

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE DISTRICT OF COLUMBIA

3 -----x

SENATOR MITCH MCCONNELL, et al., :  
 4 Plaintiffs, :  
 : Case No. 02-0582  
 5 vs. :  
 : (CKK, KLH, RJL)

6 FEDERAL ELECTION COMMISSION, :  
 et al., : All consolidated  
 7 : cases  
 Defendants. :

8 -----x

REPUBLICAN NATIONAL COMMITTEE :  
 9 et al., :  
 Plaintiffs, : Civil No. 02-874  
 10 vs. :  
 : (CKK, KLH, RJL)

11 FEDERAL ELECTION COMMISSION, :  
 et al., :  
 12 Defendants. :  
 -----x

13 Washington, D.C.  
 14 Wednesday, September 25, 2002

15 Deposition of ROBERT W. HICKMOTT, a witness  
 16 herein, called for examination by counsel for the  
 17 Republican National Committee in the above-entitled  
 18 matter, pursuant to notice, the witness being duly sworn  
 19 by KAREN YOUNG, a Notary Public in and for the District  
 20 of Columbia, taken at the offices of Covington &  
 21 Burling, 1201 Pennsylvania Avenue, Northwest,  
 22 Washington, D.C., at 9:19 a.m. on Wednesday, September  
 23 25, 2002, and the proceedings being taken down by  
 24 Stenotype by KAREN YOUNG, and transcribed under her  
 25 direction.

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<p>1 APPEARANCES:</p> <p>2 On Behalf of the Republican National Committee:</p> <p>3 NICOLE JO MOSS, ESQ.</p> <p>4 Covington &amp; Burling</p> <p>5 1201 Pennsylvania Avenue, N.W.</p> <p>6 Washington, D.C. 20004-2401</p> <p>7 (202) 662-5256</p> <p>8</p> <p>9 On Behalf of the Federal Election Commission:</p> <p>10 COLLEEN T. SEALANDER, ESQ.</p> <p>11 Federal Election Commission</p> <p>12 999 E Street, N.W., Room 657</p> <p>13 Washington, D.C. 20463</p> <p>14 (202) 694-1650</p> <p>15</p> <p>16 On Behalf of the Witness:</p> <p>17 MONICA P. MEDINA, ESQ.</p> <p>18 Heller Ehrman White &amp; McAuliffe LLP</p> <p>19 1660 K Street, N.W.</p> <p>20 Suite 300</p> <p>21 Washington, D.C. 20006-1228</p> <p>22 (202) 912-2000</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 PROCEEDINGS</p> <p>2 Whereupon,</p> <p>3 ROBERT W. HICKMOTT,</p> <p>4 1401 K Street, Northwest, Washington, D.C.,</p> <p>5 12th floor, called for</p> <p>6 examination by counsel for</p> <p>7 the Republican National Committee and having</p> <p>8 been duly sworn by the Notary Public, was</p> <p>9 examined and testified as follows:</p> <p>10 - - -</p> <p>11 EXAMINATION BY COUNSEL FOR THE</p> <p>12 REPUBLICAN NATIONAL COMMITTEE</p> <p>13 BY MS. MOSS:</p> <p>14 Q. Good morning, Mr. Hickmott.</p> <p>15 A. Good morning.</p> <p>16 Q. My name is Nicole Moss and I'm an attorney</p> <p>17 with Covington &amp; Burling and I represent the Republican</p> <p>18 National Committee and a variety of state and local</p> <p>19 parties, and we collectively refer to them as the RNC</p> <p>20 plaintiffs, just so you know.</p> <p>21 A. Uh-huh.</p> <p>22 Q. And the RNC plaintiffs are challenging the</p> <p>23 Constitutionality of the Bipartisan Campaign Reform Act.</p> <p>24 Could you please state and spell your name for the</p> <p>25 record?</p>
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<p>1</p> <p>2 CONTENTS</p> <p>3 THE WITNESS:</p> <p>4 ROBERT W. HICKMOTT</p> <p>5 By Ms. Moss ..... 4</p> <p>6 By Ms. Medina ..... 129</p> <p>7 By Ms. Moss ..... 132</p> <p>8 By Ms. Medina ..... 132</p> <p>9 By Ms. Moss ..... 132</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16 EXHIBITS</p> <p>17 HICKMOTT EXHIBIT NO. PAGE NO.</p> <p>18 1 List of Mr. Hickmott's contributions ..... 53</p> <p>19 2 Pages from web site, opensecrets.org ..... 56</p> <p>20 3 Declaration of Robert Hickmott ..... 68</p> <p>21</p> <p>22 - - -</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A. It's Robert W. Hickmott, H-I-C-K-M-O-T-T.</p> <p>2 Q. What is your business address?</p> <p>3 A. 1401 K Street, Northwest, 12th Floor,</p> <p>4 Washington, D.C. 20005.</p> <p>5 Q. Have you ever been deposed before?</p> <p>6 A. I have not.</p> <p>7 Q. I'm going to go over some just basic ground</p> <p>8 rules. The first is when you speak, when you're</p> <p>9 answering the questions, make sure that you do so</p> <p>10 verbally. Don't nod your head, don't give uh-huhs</p> <p>11 because of course the court reporter's taking it down.</p> <p>12 Do you understand that?</p> <p>13 A. Yes.</p> <p>14 Q. The second thing I ask of you is to please let</p> <p>15 me wait and finish my full question before you begin</p> <p>16 your answer, and I will try to give you the same</p> <p>17 courtesy so that the record, again, can be clear and</p> <p>18 crisp. And if I ask you a question and you don't</p> <p>19 understand it, tell me. Tell me what the problem is. I</p> <p>20 will fix it. If you don't let me know that you don't</p> <p>21 understand it, I'll assume that you do when you answer.</p> <p>22 And then finally, if you need a break, we can take a</p> <p>23 break. The only thing I ask is that if there's a</p> <p>24 question pending, that you answer the question and then</p> <p>25 we can go on break. Are you represented by counsel here</p>

2 (Pages 2 to 5)

<p style="text-align: right;">Page 6</p> <p>1 today?</p> <p>2 A. Yes, I am.</p> <p>3 Q. And is this your counsel?</p> <p>4 A. Yes, Monica Medina.</p> <p>5 Q. Throughout the deposition, I may refer to the</p> <p>6 United States Department of Justice as the DOJ. Will</p> <p>7 you understand that reference?</p> <p>8 A. Yes.</p> <p>9 Q. And I may also refer to the Federal Election</p> <p>10 Commission as the FEC. Will you understand that</p> <p>11 reference?</p> <p>12 A. Yes.</p> <p>13 Q. And finally, I may refer to the intervenor</p> <p>14 defendants or the interveners. Do you understand who</p> <p>15 those persons are?</p> <p>16 A. Explain please.</p> <p>17 Q. That would be the sponsoring members of this</p> <p>18 legislation, Senators McCain, Feingold, Snowe, Jeffers</p> <p>19 and then Shays -- Congressman Shays and Meehan?</p> <p>20 A. Correct, yes.</p> <p>21 Q. And collectively I may refer to all the DOJ,</p> <p>22 FEC and interveners as the defendants as a group. So</p> <p>23 did you speak with any of the defendants or the counsel</p> <p>24 -- or their counsel prior to this deposition?</p> <p>25 A. I spoke to the FEC.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Initially a phone message on my home phone</p> <p>2 saying please call us at the FEC, and I connected with</p> <p>3 them and they had mentioned the prior case in '97 and</p> <p>4 mentioned the new case now pending.</p> <p>5 Q. Okay. And who from the FEC left that phone</p> <p>6 message for you?</p> <p>7 A. Brant Levine.</p> <p>8 Q. And when you referred to a prior case in 1997,</p> <p>9 what case are you referring to?</p> <p>10 A. That's the Colorado Republican Party case.</p> <p>11 Q. Is that case also known as the Colorado</p> <p>12 Republican 2, do you know?</p> <p>13 A. I don't know. It's the one that went to the</p> <p>14 Supreme Court.</p> <p>15 Q. Okay. So if I understand you correctly, in</p> <p>16 either July or August. Can you be a little more</p> <p>17 specific? Do you know if it was July or August?</p> <p>18 A. I don't know.</p> <p>19 Q. Was it before or after you received a subpoena</p> <p>20 from my law firm?</p> <p>21 A. It was before.</p> <p>22 Q. And did you have a subsequent meeting with the</p> <p>23 FEC after they left you the phone message?</p> <p>24 A. I did. I went in and talked to Brant Levine</p> <p>25 and to Colleen Sealander, who's to my left, and they</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. And did you discuss with them what this</p> <p>2 deposition was going to be about?</p> <p>3 A. Yes.</p> <p>4 Q. Did they help you prepare for the deposition?</p> <p>5 A. No, not really. My counsel did, but not the</p> <p>6 FEC.</p> <p>7 Q. And what did you do to prepare for the</p> <p>8 deposition?</p> <p>9 A. I reread my declaration from April of '97.</p> <p>10 Q. Did you do anything else?</p> <p>11 A. I am in the process of doing an additional</p> <p>12 declaration with the FEC, but that's still in a draft</p> <p>13 stage.</p> <p>14 Q. Do you know that you've been designated as a</p> <p>15 fact witness by the defendants?</p> <p>16 A. Yes.</p> <p>17 Q. And when were you first contacted by the</p> <p>18 defendants?</p> <p>19 A. I believe it was spring of '97. It may have</p> <p>20 been March or April.</p> <p>21 Q. And when you say spring of -- let me be more</p> <p>22 specific with my question. When were you contacted by</p> <p>23 the defendants in regards to this litigation?</p> <p>24 A. Oh, July or August of this year, 2002.</p> <p>25 Q. And how were you contacted?</p>	<p style="text-align: right;">Page 9</p> <p>1 brought me up to date about the events that has</p> <p>2 transpired since the Colorado Supreme Court case and now</p> <p>3 the pending case.</p> <p>4 Q. Okay. And do you know when that meeting was?</p> <p>5 A. I believe August of this year.</p> <p>6 Q. And was that before or after you received the</p> <p>7 subpoena to attend this --</p> <p>8 A. It was before.</p> <p>9 Q. Now, you have testified that you're going to</p> <p>10 be submitting a new declaration for this litigation; is</p> <p>11 that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have an understanding of whether this</p> <p>14 new declaration is going to be more substantive than</p> <p>15 simply a reauthentication of your old declaration in the</p> <p>16 Colorado case?</p> <p>17 MS. MEDINA: Objection, use of the word</p> <p>18 "substantive." Clarify?</p> <p>19 BY MS. MOSS:</p> <p>20 Q. Are you going to be providing more information</p> <p>21 than simply a reauthentication of your old declaration</p> <p>22 in the Colorado case?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know any details about this litigation?</p> <p>25 A. I know that some members of Congress are</p>

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1 contesting the Constitutionality of the campaign finance  
 2 law that was passed by Congress and signed by the  
 3 President.  
 4 Q. Who's contesting that?  
 5 A. Principally Senator McConnell of Kentucky and  
 6 then he's joined by I believe 94 others, other parties.  
 7 Q. And do you know who any of the other parties  
 8 to this litigation are on the plaintiffs side?  
 9 A. I know the RNC.  
 10 Q. And if I refer to the statute at issue in this  
 11 lawsuit as the B-C-R-A or BCRA, will you understand that  
 12 reference?  
 13 A. I do now.  
 14 Q. Are you familiar with the major provisions of  
 15 the BCRA?  
 16 A. Not totally.  
 17 Q. What is your understanding of the BCRA?  
 18 A. I know it prohibits the use of soft money to  
 19 influence federal elections. I know there's a raising  
 20 of the cap on hard money. Beyond that, I don't know too  
 21 much more.  
 22 Q. Have you ever read the legislation?  
 23 A. No.  
 24 Q. Has somebody ever summarized the legislation  
 25 for you?

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1 A. No. I've read summaries of the legislation,  
 2 but nobody has done it orally for me.  
 3 Q. Has anybody provided you with those summaries?  
 4 A. No.  
 5 Q. And how did you come to read those summaries?  
 6 A. Trade publications, National Journal, CQ,  
 7 things like that.  
 8 Q. Is campaign finance reform something that you  
 9 regularly follow?  
 10 A. No, not really. Not now. I used to, but not  
 11 now.  
 12 Q. And did you become familiar -- did you --  
 13 strike that. The level of familiarity that you have  
 14 with the BCRA -- did you gain that before or after you  
 15 were contacted by the FEC to be a witness?  
 16 A. Before.  
 17 Q. And are you familiar with the term "soft  
 18 money"?  
 19 A. Yes.  
 20 Q. What does that term mean to you?  
 21 A. It's money that is not regulated by disclosure  
 22 or limits, principally from corporations or labor  
 23 unions.  
 24 Q. When you say that it is not regulated, do you  
 25 differentiate between regulation at the federal level

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1 and the state level?  
 2 A. I differentiate as far as the limits that  
 3 apply to soft money and the disclosure requirements that  
 4 apply to soft money.  
 5 Q. Okay. And limits set by whom? The federal  
 6 government?  
 7 A. Federal government.  
 8 Q. So if money is regulated by the state  
 9 government but not the federal government, would you  
 10 still consider that to be soft money?  
 11 A. Yes.  
 12 Q. And what -- are you familiar with the term  
 13 "hard money"?  
 14 A. Yes.  
 15 Q. And what is your understanding or definition  
 16 of that term?  
 17 A. That's money principally used to influence  
 18 federal elections that is regulated by federal election  
 19 law that has limits and has disclosure.  
 20 Q. Backing up a moment to your definition of soft  
 21 money, I believe you said that's money that is not --  
 22 that there are no disclosure regulations --  
 23 A. Uh-huh.  
 24 Q. -- applied by the federal government to that  
 25 money. If a state requires disclosure of soft money

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1 donations, would you still consider that soft money?  
 2 A. Yes.  
 3 Q. I'm going to turn for a moment or for a while  
 4 to your background.  
 5 A. Uh-huh.  
 6 Q. Let's start first with your education. Did  
 7 you attend college?  
 8 A. Yes.  
 9 Q. And where did you go?  
 10 A. My undergraduate degree is from Boston  
 11 University, and my law degree is from Georgetown  
 12 University.  
 13 Q. And when did you receive your undergraduate  
 14 degree from Boston University?  
 15 A. In 1976.  
 16 Q. And what was that degree in?  
 17 A. Public communication.  
 18 Q. And then you went to law school at Georgetown?  
 19 A. Yes.  
 20 Q. And what year was that?  
 21 A. December of '88.  
 22 Q. And when did you graduate from Georgetown?  
 23 A. Excuse me, yeah, December -- I graduated  
 24 December of '88.  
 25 Q. Okay, you graduated then. And so you

<p style="text-align: right;">Page 14</p> <p>1 started --</p> <p>2 A. August of '84.</p> <p>3 Q. In between attending Boston University and</p> <p>4 attending Georgetown Law School, were you employed?</p> <p>5 A. Yes.</p> <p>6 Q. And where did you work?</p> <p>7 A. A series of jobs. The DuPont Company, Boston</p> <p>8 University, the Democratic National Committee.</p> <p>9 Q. Okay. Let's back up to the first one you</p> <p>10 mentioned, the DuPont Company.</p> <p>11 A. Actually, chronologically, it would be Boston</p> <p>12 University and then DuPont Company.</p> <p>13 Q. What did you do for Boston University?</p> <p>14 A. Alumni admissions activities.</p> <p>15 Q. And then when did you go to work for E.I.</p> <p>16 DuPont?</p> <p>17 A. Let's see. 1978.</p> <p>18 Q. And how long did you work for them?</p> <p>19 A. Two years.</p> <p>20 Q. And what was your official title?</p> <p>21 A. Public affairs counsel I guess. I did</p> <p>22 corporate speech-writing. I forget what the title was.</p> <p>23 Q. And was your responsibilities as public</p> <p>24 affairs counsel to do corporate speech-writing?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 working for E.I. DuPont? What part of the country?</p> <p>2 A. Wilmington, Delaware.</p> <p>3 Q. What was your position with the Democratic</p> <p>4 National Committee?</p> <p>5 A. I believe I was an associate finance director.</p> <p>6 Q. And what are the responsibilities of an</p> <p>7 associate finance director of the DNC back then?</p> <p>8 A. Well, in that period, which was August through</p> <p>9 November of 1980, it was to raise the 441 money that the</p> <p>10 DNC could expend on behalf of a Presidential candidate,</p> <p>11 who at that time was Jimmy Carter, so I did</p> <p>12 fund-raising.</p> <p>13 Q. When you say 441 money, can you explain what</p> <p>14 you mean by that term?</p> <p>15 A. It's a provision of the Election Campaign Act,</p> <p>16 which is the amount of money that a campaign committee</p> <p>17 can expend on behalf of its nominee.</p> <p>18 Q. Is this hard money as you have --</p> <p>19 A. Yes.</p> <p>20 Q. -- defined the term? So you were doing</p> <p>21 fund-raising on behalf of the DNC to raise their hard</p> <p>22 money that they could spend for their candidates?</p> <p>23 A. Right.</p> <p>24 Q. Describe for me what your fund-raising</p> <p>25 activities included.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. What other responsibilities did you have in</p> <p>2 that job?</p> <p>3 A. General corporate public affairs activities.</p> <p>4 Q. What do you define as general corporate public</p> <p>5 affairs activities?</p> <p>6 A. Issues management for the DuPont Company,</p> <p>7 principally in the area of energy, energy and</p> <p>8 transportation.</p> <p>9 Q. Were you involved at all in legislative</p> <p>10 affairs?</p> <p>11 A. No.</p> <p>12 Q. You mentioned then that you also worked for</p> <p>13 the DNC.</p> <p>14 A. Uh-huh.</p> <p>15 Q. Did you go there after leaving E.I. DuPont?</p> <p>16 A. I did. In 1980, I worked at the Democratic</p> <p>17 National Committee, the tail end of the Carter</p> <p>18 reelection campaign.</p> <p>19 Q. And how did you come to get this job with the</p> <p>20 Democratic National Committee?</p> <p>21 A. Through a friend of a friend who was working</p> <p>22 at the DNC and knew I was interested in leaving DuPont</p> <p>23 and coming to Washington and getting involved in</p> <p>24 politics.</p> <p>25 Q. And I guess I should ask, where were you</p>	<p style="text-align: right;">Page 17</p> <p>1 A. It was setting up fund-raising events in</p> <p>2 various cities throughout the country for either</p> <p>3 President Carter or other surrogates to attend and raise</p> <p>4 money for the Democratic National Committee.</p> <p>5 Q. And what would be included in setting up an</p> <p>6 event?</p> <p>7 A. The logistics of the event, the solicitation</p> <p>8 for money for the event, the event itself and then</p> <p>9 making sure that the money that had been committed had</p> <p>10 actually been raised and forwarding the money back to</p> <p>11 the headquarters in Washington.</p> <p>12 Q. Would you have any responsibility for</p> <p>13 contacting the surrogates or other federal</p> <p>14 office-holders that may appear at these fund-raising</p> <p>15 events?</p> <p>16 A. Minimally. My capacity was to set up the</p> <p>17 event, to do solicitations for the event, to brief the</p> <p>18 principal prior to the event. That was pretty much the</p> <p>19 extent of the contact I had with the principals, the</p> <p>20 federal office-holders.</p> <p>21 Q. Did you get to know any of these federal</p> <p>22 office-holders during the events or during your time as</p> <p>23 the associate finance director of the DNC?</p> <p>24 A. No. I mean, it's the President of the United</p> <p>25 States principally, so I did not have a close working</p>

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1 relationship with the President in this capacity.  
 2 Q. What about the President's staff?  
 3 A. No. It was really more the Democratic  
 4 National Committee staff that I dealt with.  
 5 Q. You said that you were responsible for  
 6 arranging the solicitations or doing the solicitations  
 7 to arrange for the funding for these events. Would that  
 8 cause you to contact donors?  
 9 A. Yes.  
 10 Q. Did you get to know a lot of donors doing this  
 11 work?  
 12 A. I would say some. It was a highly  
 13 concentrated -- you're in one city for two weeks. You  
 14 do an event. The event's over with and you immediately  
 15 get on a plane and go to another city and do the same  
 16 thing for two or three weeks, and you did this in a  
 17 serial manner from August through November.  
 18 Q. And how did you go about contacting these  
 19 donors to ask them to fund an event?  
 20 A. Usually in each city, a core group of  
 21 fund-raisers had already been identified by the DNC, so  
 22 my job was to contact them once I got to that city and  
 23 work with them to do the solicitations for the event.  
 24 Q. Did you work with Mark Warner?  
 25 A. Yes.

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1 Q. And during your time as the public affairs  
 2 counsel, did you have any involvement in state or local  
 3 elections?  
 4 A. No.  
 5 Q. Any involvement in fund-raising for state  
 6 parties?  
 7 A. No.  
 8 Q. Was that going on at the DNC under somebody  
 9 else's job description?  
 10 A. State parties?  
 11 Q. DNC working with state parties for  
 12 fund-raising events.  
 13 A. Yes.  
 14 Q. But you just weren't -- you had no  
 15 responsibility for that?  
 16 A. Correct.  
 17 Q. Then after ceasing your activities as the  
 18 associate finance director of the DNC, did you continue  
 19 to work for the Democratic party in some capacity?  
 20 A. After the '80 election, I went back as a  
 21 consultant to DuPont for a brief period of time, and  
 22 then I went back to the DNC in March of 1981, where I  
 23 began a new program, the Democratic Business Council.  
 24 Q. When you went back briefly to DuPont as a  
 25 consultant, what sort of matters did you consult for

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1 DuPont on?  
 2 A. I produced a movie for DuPont.  
 3 Q. Regarding what?  
 4 A. Desalination.  
 5 Q. Did you have any legislative responsibilities  
 6 or --  
 7 A. No.  
 8 Q. -- with DuPont? Then you came back to  
 9 Washington to be the executive director of the  
 10 Democratic Business Council?  
 11 A. Yes.  
 12 Q. What were your responsibilities as the  
 13 executive director of the -- is it known as DBC?  
 14 A. Yes, it was to establish a fund-raising group  
 15 within the DNC to solicit and provide support to  
 16 corporate donors, the donors from the corporate  
 17 community, for the Democratic National Committee.  
 18 Q. How long did you have that position?  
 19 A. I believe about two years.  
 20 Q. And how did you become the executive director  
 21 of the DBC?  
 22 A. There was a gentleman named Peter Kelly who  
 23 had been the national finance chair of the DNC during  
 24 the time I had worked at the DNC previously, and he  
 25 approached me about setting up this group.

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1 Q. Was the money that you were raising for the  
 2 DBC hard money as you've described it?  
 3 A. Yes. There may have been some soft money, but  
 4 it was -- the focus principally was on hard money.  
 5 Q. Was it within your area of responsibility or  
 6 scope of responsibility to arrange fund-raisers for the  
 7 DBC?  
 8 A. Yes, although most of the solicitations for  
 9 the business council were really more one-on-one  
 10 solicitations as opposed to the fund-raising events like  
 11 I had done previously.  
 12 Q. Who would do these one-on-one solicitations?  
 13 A. I would, Peter Kelly would, Chuck Manett, who  
 14 was the chairman of the Democratic National Committee.  
 15 There was a gentleman named Byron Radaker who was the  
 16 chair, the voluntary chair of the business council.  
 17 Q. Did you arrange for any one-on-one  
 18 solicitations by federal office-holders to potential  
 19 donors?  
 20 A. No.  
 21 Q. At either fund-raisers or events that you  
 22 would arrange for contributors to the DBC, did federal  
 23 candidates or office-holders attend any of these events?  
 24 A. Yes.  
 25 Q. Did you arrange for them to attend these,

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1 these federal office-holders or candidates?  
 2 A. Yes.  
 3 Q. Did you get to know some of the federal  
 4 office-holders and candidates in your capacity as the  
 5 executive director of the DBC?  
 6 A. Yes.  
 7 Q. Did you form any friendships or relationships  
 8 with any of these office-holders?  
 9 A. Relationships.  
 10 Q. And during this time as the executive director  
 11 of the DBC, did you have any involvement in state or  
 12 local fund-raising or activities?  
 13 A. No.  
 14 Q. I believe you said that you did this job with  
 15 the DBC for about two years.  
 16 A. Uh-huh.  
 17 Q. Where did you go after that?  
 18 A. I had mentioned the volunteer chair of the  
 19 business council was a man named Byron Radaker, who was  
 20 a CEO of a company called Congoleum based in Portsmouth,  
 21 New Hampshire, and for about I guess 18 months after I  
 22 left the DNC, I worked for him in Washington, corporate  
 23 political activities.  
 24 Q. Could you be a little more specific about what  
 25 your responsibilities were for Congoleum Corporation?

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1 you with any contacts on the Hill that you were able to  
 2 use to benefit Congoleum Corporation?  
 3 A. Yes.  
 4 MS. MEDINA: Go ahead. You've answered.  
 5 BY MS. MOSS:  
 6 Q. Did Congoleum Corporation have a political  
 7 action committee?  
 8 A. I don't know. I don't remember. They had a  
 9 Washington office. I don't know whether they had a PAC  
 10 or not.  
 11 Q. Was it your responsibility to aid them in  
 12 making any donations if they did through their PAC?  
 13 A. Not that I remember.  
 14 Q. And then after you left Congoleum Corporation,  
 15 where did you go?  
 16 A. I started working for then-Congressman Tim  
 17 Wirth of Colorado.  
 18 Q. In what capacity did you start working for  
 19 Congressman Tim Wirth?  
 20 A. Fund-raising.  
 21 Q. Did you have a title?  
 22 A. He was going to run -- he was prospectively  
 23 going to run for the United States Senate, and so I  
 24 was -- my eventual title was national finance director  
 25 for Tim Wirth. It was unclear when I first joined him

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1 A. It was a -- kind of a public affairs job more  
 2 providing him an overview on what was happening in  
 3 Washington.  
 4 Q. Did you do any legislative work?  
 5 A. A little bit, but it was more kind of  
 6 reconnaissance-gathering than it was -- I was not a  
 7 registered lobbyist for them.  
 8 Q. And how would you go about doing this  
 9 reconnaissance-gathering for Congoleum Corporation?  
 10 A. A review of the press articles, conversations  
 11 with staff on the Hill that I knew, things like that.  
 12 Q. Were you following any specific issues?  
 13 A. More of it was kind of just the overall  
 14 political climate as opposed to anything going to their  
 15 lines of business.  
 16 Q. You said you would contact people on the Hill  
 17 that you knew?  
 18 A. Uh-huh.  
 19 Q. How did you know these people on the Hill?  
 20 A. Socially.  
 21 Q. And how had you gotten to know them socially?  
 22 A. Living with them, social activities, things  
 23 like that.  
 24 Q. Had any of your work with the DNC prior to  
 25 this time or with the DBC prior to this time provided

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1 whether he was going to run for the Senate or his  
 2 reelection in the House.  
 3 Q. So you joined him to do fund-raising  
 4 specifically?  
 5 A. Yes.  
 6 Q. And this was going to be fund-raising for  
 7 either a race for the House or a race for the Senate?  
 8 A. Correct.  
 9 Q. He eventually decided to run for the Senate;  
 10 is that right?  
 11 A. Yes.  
 12 Q. How did you get the job as Senator Wirth's  
 13 national finance director?  
 14 A. I had met Congressman Wirth in 1982, also got  
 15 to know his staff, and I don't remember whether they  
 16 approached me or I approached them. This was at the  
 17 same time that I had begun law school and realized that  
 18 I needed to make money both to cover my mortgage and to  
 19 pay my tuition, so somehow the two coincided and I think  
 20 they contacted me about fund-raising.  
 21 Q. You said you met Senator Wirth in his -- then-  
 22 Congressman Wirth and his staff in 1982. Is that when  
 23 you were working for the DBC?  
 24 A. Yes.  
 25 Q. Did you meet them through your work at the

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1 DBC?  
 2 A. Yes.  
 3 Q. So describe for me what your responsibilities  
 4 were for Senator Wirth in regards to fund-raising.  
 5 A. It was to develop a national finance plan to  
 6 raise money nationally for Senator Wirth's campaign, to  
 7 identify prospective donors, to establish fund-raising  
 8 events, to hire and plan a fund-raising staff,  
 9 principally all the money raised in his campaign outside  
 10 of Colorado.  
 11 Q. Did that include raising any soft money for  
 12 Senator Wirth? Let me -- strike that. Did that involve  
 13 raising any soft money for the national party?  
 14 A. No.  
 15 Q. Did Senator Wirth accept PAC contributions?  
 16 A. Yes.  
 17 Q. And did you have any responsibility for  
 18 contacting other federal office-holders to elicit their  
 19 aid in helping Senator Wirth with his -- or then-  
 20 Congressman Wirth with his fund-raising activities?  
 21 A. I don't believe I contacted any other federal  
 22 office-holders. I may have contacted their staffs as  
 23 far as getting federal office-holders to come out to  
 24 Colorado, but not the office-holder himself or herself.  
 25 Q. Did you develop any new relationships with

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1 successful in his campaign for Senate.  
 2 A. Yes.  
 3 Q. Hence the title Senator. Did you continue to  
 4 work for Senator Wirth after he was elected?  
 5 A. I did. I worked for him on the campaign  
 6 through the end of 1986, and then I worked for him in  
 7 the Senate beginning in January of 1987.  
 8 Q. What was your work for him in the Senate?  
 9 A. Initially it was to be Deputy Chief of Staff,  
 10 which was more of a managerial function in the office,  
 11 and then it evolved into doing legislative work for him  
 12 on the Senate Banking Committee, securities and banking  
 13 issues.  
 14 Q. Starting first with your role as Senator  
 15 Wirth's Deputy Chief of Staff, what were your  
 16 responsibilities as a Deputy Chief of Staff?  
 17 A. Helping to hire staff, getting the office up  
 18 and running.  
 19 Q. Would your responsibilities have included  
 20 managing Senator Wirth's schedule?  
 21 A. No.  
 22 Q. Was there somebody on Senator Wirth's staff  
 23 who would have been responsible for his schedule?  
 24 A. Yes.  
 25 Q. Would that responsibility include deciding who

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1 Senators' staff in your capacity as Senator Wirth's  
 2 national finance director?  
 3 A. Senators' staffs?  
 4 Q. With the Senators' staffs.  
 5 A. I'm sorry. Senator Wirth's staff or staffs in  
 6 the Senate?  
 7 Q. I'll rephrase. Staffers for other Senators in  
 8 the Senate -- did you develop any relationships with  
 9 them?  
 10 A. I might have. None that I can recall.  
 11 Q. Did any at the time current office-holders  
 12 campaign for Senator Wirth?  
 13 A. Yes.  
 14 Q. And who would those persons be, to your  
 15 recollection?  
 16 A. Well, certainly his -- some of his colleagues  
 17 from the House, like then-Congresswoman Pat Schroeder,  
 18 Senator Gary Hart. Senator George Mitchell, who was  
 19 chairman of the DSCC at the time I know campaigned for  
 20 Congressman Wirth. I don't know who else that I can  
 21 remember.  
 22 Q. Did they attend fund-raisers for Senator  
 23 Wirth?  
 24 A. Yes.  
 25 Q. And then I take it Senator Wirth was

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1 Senator Wirth should meet with on a daily basis?  
 2 A. In consultation with the chief of staff and  
 3 with the Senator and with other people on the staff.  
 4 Q. But you had no role in deciding what meetings  
 5 the Senator should attend or --  
 6 A. Yes, I did.  
 7 Q. You did, okay. And describe for me your role  
 8 in helping the Senator decide who he should meet with.  
 9 A. It was a matter of issues that were pending,  
 10 constituencies in Colorado, relationships that I knew  
 11 the Senator had.  
 12 Q. And would you discuss this with the Senator  
 13 and give your input into who -- which meetings you  
 14 thought were important?  
 15 A. Yes.  
 16 Q. I imagine that his time was somewhat limited.  
 17 A. Yes.  
 18 Q. And I imagine there was a lot of people asking  
 19 for time with the Senator.  
 20 A. Yes.  
 21 Q. Did everybody who wanted to meet with the  
 22 Senator get to meet with the Senator?  
 23 A. No.  
 24 Q. And did you have some role in deciding which  
 25 people would meet with him and which ones wouldn't?



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1 A. I had some input. I don't know if I would say  
 2 a role. I had input.  
 3 Q. You had input, okay. And did the Senator and  
 4 the chief of staff sometimes follow your advice and take  
 5 your input?  
 6 A. They coincided, yes.  
 7 Q. And how long were you in the Deputy Chief of  
 8 Staff position?  
 9 A. It was two years.  
 10 Q. And then you became the -- you started doing  
 11 legislative work?  
 12 A. Yeah, but my two years tenure included the  
 13 legislative period, and then there was a period where I  
 14 was also the acting chief of staff.  
 15 Q. During the period when you were mainly  
 16 responsible for legislative issues for Senator Wirth,  
 17 did you continue to have input into Senator Wirth's  
 18 schedule and who he should meet with?  
 19 A. Yes.  
 20 Q. Did you continue to do any fund-raising work  
 21 for Senator Wirth during your time on his staff?  
 22 A. Only in the capacity of helping out campaign  
 23 staff who were still on Senator Wirth's payroll back in  
 24 Colorado. He had a debt and they were responsible for  
 25 trying to pay off the debt.

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1 MS. MOSS: Could we go off record for a  
 2 minute?  
 3 (Discussion off the record)  
 4 BY MS. MOSS:  
 5 Q. So what did your contact with the staffers  
 6 that were -- the campaign staffers who were still back  
 7 in Colorado -- what kind of contact would you have with  
 8 them?  
 9 A. They were trying to identify people who had  
 10 made commitments to Senator Wirth previously and wanted  
 11 to go back and honor those commitments. From time to  
 12 time, they would ask me to, you know, think about where  
 13 the Senator had been in campaign events and who had  
 14 sponsored those events and did I think they would be  
 15 prospects for helping out with his debt.  
 16 Q. Did you personally contact any donors during  
 17 that time?  
 18 A. No, not to solicit, no.  
 19 Q. You had contact with donors for some other  
 20 purpose?  
 21 A. Sure.  
 22 Q. And why would you have contact with donors?  
 23 A. They would be in Washington and I would see  
 24 them, they might be coming in their capacity on lobbying  
 25 on an issue, they were friends of the Senator's, they

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1 were friends of mine.  
 2 Q. Did you discuss donations with these donors  
 3 that you knew during these contacts with them?  
 4 A. No.  
 5 Q. And then after you left Senator Wirth's staff,  
 6 where did you go?  
 7 A. I entered the exciting world of the legal  
 8 practice, a small firm called Skadden Arps.  
 9 Q. And what did your practice consist of at  
 10 Skadden Arps?  
 11 A. It was legislative practice and a little bit  
 12 of mergers and acquisitions.  
 13 Q. Describe for me your legislative practice at  
 14 Skadden Arps.  
 15 A. It was monitoring legislative issues on  
 16 Capitol Hill on behalf of our clients.  
 17 Q. Was there a particular industry that you  
 18 specialized in?  
 19 A. Oh, it was probably predominantly energy,  
 20 banking, securities.  
 21 Q. And when you'd been on Senator Wirth's staff,  
 22 the legislative work that you did there was banking and  
 23 securities?  
 24 A. And securities, correct.  
 25 Q. And now at Skadden Arps, you were advising

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1 clients on similar legislative issues for banking and  
 2 securities?  
 3 A. Yes.  
 4 Q. Did any of the contacts and relationships that  
 5 you formed while working with Senator Wirth help you in  
 6 your legislative practice at Skadden Arps?  
 7 A. Yes, it did.  
 8 Q. Why do you believe it helped you?  
 9 A. Working in the Senate, I learned the  
 10 legislative process and I learned the staff that was  
 11 responsible for certain issue areas, and those are the  
 12 same people I would contact as I was trying to represent  
 13 our clients' interests.  
 14 Q. Did you still know staffers on the Hill when  
 15 you were at Skadden Arps?  
 16 A. Yes.  
 17 Q. And do you think you had a good reputation  
 18 among those staffers?  
 19 A. I like to think I did.  
 20 Q. And do you think that that reputation also was  
 21 a benefit to your clients at Skadden Arps when you were  
 22 advancing their issues on the Hill?  
 23 A. Yes.  
 24 Q. Were you a registered lobbyist during your  
 25 time at Skadden Arps?

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1 A. Yes, I was.  
 2 Q. Was that the first time you had registered as  
 3 a lobbyist?  
 4 A. Yes.  
 5 Q. And do you recall which clients you registered  
 6 for as a lobbyist?  
 7 A. I remember one takeover issue we had which was  
 8 representing British American Tobacco, BAT. I was  
 9 registered for that because that was a hostile takeover  
 10 for which we registered. I don't remember any other  
 11 specific clients for whom I was registered. The -- At  
 12 least at Skadden, the principal partners were the ones  
 13 who registered, and maybe as an associate, I also  
 14 registered for other clients. I don't remember.  
 15 Q. Would you aid these partners who were the ones  
 16 who registered in getting meetings with the staffers  
 17 that you knew on the Hill?  
 18 A. Yes.  
 19 Q. And do you believe that your prior experience  
 20 on the Hill helped you land this job at Skadden Arps?  
 21 A. Yes.  
 22 Q. They viewed that in your mind as a valuable  
 23 asset that you were bringing to the firm?  
 24 A. Yes.  
 25 Q. How long did you stay with Skadden Arps?

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1 A. Two years.  
 2 Q. And where did you go from there?  
 3 A. I became the deputy executive director of the  
 4 Democratic Senatorial Campaign Committee. That would be  
 5 January of '91 I believe.  
 6 Q. Is the Democratic Senatorial Campaign  
 7 Committee also known as the DSCC?  
 8 A. Yes.  
 9 Q. So I can use that acronym and --  
 10 A. Yes.  
 11 Q. How did you become the deputy executive  
 12 director of the DSCC?  
 13 A. It was my understanding that there was an  
 14 opening because the DSCC changes staff and chair every  
 15 two years. There was going to be an opening for new  
 16 staff. I was interested in leaving the exciting  
 17 practice of Skadden Arps to return to politics, and so I  
 18 started contacting people who might have some position  
 19 to know about the hiring process.  
 20 Q. I detect a little bit of irony in your voice  
 21 when you say the exciting practice of law at Skadden  
 22 Arps. Did you have some reason to be dissatisfied with  
 23 your lobbying work there?  
 24 A. I just didn't find it very interesting or the  
 25 people I worked with.

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1 Q. So after becoming the --  
 2 A. Deputy executive director.  
 3 Q. -- deputy executive director of the DSCC, what  
 4 were your responsibilities?  
 5 A. I was the chief operating officer and then as  
 6 it turned out, became -- along with the executive  
 7 director, the de facto finance director of the DSCC.  
 8 Q. In those two positions, what were your primary  
 9 responsibilities?  
 10 A. Managing and raising the funds necessary for  
 11 the DSCC to support their Senate candidates in the  
 12 1991-1992 election cycle.  
 13 Q. And how would you go about raising these funds  
 14 for the DSCC?  
 15 A. Direct mail, telemarketing, fund-raising  
 16 events, sustaining donor programs.  
 17 Q. Were you raising hard money?  
 18 A. Yes.  
 19 Q. Were you raising any soft money?  
 20 A. Very, very little.  
 21 Q. When you say very little soft money, can you  
 22 quantify that at all for me?  
 23 A. I don't know a dollar amount, but it was the  
 24 policy of the DSCC that we were raising predominantly  
 25 hard money at the time. The only soft money we used was

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1 for our building fund or for fixtures, and our legal  
 2 counsel took a very narrow, very conservative view on  
 3 how soft money could be used in the DSCC's activities.  
 4 Q. So when you refer to the ways in which you  
 5 were raising funds, direct mail, telemarketing, the  
 6 sustaining donor programs, fund-raising events -- I  
 7 believe I've gotten the ones you listed. Those were  
 8 primarily hard money programs?  
 9 A. Most entirely.  
 10 Q. Was there any involvement of federal  
 11 office-holders in any of these fund-raising activities  
 12 that you were --  
 13 A. Yes.  
 14 Q. -- conducting? Please describe for me the  
 15 federal office-holders' involvement.  
 16 A. They were incumbent Democratic Senators, they  
 17 were incumbent Democratic Congressmen, Congresspeople  
 18 who were running for United States Senate. They were  
 19 participants in fund-raising events, they were  
 20 participants in sustaining donor events. They were  
 21 members of Congress who would make fund-raising phone  
 22 calls from the DSCC. They were incumbent members of  
 23 Congress who were doing solicitations on behalf of the  
 24 DSCC.  
 25 Q. Would these incumbent Senators or -- when

<p style="text-align: right;">Page 38</p> <p>1 these incumbent Senators were attending or participating  2 in fund-raising events or sustaining donor events, is it  3 fair to say that donors would be present at those  4 events?  5 A. Yes.  6 Q. And then would it be fair to say that donors  7 then had an opportunity to meet and talk with these  8 incumbent Senators?  9 A. Yes.  10 Q. In your work arranging these fund-raising  11 events or any of your other responsibilities as the  12 deputy executive director of the DSCC, were you able to  13 make any new contacts or form any new relationships with  14 Senators and their staff?  15 A. Yes.  16 Q. Did you form friendships as well?  17 A. Yes.  18 Q. Did you get to know any Congressmen?  19 A. Yes.  20 Q. Congressmen's staff?  21 A. Yes.  22 Q. What about members in the executive branch?  23 A. No, because at the time, the executive branch  24 was controlled by the other party.  25 Q. What about the various federal agencies?</p>	<p style="text-align: right;">Page 40</p> <p>1 contacts and knew people on the Senate -- in the Senate?  2 A. Yes.  3 Q. And in the House?  4 A. Yes.  5 Q. How long were you in that position as the  6 Associate Administrator for Congressional and  7 Legislative Affairs?  8 A. Four years.  9 Q. And where did you go from there?  10 A. The U.S. Department of Housing and Urban  11 Development, known as HUD.  12 Q. Okay. And what position did you hold at HUD?  13 A. Counselor to the secretary.  14 Q. What did you do for Mr. -- I believe it would  15 be Cuomo.  16 A. I was a -- kind of a political advisor to the  17 secretary and also responsible for the intergovernmental  18 outreach, state, local mayors, what they call NGOs, the  19 nongovernmental organizations that dealt with HUD.  20 Q. And I should have asked this about EPA so I'm  21 going to apply this question to both EPA and to HUD.  22 While working in those two agencies, did you again make  23 contact, form relationships, get to know people?  24 A. Can you define people? I mean, what  25 category --</p>
<p style="text-align: right;">Page 39</p> <p>1 A. No.  2 Q. Now, how long were you the deputy executive  3 director of the DSCC?  4 A. Two years.  5 Q. That would be January 1991 to --  6 A. To either early January of '93 or December of  7 '92. Actually, I think it was January of '93.  8 Q. And where did you go once you left the  9 position of deputy director?  10 A. The Environmental Protection Agency.  11 Q. And what position did you hold at the  12 Environmental Protection Agency?  13 A. Associate Administrator for Congressional and  14 Legislative Affairs.  15 Q. What were your responsibilities as an  16 Associate Administrator for Congressional and  17 Legislative Affairs?  18 A. The managing of a staff and implementing the  19 legislative agenda for the Environmental Protection  20 Agency.  21 Q. Did this require you to work with the Hill?  22 A. Yes.  23 Q. Both the Senate and the House?  24 A. Yes.  25 Q. Do you believe it helped you that you had made</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Staffers in these agencies.  2 A. Congressional --  3 Q. Staffers at EPA, people who were involved in  4 --  5 A. Yes.  6 Q. -- in advancing whatever legislative agenda  7 the EPA has?  8 A. Yes.  9 Q. And did you get to know staffers in HUD when  10 you were working at HUD?  11 A. Yes.  12 Q. Did you form relationships with people at HUD  13 when you were working there?  14 A. Yes, I did.  15 Q. Now, after you left HUD, where did you go?  16 A. I joined the Smith-Free Group.  17 Q. And is that the place that you work now?  18 A. Yes, it is.  19 Q. Have you had any other political jobs since  20 leaving HUD?  21 A. No.  22 Q. Have you had any other involvement with the  23 DNC or the DSCC since leaving those positions?  24 MS. MEDINA: Objection as to form. Can you be  25 more specific?</p>

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1 BY MS. MOSS:  
 2 Q. I can be more specific.  
 3 A. In a paid capacity, no.  
 4 Q. Let me rephrase. What has your involvement  
 5 been with the DNC since leaving your official capacity  
 6 with them?  
 7 A. I had a volunteer capacity at the 2000  
 8 Democratic convention in Los Angeles. I think that  
 9 would be pretty much it.  
 10 Q. What was your voluntary role?  
 11 A. I assisted others in kind of helping out with  
 12 VIPs at the convention.  
 13 Q. Could you be a little more specific about what  
 14 you mean by helping out with VIPs?  
 15 A. Showing members of Congress where their seats  
 16 were, making sure they had their proper credentials.  
 17 That was about it.  
 18 Q. How did you come to have this voluntary  
 19 position at the convention?  
 20 A. I was approached by a friend of mine in  
 21 Washington who was working in that capacity and had put  
 22 together a team of people to assist the DNC at the  
 23 convention. That was totally voluntary.  
 24 Q. Have you had any involvement since leaving the  
 25 DNC in your official capacity with fund-raising for the

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1 DNC?  
 2 A. No.  
 3 Q. What has your involvement, if any, been with  
 4 the DSCC since leaving your job there?  
 5 A. Only attending some of the DSCC events.  
 6 Q. What sorts of DSCC events would you attend?  
 7 A. They will have an annual dinner that I will  
 8 attend. From time to time, we'll do kind of an issues  
 9 breakfast that they periodically host on the Hill, and I  
 10 may attend those.  
 11 Q. Do you attend these events as a donor?  
 12 A. Sometimes as a donor. Sometimes with clients.  
 13 Q. When you attend with clients, are the clients  
 14 donors?  
 15 A. Yes.  
 16 Q. Have you maintained contacts with the DSCC? I  
 17 should say the staff of the DSCC?  
 18 A. There has been such turnover, there's nobody  
 19 at the DSCC now I believe that was there when I was  
 20 there.  
 21 Q. As far as your firsthand knowledge of the  
 22 DSCC's fund-raising approaches currently, do you have  
 23 any personal knowledge or firsthand knowledge of that?  
 24 A. Other than there's much more of a reliance and  
 25 emphasis on soft money than there was when I was there.

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1 Q. And on what do you base that statement?  
 2 A. Reading press accounts largely.  
 3 Q. Would it be fair to say that you're no longer  
 4 privy to the DSCC's internal fund-raising strategies --  
 5 A. That's correct.  
 6 Q. -- that's discussed within the DSCC?  
 7 A. Correct.  
 8 Q. Now, you mentioned that you're currently with  
 9 the Smith-Free Group. What is the Smith-Free Group?  
 10 A. It's a governmental affairs firm. We  
 11 represent clients and their interests in Congress and  
 12 the executive branch.  
 13 Q. Would it be called a lobbying firm?  
 14 A. Yes.  
 15 Q. Is it -- what sort of firm is it? Is it a  
 16 corporation, a partnership, nonprofit?  
 17 A. It's a -- I guess it's a partnership with two  
 18 principal partners.  
 19 Q. And who are the two principal partners?  
 20 A. Jim Free and Jim Smith.  
 21 Q. And who -- which government entities does it  
 22 lobby?  
 23 A. The House and Senate. Which executive branch  
 24 agencies?  
 25 Q. How about in general. It lobbies executive

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1 branch agencies?  
 2 A. Yes.  
 3 Q. Does it lobby in front of any state agencies?  
 4 A. No.  
 5 Q. Any state governments?  
 6 A. No.  
 7 Q. Any local governments?  
 8 A. Lobbies, no.  
 9 Q. You say lobbies. Does it do some other work  
 10 in front of state and local governments?  
 11 A. Well, a prior client has been the City of  
 12 Chattanooga, Tennessee if you want to call that a local  
 13 governmental entity, but it's not -- it was working on  
 14 behalf of the city; not lobbying them in any capacity.  
 15 Q. And is the Smith-Free Group a large lobbying  
 16 firm?  
 17 A. No.  
 18 Q. The amount of revenue that the Smith-Free  
 19 Group gets from lobbying -- do you know where it places  
 20 it among other lobbying firms?  
 21 A. As far as the dollar revenue, I think we're  
 22 relatively small.  
 23 Q. Now, how did you come to get this job at the  
 24 Smith-Free Group?  
 25 A. Personal relationships with two of the people

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1 at the Smith-Free Group who I'd known over the years.  
 2 Q. And who would those people be?  
 3 A. Jim Free and Alicia Smith.  
 4 Q. Do you believe that the contacts and  
 5 relationships that you developed over the course of your  
 6 career working for the DNC, the DSCC, Senator Wirth, EPA  
 7 and HUD helped you land your current job at the  
 8 Smith-Free Group?  
 9 A. Yes.  
 10 Q. Do you believe that a lobbying firm like the  
 11 Smith-Free Group would see those contacts and  
 12 relationships as an asset?  
 13 A. Yes.  
 14 Q. And why do you believe that they would view  
 15 the relationships and contacts that you have formed over  
 16 the course of your career as an asset?  
 17 A. Because the role of the firm is to advise and  
 18 represent clients on issues before the executive branch  
 19 and Congress, and I have knowledge of both institutions.  
 20 Q. Your work at these institutions gives you some  
 21 special insight into how they function and the best way  
 22 to approach these -- either the House, the Senate or an  
 23 executive branch --  
 24 A. Yes.  
 25 Q. -- agency? Is it helpful that you know

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1 deal with members, federal office-holders -- is that  
 2 something that concerns you as a lobbyist?  
 3 A. Well, I know the difference between  
 4 representing an issue and having anything to do with  
 5 money affecting that issue. I don't know the  
 6 intricacies of the Federal Bribery Act. I know the  
 7 difference between right and wrong and what is  
 8 appropriate and what's not appropriate.  
 9 Q. Okay. What would you consider -- give me an  
 10 example of what you would consider inappropriate action.  
 11 A. Anything that -- a quid pro quo that would  
 12 connect money with an issue or -- an issue.  
 13 Q. Would you consider it inappropriate for you  
 14 when you're meeting with a staffer or a Senator in your  
 15 lobbying capacity to mention to that Senator the amount  
 16 of money that your client had donated to --  
 17 A. Absolutely.  
 18 Q. -- to that Senator?  
 19 A. I would figure that that's an absolute  
 20 prohibition.  
 21 Q. Would you also consider it to be an absolute  
 22 prohibition for you to mention to the Senator how much  
 23 money your clients had contributed to the DNC, the DSCC  
 24 or the DCC?  
 25 A. Yes.

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1 staffers on the Hill and can call them up --  
 2 A. Yes.  
 3 Q. -- on a personal basis?  
 4 A. Yes. Excuse me.  
 5 Q. And is it fair to say that a lobbying firm  
 6 like Smith-Free Group attracts clients by advertising  
 7 the fact that it can get their issues in front of the  
 8 Senate or the House or whatever governmental agency the  
 9 client may have an issue?  
 10 A. Yeah, other than I disagree -- we don't  
 11 advertise, but we represent that we can provide  
 12 representation and access before the executive branch  
 13 and legislative branch.  
 14 Q. Is it part of your responsibilities at  
 15 Smith-Free Group to bring in clients to the firm?  
 16 A. Minimally.  
 17 Q. If you or the Smith-Free Group wasn't able to  
 18 gain access to staffers on the Hill, would you be a  
 19 successful lobbying firm?  
 20 A. Not as successful.  
 21 Q. Are you familiar with -- are you familiar with  
 22 what is sometimes called the Federal Bribery Statute?  
 23 A. No. I mean, I know what bribery is, but I'm  
 24 not familiar with the statute.  
 25 Q. Is violating any sort of bribery laws when you

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1 Q. Now I'm going to -- focusing on your current  
 2 job at the Smith-Free Group, I take it that you meet  
 3 occasionally with members of Congress and Senators?  
 4 A. Yes.  
 5 Q. And you meet with their staffs?  
 6 A. Yes.  
 7 Q. How do you go about persuading a Senator to  
 8 meet with you?  
 9 A. Personal relationships that I have, an issue  
 10 of interest to the Senator, perhaps a constituent  
 11 connection with the -- excuse me. Not just Senator.  
 12 Member of Congress.  
 13 Q. Do you ever mention to the Senator or to the  
 14 staffer donations that you or your clients have made in  
 15 an attempt to get a meeting with that Senator or  
 16 staffer?  
 17 A. No.  
 18 Q. When you're meeting with a federal  
 19 office-holder or federal office-holder's staff, do you  
 20 raise the merits of the issue that your client's  
 21 concerned about?  
 22 A. Yes.  
 23 Q. And do you provide information to the federal  
 24 office-holders or their staff about the issues of  
 25 concern to your client?

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1 A. Yes.  
 2 Q. Do federal office-holders or their staff ever  
 3 reach out to you and ask you to come in and meet?  
 4 A. Seldom.  
 5 Q. Has it happened?  
 6 A. I suspect it has. I don't know if I can  
 7 remember any specific instance.  
 8 Q. To your knowledge, does anyone at the  
 9 Smith-Free Group use contributions in the amount that  
 10 they or their clients give as a reason to gain access to  
 11 members in the House or Senators or their staff?  
 12 A. I guess I'd have to kind of dissect that  
 13 question a little bit. We give contributions to  
 14 establish relationships. Having those relationships in  
 15 many ways then helps us get meetings and continue that  
 16 relationship. Is there a quid pro quo of giving money  
 17 in order to get a meeting, no.  
 18 Q. Are you able to get meetings with Senators and  
 19 their staff to whom you have never made donations?  
 20 A. Yes.  
 21 Q. Are you able to get meetings with Congressmen  
 22 and their staff to whom you've never made donations?  
 23 A. Yes.  
 24 Q. Are you able to get meetings with Senators and  
 25 their staff for whom the client you're representing has

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1 never made a donation?  
 2 A. Yes.  
 3 Q. And are you able to get meetings with  
 4 Congressmen and their staff to whom your clients have  
 5 never made donations?  
 6 A. Yes.  
 7 Q. And do you think it's improper at all for you  
 8 to be lobbying Congress or any of the agencies on behalf  
 9 of your clients' interests?  
 10 A. Do I think it's improper?  
 11 Q. Yes.  
 12 A. No, I do not think it's improper.  
 13 Q. Are there disclosure rules for lobbyists?  
 14 A. Yes.  
 15 Q. What are some of their disclosure rules?  
 16 A. You need to file a form I believe with the  
 17 Secretary of the House and Senate when you begin  
 18 representation of a client. You need to do a, I believe  
 19 it's twice a year, lobbyist disclosure form. And then  
 20 whenever you terminate a relationship with a client, you  
 21 need to file a termination report.  
 22 Q. And do these lobbying disclosure forms that  
 23 you file -- do they show the amount of money a client is  
 24 paying you to lobby for them?  
 25 A. Yes.

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1 Q. Are you in favor of this disclosure system?  
 2 A. Yes.  
 3 Q. Do you believe that disclosure for lobbyists  
 4 helps reduce the potential for corruption in the system?  
 5 A. Yes.  
 6 Q. Do you have a general view about disclosure in  
 7 the campaign finance system?  
 8 A. I think the more disclosure and the more  
 9 timely disclosure, the better.  
 10 Q. So in your opinion, limiting the amount of  
 11 disclosure would not be beneficial?  
 12 A. Correct.  
 13 Q. Are you a member of any boards or charitable  
 14 organizations?  
 15 A. No.  
 16 Q. Are you involved in any special interest  
 17 groups?  
 18 MS. MEDINA: Objection. Can you rephrase?  
 19 BY MS. MOSS:  
 20 Q. Be more specific? Sure. Are you a member of  
 21 Common Cause?  
 22 A. No.  
 23 Q. Are you a member of the Brennen Center?  
 24 A. No.  
 25 Q. Have you ever contributed to Common Cause?

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1 A. I might have long ago.  
 2 Q. Have you ever contributed to the Brennen  
 3 Center?  
 4 A. No.  
 5 Q. Do you make political contributions?  
 6 A. Yes.  
 7 MS. MOSS: Could you please mark this as  
 8 Hickmott Exhibit 1?  
 9 BY MS. MOSS:  
 10 Q. Mr. Hickmott, I represent to you that this is  
 11 a list I have typed or I have gathered from the FEC's  
 12 web site.  
 13 A. Uh-huh.  
 14 Q. Could you look this over and tell me, is this  
 15 a complete list of the political contributions that you  
 16 have made?  
 17 (Hickmott Exhibit No. 1  
 18 was marked for  
 19 identification.)  
 20 BY MS. MOSS:  
 21 Q. Or actually, I should back up and actually  
 22 ask, are these in fact -- do you agree that these are in  
 23 fact contributions that you have made to various  
 24 candidates and office-holders?  
 25 A. Yes. There might be some more recent that are

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1 not included here, but yes.  
 2 Q. And are these hard-money contributions?  
 3 A. Yes.  
 4 Q. How much do you contribute in a year in hard  
 5 money?  
 6 A. Less than the federal cap.  
 7 Q. Do you make any soft money or non-federal  
 8 money contributions?  
 9 A. No, I do not.  
 10 Q. So if I told you that I did a search in the  
 11 Center for Responsive Politics database and it didn't  
 12 show any soft money contributions in your name, that  
 13 would be accurate?  
 14 A. Correct.  
 15 Q. To your knowledge, does the Smith-Free Group  
 16 make any soft money donations?  
 17 A. We may, but none that I'm involved in.  
 18 Q. Does the Smith-Free Group have a PAC?  
 19 A. No.  
 20 Q. Turning your attention back to Exhibit Number  
 21 1, the list of your contributions, if you could review  
 22 this list and let me know, are there any individuals on  
 23 this list who you've given to who you have not lobbied  
 24 in front of?  
 25 A. Individuals -- you mean the office-holder

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1 A. The incumbent members of Congress, I have not  
 2 lobbied the staff of Senator Wellstone, I have not  
 3 lobbied the staff of Senator Biden, I have not lobbied  
 4 the staff of Congressman Schiff, I've not lobbied the  
 5 staff of Governor Shaheen, I've not lobbied the staff of  
 6 Senator Cleland. I think that clarifies.  
 7 Q. For those office-holders to whom you make  
 8 contributions to their committees and whose staff you  
 9 have lobbied, did you make these contributions in order  
 10 to gain access to their staff?  
 11 A. No.  
 12 MS. MOSS: Do you want to take a break?  
 13 THE WITNESS: Sure.  
 14 (Recessed at 10:28 a.m.)  
 15 (Reconvened at 10:40 a.m.)  
 16 MS. MOSS: Could you mark this Hickmott  
 17 Exhibit 2 please?  
 18 (Hickmott Exhibit No. 2  
 19 was marked for  
 20 identification.)  
 21 BY MS. MOSS:  
 22 Q. Mr. Hickmott, I'm going to turn your attention  
 23 again to the issue of whether the Smith-Free Group makes  
 24 any soft money donations, and I represent to you that  
 25 this is -- these are three charts that I have downloaded

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1  
 2 Q. Yes.  
 3 A. Well, Rick Weiland is not a federal office-  
 4 holder. I have not lobbied personally Senator Cantwell.  
 5 I don't believe I've personally lobbied Senator Conrad.  
 6 Marsha Folsom was an unsuccessful Congressional  
 7 candidate. I have not personally lobbied Tim Johnson.  
 8 I have not personally lobbied Senator Wellstone. Al  
 9 Gore is no longer a federal office-holder. I have not  
 10 personally lobbied Senator Carper. Tom Strickland is  
 11 not a federal office-holder.  
 12 I have not personally lobbied Evan Bayh. I  
 13 have not personally lobbied Senator Biden. I have not  
 14 personally lobbied Senator Kerry. Charles Robb is no  
 15 longer a federal office-holder. I have not personally  
 16 lobbied Adam Smith. I have not personally lobbied  
 17 Governor Shaheen. I have not personally lobbied Senator  
 18 Cleland. Ronald Kirk is not a federal office-holder.  
 19 Gayle Ray was an unsuccessful Congressional candidate.  
 20 Rahm Emanuel is not a Congressional office-holder.  
 21 Q. When you say you have not personally lobbied  
 22 these individuals, have you lobbied the staff?  
 23 A. Yes.  
 24 Q. Would that be true for all of the individuals  
 25 whom you have listed as not having personally lobbied?

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1 from the Center for Responsive Politics' web site, and  
 2 it's opensecrets dot org. I inputted Smith-Free Group  
 3 and this is what it came up with.  
 4 I am not responsible for this so I have no  
 5 idea if this is entirely accurate or complete. Looking  
 6 at the first page, which is entitled Smith-Free Group  
 7 Soft Money Donations, 2001 to 2002, would you agree that  
 8 this shows that the Smith-Free Group or employees of the  
 9 Smith-Free Group have made \$4,000 in soft money  
 10 contributions?  
 11 A. That's what this says.  
 12 MS. MEDINA: Objection.  
 13 MS. SEALANDER: Objection, mischaracterizes  
 14 the document.  
 15 BY MS. MOSS:  
 16 Q. On page 2 of the document, do you see the  
 17 chart --  
 18 A. Yes.  
 19 Q. -- where it has various names listed? The  
 20 very last name on that list -- is that the Smith-Free  
 21 Group?  
 22 A. Yes.  
 23 Q. And it has a date of 6/24/1999?  
 24 A. Yes.  
 25 Q. What is the amount that it shows there?

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1 A. This shows \$2,000.  
 2 Q. And it's a contribution to the Democratic  
 3 Congressional Campaign Committee?  
 4 A. That's what this says.  
 5 Q. This document purports to be soft money  
 6 donations.  
 7 A. That's what it says.  
 8 MS. SEALANDER: Objection.  
 9 BY MS. MOSS:  
 10 Q. Now, page 3 of this document there's a table,  
 11 and in the table, there's a date column. Do you see  
 12 that?  
 13 A. Yes.  
 14 Q. Would you agree that these are -- all of the  
 15 dates are within 1997 and 1998?  
 16 MS. MEDINA: Objection. This is before he  
 17 even arrived at Smith-Free.  
 18 MS. SEALANDER: Objection. The document  
 19 speaks for itself.  
 20 MS. MOSS: I would request -- it's fine to  
 21 make objections, but please do them one at a time so she  
 22 can record it in the record.  
 23 BY MS. MOSS:  
 24 Q. And this document -- would you agree that this  
 25 document purports to show soft money donations?

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1 A. That's what the document says.  
 2 Q. Now, could you refresh me on what your  
 3 understanding is on whether the Smith-Free Group makes  
 4 soft money donations? Was it your understanding that  
 5 they didn't do it or you just didn't know?  
 6 MS. MEDINA: Objection. You've asked it and  
 7 he's answered.  
 8 BY MS. MOSS:  
 9 Q. You can answer the question.  
 10 A. I think I previously said I was not aware of  
 11 contributions -- I had not been involved with  
 12 contributions that the Smith-Free Group may have made.  
 13 Q. Are you aware of whether the Smith-Free Group  
 14 has made contributions?  
 15 A. I think I said I thought they had, but I was  
 16 not involved with it.  
 17 Q. Do you have any understanding of the amount of  
 18 soft money contributions that the Smith-Free Group has  
 19 made?  
 20 A. I do not.  
 21 Q. Is it your understanding, is it possible for  
 22 the Smith-Free Group to make hard money donations?  
 23 A. I believe individuals at the Smith-Free Group  
 24 could give hard money contributions. I don't believe  
 25 the Smith-Free Group as the corporate entity can give

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1 hard money contributions.  
 2 Q. If the Smith-Free Group as an entity wanted to  
 3 give hard money contributions, would it have to form a  
 4 PAC?  
 5 A. It would have to form a PAC or individuals  
 6 could give money, but that would be as an individual;  
 7 not as Smith-Free.  
 8 Q. And if Smith-Free as an association wanted to  
 9 give hard money, it would have to do so through a PAC --  
 10 A. Yes.  
 11 Q. -- under your understanding of federal  
 12 election law?  
 13 A. Yes.  
 14 Q. And to your knowledge, the Smith-Free Group  
 15 hasn't formed a PAC?  
 16 A. That's correct.  
 17 Q. Do you have any understanding of how much  
 18 money the Smith-Free Group could give in hard money if  
 19 it formed a PAC in any given year?  
 20 A. Is the -- I don't know specifically. I  
 21 believe the limit was \$15,000 for a PAC on an annual  
 22 basis.  
 23 Q. I'm going to turn your attention back to the  
 24 hard money fund-raising that you did during your time as  
 25 the national director of Senator Wirth's campaign.

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1 A. Uh-huh.  
 2 Q. In your experience in that position working  
 3 with Senator Wirth, did Senator Wirth have all the hard  
 4 money that he could possibly want in running his  
 5 election campaign in 1985?  
 6 A. That he wanted, no. Was it sufficient to win,  
 7 yes.  
 8 Q. Could he have -- would he have wanted more  
 9 hard money if he could have gotten it?  
 10 A. Yes.  
 11 MS. SEALANDER: Objection, foundation.  
 12 BY MS. MOSS:  
 13 Q. Based on your experience either as the  
 14 national director of Senator Wirth's campaign or in your  
 15 capacity as the deputy director of the DSCC, did most  
 16 Senators have as much hard money as they felt they  
 17 needed to run their campaigns?  
 18 A. No.  
 19 MS. SEALANDER: Objection, foundation.  
 20 BY MS. MOSS:  
 21 Q. Do you believe that any -- do you believe that  
 22 Senator Wirth could have done anything more to raise  
 23 additional hard money when he was running for office in  
 24 1985?  
 25 A. Could you clarify or expand on that question?



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1 Q. Can you point to anything that you believe  
 2 Senator Wirth wasn't doing that he could do, any  
 3 additional fund-raising, any additional solicitation as  
 4 an example to raise more hard money during his election  
 5 campaign in 1985?  
 6 A. Yes, he could have made more phone calls, he  
 7 could have held more events, he could have had more  
 8 sleepless hours and pursued more fund-raising events to  
 9 raise more money.  
 10 Q. When you say he could have made more phone  
 11 calls, he could have attended more fund-raising events,  
 12 do you believe that it was actually possible for him to  
 13 have done more or is that sort of a theoretical that  
 14 you're giving me? I'm trying to understand when you say  
 15 he could have.  
 16 A. Well, one is a function of the number of hours  
 17 in a day. The other is the tension or dynamic that you  
 18 have in any campaign between time in which the candidate  
 19 is doing retail politics, the time the candidate is  
 20 doing fund-raising, and in the case of then-Congressman  
 21 Wirth, he was also an elected member of Congress who had  
 22 his duties to perform.  
 23 Q. Then understanding all of these tensions that  
 24 you've just described, short of not sleeping, do you  
 25 believe he could have done more to raise hard money?

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1 A. I think it would have been very difficult to  
 2 find more time with the demands on his time to raise  
 3 more money given -- however, given that time, he could  
 4 have and would have raised more money.  
 5 Q. In your experience, were other candidates for  
 6 the Senate in a similar situation to Wirth's or not?  
 7 A. Yes. I mean, it's a very competitive  
 8 situation to raise money for federal office.  
 9 Q. In your experience, do most candidates for  
 10 federal office spend a substantial amount of time  
 11 attempting to raise hard money?  
 12 A. Yes. Too much time I think.  
 13 Q. Now, during the Wirth campaign, you I believe  
 14 eventually raised over \$4 million; is that right?  
 15 A. Correct.  
 16 Q. Can you break down for me what percentage of  
 17 that \$4 million came from different sources of  
 18 contributions?  
 19 A. I really can't. It's been what? Fifteen  
 20 years or so. I mean, the majority of the money came  
 21 from national fund-raising, national fund-raising being  
 22 individual donors and PACs. To a lesser degree, a  
 23 lesser amount would have come from direct mail and from  
 24 in-state Colorado fund-raising.  
 25 Q. And of that \$4 million, is that entirely hard

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1 money that we're talking about?  
 2 A. Yes, I think -- eventually it became closer to  
 3 5 million, but --  
 4 Q. Okay.  
 5 A. Yes, that was hard -- all hard money.  
 6 Q. And so it would have been subject to whatever  
 7 the caps were on contributions?  
 8 A. Yes.  
 9 Q. -- at the time that he was running for office?  
 10 A. Yes.  
 11 Q. Did you participate in raising any soft money  
 12 for Senator Wirth?  
 13 A. My recollection is that near the end of the  
 14 campaign, we raised some soft money to assist the  
 15 Colorado State Republican -- or the Colorado State  
 16 Democratic party in their get-out-the-vote efforts.  
 17 Q. How did you assist the Colorado Democratic  
 18 party in their fund-raising efforts?  
 19 A. Helping them identify potential contributors  
 20 to the state party.  
 21 Q. Did Senator Wirth make any appearances on  
 22 behalf of the Colorado Democratic state party?  
 23 A. Political appearances or fund-raising  
 24 appearances?  
 25 Q. Fund-raising appearances.

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1 A. Nothing I can remember specifically, although  
 2 I suspect that there were fund-raising events in  
 3 Colorado for the state party that he attended. I mean,  
 4 there's traditionally what they call a Jefferson-Jackson  
 5 day event that I'm sure Senator Wirth was a featured  
 6 speaker and he attended and that's the purpose, which is  
 7 to raise money for the state party.  
 8 Q. And you asked me whether I meant fund-raising  
 9 or political. What sort of political events did Senator  
 10 Wirth attend?  
 11 A. For the state party?  
 12 Q. For the state party.  
 13 A. I'm sure there were get-out-the-vote rallies  
 14 on behalf of the state party and the other Democratic  
 15 candidates on the ticket. I'm sure there were other  
 16 political functions in the state that he attended.  
 17 Q. Do you have a view as to whether or not it was  
 18 proper for Senator Wirth to be attending get-out-the-  
 19 vote rallies for the Democratic party of Colorado?  
 20 MS. MEDINA: I'm going to object because you  
 21 continue to use the word "proper" and I've forgotten the  
 22 other word you used that are more vague. Could you  
 23 please rephrase?  
 24 BY MS. MOSS:  
 25 Q. In your opinion, should Senator Wirth have

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1 been attending get-out-the-vote rallies on behalf of the  
 2 Colorado Democratic party?  
 3 A. Yes.  
 4 Q. In your opinion, is there any problem with him  
 5 attending those sorts of rallies?  
 6 A. No.  
 7 Q. When you were on Senator Wirth's staff --  
 8 A. Which staff please?  
 9 Q. I'm sorry?  
 10 A. Which staff?  
 11 Q. Senator Wirth's staff.  
 12 A. As a Senator --  
 13 Q. Oh, I'm sorry. When he was a Senator, Senator  
 14 Wirth's staff.  
 15 A. Yes.  
 16 Q. When you were on Senator Wirth's staff when he  
 17 was actually Senator, did you know who contributed soft  
 18 money to the DNC?  
 19 A. To the DNC?  
 20 Q. Uh-huh.  
 21 A. No.  
 22 Q. Were you aware of who contributed soft money  
 23 to the DSCC?  
 24 A. No.  
 25 Q. Were you aware of who contributed soft money

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1 to the DCCC?  
 2 A. No.  
 3 Q. Did any of those entities regularly  
 4 communicate with anyone on Senator Wirth's staff about  
 5 who soft money contributors were?  
 6 A. If the question is did someone from any of  
 7 those three campaign entities communicate to me while I  
 8 was on Senator Wirth's staff, I guess the answer would  
 9 be no.  
 10 Q. Okay. Let me ask it a little more precisely.  
 11 Did anybody at the DNC -- the DNC to your knowledge  
 12 communicate with anyone on Senator Wirth's staff about  
 13 soft money contributions being made to the DNC?  
 14 MS. MEDINA: Objection, calls for speculation.  
 15 BY MS. MOSS:  
 16 Q. You can answer.  
 17 A. Not that I'm aware of.  
 18 Q. To your knowledge, did anybody at the DSCC  
 19 communicate with anyone on Senator Wirth's staff  
 20 regarding soft money contributions to the DSCC?  
 21 A. Not that I'm aware of.  
 22 Q. And then just to finish up, to your knowledge,  
 23 did anybody at the DCCC communicate with anyone on  
 24 Senator Wirth's staff about soft money donations that  
 25 were being made to the DCCC?

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1 A. Not to my knowledge.  
 2 MS. MOSS: Could you please mark this as  
 3 Hickmott 3 I guess it is?  
 4 (Hickmott Exhibit No. 3  
 5 was marked for  
 6 identification.)  
 7 BY MS. MOSS:  
 8 Q. I'm showing you what has been marked as  
 9 Hickmott Exhibit 3 for the purposes of this deposition.  
 10 Do you recognize this document?  
 11 A. Yes, I do.  
 12 Q. And what is this document?  
 13 A. This is the declaration I made to the FEC back  
 14 in April of 1997 that was used subsequently for the  
 15 Supreme Court case.  
 16 Q. Who drafted this declaration?  
 17 A. The FEC, based on an interview with me.  
 18 Q. And did you have a role in editing the  
 19 declaration after it was drafted by the FEC?  
 20 A. I reviewed it for factual errors.  
 21 Q. And did they incorporate any edits that you  
 22 made into this declaration?  
 23 A. I'm sure they would have. I don't remember  
 24 specifically if -- I might have corrected some dates or  
 25 something like that, but that was it.

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1 Q. And I ask you to turn to the last page of the  
 2 declaration. Would that be your signature on the  
 3 signature block?  
 4 A. Yes.  
 5 Q. And were you representing in this declaration  
 6 that everything in it under penalty of perjury was true  
 7 and correct?  
 8 A. Correct, yes.  
 9 Q. I'm going to first direct your attention to  
 10 paragraphs 3 and paragraphs 4 of this declaration.  
 11 A. Uh-huh.  
 12 Q. Starting at paragraph 3, your declaration  
 13 says, "In 1981, I became the executive director of a new  
 14 DNC entity, the Democratic Business Council," in parens,  
 15 "DBC." And then skipping down to part 4, paragraph 4,  
 16 your declaration states, "Towards this end, the DNC set  
 17 a new \$10,000 contribution level to join the DBC. Up to  
 18 that time, it was \$5,000." The \$10,000 contribution  
 19 level that you reference in your declaration -- is that  
 20 hard money?  
 21 A. I believe it was either or, hard or soft.  
 22 Again, that was 21 years ago, but I believe it was hard  
 23 or soft.  
 24 Q. Okay. When you say it was hard or soft, do  
 25 you mean -- what do you mean?

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1 A. It means it could have been an individual who  
 2 gave a check for \$10,000 or it could have been a  
 3 corporate check for \$10,000.  
 4 Q. How much money during your time as executive  
 5 director of the DBC did the -- how much of the money  
 6 that the DBC raised was hard money versus soft money?  
 7 A. I don't remember.  
 8 Q. Do you have any recollection of whether it was  
 9 more hard than soft or more soft than hard?  
 10 A. I think it was more hard than soft, but I  
 11 don't know that for sure.  
 12 Q. Okay. Would the \$10,000 contribution level  
 13 have been within the hard money limits set by federal  
 14 law at that time?  
 15 A. Yes.  
 16 Q. I'm going to jump forward a little bit in your  
 17 declaration and ask you to look at paragraph 34. In  
 18 paragraph 34, you mention several groups, the Majority  
 19 Trust --  
 20 A. Uh-huh.  
 21 Q. -- the Leadership Council, and the Business  
 22 Round table.  
 23 A. Uh-huh.  
 24 Q. Are these hard money groups?  
 25 A. It was when I was there, yes.

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1 Q. And so your discussion -- would it be fair to  
 2 say in your discussion of the Majority Trust, the  
 3 Leadership Council and the Business Round Table is a  
 4 discussion of hard money contributions?  
 5 A. Yes.  
 6 Q. I turn your attention now to paragraph 43 of  
 7 your declaration. Starting the very first sentence, it  
 8 says, "Nor do we have much to do with coordinating  
 9 campaigns for state candidates run by the individual  
 10 state party committee," and then comma, "because back  
 11 then, we raised very little soft money." Would that  
 12 be -- that would be accurate?  
 13 A. Well, it would be accurate in the fund-raising  
 14 sense. I mean, there was a political function of the  
 15 DSCC that would advise campaigns on, you know, all  
 16 aspects of running a campaign, and it certainly included  
 17 how to organize a coordinated campaign, but from the  
 18 finance side of the DSCC, that is correct, we did not  
 19 involve ourselves with soft money or their get-  
 20 out-the-vote efforts.  
 21 Q. Would it be fair to say that principally, the  
 22 fund-raising that you were discussing in this  
 23 declaration then is hard money fund-raising?  
 24 A. Yes.  
 25 Q. And would it be fair to say that you're

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1 discussing hard money fund-raising programs?  
 2 A. Yes.  
 3 Q. And I'll have you flip back to paragraph 8,  
 4 and I'll ask you to take a moment to look through to  
 5 verify my next statement, which is I believe that  
 6 starting at paragraph 8 and continuing through paragraph  
 7 30, that you discuss the DSCC's tally system?  
 8 A. Uh-huh.  
 9 Q. Is that right?  
 10 A. I'm sorry. Through paragraph number what?  
 11 Q. Thirty. If it's more or less, then you can  
 12 correct me.  
 13 A. All right.  
 14 Q. In the tally system that you're describing in  
 15 your declaration, that's related to the coordinated  
 16 expenditure limits that the DNC or other national  
 17 committees can spend for candidates in their party; is  
 18 that right?  
 19 A. Right. I believe it goes to the national  
 20 party, but in the case at least of the Democrats, that  
 21 authority is delegated by the DNC to in our case the  
 22 DSCC.  
 23 Q. And the coordinated expenditures that you're  
 24 talking about here -- that is all hard money, correct?  
 25 A. Yes.

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1 Q. So when you discuss fund-raising for the  
 2 coordinated expenditure limits, you're discussing hard  
 3 money fund-raising; is that right?  
 4 A. Yes.  
 5 Q. To your knowledge, has the tallying system  
 6 that you describe in this declaration ever been found to  
 7 be illegal by the FEC?  
 8 A. Not to my knowledge.  
 9 Q. I want to direct your attention again then to  
 10 paragraphs 4 and 5 of this declaration. Would it be  
 11 fair to say that in paragraphs 4 and 5, your declaration  
 12 is discussing access that donors had to federal  
 13 office-holders at social events?  
 14 A. Yes.  
 15 Q. In paragraph 4, starting in the middle with  
 16 the sentence that says, "What contributors got in return  
 17 was three or four weekend events throughout the country  
 18 in which they got together with party officials and  
 19 members of Congress to talk about issues and to  
 20 socialize." Is it your contention that talking about  
 21 issues and socializing was corrupting to any of these  
 22 members of Congress?  
 23 A. No.  
 24 Q. I'm going to direct your attention now to  
 25 paragraph 6. Could you read paragraph 6 out loud for us

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1 please?

2 A. "We tried to match up donors' interests with

3 the members who would be present. They were usually

4 corporate donors who contributed for business purposes

5 so we tried to arrange, for example, they could discuss

6 tax issues with Senator Bradley or telecommunications

7 issues with Representative Wirth when he was chairman of

8 the telecommunications and finance subcommittee. They

9 also had opportunities to play golf with the members or

10 have cocktails with them or just hang out together."

11 Q. Do you believe it corrupted Senator Bradley to

12 discuss tax issues with the donors that were present at

13 these functions?

14 A. On the face of it, no, but I guess I want to

15 know, what do you mean by corrupt?

16 Q. Do you believe that it was in any way a

17 violation of the law for Senator Bradley to discuss tax

18 issues with the donors that were present at these

19 functions?

20 A. No.

21 Q. Earlier on in the deposition, I asked you if

22 you had a familiarity with the bribery statute, and I

23 believe your answer was that you didn't know the

24 language or you didn't understand the statute itself but

25 you had an understanding of what the statute -- what you

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1 felt the statute prohibited, and I believe that you used

2 the words you understood what would be improper conduct,

3 so in the sense that you used that word "improper," do

4 you believe it was improper for Senator Bradley to

5 discuss tax issues with donors at these functions?

6 A. No, I do not.

7 Q. Do you believe it would have been improper for

8 Representative Wirth to discuss telecommunications

9 issues with the donors at these functions?

10 A. I do not.

11 Q. Would you agree that having access to federal

12 office-holders at functions such as the one that you

13 have described in paragraph 6 -- would you agree that

14 that does not necessarily mean that a federal

15 office-holder will do -- strike that. Let me start

16 again. Would you --

17 MS. MEDINA: Save me an objection.

18 BY MS. MOSS:

19 Q. I knew that one was getting bad when I started

20 out. It was getting convoluted. In your experience, do

21 the federal office-holders who attend these functions

22 grant requests made by donors if any are made at these

23 meetings?

24 MS. MEDINA: Objection. Can you be more

25 specific? Grant requests?

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1 BY MS. MOSS:

2 Q. Let me back up. It's your understanding that

3 donors would discuss issues of importance to them with

4 these members of Congress that were at these functions.

5 A. Yes.

6 Q. In your experience, would they present their

7 side of an issue to a member of Congress?

8 A. Yes.

9 Q. Is it possible that they would tell a member

10 of Congress why they felt it was important for that

11 member of Congress to vote a certain way on a piece of

12 legislation?

13 A. Yes.

14 Q. In your experience, would the federal

15 office-holders who attended these functions vote in the

16 way the donors that were present at this meeting wanted

17 them to vote?

18 A. I don't know.

19 Q. In your experience, has a federal

20 office-holder -- strike that. In your experience as a

21 lobbyist, you've met with many federal office-holders

22 and their staffs, correct?

23 A. Yes.

24 Q. And in your experience as a lobbyist meeting

25 with these federal office-holders, do the federal

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1 office-holders always vote the way you or your clients

2 would want on the issues that you're presenting to the

3 federal office-holder?

4 A. They do not.

5 Q. Would it be fair to say that a federal

6 office-holder to whom you have lobbied or to whose staff

7 you have lobbied has taken a position contrary to the

8 one that you have lobbied for on behalf of a client who

9 has made donations to that Senator?

10 MS. MEDINA: Objection. Again, can you break

11 it down a little bit?

12 BY MS. MOSS:

13 Q. You have clients that make donations to

14 federal office-holders.

15 A. Yes.

16 Q. You have lobbied in front of the federal

17 office-holders to whom your clients have made donations?

18 A. Yes.

19 Q. Would it be fair to say that there are

20 instances when federal office-holders to whom your

21 clients have made donations and to whom you have lobbied

22 have taken positions adverse to the one that you have

23 lobbied for?

24 A. That's correct.

25 Q. Would it be fair to say the fact that you have

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1 had access to that federal office-holder did not  
 2 guarantee the outcome that you were lobbying for?  
 3 MS. MEDINA: Objection.  
 4 BY MS. MOSS:  
 5 Q. You can still answer the question.  
 6 A. Could you repeat it please?  
 7 MS. MOSS: Could you repeat the question?  
 8 - - -  
 9 THE REPORTER: Question: "Would it be fair to  
 10 say the fact that you have had access to that federal  
 11 office-holder did not guarantee the outcome that you  
 12 were lobbying for?"  
 13 - - -  
 14 THE WITNESS: I think that would be true.  
 15 BY MS. MOSS:  
 16 Q. Earlier when we were discussing your  
 17 responsibilities on Senator Wirth's staff as I believe  
 18 it was the Deputy Director of Staff --  
 19 A. Chief of Staff, yes.  
 20 Q. Deputy Chief of Staff, you indicated that you  
 21 had some input into the Senator's schedule --  
 22 A. Uh-huh.  
 23 Q. -- and who he would meet with. What sorts  
 24 of -- what sorts of meetings would the Senator generally  
 25 have in any given day?

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1 A. They could be constituent interests regarding  
 2 issues that are Colorado specific, they could be issues  
 3 pertaining to his committee assignments, jurisdiction,  
 4 they could be issues relating to something that's  
 5 pending before the United States Senate. They could be  
 6 friends from various different acquaintances who just  
 7 wanted to come in and make a social call to see their  
 8 friend the new United States Senator. They could be  
 9 other candidates who were thinking about running and  
 10 wanted to tap the expertise of somebody like Tim Wirth  
 11 who had run successfully in the House and now the  
 12 Senate.  
 13 Q. Would it be fair to say that not all of the  
 14 categories of persons whom you have just described,  
 15 would it be fair to say that not all of them were donors  
 16 to Senator Wirth's campaign?  
 17 A. That's correct.  
 18 Q. To your knowledge, did the Senator or his  
 19 staff in deciding whether or not to grant a meeting  
 20 request consider whether the person making the request  
 21 was a donor?  
 22 A. It was a factor.  
 23 Q. What were the other factors?  
 24 A. What the issue was, which side they were on,  
 25 were they from Colorado, did he know them.

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1 Q. In your experience, did Senator Wirth ever  
 2 meet with a person who had an issue that would be of  
 3 importance to the Senator due to his committee  
 4 assignments who had not given money to Senator Wirth?  
 5 A. Yes, although I think I've already answered  
 6 that.  
 7 MS. MEDINA: Can we go off the record?  
 8 MS. MOSS: Yeah.  
 9 (Discussion off the record)  
 10 BY MS. MOSS:  
 11 Q. In your experience, can you give me any  
 12 examples of a federal office-holder or staffer who only  
 13 used donations as the sole criteria for deciding who  
 14 would have meetings with a federal office-holder?  
 15 A. None that I'm aware of.  
 16 Q. The criteria that you listed that Senator  
 17 Wirth and his staff would consider in deciding who would  
 18 get meetings with the Senator, in your experience, is  
 19 that typical of other Senators and their staff?  
 20 A. My conjecture would be yes.  
 21 Q. You say your conjecture. Do you have any  
 22 firsthand knowledge of how other Senators and their  
 23 staffs decided the meeting schedules for other Senators?  
 24 A. No.  
 25 Q. When Senator Wirth was interested in a

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1 particular issue or piece of legislation that was  
 2 pending, did he ever meet with persons outside of the  
 3 government to discuss the issues or the merits of the  
 4 legislation?  
 5 MS. MEDINA: Objection. What do you mean by  
 6 outside of the government?  
 7 BY MS. MOSS:  
 8 Q. By outside of the government, I mean not  
 9 another federal office-holder, not a staffer, but  
 10 somebody who is not employed by the government.  
 11 A. Yes.  
 12 Q. What sorts of people would he meet with or  
 13 groups would he meet with?  
 14 A. He would meet with groups, he would meet with  
 15 individual lobbyists, he would meet with heads of  
 16 organizations, head of business groups.  
 17 Q. Was he doing this in an attempt to educate  
 18 himself about the legislation that he would have to vote  
 19 on?  
 20 A. Yeah. In many ways, I think it would be a  
 21 two-way street. He wanted to be educated and it was  
 22 also part of his outreach to those individuals in those  
 23 groups.  
 24 Q. And when you were on his staff, did you also  
 25 meet with groups that were not part of the government?

<p style="text-align: right;">Page 82</p> <p>1 A. Yes.</p> <p>2 Q. And why did you meet with those groups?</p> <p>3 A. It was both to educate me on the issues, but</p> <p>4 it was also to be responsive to those groups on behalf</p> <p>5 of the Senator.</p> <p>6 Q. If a particular piece of legislation was</p> <p>7 pending that could have an impact on a certain industry,</p> <p>8 would it be the Senator's practice to meet with</p> <p>9 representatives from that industry?</p> <p>10 A. Yes.</p> <p>11 Q. Why would he want to meet with representatives</p> <p>12 from an industry that would be impacted by a piece of</p> <p>13 legislation?</p> <p>14 A. It's a function of the Senator, it's good</p> <p>15 government, it helps to educate him on the issues.</p> <p>16 Q. I'm going to direct your attention to</p> <p>17 paragraph 40 of your declaration.</p> <p>18 A. Forty?</p> <p>19 Q. Forty, 4-0. Could you read paragraph 40</p> <p>20 please?</p> <p>21 A. Read it out loud?</p> <p>22 Q. Yes, please, read it out loud.</p> <p>23 A. "The annual DSCC dinner is at the other end of</p> <p>24 the spectrum. It is a huge event and each Senator is</p> <p>25 told he or she has to sell tickets for a certain number</p>	<p style="text-align: right;">Page 84</p> <p>1 Q. Is what you're describing then principally the</p> <p>2 access to the Senator?</p> <p>3 A. Yes.</p> <p>4 Q. If a Senator -- if the Senator were to help a</p> <p>5 lobbyist or a lobbyist's client by voting on a piece of</p> <p>6 legislation in exchange for that lobbyist or the</p> <p>7 lobbyist's client giving a donation, would you</p> <p>8 understand that to be a violation of the law?</p> <p>9 MS. MEDINA: Objection. You're asking him to</p> <p>10 draw a legal conclusion. He's not an expert in bribery</p> <p>11 law.</p> <p>12 BY MS. MOSS:</p> <p>13 Q. Based on your experience, would you understand</p> <p>14 that to be --</p> <p>15 A. I don't know the specifics of the statute. It</p> <p>16 would certainly be inappropriate.</p> <p>17 Q. Let me turn your attention to paragraph 46 of</p> <p>18 your declaration, 4-6. The last sentence of this</p> <p>19 paragraph of your declaration states, "The majority of</p> <p>20 those who contribute to political parties do so for</p> <p>21 business reasons, to gain access to influential members</p> <p>22 of Congress and to get to know new members." Upon what</p> <p>23 do you base your statement that the majority of donors</p> <p>24 give for these reasons?</p> <p>25 A. Given my experience raising money for the</p>
<p style="text-align: right;">Page 83</p> <p>1 of tables at \$20,000 a table. A Senator might go to a</p> <p>2 prominent lobbyist and ask for help in raising this</p> <p>3 money from the lobbyist's clients. Later, the Senator</p> <p>4 might remember that the lobbyist had helped him or her</p> <p>5 raise this money at the time that the lobbyist's clients</p> <p>6 needed the Senator's help with a legislative matter"</p> <p>7 Q. Explain for me what you meant by the Senator</p> <p>8 might remember that the lobbyist had helped him or her</p> <p>9 raise this money at the time the lobbyist's clients</p> <p>10 needed the Senator's help with a legislative matter.</p> <p>11 A. Well, I think it goes to the factors we talked</p> <p>12 about in scheduling decisions, one of which includes</p> <p>13 financial contributions, and, you know, it's a -- you</p> <p>14 know, if a lobbyist has helped the Senator in a case of</p> <p>15 fund-raising with whom there's a relationship and that</p> <p>16 lobbyist calls and requests a meeting on behalf of</p> <p>17 himself or a client, I think it's viewed as perhaps</p> <p>18 returning the favor.</p> <p>19 Q. Do you mean to suggest by this statement that</p> <p>20 because a lobbyist or a lobbyist's clients bought a</p> <p>21 table at the DSCC dinner, that the Senator would vote</p> <p>22 favorably on a piece of legislation in return --</p> <p>23 A. No, I didn't say that.</p> <p>24 Q. -- in return for that table donation?</p> <p>25 A. No, I didn't say that.</p>	<p style="text-align: right;">Page 85</p> <p>1 Democratic National Committee, raising money for a</p> <p>2 Senate race and having raised money for the Senate</p> <p>3 Campaign Committee.</p> <p>4 Q. You haven't personally contacted all of the</p> <p>5 donors to political parties and asked them their reasons</p> <p>6 for giving, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Have you personally contacted the majority of</p> <p>9 donors to the DNC or any of the DNC entities?</p> <p>10 A. No.</p> <p>11 Q. Focusing now on the RNC, do you know whether</p> <p>12 the majority of donors to the RNC are individuals or</p> <p>13 businesses?</p> <p>14 A. I have no idea.</p> <p>15 Q. Do you know whether the majority of donors to</p> <p>16 the DNC are individuals or businesses?</p> <p>17 A. Numerically or dollar wise?</p> <p>18 Q. Numerically.</p> <p>19 A. My guess is numerically, individuals largely</p> <p>20 based on direct mail.</p> <p>21 Q. And it's your contention that the majority of</p> <p>22 those donors, those individuals, give money to the DNC</p> <p>23 for business reasons and to gain access?</p> <p>24 A. High dollar donors, yes. I think in 46, I</p> <p>25 mentioned -- no. I guess -- I would qualify it to say</p>

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1 large -- well, I do. Large amounts are for business  
 2 purposes, to differentiate from direct mail, which is  
 3 traditionally small dollar.  
 4 Q. So let me see if I understand this correctly.  
 5 When you're referring to the majority of those who  
 6 contribute to political parties, do you mean something  
 7 other than the majority of all donors to the political  
 8 parties?  
 9 A. Yes, I'm referring to what I would  
 10 characterize as larger donors, larger meaning in the  
 11 dollar context.  
 12 Q. And what do you classify as a large donor?  
 13 A. I would say probably somebody who gives at  
 14 least 500 but probably more typically, a thousand  
 15 dollars or more to a candidate or to a party.  
 16 Q. And of that category of persons, it's your  
 17 contention in this paragraph that the majority of them  
 18 give for business reasons and to gain access to  
 19 influential --  
 20 A. Yes.  
 21 Q. -- members of Congress?  
 22 A. Yes.  
 23 Q. Do you know what the average donation is to  
 24 the DNC?  
 25 A. No.

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1 Q. Do you know what the average donation is to  
 2 the RNC?  
 3 A. Do not.  
 4 Q. If I were to represent to you that the average  
 5 donation to the RNC during the 2000 calendar year was  
 6 \$101.17, would you have any basis for disagreeing with  
 7 that?  
 8 A. No, but I think that's a little bit misleading  
 9 because I think a lot of the money that is raised by  
 10 both committees is through a direct mail, and what I  
 11 think we've been talking about for the last two and a  
 12 half hours has been the role of the larger donor.  
 13 Q. Are you aware of any empirical research that  
 14 attempts to correlate meetings with federal  
 15 office-holders to the donations to political parties or  
 16 the national committees of those political parties?  
 17 A. Nothing specific. I mean, one sees in the  
 18 press probably every two years different pieces of  
 19 legislation and there's some correlation with PAC  
 20 contributions, but nothing more than that.  
 21 Q. Okay. I'm directing my question specifically  
 22 to empirical research; not press reports. Are you aware  
 23 of -- are you personally aware of any empirical research  
 24 that correlates meetings with federal office-holders to  
 25 the donations made to political parties or their

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1 national committees?  
 2 A. No, I'm not.  
 3 Q. Are you aware of any empirical research on the  
 4 outcome of legislation and its relationship to the  
 5 donations made to political parties or their national  
 6 committees?  
 7 A. I'm not.  
 8 MS. MEDINA: Objection. Go ahead and answer.  
 9 THE WITNESS: I'm not.  
 10 MS. MEDINA: I don't understand the question.  
 11 BY MS. MOSS:  
 12 Q. Did you understand the question?  
 13 A. Empirical meaning like a research study or  
 14 something like that? No, I'm not.  
 15 Q. So your statement about why the majority of I  
 16 guess large donors give is based on your experience and  
 17 what you've read in the press, but not on any research  
 18 into this issue.  
 19 A. It's based on having done fund-raising off and  
 20 on for the last 20 years for two different national  
 21 campaign organizations and a Senatorial campaign.  
 22 Q. And just to be clear, because the sentence  
 23 that we've been discussing in paragraph 46 doesn't  
 24 specifically itself, this sentence, qualify the  
 25 statement to large donors, I want to be very clear. You

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1 consider a large donor to be anybody who gives \$500 or  
 2 more to a political party?  
 3 A. I think I qualified that to say 500, but more  
 4 likely, a thousand dollars was what I said previously.  
 5 Q. So I would not be misstating your position  
 6 here if I said that you believe that the majority of  
 7 those who contribute a thousand dollars or more to a  
 8 political party do so for business reasons and to gain  
 9 access to influential members of Congress?  
 10 A. Yes.  
 11 Q. And to get to know new members?  
 12 A. Yes.  
 13 Q. Do you have any understanding of what the hard  
 14 dollar -- individual hard dollar contribution limit is  
 15 currently? I should say pre-BCRA.  
 16 A. It's my understanding that an individual can  
 17 give a thousand dollars per election to a federal  
 18 candidate, so that would be a thousand dollars for a  
 19 primary, a thousand dollars for a general election. If  
 20 there's a runoff, that's another thousand dollars. So  
 21 it would be traditionally \$2,000 to a candidate.  
 22 Q. And under your definition of a large donor, an  
 23 individual who gave a thousand dollars to a candidate  
 24 for Senate in the general election would be considered a  
 25 large donor?

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1 A. Sure, yes.  
 2 Q. And they would be included in this sentence in  
 3 paragraph 46 about the majority of those who contribute  
 4 to political parties doing so for business reasons?  
 5 MS. MEDINA: Objection, asked and answered.  
 6 A. I think I've answered that previously.  
 7 Q. I'd like to turn your attention now to  
 8 paragraph 48 of your declaration. Can you read  
 9 paragraph 48 allowed for us please?  
 10 A. "This can ultimately prove useful when a  
 11 contributor calls up and reminds a Senator that they met  
 12 in Minneapolis at the Superbowl and says he would like  
 13 to come in and discuss pending litigation. The door is  
 14 more likely to be open to him if the call" -- "than if  
 15 the call was from a non-contributor."  
 16 Q. Upon what do you base your statement that the  
 17 door is more likely to be open to him, being the donor,  
 18 than a call from a non-contributor?  
 19 A. In part is having observed the process. I  
 20 think part of it's frankly human nature. I mean, you're  
 21 more likely to meet with somebody, talk to somebody who  
 22 you've previously met.  
 23 Q. Would that be true whether the person was a  
 24 donor or not?  
 25 A. It could be, although as I said before, I

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1 up to election?  
 2 A. Well, first I'd say that fund-raising is an  
 3 ongoing process. It's not just the two years in that  
 4 cycle. Hundreds easily if not more.  
 5 Q. To your knowledge, did Senator Wirth ever take  
 6 a position or vote in a certain way in return for a  
 7 contribution of any sort, hard or soft?  
 8 A. Not to my knowledge.  
 9 Q. Do you know of any member of Congress or any  
 10 current or former member of Congress who has ever taken  
 11 a position or voted on a piece of legislation in return  
 12 for a contribution of any sort, hard or soft?  
 13 A. Not to my knowledge.  
 14 Q. When you were working for the DSCC, did you  
 15 ever lobby a Senator, you or the DSCC, ever lobby a  
 16 Senator to take a substantive position on a piece of  
 17 legislation?  
 18 A. No.  
 19 Q. Did the DSCC ever tell a Senator that if they  
 20 didn't take a certain position on an issue, the DSCC  
 21 funds would be cut off?  
 22 A. No, but we were not an issue group. We were a  
 23 fund-raising group.  
 24 Q. I'm going to direct your attention to  
 25 paragraph 31 of your declaration.

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1 think a factor in deciding who gets access to a member  
 2 of Congress is -- one of the factors is political  
 3 contributions.  
 4 Q. In your experience on Senator Wirth's staff,  
 5 if a non-contributor requested a meeting but one of  
 6 these other factors that you've listed, they were a  
 7 constituent, for instance, and they requested a meeting  
 8 but were a non-contributor, would Senator Wirth meet  
 9 with those sorts of persons?  
 10 A. Possibly, yes.  
 11 Q. And if a non-contributor in your opinion had  
 12 important information to add on a pending piece of  
 13 legislation that the Senator was involved in, would that  
 14 non-contributor be granted access?  
 15 A. Possibly.  
 16 Q. So it would be fair to say that being a  
 17 contributor is not the only way to get a meeting with a  
 18 Senator or a federal office-holder?  
 19 MS. MEDINA: Objection.  
 20 THE WITNESS: I think I answered that already.  
 21 MS. MEDINA: Asked and answered.  
 22 BY MS. MOSS:  
 23 Q. Based on your experience, how many individuals  
 24 does a candidate for U.S. Senate typically meet at  
 25 various fund-raising events during the two years leading

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1 MS. MEDINA: Excuse me. Could you tell me  
 2 what paragraph again? Forty-one?  
 3 MS. MOSS: Thirty-one. 3-1.  
 4 MS. MEDINA: I wasn't sure which one. Thanks.  
 5 BY MS. MOSS:  
 6 Q. Could you read paragraph 31 out loud for us  
 7 please?  
 8 A. "I'm not aware of any instance in which a  
 9 Senator who had to cast a particularly difficult vote  
 10 was promised DSCC money in return for that vote. On the  
 11 other hand, I know the DSCC did not receive money from  
 12 certain people or groups because Senator Robb voted in  
 13 favor of Clarence Thomas. At times, the labor community  
 14 withheld money because they did not like some of his  
 15 votes. While it was likely they did try to influence  
 16 his vote on certain issues in exchange for their support  
 17 of the DSCC, they would have done that through the  
 18 normal legislative process through lobbyists visiting  
 19 his Senate office and not through the DSCC."  
 20 Q. What do you mean by -- and I believe when you  
 21 say they, you're referring to the labor community. What  
 22 do you mean by they tried to influence his vote on  
 23 certain issues in exchange for their support of the  
 24 DSCC?  
 25 A. Senator Robb wore two hats. He was chairman



<p style="text-align: right;">Page 94</p> <p>1 of the DSCC and he was the Senator from Virginia.                  2 Groups that were visiting the Senator from Virginia                  3 would talk to him about a pending issue, and that would                  4 often then merge into also his role as chairman of the                  5 DSCC, and I believe they would say, you know, we'd like                  6 your help with this, and they would remind him of their                  7 either continued, past, pending support of the DSCC.                  8 Q. You say that you believe they would say that.                  9 Were you present at any meetings in which the labor                  10 community told Senator Robb we want your vote and                  11 reminded him about their contributions to the DSCC?                  12 A. Not that I can remember.                  13 Q. Were you present at any time when any group                  14 reminded Senator Robb about their contributions to the                  15 DSCC in connection to their lobbying him on a particular                  16 issue?                  17 A. Yeah, I mean, there were instances in which                  18 Senator Robb was wearing his chairman's hat that groups                  19 would use that as an opportunity giving the chairman                  20 money for the DSCC that they would also use as an                  21 opportunity to talk about a pending legislative issue.                  22 Q. Could you be a little more specific in what                  23 you mean, they would give him money and use that as an                  24 opportunity?                  25 A. He was chairman of the DSCC. In that</p>	<p style="text-align: right;">Page 96</p> <p>1 you are again talking about access?                  2 A. Yes.                  3 Q. You're not necessarily --                  4 A. Although in 31, I'm also talking about --                  5 maybe retribution's too strong a word, but because                  6 Senator Robb voted a certain way, individuals or groups                  7 withheld money from giving it to the DSCC because he was                  8 chairman. It was after the fact.                  9 Q. These individuals that withdrew their support                  10 from the DSCC after the fact -- were they withdrawing                  11 that support for business reasons?                  12 A. In the case of Clarence Thomas, it was                  13 ideological.                  14 Q. And so the contributions or lack thereof are                  15 tied to something in this instance other than a business                  16 purpose.                  17 A. In this instance, yes.                  18 Q. I turn your attention to paragraph 53 of your                  19 declaration. The very last sentence of paragraph 53 of                  20 your declaration reads, "Increasing the amount of money                  21 that party committees can spend on campaigns will                  22 necessarily increase the pressure to raise money through                  23 such events." Based on your understanding of the BCRA,                  24 does it limit the total amount of money that can be                  25 spent by a party committee?</p>
<p style="text-align: right;">Page 95</p> <p>1 capacity, it was his job to raise money. There was time                  2 set aside where he would come to the DSCC offices to                  3 make solicitation phone calls, to meet with prospective                  4 candidates and to accept checks from individuals or                  5 organizations who wanted to give money to the DSCC and                  6 they wanted face time with Chairman Chuck Robb. That                  7 happened in Washington and that happened as we set up                  8 fund-raising events around the country, and they would                  9 use this as an opportunity not only to make a                  10 contribution to the DSCC, but also to convey to Senator                  11 Robb what their group or individual position was on an                  12 issue.                  13 Q. So when you say that they were trying to                  14 influence his vote on certain issues in exchange for                  15 their support of the DSCC, is it your testimony that                  16 they were using the money that they were giving in hopes                  17 that he would vote the way they wanted him to vote?                  18 A. No. I would say they were coincident, that                  19 they were giving him money and using that as the                  20 opportunity to also talk to the Senator about a                  21 legislative issue.                  22 Q. But in your experience, no one said to him                  23 here's a check, this is how I want you to vote?                  24 A. That's correct.                  25 Q. So would it be fair to say that paragraph 31,</p>	<p style="text-align: right;">Page 97</p> <p>1 A. I'm not familiar with the provisions of the                  2 BCRA in enough detail.                  3 Q. Okay.                  4 MS. MEDINA: Can we go off the record for a                  5 minute?                  6 MS. MOSS: Sure.                  7 (Recessed at 11:47 a.m.)                  8 (Reconvened at 12:09 p.m.)                  9 BY MS. MOSS:                  10 Q. Mr. Hickmott, do you have a view or an opinion                  11 on whether soft money donations to political parties are                  12 a problem?                  13 MS. MEDINA: Objection. Please repeat.                  14 BY MS. MOSS:                  15 Q. Do you have a view on soft money donations to                  16 political parties?                  17 A. My view is that soft money is not held to the                  18 same limits and accountability and disclosure that hard                  19 money currently is and I think that there should be                  20 more -- there should be limits on the amount and the                  21 amount of disclosure on soft money. I think soft                  22 money -- the way it's currently structured ratchets up                  23 the cost of campaigns. It requires candidates to in                  24 turn have to raise more money than they're already                  25 raising in order to be able to appropriately respond to</p>

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1 soft money and the way the soft money is spent.  
 2 Q. Earlier, you testified about reading press  
 3 reports on contributions to the two parties.  
 4 A. Parties and candidates.  
 5 Q. Okay, parties and candidates. Have you ever  
 6 heard any of these press reports refer to corruption or  
 7 the appearance of corruption in relation to soft money  
 8 donations?  
 9 MS. MEDINA: Objection. Could you rephrase  
 10 "heard reports"? Reading them or --  
 11 BY MS. MOSS:  
 12 Q. Have you ever read a news article that  
 13 referred to corruption or the appearance of corruption  
 14 in regards to soft money contributions?  
 15 A. I guess I'd put it in the category of  
 16 allegations.  
 17 Q. And why do you say you put it in a category of  
 18 allegations?  
 19 A. Because I don't know if it was definitively  
 20 proven, but there were allegations.  
 21 Q. What was your understanding of what is meant  
 22 by corruption or the appearance of corruption?  
 23 A. Taking an action, in this case casting a vote  
 24 in exchange for money. It would be going back to your  
 25 bribery train of thought.

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1 Q. Have you read any news articles in which the  
 2 article claimed that there was a perception of  
 3 corruption based on a soft money contribution from a  
 4 corporation to a candidate or to a political party?  
 5 A. Again, the allegations.  
 6 Q. Allegations of a perception of corruption as  
 7 opposed to actual corruption?  
 8 A. Actual.  
 9 Q. What is your understanding of what the  
 10 perception of corruption is?  
 11 A. Again, that somebody casts his or her vote in  
 12 exchange for a contribution or a payoff.  
 13 Q. Now, I know --  
 14 A. I guess what comes to mind -- I was fishing in  
 15 my head for it, was Congressman Bud Shuster of Vermont  
 16 -- of Pennsylvania and one of his former staff who is a  
 17 lobbyist, the allegation being that she solicited, he  
 18 received campaign contributions in exchange for voting  
 19 in a certain manner.  
 20 Q. And you're aware of this from press reports?  
 21 A. Correct.  
 22 Q. Do you have any personal knowledge about  
 23 the --  
 24 A. No.  
 25 Q. And is it your understanding that this was

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1 allegations or a proven --  
 2 A. Allegations.  
 3 Q. Now, I understand that the Smith-Free Group  
 4 has many clients, one of which is -- please correct me  
 5 if I'm wrong. AT&T?  
 6 A. Prior client.  
 7 Q. Prior client. Were they a client of yours?  
 8 A. Yes.  
 9 Q. So you on behalf of AT&T did lobbying on the  
 10 Hill?  
 11 A. Correct.  
 12 Q. Did you lobby the Senate?  
 13 A. Yes.  
 14 Q. Did you lobby on the House side?  
 15 A. Yes.  
 16 Q. And when did AT&T's relationship with the  
 17 Smith-Free Group end?  
 18 A. End of calendar year 2001.  
 19 Q. It's also my understanding that CSX Corp is  
 20 also a client of the Smith-Free Group?  
 21 A. Yes.  
 22 Q. Are they a current client?  
 23 A. Yes.  
 24 Q. Do you do lobbying on their behalf?  
 25 A. Yes.

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1 Q. In both the Senate and the House?  
 2 A. Yes.  
 3 Q. To your knowledge, does CSX Corporation make  
 4 soft money donations to any political parties?  
 5 A. I don't know.  
 6 Q. If CSX Corporation --  
 7 A. I believe I remember seeing that for the  
 8 Republican dinner, CSX gave contributions, but I know  
 9 that through news accounts as opposed to dealing with  
 10 the client.  
 11 Q. If CSX Corporation were to make soft money  
 12 donation to one of the political parties, do you believe  
 13 that would create the perception of corruption?  
 14 A. The perception of corruption, no, I do not.  
 15 Q. And I guess it would be fair to say that you  
 16 don't believe that there would be actual corruption if  
 17 they made a soft money donation to a political party?  
 18 A. That's correct. In fact, since you brought it  
 19 up, in going with now a former client of AT&T, in the  
 20 most recent Congressional primary in Michigan between  
 21 incumbent Congressman John Dingell and incumbent  
 22 Congresswoman Lynn Rivers, AT&T I understand my  
 23 anecdote. I don't know it firsthand -- spent \$400,000  
 24 in an independent expenditure on behalf of Congresswoman  
 25 Lynn Rivers and against John Dingell, however you want

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1 to phrase that. They were supportive of the Lynn  
 2 Rivers' point of view because John Dingell has been  
 3 their nemesis on the major piece of legislation that  
 4 affects AT&T.  
 5 Q. Would that be the Tauzin-Dingell Bill?  
 6 A. Tauzin-Dingell Bill. There to me is an  
 7 instance where because AT&T is spending \$400,000 in  
 8 corporate funds supporting one candidate, the natural  
 9 response is going to be that the opponent, in this case  
 10 John Dingell, is going to have to respond in kind, and  
 11 he's going to have to respond in kind either by raising  
 12 additional hard money to counter that soft money, or is  
 13 going to have to raise additional soft money to counter  
 14 the soft money, and it's like the mutual assured  
 15 destruction term that we use in nuclear arms control.  
 16 You've got to have the weapons to combat the weapons,  
 17 and to me, that just further causes the escalation, the  
 18 amount of money that has to be raised and spent in a  
 19 Congressional campaign.  
 20 Q. Now, I know that John Dingell is an incumbent  
 21 Congressman from Michigan.  
 22 A. Right.  
 23 Q. Is it Joan Rivers?  
 24 A. Lynn.  
 25 Q. Lynn Rivers. Lynn Rivers. Lynn Rivers

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1 probably. Lynn Rivers was challenging John Dingell for  
 2 his seat?  
 3 A. Yes.  
 4 Q. And --  
 5 A. It was a result of a redistricting. They got  
 6 pitted against one another in a very contentious  
 7 Democratic primary.  
 8 Q. That was going to be my next question. This  
 9 was in the Democratic primary as opposed to the general  
 10 election?  
 11 A. Correct.  
 12 Q. And Lynn Rivers had been an incumbent  
 13 Congresswoman from another district?  
 14 A. District, and because of the new district,  
 15 they were pitted against one another.  
 16 Q. To your knowledge, how many years had Lynn  
 17 Rivers been in office prior to this primary battle?  
 18 A. A number of terms. I think more than three  
 19 terms, but I don't know specifically.  
 20 Q. And more than three terms would be more than  
 21 six years then?  
 22 A. Correct.  
 23 Q. Do you have any understanding of how long John  
 24 Dingell had been in office?  
 25 A. Since the creation. I mean, he's the longest

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1 serving member of the House or at least of the  
 2 Democrats.  
 3 Q. Now, in your declaration at various points,  
 4 you discuss the ability of incumbents to raise money.  
 5 A. Uh-huh.  
 6 Q. And please correct me if I'm characterizing  
 7 this wrong, but you state that incumbents have more  
 8 ability to raise money than challengers.  
 9 A. Yes.  
 10 Q. Would you agree that the longer somebody's  
 11 been an incumbent, the more true that statement becomes?  
 12 A. More often than not, longevity does not  
 13 necessarily give them the advantage, but yes, the more  
 14 seniority and the more committee assignments, generally  
 15 that's true.  
 16 Q. And would it be fair to say that John Dingell  
 17 had some fairly high-ranking positions on several  
 18 committees in the House due to his length of time in the  
 19 House?  
 20 A. That's true.  
 21 Q. And he was the chair of certain committees?  
 22 A. He was the ranking member.  
 23 Q. I'm sorry. The ranking member. Thank you.  
 24 Do you have any idea how much money John Dingell ended  
 25 up spending in this primary battle against Lynn Rivers?

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1 A. I do not. I'm sure it was considerable, but I  
 2 don't know specifically.  
 3 Q. And ultimately, was John Dingell successful?  
 4 A. Yes.  
 5 Q. Do you know what -- by what percentage he  
 6 ended up winning the district?  
 7 A. I know it was more than anticipated. I  
 8 believe it was -- might have been 12 points. I don't  
 9 know that specifically. It was viewed to be a very  
 10 close race and a dead heat. Ultimately, he won by a  
 11 larger margin.  
 12 Q. So the polls didn't ultimately reflect -- the  
 13 polls about how close the race were didn't ultimately  
 14 reflect how close the race was --  
 15 A. Correct.  
 16 Q. -- when the results came in?  
 17 A. Correct.  
 18 Q. Now, in this anecdote that you've given us  
 19 about AT&T spending \$400,000 on an independent  
 20 expenditure in Michigan, do you have any experience with  
 21 special interest groups who are not corporations making  
 22 independent expenditures?  
 23 A. My understanding, that Emily's List, which is  
 24 an ideological women's group, spent money on behalf of  
 25 Lynn Rivers and against John Dingell.

<p style="text-align: right;">Page 106</p> <p>1 Q. The problems that in your opinion exist when a  2 company like AT&amp;T can make a \$400,000 independent  3 expenditure, the need for a candidate to respond in  4 kind, the escalation in the race of having to raise  5 money -- do you believe those same problems exist when a  6 group such as Emily's List makes an independent  7 expenditure?  8 MS. SEALANDER: Objection, mischaracterizes  9 fact.  10 MS. MEDINA: Objection, form.  11 BY MS. MOSS:  12 Q. You can still answer.  13 A. I would make the distinction between an  14 independent expenditure when it's truly independent and  15 an independent expenditure -- independent expenditure  16 when it's clearly connected with the candidate, and I  17 think in many cases -- and I'm sure your follow-up will  18 be do I have any empirical data, no, but I think in many  19 cases, the independent expenditure is not truly  20 independent, but it is done in consult with, to one  21 degree or another, with the candidate or the  22 campaigns -- or the campaign itself.  23 Q. Do you have any understanding of whether  24 groups such as Emily's List coordinate in the way you've  25 just described with candidates in making the</p>	<p style="text-align: right;">Page 108</p> <p>1 it puts on a candidate to go out and raise an ever  2 escalating amount of money. There's also what I guess I  3 would refer to as the democratic, small D, aspect of  4 soft money, in that soft money is pretty much controlled  5 by a very few number of decision-makers, unlike PAC  6 contributions, which are supposed to represent the  7 political contributions of a larger group, shareholders,  8 employees, something like that, union members.  9 Q. When you state that expenditures that are  10 truly independent under your definition fuel the amount  11 of money spent in a race and put increased pressure to  12 raise the ever escalating sums of money -- I think I  13 quoted you correctly, but if I haven't, I think I've  14 come close. Do you believe that those two things apply  15 also to expenditures made by special interest groups;  16 not corporations?  17 A. Yes, I do, although what I just mentioned  18 about the democratic, again, small D, aspect, I think  19 applies more to a corporation than it does to an issue  20 group.  21 Q. And what about an issue group that has one  22 donor?  23 A. Well, then the democratic aspect wouldn't  24 apply because it's only one individual, although I think  25 in that case, my point about the influence and the kind</p>
<p style="text-align: right;">Page 107</p> <p>1 advertisements such as the one you've described to us  2 that AT&amp;T made?  3 A. Do I know specifically, no.  4 Q. What did you mean by truly independent?  5 A. An organization that's spending money to  6 advocate the election of one individual or opposing the  7 election of another individual, doing it without the  8 knowledge of that candidate or that campaign who would  9 benefit from that expenditure.  10 Q. And do you have any personal knowledge of  11 whether AT&amp;T coordinated with Lynn Rivers in making the  12 advertisement, \$400,000 advertisement that you describe  13 in your anecdote?  14 A. I do not.  15 Q. So you do not under your definition of truly  16 independent know whether that \$400,000 expenditure was  17 truly independent?  18 A. That's correct, I do not know.  19 Q. And if it was under your definition truly  20 independent -- strike that. If it was truly independent  21 under your definition, would you have the same problem  22 with it that you described?  23 A. Only in the sense that I think it further  24 fuels the amount of money that gets spent in a  25 Congressional campaign and the continued pressure that</p>	<p style="text-align: right;">Page 109</p> <p>1 of the retaliatory reaction would still apply.  2 Q. So an interest group that had one primary or a  3 small number of primary donors --  4 A. Uh-huh.  5 Q. If they were making these large expenditures  6 such as the one you described that AT&amp;T made, all of the  7 problems that you believe are associated with the AT&amp;T  8 expenditure would be associated with that special  9 interest group doing the same type of activity?  10 A. Yeah, I think the effect would be the same in  11 that it then causes the opposing candidate to have to  12 raise and expend more money to respond in kind.  13 Q. You had also mentioned that one of the --  14 something that you viewed as a potential problem or a  15 problem with soft money are disclosure laws.  16 A. Uh-huh.  17 Q. And that you don't believe that soft money has  18 to be disclosed. Do you have any understanding of  19 whether or not the political parties, the DNC, the RNC,  20 voluntarily disclose the soft money donations made to  21 them?  22 A. I do not know.  23 Q. Do you have any understanding of whether the  24 BCRA will require special interest groups to disclose  25 money that is donated to them?</p>

<p style="text-align: right;">Page 110</p> <p>1 A. No.</p> <p>2 Q. If you had a choice between the money --</p> <p>3 strike that. If you had choice between an independent</p> <p>4 expenditure such as the one you described AT&amp;T made</p> <p>5 being done with money, the sources had to be disclosed,</p> <p>6 or an independent expenditure like the one you described</p> <p>7 AT&amp;T made being done with money whose sources did not</p> <p>8 have to be disclosed, which would you prefer?</p> <p>9 A. Disclosure.</p> <p>10 Q. A little additional tangent to where I was</p> <p>11 going so let me back you up a moment to when we started</p> <p>12 to talk about your opinions or views on soft money and</p> <p>13 whether you thought there were problems with them.</p> <p>14 Earlier, I believe I asked you if you ever attended any</p> <p>15 soft money fund-raising events. I believe you said you</p> <p>16 did. I think you specifically mentioned dinners</p> <p>17 possibly, and I believe you said that you attended some</p> <p>18 of these with your clients. Could you give me an</p> <p>19 example of a dinner that you attended with your client</p> <p>20 that was a fund-raising event?</p> <p>21 A. I think the DSCC dinners are an example.</p> <p>22 There's an organization called the New Democratic</p> <p>23 Network which has fund-raising events.</p> <p>24 Q. And you have attended DSCC dinners with</p> <p>25 clients?</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Now, you mentioned that you have attended New</p> <p>2 Democratic Network fund-raisers. Have you attended</p> <p>3 those on your own behalf or with clients?</p> <p>4 A. Both.</p> <p>5 Q. Have you personally made contributions to the</p> <p>6 New Democratic Network?</p> <p>7 A. No. I've given to candidates for whom the New</p> <p>8 Democratic Network is sponsoring the event, but I have</p> <p>9 not given money to the New Democratic Network.</p> <p>10 Q. And do you know whether your clients have</p> <p>11 given donations to the New Democratic Network?</p> <p>12 A. Yes.</p> <p>13 Q. And would those be soft money donations?</p> <p>14 A. Yes.</p> <p>15 Q. And do you believe that your clients by giving</p> <p>16 to the New Democratic Network are attributing or --</p> <p>17 contributing to the perception of corruption?</p> <p>18 A. No.</p> <p>19 Q. Do you believe that there is any actual</p> <p>20 corruption from their donations to the New Democratic</p> <p>21 Network?</p> <p>22 A. No.</p> <p>23 Q. Do you ever advise your clients on</p> <p>24 contributions that they should make?</p> <p>25 A. Make recommendations, yes.</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Yes.</p> <p>2 Q. What clients?</p> <p>3 MS. MEDINA: I'm sorry. Could you restate the</p> <p>4 question, make sure I --</p> <p>5 BY MS. MOSS:</p> <p>6 Q. What clients have you been with when you've</p> <p>7 attended DSCC dinners?</p> <p>8 A. I guess I'd question the relevancy of the</p> <p>9 question. I mean, I have said I have attended these</p> <p>10 events.</p> <p>11 Q. And presumably -- well, I shouldn't say that.</p> <p>12 Who pays for the event? Who pays for the table at</p> <p>13 dinner or for the ticket to get into the dinner?</p> <p>14 A. The client.</p> <p>15 Q. And you go along as their guest?</p> <p>16 A. Yes.</p> <p>17 Q. And would the purchase of a table or a ticket</p> <p>18 to this dinner be a soft money contribution?</p> <p>19 A. In some cases it's soft money. In some cases</p> <p>20 it's a PAC contribution.</p> <p>21 Q. In the cases in which it's a soft money</p> <p>22 contribution, do you believe that your clients</p> <p>23 purchasing these tables are attributing to the</p> <p>24 perception of corruption?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. Describe to me how it comes to the point that</p> <p>2 you're making recommendations to a client about</p> <p>3 donations they should make. Does the client ask you?</p> <p>4 A. Usually the client will ask. Sometimes they</p> <p>5 have a certain amount of money that they feel they would</p> <p>6 like to spend and they would like my recommendations on</p> <p>7 where that money should go, or they've been solicited by</p> <p>8 an organization or a candidate and they would like my</p> <p>9 recommendation on whether it is a sound contribution.</p> <p>10 Q. What criteria do you use to evaluate to whom</p> <p>11 your clients should make these contributions?</p> <p>12 A. The business objective of my client.</p> <p>13 Q. Can you give me an example of a client to whom</p> <p>14 you've made recommendations on contributions they should</p> <p>15 make?</p> <p>16 A. AT&amp;T and CSX.</p> <p>17 Q. Let's stick with CSX since they're still a</p> <p>18 client. In determining who you think CSX should</p> <p>19 contribute to -- let me back up for a moment. When</p> <p>20 you're giving CSX recommendations about the</p> <p>21 contributions they should make, is that hard money?</p> <p>22 A. Usually. In the case of CSX, yes, it's hard</p> <p>23 money.</p> <p>24 Q. You've never given CSX a recommendation on</p> <p>25 where to make a soft money contribution?</p>

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1 A. I have not, no.  
 2 Q. Has anybody at the Smith-Free Group, to your  
 3 knowledge?  
 4 A. Perhaps. I don't know specifically.  
 5 Q. Who specifically did you tell CSX to make  
 6 contributions to?  
 7 A. I don't know that I know specifically. I  
 8 think I looked at categories, and those would be people  
 9 who are on -- members of committee of primary  
 10 jurisdiction of importance to their business issues,  
 11 such as the Commerce Committee in the Senate,  
 12 Transportation and Infrastructure Committee in the  
 13 House, probably the Tax Committees, Ways and Means and  
 14 Finance in the House and Senate respectively, because  
 15 those correlate with legislative priorities of the  
 16 client.  
 17 Q. Was it your expectation that by advising CSX  
 18 to make these contributions, that they would receive a  
 19 favorable outcome on legislative priorities that were  
 20 pending in front of the various committees that you've  
 21 mentioned?  
 22 A. No, I can't say that. They are giving money  
 23 in order to further their legislative relationships with  
 24 members of Congress. In some cases, to support members  
 25 of Congress who have consistently voted in support of

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1 their issues.  
 2 Q. When you were working with Senator Wirth, did  
 3 he ever discuss with you the reasons why he would vote a  
 4 certain way on a piece of legislation?  
 5 A. Yes.  
 6 Q. What were some of the reasons he would give  
 7 you for why he would vote a particular way on a piece of  
 8 legislation?  
 9 A. The merits of the issue, his perspective, the  
 10 value it had to constituents in Colorado, the politics  
 11 of the issue.  
 12 Q. Did he ever say to you that he was going to  
 13 vote a certain way because of a relationship he had  
 14 formed with a donor?  
 15 MS. MEDINA: Objection. It's privileged.  
 16 It's a Congressional privilege. I don't think you have  
 17 to answer this one. It's like attorney-client.  
 18 THE WITNESS: Okay.  
 19 BY MS. MOSS:  
 20 Q. To your knowledge, did Senator Wirth ever vote  
 21 on a piece of legislation solely because of a  
 22 relationship he had formed with a donor?  
 23 A. I guess I'd like to parse that question a  
 24 little bit. He may have voted on an issue based on, you  
 25 know, a counsel or representation that a donor gave to

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1 him on the substance of the issue. That's different  
 2 from having voted on that issue because that person was  
 3 a donor.  
 4 Q. So would it be fair to say that you believe  
 5 that Senator Wirth based his votes on merits and  
 6 substance?  
 7 MS. MEDINA: Objection. Again, speech or  
 8 debate, and the basis of that would be his discussions  
 9 with Senator Wirth.  
 10 THE WITNESS: I mean, just that --  
 11 MS. MEDINA: This is a privilege between you  
 12 and the Senator, and --  
 13 THE WITNESS: If you want to go back to your  
 14 corruption, I looked -- nothing led me to believe that  
 15 Senator Wirth ever made any vote based on a monetary  
 16 contribution.  
 17 BY MS. MOSS:  
 18 Q. Do you have any personal knowledge of why  
 19 other Senators vote the way they do?  
 20 MS. MEDINA: Objection. Again, speech or  
 21 debate.  
 22 MS. MOSS: Whether he has personal knowledge  
 23 himself is not objectionable.  
 24 THE WITNESS: Repeat the question please.  
 25 BY MS. MOSS:

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1 Q. Do you have personal knowledge of whether  
 2 other Senators -- on what other Senators base their  
 3 votes?  
 4 A. Yes.  
 5 Q. Let me back up and clarify that. Do you have  
 6 personal knowledge of why other Senators vote the way  
 7 they do?  
 8 A. Yes.  
 9 Q. Is any of that knowledge knowledge that you  
 10 have gained outside of your capacity as a staffer for  
 11 Senator Wirth?  
 12 A. Yes.  
 13 Q. Describe for me then the basis of that  
 14 knowledge.  
 15 A. Well, for instance, as you know, I worked for  
 16 Senator Chuck Robb as chairman of the DSCC. In the  
 17 course of spending time with Senator Robb, in  
 18 discussions with him, I was privy to his thinking on how  
 19 to vote on certain issues.  
 20 Q. And this was in your capacity as the deputy  
 21 director of the DSCC?  
 22 A. That is how I had my relationship with Senator  
 23 Robb, yes.  
 24 Q. And to your knowledge, did Senator Robb base  
 25 his votes on the substance and merits of an issue?

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1 A. Yes.  
 2 Q. Did Senator Robb to your knowledge ever base  
 3 his vote solely on his relationship with a donor apart  
 4 from the substance?  
 5 A. Not to my knowledge. Let's go back to that  
 6 for a second. One of the reasons that Senator Robb  
 7 voted for Clarence Thomas, which was a very  
 8 controversial vote, is because a former staffer or  
 9 relationship with whom Senator Robb knew had I think  
 10 clerked for Clarence Thomas and vouched for Senator --  
 11 Judge Thomas' moral attributes and fibers and the way he  
 12 approached issues. And I think that was persuasive to  
 13 Senator Robb and helped influence how he voted -- why he  
 14 voted for Clarence Thomas at a time when many of Senator  
 15 Robb's other colleagues were opposing Clarence Thomas.  
 16 That I think is the relationship aspect.  
 17 Q. When Senator Robb made that vote, do you  
 18 believe he was aware of the impact it might have on  
 19 contributions to the DSCC?  
 20 A. Yes.  
 21 Q. Did you ever discuss with him the potential  
 22 impact it could have on contributions to the DSCC?  
 23 A. I did not.  
 24 Q. Do you believe that vote was helpful or  
 25 hurtful in the DSCC's ability to raise money from

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1 certain groups?  
 2 A. It was certainly a negative to some groups.  
 3 Perhaps it also helped with some other groups because  
 4 they saw Senator Robb as a more moderating influence in  
 5 the DSCC, so it may have just netted out.  
 6 Q. Did Senator Robb ever express to you his  
 7 concern that donations would decrease once he voted in  
 8 favor of Clarence Thomas?  
 9 A. Not that I remember.  
 10 Q. And Senator Robb voted for Clarence Thomas  
 11 despite any negative impact it may have had on the DSCC  
 12 -- he believed it may have had?  
 13 MS. MEDINA: Objection, asked and answered.  
 14 BY MS. MOSS:  
 15 Q. You listed AT&T, a former client, and CSX, a  
 16 current client, as clients to whom you've made  
 17 recommendations on contributions. Are there any current  
 18 clients of yours to whom you've made recommendations on  
 19 soft money contributions?  
 20 MS. MEDINA: Objection. I think you've asked  
 21 this question.  
 22 BY MS. MOSS:  
 23 Q. Unless AT&T and CSX are the only two clients  
 24 to whom you've made contributions, then that's the only  
 25 answer I've gotten, so if there's others, I'm reasking

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1 the question and asking you to clarify.  
 2 A. Yes, there are other clients -- current  
 3 clients I've made recommendations.  
 4 Q. And who would they be?  
 5 A. Mass Mutual.  
 6 Q. And that would be you've made soft money  
 7 recommendations to Mass Mutual?  
 8 A. Yes.  
 9 Q. Describe for me the soft money contribution  
 10 recommendations that you've made to Mass Mutual.  
 11 A. We were specifically asked for our  
 12 recommendations on giving money to Senate Democrats or  
 13 Senate Democratic fund-raising entities like the DSCC  
 14 and the New Democratic Network and the Democratic  
 15 Leadership Council.  
 16 Q. Did you advise Mass Mutual to make soft money  
 17 contributions to those entities?  
 18 A. They told us they were going to make soft  
 19 money contributions and they asked for our  
 20 recommendations on how it should be spent.  
 21 Q. Did you advise Mass Mutual that they would  
 22 be -- strike that. Do you believe that Mass Mutual by  
 23 making those donations was contributing to any sort of  
 24 perception of corruption?  
 25 A. I do not.

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1 Q. Did you have any conversations with them in  
 2 which you discussed whether the perception of corruption  
 3 would be an issue when they made these donations?  
 4 A. I did not.  
 5 Q. Why didn't you discuss that with them?  
 6 A. It was in the context of advising a client not  
 7 whether they were going to give soft money, but how they  
 8 were going to give -- to whom they were going to give  
 9 soft money.  
 10 Q. So their minds or their decision to give it  
 11 had already been made?  
 12 A. Correct.  
 13 Q. Have you ever had to advise or have you ever  
 14 advised a client who was at that first stage, the  
 15 decision whether or not to give soft money?  
 16 A. I have not, no.  
 17 Q. Has, to your knowledge, anybody at Smith-Free  
 18 Group?  
 19 A. No. We've had clients who I think have  
 20 inquired about soft money and I think for -- I mean,  
 21 there's been some notable companies -- Time Warner I  
 22 believe comes to mind of companies who have very  
 23 publicly decided no longer to contribute soft money, and  
 24 that has raised the issue in the minds of some clients  
 25 is this a trend. As the discussions on the new campaign

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1 finance law were in the public domain, clients I think  
 2 asked about, you know, soft money, where is this  
 3 heading. That would be the closest thing I think I  
 4 could think of to respond to your question.  
 5 Q. Do you personally do lobbying for Time Warner?  
 6 A. Do not.  
 7 Q. Are there any other of your current -- your  
 8 current clients, as opposed to the Smith-Free Group's,  
 9 who have made the decision to not give soft money any  
 10 longer?  
 11 A. Not that I'm aware of, and understand, clients  
 12 often do things without my knowledge.  
 13 Q. Understood. Apart from your official capacity  
 14 with the DNC, the DSCC and Senator Wirth, have you  
 15 hosted any fund-raisers yourself?  
 16 A. I guess define "hosted." You mean in my home,  
 17 in my office, have I participated in fund-raising events  
 18 as part of a host committee?  
 19 Q. Well, let's start with hosted as in your name  
 20 is on the invitation, regardless of where it's at.  
 21 A. Yes.  
 22 Q. When was that?  
 23 A. Well, let's see. Last week my name was on an  
 24 invitation where I was a co-host, although I did not  
 25 participate, for Tom Strickland of Colorado, a Senate

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1 office-holder. Yes, Senator Leahy of Vermont. He holds  
 2 an annual event that they serve Ben & Jerry's ice cream  
 3 from Vermont and I believe it's \$25 and \$50 or \$250 and  
 4 I'm a co-host and his name is on the invitation, as is  
 5 mine.  
 6 Q. And is that a soft or hard money event?  
 7 A. That's hard.  
 8 Q. Have you hosted any soft money fund-raisers?  
 9 A. No.  
 10 Q. Have you ever raised money for any state or  
 11 local candidates?  
 12 A. No.  
 13 Q. Have you ever lent your name --  
 14 A. No, I have not.  
 15 Q. Ever lent your name to an event that was done  
 16 for state and local candidates?  
 17 A. No.  
 18 Q. Attended any fund-raisers for state and local  
 19 candidates?  
 20 A. Yes. I think 1972, the Republican  
 21 gubernatorial race for governor of Delaware. I was a  
 22 senior in high school. It was Republican.  
 23 Q. What happened?  
 24 A. I grew out of it.  
 25 Q. Okay. Give me a second to look over my

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1 candidate. The prior Tuesday on the 17th, I was a  
 2 co-host for Ron Kirk, who's running for the Senate from  
 3 Texas. Those are the two most recent that come to mind.  
 4 Q. Did you actually attend either of those  
 5 fund-raisers?  
 6 A. The Kirk event I did. The Strickland event, I  
 7 did not.  
 8 Q. What is your understanding of why your name  
 9 would be listed on a fund-raising invitation if you  
 10 weren't attending the fund-raiser itself?  
 11 A. In the case of the Strickland event, because  
 12 I'm a friend of the candidate, I'm a past contributor to  
 13 the candidate, they asked me if I would lend my name to  
 14 it. I had every intention of attending the event but I  
 15 had a family conflict.  
 16 Q. Was it a hard money or soft money event?  
 17 A. Hard money.  
 18 Q. Do you believe that you were in any way  
 19 contributing to the perception of corruption by lending  
 20 your name to a fund-raising event for Mr. Strickland?  
 21 A. No.  
 22 Q. Have you ever hosted or co-hosted an event  
 23 with a federal office-holder where both your names would  
 24 appear on the invitation?  
 25 A. My name on an event with a federal

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1 outline and I think I may be done with my questions.  
 2 Have you ever hosted any fund-raisers for any nonprofit  
 3 organizations?  
 4 A. Not that I can think of.  
 5 Q. Actually, I have one more topic, which is the  
 6 issue of the new declaration that you're going to be  
 7 filing. Who's going to be drafting that declaration?  
 8 A. The FEC.  
 9 Q. And do you have an understanding of what  
 10 you're going to be saying in your declaration?  
 11 A. I think it's covering areas not unlike what  
 12 you've covered subsequent to my experience in working  
 13 for Senator Wirth and his campaign.  
 14 Q. Do you have an understanding about what you're  
 15 going to be saying about your experience subsequent to  
 16 the time that you were working for Senator Wirth and his  
 17 campaign?  
 18 A. I think they're questions about my role while  
 19 I was in the administration and my current position at  
 20 the Smith-Free Group.  
 21 Q. What will you be discussing about your role in  
 22 the administration?  
 23 A. I think there were questions asked about  
 24 was there any --  
 25 MS. SEALANDER: I'm going to object at this



<p style="text-align: right;">Page 126</p> <p>1 point to any testimony or questions involving what the 2 Commission asked Mr. Hickmott in the course of these 3 interviews. You're entitled to ask what Mr. Hickmott 4 knows, you're entitled to ask what Mr. Hickmott says, 5 but you're not entitled to know what it is the 6 Commission was asking. That's our work product and I 7 would request that the witness not divulge that 8 information. 9 BY MS. MOSS: 10 Q. I believe my question was not what did the FEC 11 ask you, but do you understand what you're going to be 12 testifying about in your new declaration regarding your 13 role in the administration. 14 A. Yes, I think -- yes. 15 Q. And what is your understanding of what you are 16 going to be testifying about? 17 A. Was there any influence on me as a public 18 official while I served either at the EPA or at HUD. 19 Q. Influence from who? 20 A. Contributors or outside entities. 21 Q. And are you going to testify that there was or 22 was not such influence? 23 A. There was not. 24 Q. Is there anything else that you're going to be 25 testifying about regarding your role in the</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. Are there any other topics that you're going 2 to be testifying about besides your role in the 3 administration and your current position with the 4 Smith-Free Group? 5 A. Not that I can remember, no. 6 Q. Are you going to be adding any additional 7 information about your roles in any of the Democratic 8 entities, the DNC, DBC, DCCC? 9 A. No. 10 Q. Are you going to be testifying about any 11 additional information about the fund-raising that you 12 did during your time working for any of those entities? 13 A. No. 14 Q. And are you going to be reauthenticating your 15 old declaration? 16 A. Yes. 17 Q. Are you going to be testifying at all about 18 the fund-raising activities of the DSCC after you left 19 the DSCC? 20 A. No because I really don't have any firsthand 21 experience about the DSCC's -- you know, I spent -- the 22 six years subsequent to that were in the administration 23 and I had no role at all in any fund-raising activities 24 during that period. 25 Q. Are you going to be testifying at all about</p>
<p style="text-align: right;">Page 127</p> <p>1 administration? 2 A. No. I think that pretty much covers that. 3 Q. You also stated that you are going to be 4 testifying about your role in the Smith-Free Group in 5 your current position. What is your understanding about 6 what you're going to be testifying about in your new 7 job? 8 A. Questions raised similar to the ones asked by 9 you about fund-raising, my participation in 10 fund-raising, advising clients on soft money. 11 Q. Is there anything that you have not told me 12 today about your advice to clients on soft money that 13 you're going to be testifying about? 14 A. Not that I can remember, no. 15 Q. Is there anything that you've not told me 16 today about your role in fund-raising that you're going 17 to be testifying about? 18 A. Not that I can remember, no. 19 Q. And just to make sure I'm covering all bases, 20 any specifics as opposed to the general topic of fund- 21 raising that you have not told me about that you know 22 you're going to be testifying about? 23 A. No. In fact, I think I've elaborated more 24 with you in your questions than I did in my declaration, 25 which is still in draft form.</p>	<p style="text-align: right;">Page 129</p> <p>1 the DNC's fund-raising activities? 2 A. No, because I really have no knowledge of that 3 either. 4 Q. And are you going to be testifying at all 5 about the DNC's relationship with state parties and 6 local parties? 7 A. No. 8 Q. And is it safe to assume that you're not going 9 to be testifying at all about the RNC and its national 10 committees? 11 A. I have no knowledge. 12 MS. MOSS: I think that is all I have. 13 MS. MEDINA: Can we take a break? 14 MS. MOSS: Yeah. 15 (Recessed at 1:00 p.m.) 16 (Reconvened at 1:15 p.m.) 17 EXAMINATION BY COUNSEL FOR THE WITNESS 18 BY MS. MEDINA: 19 Q. I'm Monica Medina and I am counsel for 20 Mr. Hickmott and I'm with the law firm of Heller Ehrman 21 White &amp; McAuliffe, and I just have a couple of follow-up 22 questions. Not very many at all. First, Mr. Hickmott, 23 I'd like to ask you about your draft declaration. Is it 24 still in draft? 25 A. Yes.</p>

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1 Q. And have you seen it in the last couple of  
 2 days?  
 3 A. No.  
 4 Q. So you're not able to recall with great  
 5 precision the paragraphs in -- the specific topics  
 6 within the declaration?  
 7 MS. MOSS: Objection, form.  
 8 BY MS. MEDINA:  
 9 Q. Go ahead and answer.  
 10 A. Generalities. Nothing specific.  
 11 Q. And what was the declaration based on?  
 12 A. Pretty much my experiences post Wirth  
 13 campaign.  
 14 Q. Did the FEC sit down and discuss the  
 15 declaration with you?  
 16 A. No. They asked questions but they didn't  
 17 really discuss specifics.  
 18 Q. Did they interview you?  
 19 A. Yes.  
 20 Q. And they asked you specific questions?  
 21 A. Yes.  
 22 Q. Just like in the previous declaration?  
 23 A. Yes.  
 24 Q. So the process of drafting the declaration is  
 25 really a question of organizing the answers to your --

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1 to their questions that you gave in the interview?  
 2 A. Yes.  
 3 Q. Then I just want to go back for a minute to  
 4 talk about the example that you gave about AT&T and its  
 5 donation to Congresswoman Rivers in her race against  
 6 Congressman Dingell. Is it your understanding that AT&T  
 7 was opposing Congressman Dingell in these advertisements  
 8 that it ran?  
 9 A. Yes, they were very much on the opposite sides  
 10 of a significant telecommunications issue of importance  
 11 to AT&T and co-sponsored by Congressman Dingell.  
 12 Q. And so the corollary is that the ads were then  
 13 supportive of Congresswoman Rivers in her efforts to be  
 14 elected?  
 15 A. Correct.  
 16 Q. Do you think Congresswoman Rivers was aware of  
 17 the expenditures that AT&T was making on her behalf?  
 18 A. I would think so. I don't know it firsthand,  
 19 but I certainly would think she would be aware of it.  
 20 MS. MEDINA: That's it.  
 21 MS. SEALANDER: The Commission has no  
 22 questions.  
 23 MS. MEDINA: I just want to assert  
 24 Mr. Hickmott's right to review and sign his deposition.  
 25 FURTHER EXAMINATION BY COUNSEL FOR THE

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1 REPUBLICAN NATIONAL COMMITTEE  
 2 BY MS. MOSS:  
 3 Q. Okay. I actually based on your questions have  
 4 just one clarifying follow-up question. Your counsel  
 5 asked you whether you believed or knew -- believed  
 6 Congresswoman Rivers was aware of the expenditures, and  
 7 I just want to be clear, that is your speculation; not  
 8 based on any information or knowledge that you have?  
 9 A. That's correct.  
 10 FURTHER EXAMINATION BY COUNSEL FOR THE WITNESS  
 11 BY MS. MEDINA:  
 12 Q. Can I ask then a follow-up? Based on your  
 13 experience, would you believe that if Congresswoman  
 14 Rivers was not directly aware, someone in her campaign  
 15 was aware?  
 16 A. Yes, but didn't I say I thought Congresswoman  
 17 Rivers was aware? I thought the question was was I  
 18 aware firsthand, and I'm not aware firsthand. I would  
 19 think that both Congresswoman Rivers and her campaign  
 20 would be aware of the expenditure by AT&T on her behalf.  
 21 FURTHER EXAMINATION BY COUNSEL FOR THE  
 22 REPUBLICAN NATIONAL COMMITTEE  
 23 BY MS. MOSS:  
 24 Q. Okay, and again, just to be clear, this is  
 25 your speculation. You have no actual knowledge of

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1 whether or not she was aware?  
 2 A. That's correct.  
 3 Q. Or whether or not anybody on her staff was  
 4 aware?  
 5 A. That is correct.  
 6 MS. SEALANDER: The Commission still has no  
 7 questions.  
 8 (Whereupon, at 1:19 p.m., the taking of the  
 9 instant deposition ceased.)  
 10  
 11 \_\_\_\_\_  
 12 Signature of the Witness  
 13  
 14 SUBSCRIBED AND SWORN TO before me this \_\_\_\_  
 15 day of \_\_\_\_\_, 200\_\_.  
 16  
 17 \_\_\_\_\_  
 18 NOTARY PUBLIC  
 19 My Commission Expires \_\_\_\_\_.  
 20  
 21  
 22  
 23  
 24  
 25

<p style="text-align: right;">Page 134</p> <p>1 UNITED STATES OF AMERICA ) 2 ss: 3 DISTRICT OF COLUMBIA ) 4 I, KAREN C. YOUNG, a Notary Public within and 5 for the District of Columbia, do hereby certify that the 6 witness whose deposition is hereinbefore set forth was 7 duly sworn and that the within transcript is a true 8 record of the testimony given by such witness. 9 I further certify that I am not related to any 10 of the parties to this action by blood or marriage and 11 that I am in no way interested in the outcome of this 12 matter. 13 IN WITNESS WHEREOF, I have hereunto set my 14 hand this _____ day of _____, 200__. 15 16 17 _____ 18 My Commission Expires: 19 July 31, 2004 20 21 22 23 24 25</p>	

A		
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SENATOR MITCH MCCONNELL, et al. VS. FEDERAL ELECTION COMMISSION, et al.

CRAIG HOLMAN - 9/6/02

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CONCORDANCE AND CONDENSED TRANSCRIPT  
PREPARED BY:

*Ellen Grauer*  National & International  
**Court Reporting Co.**

133 East 58th Street, Suite 1201, New York, New York 10022

Phone: (212) 750-6434 Fax: (212) 750-1097

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