25 as opposed to moderating those coalitions, do you?</p>	<p style="text-align: right;">Page 85</p>

<p>Page 90</p>	<p>Page 92</p>
<p>Page 91</p>	<p>Page 93</p> <p>1 trying do is frame the terms of the debate, frame the 2 terms of the debate, then doubtless lobbyists help, 3 because the PAC contribution in and of itself doesn't 4 give instructions to the members of Congress as to 5 how to think about the policy issues at stake and how 6 to articulate the views most effectively. 7 Q. Is it really your view, Dr. Green, and if 8 it is, fine, but is it really your view that if a 9 corporate PAC makes a \$5,000 donation to the chairman 10 of the House Banking Committee that as a result of 11 that donation, that company's senior vice president 12 for government affairs is going to be able to get a 13 meeting with that chairman of the House Banking 14 Committee? 15 MR. PHILLIPS: Object to the question as 16 an incomplete hypothetical and object to the form as 17 argumentative. 18 THE WITNESS: The -- my position is not 19 that that \$5,000 is necessary an sufficient to 20 produce the outcome. My position would be more of a 21 statistical position that if you wanted to know the 22 probability that you would have influence and access 23 delivered as a result of money, that will increase 24 monetarily with the amount of money that you hand 25 over.</p>

<p style="text-align: right;">Page 94</p> <p>1 BY MR. BURCHFIELD: 2 Q. And what statistical study can you point 3 me to that exams that phenomenon? 4 A. Well, I would point to the fact that 5 the -- as in the Romer and Snyder piece and Cox and 6 Megar piece the money follows the institutional 7 positions of the actors -- 8 Q. You keep coming back to those, Dr. Green, 9 but I thought we already established that they show 10 the money coming in but they don't show the visits 11 following the money, true? 12 MR. PHILLIPS: Counsel, objection to the 13 form of the question, it is argumentative and it 14 blatantly mischaracterizes the witness's previous 15 testimony on this subject and it is not even a 16 question. 17 MR. BURCHFIELD: Mr. Phillips, these 18 objections are totally inappropriate, you're coaching 19 the witness. 20 MR. PHILLIPS: I'm not coaching the 21 witness. 22 MR. BURCHFIELD: It is palpable -- 23 MR. PHILLIPS: Fine, take it up with the 24 judge, Counsel, just ask a question. 25 MR. BURCHFIELD: I have asked a question.</p>	<p style="text-align: right;">Page 96</p>
<p style="text-align: right;">Page 95</p> <p>1 BY MR. BURCHFIELD: 2 Q. My question for you is, isn't it a tact 3 that the two studies that you've just named do not 4 track access broadly defined once those contributions 5 have made -- have been made, true? 6 A. They don't track access specifically, what 7 they are trying to do is reason from the investments 8 of interest groups what the sum total of the value 9 associated with access, effort, oversight and voting 10 behavior would be to those interests. 11 Q. But there is nothing you can point me to 12 in those studies and will bring them in if you want, 13 but there is nothing in those studies that will show 14 me that for a \$5,000 PAC contribution X company got Y 15 number of meetings with the chairman of the Senate 16 Banking Committee? 17 A. Right, that's not in those studies. 18 Q. Not even an effort to study that 19 phenomenon, true? 20 A. True. 21 Q. Now, you mentioned in your report the 22 Lincoln bedroom -- before we go there, am I correct, 23 Dr. Green that there are constituencies here in 24 Washington and elsewhere that publicize and try to 25 correlate hard money contributions to voting behavior</p>	<p style="text-align: right;">Page 97</p>

<p style="text-align: right;">Page 158</p> <p>1 about the budget? 2 BY MR. BURCHFIELD: 3 Q. Believe me, I'm really not in a position 4 to answer specific questions about it, but I can ask 5 some. 6 Dr. Green, you've never seen a plan like 7 this before, have you? 8 A. No, I have actually. 9 Q. Where? 10 A. Well, for example, I've seen plans like 11 this, in the case of Michigan for example, the 12 Michigan Democratic plan, I've seen that. I've seen 13 the NAACP National Voter Fund's plan, it is not very 14 different in the layout. 15 Q. The NAACP National Voter plan is not that 16 much different? 17 A. It follows the same format of kind of a -- 18 some vacant language up front on voter turnout and 19 then the context of the election and then a series of 20 budget items principally consisting of paid phone 21 calls and direct mail. And that's what this budget 22 is about. When you look at the total budget 23 excluding candidate contributions, which are not 24 federal contributions anyway, of an unspecified 25 nature, one is left with approximately \$2 million and</p>	<p style="text-align: right;">Page 160</p>
<p style="text-align: right;">Page 159</p> <p>1 the budget on page 84567 consists -- includes items 2 things like salary 75,000 in polling, 105,000 in 3 state mail, 600,000 in presidential mail, 210,000 in 4 issue advocacy mail, 210,000 in gubernatorial mail. 5 We haven't even gotten to the phone banks 6 yet and they have already spent more than a million 7 dollars of their 2 million in mail. So it seems as 8 though at least in as far as the mail is concerned, 9 what we're talking about could be a party campaign 10 conducted by perhaps 3 people. There would be a 11 graphic designer, there would be a computer list 12 manager and there would be a political consultant. 13 Q. Well, I'm not sure you read this very 14 carefully -- 15 A. I read it quite carefully. 16 Q. -- Dr. Green? 17 MR. PHILLIPS: Object to the form of the 18 question. 19 BY MR. BURCHFIELD: 20 Q. Look on page 9 see the plan that says they 21 hired four field operatives on the election side. 22 A. I understand that. I'm not disputing 23 that, I'm saying in terms of where they are spending 24 their money, even before we get to phone calls, they 25 have already spent more than half of their</p>	<p style="text-align: right;">Page 161</p>

<p style="text-align: right;">Page 266</p>	<p style="text-align: right;">Page 268</p>
<p style="text-align: right;">Page 267</p> <p>1 A. Political parties at all levels of 2 government? 3 Q. Yes. 4 A. They can contribute 57,500 to the 5 political parties; 20,000 of the 57,500 is reserved 6 for contributions to national party committees. The 7 maximum amount that can be donated by an individual 8 to PACs and state parties is 37,500 per election 9 cycle. 10 Q. Is \$57,500 an amount that an average 11 American could imagine contributing to political 12 parties? 13 A. No. 14 Q. Is 57,500 an amount that a typical 15 American believes would have a substantial amount of 16 influence over anybody who received it? 17 A. Yes, probably. 18 Q. The last series of quick questions I have 19 just relate to your – references on the top of page 20 34 of your report. I'm trying to – the first full 21 sentence on page 34 says, consider Connecticut which 22 prohibits labor and corporate contributions and so 23 forth. You say in 1993, '94 the parties spent 24 \$1,020,000 and despite the stringent campaign finance 25 laws in Connecticut, the figure had doubled to</p>	<p style="text-align: right;">Page 269</p>