

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SENATOR MITCH McCONNELL,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 02-0582
)	
FEDERAL ELECTION COMMISSION,)	
et al.,)	
)	
Defendants.)	

**CONDENSED
TRANSCRIPT**

NATIONAL RIFLE ASSOCIATION,)
et al.,)
Plaintiffs,)
v.) Civil Action No. 02-0581
FEDERAL ELECTION COMMISSION,)
et al.,)
Defendants.)

DEPOSITION OF SENATOR ALAN SIMPSON
Taken in behalf of Plaintiff NRA
11:40 a.m., Tuesday
October 1, 2002

PURSUANT TO NOTICE, the deposition of Senator Alan Simpson was taken in accordance with the applicable Federal Rules of Civil Procedure at 1135 14th Street, Cody, Wyoming, before Randy A. Hatlestad, a Registered Merit Reporter and a Notary Public of the State of Wyoming.

2

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12 INDEX
13 DEPOSITION OF SENATOR ALAN SIMPSON:
14 PAGE

15 EXAMINATION
16 By Mr. Hume 3

17 EXHIBITS
18 IDENTIFIED
19 Number 1 Advertisement from the Concord 55
20 Coalition
21 Number 2 Excerpt from the National Journal 59
22 Number 3 Advertisement regarding Chris 59
23 Van Hollen
24 Number 4 Advertisement regarding Harry Reid 62
25 and John Ensign
26 Number 5 Advertisement regarding Orrin Hatch 66
27 Number 6 Advertisement regarding Al Gore 66
28 Number 7 Advertisement regarding John McCain 72
29 Number 8 Advertisement regarding John McCain 72
30 Number 9 Advertisement regarding David Wu 85
31 Number 10 Advertisement regarding Congress- 86
32 woman Northrup

3

1 PROCEEDINGS
2 SENATOR ALAN SIMPSON,
3 called for examination by the Plaintiff NRA, being first
4 duly sworn, on his oath testified as follows:

5 EXAMINATION

6 BY MR. HUME:

7 Q. Senator Simpson, good morning. I'll introduce
8 myself again for the record. My name is Hamish Hume,
9 H-u-m-e. I work for the law firm of Cooper and Kirk in
10 Washington, D.C. And we represent the National Rifle
11 Association in the -- what has come to be called the
12 McConnell v FEC litigation.
13 In this deposition, I'm going to use the
14 phrase "McConnell litigation" to talk about the
15 litigation that is challenging the constitutionality of
16 campaign finance legislation passed in April of this
17 year. That legislation was formerly called the
18 Bipartisan Campaign Reform Act and is sometimes referred
19 to by its acronym, BCRA, B-C-R-A. I may refer to it in
20 that way during the deposition, so that's what I'm
21 talking about. In the public press, it's also, as you
22 know, been referred to as McCain-Feingold. So you can
23 use those terms interchangeably, but I'll probably use
24 BCRA. You are aware of that legislation. Am I right?
25 A. Uh-huh, the original and the -- the original,

4

1 yes. I voted for that. The latter one. I've just had
2 the summary.

3 Q. Am I correct in saying that the Federal
4 Election Commission contacted you to ask if you would
5 provide a declaration as part of the McConnell
6 litigation?

7 A. I have been contacted by so many people that I
8 honestly don't -- I didn't call anybody, but they picked
9 the stuff out of the last litigation of the guy from New
10 Jersey, and then they've come around me like crows
11 around the carrion because of what I said. And that's
12 how that popped up, I guess. And that was probably
13 corrected, the litigation of Mariani. And I spoke
14 interminably long and did a deposition, and they picked
15 that out and contacted me.

16 Q. I'm not familiar with that litigation.

17 A. You need to look at it.

18 Q. Is that an -- was that an FEC investigation?

19 A. It was a lawsuit by Mariani saying that, how
20 could he go to the pen when all he had done -- and he
21 had violated the law. He split up contributions and had
22 his employees give contributions, a thousand or two or
23 whatever it was. And then he was headed for the clink.
24 And if he'd done soft money, nothing would have happened
25 to him at all. And that was the issue. And Floyd

5

1 Abrams was the counsel for Mariani, and I was a witness.
2 Or, I was paid to enter the case.

3 Q. So were you paid as an expert witness?

4 A. I guess that was what it would have been.
5 It's all on the record there.

6 Q. And you were deposed. Right?

7 A. Uh-huh. Right here. The lawyer came here.

8 Q. Did you give additional testimony in court?

9 A. No.

10 Q. So the only testimony you gave was in that
11 deposition?

12 A. Uh-huh.

13 MS. SEALANDER: Can we go off the record
14 for a minute?

15 MR. HUME: Sure.

16 (Discussion off the record.)

17 Q. (BY MR. HUME) Senator Simpson, I now
18 understand a little better what the Mariani litigation
19 was all about. You mentioned that you felt that you
20 were contacted in this litigation because of your
21 involvement in that litigation. Is that right?

22 A. That's the only thing I can figure.

23 Q. And was your testimony in the Mariani
24 litigation focused on the constitutional challenges
25 Mr. Mariani was bringing against the Federal Election,

6

1 the FECA legislation?
 2 A. No. It was focused on the political aspects
 3 of the issue. It was about a sitting politician
 4 watching the influence of money in the political system.
 5 And a good part of it is here in this declaration which
 6 we just presented to you this morning.
 7 Q. And actually, I'm going to be presented with
 8 your declaration, but I haven't seen it yet. So you
 9 have a declaration in this case that says much of the
 10 same -- it's many of the same substantive points that
 11 you made in the Mariani litigation?
 12 A. Well, the Mariani deposition was exceedingly
 13 long. And this is exceedingly short. So it boiled it
 14 down and -- but it wasn't the esoteria of law of
 15 constitutionality. It was about how phony the thing is
 16 in its present form, with soft money, hard money and the
 17 FEC that really sometimes does not function as it
 18 should. I know they don't like that when I say that.
 19 But it hasn't. Enough.
 20 Q. But I would like to, then, go on to what
 21 you're focusing on your declaration in this case. First
 22 of all, approximately when was it drafted?
 23 A. It was within the last month. And then I had
 24 a chance to look at it and made a few changes and signed
 25 it the other day and sent it back last week or early

7

1 this week. I think it would be good for you to read
 2 this. It won't take you long. Because you're going to
 3 ask me about something you don't know anything about.
 4 Q. I am going to ask you about your declaration.
 5 A. Why don't we just stop. It's nothing
 6 mysterious, and it will save you time and me time.
 7 MR. HUME: That's fine. Why don't we go
 8 off the record and give me five minutes to read this.
 9 (Discussion off the record.)
 10 Q. (BY MR. HUME) Senator Simpson, I have now had
 11 a chance to review, at least relatively quickly, the
 12 declaration that I understand you have signed, although
 13 the version I have is not signed. Is that right?
 14 A. It was signed on the 27th of September.
 15 Q. Okay. Great.
 16 A. 28th. Excuse me. 28th.
 17 Q. Having read your declaration, I have some
 18 understanding of what your perspective is on the issue
 19 of campaign finance reform. Let me begin by asking you
 20 a broad question, which is, how do you think public
 21 officials and candidates for public office ought to
 22 finance their campaigns?
 23 A. Well, I never favored taxpayer financing of
 24 it. But I sure favor some kind of honest thing. Let a
 25 guy put in a hundred grand if he wants to and name

8

1 everything he's connected with. Let him put in 50
 2 grand, him or her, and say, I have three limited
 3 partnerships, and I'm on the board of so-and-so and
 4 so-and-so, and talk about full disclosure. That's the
 5 way I lead my life. And forget the limits. Just say
 6 put it in. But I don't favor a taxpayer financing a
 7 campaign. But this is a torturing system. This is a
 8 head-on-a-pin dancing kind of thing.
 9 Q. And when you say it's head-on-a-pin type of
 10 distinctions, is one of the things you're referring to a
 11 distinction that the law has made between so-called hard
 12 money, contributions directly to a candidate, and
 13 so-called soft money, which has been previously
 14 unlimited, which are contributions for -- to political
 15 parties or for advertising, et cetera, that that
 16 distinction is something that you think did not work in
 17 our system?
 18 A. No, it didn't work, and it was torture. And
 19 not only the FEC determinations, but the court
 20 determinations and the Buckley decision that you can
 21 spend yourself into oblivion under the First Amendment.
 22 I mean, hell, the First Amendment never had that in
 23 mind. And so that one right there has been a tremendous
 24 difficulty to get over.
 25 But to me, it was just the fact that

9

1 originally it was COPE, the Committee On Political
 2 Education, and the business community were PACs, and
 3 they were to go head-to-head, and you raised the money.
 4 And you didn't have these distinctions about isolating
 5 the issue ads, the bumper stickers, the yard signs.
 6 What a phony distortion of that came about. That's what
 7 I see.
 8 Q. So do you have an opinion -- I don't see this
 9 declaration expressing an opinion about the specific
 10 reforms instituted in BCRA. But whether it's in this
 11 declaration and I missed it or not, I'd just like to
 12 ask, do you have an opinion about any of the specific
 13 reforms that were contained in -- again, I'm calling it
 14 BCRA, the recent legislation?
 15 A. I voted, as a say, for the first McCain-
 16 Feingold, got a little hell for that. I was in the
 17 state legislature, and I was working on disclosure
 18 legislation. I got a lot of hell for that. I am not
 19 familiar with book, page and hymn number of the new act,
 20 but I am familiar with enough about soft money and the
 21 effect of it.
 22 And then, of course, from a practical
 23 standpoint, how your staff comes in and says, this guy's
 24 here to see you, and he's maxed out on you every time
 25 you ran, Al. What do you think of that? And you say,

10

1 well, send the cat in. And then along comes Joe Turkey,
2 and I don't know him at all. I say, who is this guy you
3 got me lined up with? Well, he wants to talk about
4 something. I don't ask them if they paid money. But
5 you got somebody -- your campaign chairman is saying,
6 you know, this guy put into your till or he didn't. And
7 you got a thousand things going during the day.

8 Paul Simon expresses that better than I do.

9 If you get nineteen calls in your hotel room and one of
10 them is from a hundred thousand guy that's hit you for
11 every campaign, that's the one you call back.

12 Q. In other words, your experience as United
13 States Senator was that -- am I right in saying that
14 those who contributed to help finance your campaigns
15 were inevitably going to have greater access than those
16 who did not?

17 A. That's exactly what it is. And it's harshest
18 for them during that time when the -- the man testified
19 during the Clinton administration. He said, what the
20 hell do you think I gave the money for? Remember? What
21 was his name? I don't remember it. Blatant. Two
22 hundred thousand, three hundred thousand, soft money.
23 Blatant: Anybody here dumb enough not to figure why he
24 gave the money?

25 Anyway, go ahead. I won't romance around like

12

1 far as I know now, huddle in their offices and say,
2 Jesus, we might lose Dingell. So we better figure a way
3 to give something to Rivers. Or, watch out, because
4 they're going to have a new chairman over there in the
5 House committee who doesn't like us at all. But we
6 better get some scratch in there, too, or else he's
7 going to cremate us when he or she gets in there. And
8 there's a word for that. It's called whoring. And
9 that's where you all are right now.

10 Q. I'm not sure I followed that.

11 A. Well, I could say it in clearer form. I don't
12 know how. It's not giving according to your deep-held
13 philosophy. It's giving so you can get access and kiss
14 butt and do all the rest of the things so you won't get
15 knocked off the perch.

16 Q. When you talk -- is it your view, then, that
17 the perception of corruption that exists in our system
18 is a perception that certain groups and individuals who
19 give more money are going to have greater access to
20 elected officials?

21 A. Number one, that is the case. Yeah. I feel
22 that. That's my personal view, that if you give more
23 money, you've got some guy on your staff who is going to
24 tell your legislative assistant, when you're meeting
25 with somebody from this industry, don't forget to tell

11

1 that.

2 Q. And is it your sense that this was different
3 either when you started in public office or at sometime
4 earlier than that, or do you think this problem has
5 always been with us?

6 A. Well, it was -- I'm a Republican, obviously.
7 And when COPE came into the scene, my dad was active in
8 politics. He was governor and U.S. senator. Committee
9 On Political Action. They were big. They were a
10 gorilla in the jungle, and they were cremating
11 Republicans and business people.

12 So up came the PAC, P-A-C, Political Action
13 Committee, and business industry, BIPAC, all the rest.
14 How do we stop this pernicious union influence? And so
15 they started PACs. And I thought that was a pretty good
16 balance. And it's deteriorated to nothing, where the
17 unions and the business community now have a word for
18 it.

19 I mean, you used to give to someone who was
20 for your philosophy. The NRA would give to people who
21 were against gun control. I was the beneficiary of much
22 of their largess and assistance. And Charlton Heston,
23 who is a very close friend of mine, did a tape for me at
24 my retirement. A magnificent man.

25 So here I am. The NRA, and all of them, as

13

1 All that these guys maxed out.

2 Q. And that's going to be true whether or not the
3 person who gave the money is an individual or a group?

4 A. Doesn't matter. The politician -- you know,
5 somebody does your accounting. And you have a treasurer
6 to keep you out of the pen. And that person takes in
7 money, checks to see if they're citizens of the United
8 States, all the things you need to do. You don't know.
9 You get a contribution from Kids PAC, BIPAC or PAC PAC.
10 You don't even know what the hell it is. You say, check
11 it out. Is it real?

12 And so the politician doesn't know if it's
13 hard or soft. All he knows is that his counselors and
14 his ad guy and all these people are saying, you need
15 another buy. Go get some more money. And you get money
16 from PACs.

17 Q. But I'd like to distinguish that appearance of
18 corruption, which is that those who give money have
19 greater access, from another question I'd like to ask
20 you, which is related to what I'm going to call quid pro
21 quo corruption. And when I say quid pro quo, what I
22 mean, and as I'm sure you understand, is that there's
23 some kind of an agreement or understanding between the
24 donor and the elected official that if money is given,
25 that that official will vote in a way that he or she

14

1 would not vote were money not given. That's what I mean
2 by quid pro quo corruption.

3 And with that definition, I'd like to ask, is
4 it your view that there is corruption in our system, in
5 that the use of soft money has given rise to a higher
6 prevalence, a quid pro quo type corruption?

7 A. I couldn't even possibly answer that. All I
8 know is that I voted independently. People didn't
9 bother me much because they usually knew where I was
10 coming from. I didn't have people hanging around my
11 offices because I wasn't always listed as undecided.
12 If you have a U behind your name in Washington D.C. as
13 U.S. Senator, you are visited like Charles Dickens with
14 three spirits. They come in waves to see you.

15 I haven't the slightest -- I never saw -- that
16 is a violation of Wyoming law. That is called bribery.
17 And it's in our statutes, right there on the wall. So
18 that's something -- and I was in the legislature for
19 thirteen years. I don't know people who said -- but if
20 they did, they've been indicted by now. The guy from
21 Pennsylvania, Traficant, who was the big cat on the
22 transportation system, and he's now a big consultant,
23 he's a big butter and egg man.

24 I don't know people who did that. But if they
25 did, the ones I am aware of have been found out. You

16

1 system and say, what are they doing now? You can give
2 money. I can only give five bucks, so my voice is not
3 heard. I can pick up the paper during the campaign and
4 see this guy got five grand. I couldn't give five
5 cents. I tried to see him or her at a town meeting, but
6 I couldn't. And I notice old fat cat Charlie was over
7 there talking to him. So I'm left out.

8 And they look at that as rotten, evil
9 corruption. They think they're being bought off.
10 That's what Joe six-pack thinks. That's too bad.

11 Q. I'd like to then explore this question of
12 disproportionate access. Your declaration speaks at
13 first, I think through about paragraph 7, about the need
14 to raise money -- your experience raising soft money for
15 political parties, in your case, obviously, the
16 Republican party. And as I understand it, you found the
17 experience of having to raise money for the Republican
18 party to be one that you didn't care for?

19 A. I didn't care for that.

20 Q. And one that you think our system would be
21 better off if politicians didn't have to do that?

22 A. You can talk to all of them and ask them.
23 They'd tell you the same thing. But they had to do it.

24 Q. And is it your understanding that they won't
25 have to do it after the enactment of BCRA?

15

1 just don't do that. That's a criminal thing.

2 Q. And the purpose of my asking the question,
3 then, is to be clear that when, either in your
4 declaration or this deposition, you refer to the
5 corrupting influence of all of the money in our campaign
6 finance system now, that you are talking about the
7 corrupting effect of buying access, disproportionate
8 access, as opposed to creating quid pro quo type
9 corruption, which, as you say, has always been illegal,
10 continues to be illegal.

11 A. Yeah. But this kind of money where a guy like
12 Mariani can go to the clink, and yet if he'd done it
13 another way, is a corrupting influence.

14 Q. In the sense that -- so --

15 A. It makes people look -- like Mondale said, it
16 looks like hell.

17 Q. It looks bad -- I just want to make sure I
18 understand what you're saying. Are you saying it looks
19 bad because someone can go to jail for doing something
20 that is almost indistinguishable from something that is
21 legal?

22 A. That's part of it. Those are not precise
23 things. I can't slice the salami that thin. You know
24 where I'm coming from. I've said what I've said. It's
25 a corrupting influence. It makes people look at the

17

1 A. You can't imagine -- I don't know. But I do
2 know that the time spent -- I was assistant majority
3 leader of the Senate under Bob Dole. And I can't tell
4 you how many times in the course of a day that we'd have
5 something scheduled, and they'd say, Bob and Al, I won't
6 be there tonight. I got to be in Detroit for a fund
7 raiser. Got to be in New York.

8 And I used to say to them, you know, you get
9 paid 133,600 bucks. Why don't you show up here and vote
10 and stick with us so we can get the nation's business
11 done? Well, I'd like to, but I can't, because I'm on
12 the phone all afternoon. I have to go to another
13 building. And I'll be on the phone all day over there,
14 doing the calls.

15 And I'm just saying it's disruptive. And I
16 don't care what group it is that's doing it. You're
17 trying to get money for the president's dinner. You're
18 trying to get money for the congressional dinner. Your
19 group has contributed to that, always will. And when
20 you get a call from Trent Lott or Dick Army right into
21 the headquarters of the NRA and say, we want you to buy
22 four tables tonight. And the Brady Bill is coming up in
23 two weeks. You're going to buy four tables. You might
24 buy ten. And you're going to tell them you bought ten,
25 because the Brady Bill is coming in, and you don't like

18

1 the Brady Bill.
2 Now, that's called real life. I can't -- I
3 don't come from law books. I come from the arena. Now,
4 that goes on all the time. Archer Daniels Midland,
5 you're calling Archer Daniels Midland. Oh, how are you
6 down there? Well, you know, the ag bill is coming up,
7 and we need to raise -- we want to show the Democrats
8 that it's a \$16 million night down there at the
9 convention center, and you're going to help us. Well, I
10 do want to help. Of course I do. Well, you can buy ten
11 tables. Don't forget, part of the ag bill -- you don't
12 have to remind them. Part of the ag bill is the corn
13 subsidy, which is 5.2 billion bucks.
14 And they eat off of it. In fact, they get
15 most of it. It doesn't go to little old guys scrubbing
16 around with dirt all over their hands. It goes to
17 Archer Daniels Midland and Cargill and Shipper's.
18 You punched the wrong button. That's what it
19 is. That's what this is.
20 Q. You mentioned earlier you voted for the
21 original McCain-Feingold.
22 A. Uh-huh.
23 Q. And I know -- well, do you remember why it is
24 you voted for it?
25 A. Yeah. Because I'd been working on it all the

19

1 time I was in the Wyoming legislature, to make people
2 disclose what the hell they're doing. Cough it up.
3 It's a transparency.
4 Q. So that legislation was focused on
5 transparency and disclosure?
6 A. It was focused on all the stuff that
7 eventually came trickling down through the final one,
8 except they took a lot of the guts out of the last one.
9 You give the groups in America who give the money four
10 or five years to go from the last McCain-Feingold to go
11 to this one, you've turned a pretty nice bitter chunk of
12 medicine for them into pabulum.
13 Q. You mentioned earlier that you didn't know, in
14 your phrase, chapter and verse, what BCRA does. And it
15 does do a number of different things. And I just want
16 to try to establish which parts of it you think are
17 important and that you support, in light of your
18 criticisms in how the system operated while you were a
19 senator.
20 A. Look, I've done major legislation. I've done
21 sweeping legislation myself in immigration, Simpson-
22 Rodino, Simpson-Mazzoli. I can tell you every bill I've
23 ever done has parts I like and parts I didn't like or I
24 couldn't have got the son of a bitch passed. So if you
25 want to go through it, go ahead, and I'll tell you what

20

1 part I like and what part I don't.
2 Q. Do you like the prohibition on contributing
3 soft money to national political parties?
4 A. I think you ought to get rid of soft money.
5 It's a phony-baloney. It's a good way to get an
6 ambassadorship. But other than that, it doesn't solve
7 anything.
8 Q. So your view is that it is a good reform to
9 prohibit?
10 A. Totally, yeah.
11 Q. Do you have any view at all on the part of
12 BCRA that prohibits incorporated entities of any kind
13 from buying advertisements or broadcast communications
14 that refer to the name of a candidate for office within
15 60 days of that candidate's election?
16 MS. SEALANDER: Objection. Misstates the
17 law. It doesn't prohibit corporate entities from doing
18 that.
19 Q. (BY MR. HUME) There's a disagreement in terms
20 of how to characterize the law, Senator Simpson. So
21 let's begin with this question. Do you have any
22 awareness of the regulations in BCRA that apply to the
23 ability of incorporated entities to run political
24 broadcasts that refer to the name of candidates within
25 60 days of their election?

21

1 A. I have enough information to know they have to
2 reveal who they are.
3 Q. Well, let me represent to you that it's more
4 than that. It allows PACs to use hard money that
5 they've raised, subject to the limitations on those
6 monies, to run such broadcast communications. But it
7 does not allow incorporated entities to do so, other
8 than through their PACs.
9 A. Well, that's the people -- you've got a
10 lawsuit that just came out of a little old district
11 court somewhere just the other day, just two days ago,
12 where they struck down that Section 2597 or whatever it
13 was. Are you familiar with that? Did you know that
14 decision came down?
15 MS. SEALANDER: I believe Senator Simpson
16 is talking about the case down in Alabama for 527
17 organizations.
18 A. They blasted that right out of the saddle, a
19 single-judge opinion. I just read that in the New York
20 Times. When you have groups that get together and call
21 it the United Milk Association and pretend that they're
22 just a bunch of sweet guys who love milk who are really
23 highly partisan people, I think those groups ought to be
24 hammered flat. Does that answer that question partly?
25 Q. I think it begins to. I'd like to pursue that

22

1 with a few more questions.
 2 A. Go ahead.
 3 Q. In other words, your declaration, after you
 4 discuss political parties, from paragraph 8 on, you
 5 start to reference big labor and big business. In other
 6 words, I take it it's your view that both big labor and
 7 big business use soft money donations in a way that buys
 8 them disproportionate access to officials. Is that
 9 right?
 10 A. Yeah. Hard and soft money buys you access.
 11 Q. Right. Is there --
 12 A. Not buys. It gives. It's a beautiful phrase,
 13 gives you access.
 14 Q. I'm now trying to focus on when those groups
 15 or other incorporated groups use their money to directly
 16 pay for a political communications broadcast on
 17 television or on the radio that refers to the name of
 18 the candidate within the two-month period right before
 19 that candidate's election and whether or not you have a
 20 strong opinion about whether those groups ought to be
 21 able to do that.
 22 A. As long as people know who they are and what
 23 they're doing, yes, I think that's all right. Then
 24 you're into the First Amendment. And they can play
 25 around in there all the time. But if you're going to do

23

1 an ad against somebody -- the 501(c)(3)s, that's what
 2 that section was about, I think. And now they've said
 3 that's a restraint on the freedom of speech. So here we
 4 go again. I believe that's what the decision just two
 5 days ago said. But that's immaterial for this.
 6 Just say when somebody gets a group
 7 together -- and it was particularly tough on
 8 Republicans. And it was Bob Kasten, Senator Kasten of
 9 Wisconsin, who brought it up. He said, I'm getting
 10 hammered in my state by the sweetest-sounding group of
 11 groups that you could ever imagine, and they're eating
 12 me alive. And they all have names about better
 13 government forever and God looks faithfully on us and
 14 just marvelous things. And they were just highly
 15 partisan.
 16 And so I don't know whether that's a part of
 17 this, but it certainly was part of a previous campaign
 18 finance reform.
 19 Q. But your view is that those communications,
 20 that the harmful thing about them is when you don't know
 21 who's running them?
 22 A. That's right.
 23 Q. And that the solution, therefore, is to create
 24 a transparent system so you know who's paying for that?
 25 A. Like you do with any other thing. It says,

24

1 this ad -- at the end of every ad, it says, this ad paid
 2 for by cowpokes for Simpson, box number so-and-so,
 3 instead of this marvelous hiding, as transparency is the
 4 key. Who is this group? Who's on their board? Who are
 5 their officers? You find the head of the Democratic
 6 National Committee on there and all these other people.
 7 My whole philosophy is to smoke them out. I don't care
 8 who does what.
 9 That's why I go back to campaign contribution.
 10 Give a hundred thousand bucks and list your wife and
 11 what she is involved in and whether you're on the board
 12 of Procter and Gamble or whether you're getting money
 13 out of the treasury or whatever, whatever, whatever.
 14 Just smoke them out. Forget this esoteria of doing good
 15 or backing someone. Somehow that's --
 16 Q. Let me make sure -- I think I understand that.
 17 If you had, in an electoral district, in a state or in a
 18 congressional district, a candidate who got all of his
 19 money, 100 percent of his campaign finance money from
 20 Enron, but it was known he was the Enron candidate, that
 21 it was literally Joe Smith, brought to you by Enron,
 22 please elect to the U.S. Congress, then that is a
 23 completely transparent system. And the voters of that
 24 district are then going to decide, do they want Joe
 25 Smith, brought to them by Enron, or do they want someone

25

1 else who is -- who also is transparent where he got his
 2 money?
 3 Let's say the other candidate got his money
 4 only from residents of the district, and he lists all of
 5 their names, and then the voters decide, of that
 6 district, they decide who is going to represent them in
 7 the United States Congress.
 8 Now, that's a long hypothetical I've given
 9 you. But if that's the way the system worked, do you
 10 think there would be an appearance of corruption? I
 11 mean, do you think that is a system that is a fair
 12 system?
 13 A. It would be better now if I answered your
 14 questions and you played with the hypothetical. I don't
 15 even know where that's going. But I can tell you that
 16 the issue for me is as simple as you can get. You're
 17 going to set a limit, fifty thousand or a hundred
 18 thousand. Obviously it's not going to be a singular
 19 candidate. There's no hypothetical like that in the
 20 world. You're going to say you can't give over fifty
 21 thousand bucks or a hundred, but you're going to need
 22 two million, so you're not going to have every singular
 23 candidate. You're going to have lots. But you ought to
 24 know exactly where they get their money and who the
 25 people are that are giving them the money. There will

26

1 never be a singular candidate captive of a single
2 entity. They will be captive of entities that everyone
3 will know of.
4 Q. So are you saying my hypothetical is too
5 far-fetched to comment on?
6 A. For me it is, yeah. When I practiced law for
7 eighteen years, I never let a witness answer a
8 hypothetical question. So I don't think I'll start.
9 Q. I don't know whether you mean that it's a bad
10 tactic. I am allowed to ask you that.
11 A. Yes, you are. And I'm allowed to not answer
12 it.
13 Q. Well, you can not answer -- you have to
14 answer. But you can say --
15 A. Well, I can say I don't like hypothetical
16 questions. And I don't. So I won't answer it. That
17 ought to clear it up.
18 Q. Then let me try to explore another thing,
19 which is the difference between getting support from a
20 for-profit entity, versus getting it from a not-for-
21 profit entity. And let me begin by asking you this
22 question. If you were an elected representative in the
23 U.S. Congress or the U.S. Senate, and in trying to make
24 up your mind how to vote on a specific initiative,
25 specific piece of legislation, you are influenced by the

27

1 views of the majority of your constituents who elected
2 you -- which is not a hypothetical question, because I
3 assume that, in your experience as a United States
4 Senator, that that dynamic is something you're familiar
5 with -- would you agree or do you believe -- let me not
6 ask it in a leading way. Do you believe that that is
7 the way in which our democratic system of electoral
8 politics is supposed to work?
9 A. Well, yeah. But they hire you for your
10 brains. I didn't always vote the way my letters read or
11 the polls. I never took a poll. The only poll I ever
12 took was election year.
13 Q. Let me be clear. I understand the difference
14 in -- that you may not always be governed solely by your
15 constituents, and you're not operating strictly as a
16 delegate. But you are a leader and may choose to buck
17 the majority trend and convince your constituents to
18 change their mind, rather than simply doing what they
19 say.
20 But I just want to make sure I understand that
21 it is your understanding, as a former United States
22 Senator, that there's nothing improper about that
23 influence, that dynamic that constituents have on their
24 representatives.
25 A. That's all day long. That's the essence of

28

1 politics. People are attempting to influence you day
2 and night from every source on every bill. Please vote
3 this way. Help me do this. We hope you'll vote for
4 this amendment. You know, if the phone rings, that's
5 democracy.
6 Q. Right. That's how democracy works.
7 A. Yeah.
8 Q. Instead of it being simply your constituents,
9 your elected -- the residents of whatever district
10 elected you, it is a nonprofit organization that gets
11 its money from voluntary individual members like the
12 NRA -- some of them may be your constituents, but which
13 is organized to promote a particular viewpoint on a
14 particular public policy issue like gun control or
15 abortion or taxes or what have you, and they attempt to
16 influence you by arguing substantively over the merits
17 of an issue, the same way constituents would, isn't that
18 also as distinguished from a for-profit entity -- which
19 I'll ask about in a minute -- isn't that also part of
20 the give and take of a democratic system?
21 MS. SEALANDER: I'm going to object to
22 the description of NRA.
23 A. I should describe the AARP, then, those worthy
24 33 million Americans bound together by a common love of
25 airline discounts. You're all in it to get your thing

29

1 done, and you do it with intensity. I was there.
2 Q. (BY MR. HUME) Just so you're clear, when you
3 say you --
4 A. The NRA. You ain't exactly one to wallflower.
5 I mean, you guys got hog. You can terrorize people.
6 You're like the NEA, the National Education Association,
7 or the AARP. You don't think that a Congressman is less
8 terrified, is the word, by the NRA or the AARP or the
9 NEA? They're scared to death of them. And that's part
10 of what I put in here.
11 But Dole and I would be looking for votes and
12 say, yeah, God, we need your vote here. This is a
13 national issue. And I'd say, I can't vote for that.
14 Why? Because up in my state, the bastards will tear me
15 to bits. And you say, well, yeah, but you're elected to
16 due the national duty. Yeah, but I don't want to spend
17 the rest of my time dealing with that group, because
18 they're tough, they're mean, and they send letters, and
19 they send scorecards. And come on, guys, let's get
20 serious.
21 Q. In other words, these groups that you've
22 mentioned as examples, the NRA --
23 A. And you.
24 Q. -- the NRA and AARP and other groups are
25 powerful and influence the way legislators act because

30

1 they influence what constituents think?
 2 A. They can go back and fan the flames. They can
 3 go back and drive you insane.
 4 Let me tell you one that your group did, so
 5 you get the message. You'll like this. Dole and I and
 6 some others put together a little piece of
 7 legislation -- I think it was two and a half million
 8 bucks. You can find it somewhere -- for the inner city
 9 of Los Angeles to use -- to advertise that if you
 10 brought in your gun, if the Crips and the Blues and the
 11 Reds or whatever brought in their gun, they would give
 12 you two tickets to a Lakers game and some other things
 13 and five hundred bucks or three hundred bucks. And that
 14 was the purpose of the money, to try to get guns out of
 15 the hands of gangs. Sounded like a damn good thing to
 16 me.
 17 And Dole and I and the rest of us got savaged
 18 by the NRA and others on the basis that this was a
 19 slippery slope. This was a slippery slope to doom.
 20 They're out there buying your gun, your precious gun.
 21 And God knows, when you're a guy that's been on federal
 22 probation for shooting mailboxes and shot expert with
 23 damn near every weapon in the Army, I love guns. I can
 24 shoot them. I love it. I hunt.
 25 But for God's sake, when you have that kind of

31

1 stringency and stridency and then pick on the people who
 2 are for you and fight your good fights, it's about
 3 purity. And let me tell you, the AARP is about purity.
 4 You, by God, help the old farts or you're out in the
 5 cold. And they'll send the troops. The scorecard will
 6 go back to your district. The scorecard on the NRA will
 7 go back to your district. Or AIPAC. AIPAC. We're not
 8 a PAC. That's the American Israel Political Action
 9 Committee. Power, pure power. And then the scorecard
 10 goes back.
 11 And so you have guys who are chilled. And
 12 just because they're nonprofit, they're not chilled?
 13 Forget it. Forget it.
 14 Q. What is a scorecard, when you refer to --
 15 A. It says, on house bill so-and-so, this jerk
 16 voted this way. And here's how our association would
 17 have voted. And those go out day and night through your
 18 whole tour of duty.
 19 Q. To whom?
 20 A. To the people in your state.
 21 Q. Is Wyoming a big NRA state? I assume it is.
 22 A. Sure.
 23 Q. Do you have any idea how many -- off the
 24 record for a moment.
 25 (Discussion off the record.)

32

1 Q. (BY MR. HUME) Do you have any idea
 2 approximately how many resident voters in Wyoming are
 3 members of the NRA?
 4 A. Per capita. I suppose it would be as high as
 5 any other state. You see that little old decal in the
 6 back of --
 7 Q. But as a percentage, it might be higher than
 8 your average state. Is that right?
 9 A. It might well be.
 10 Q. Would you say that the NRA was a powerful
 11 influence on the voters in Wyoming?
 12 A. I would. And I'll show you how powerful.
 13 Because they got into the last primary election. We had
 14 three capable people running for the primary in
 15 Republican for governor. And the NRA, a month or three
 16 weeks before, endorsed Eli Bebout, who is my candidate.
 17 And the other two candidates, who were just as anti gun
 18 control as they, one a rancher and one a journalist
 19 businessman, they said, well, how about us? How the
 20 hell did we get left out? We're just as anti gun
 21 control as Eli Bebout.
 22 And there was no response from the NRA for a
 23 while. And then they responded that Eli had a voting
 24 record, which was a pretty good out, that he had been in
 25 the legislature for thirteen years, and they'd seen his

33

1 votes. And the other two candidates had no, quote,
 2 public forum record that they could go to. So they
 3 backed Eli, which irritated the other two guys. And Eli
 4 won by two to one.
 5 Q. When you say they backed him, how did they
 6 back him? Do you know?
 7 A. They endorsed him.
 8 Q. They explicitly endorsed him?
 9 A. Yeah.
 10 Q. Do you know if they ran any, what have been
 11 called issue ads? And let me define what I mean when I
 12 say "issue ads," because I may ask about them later.
 13 Essentially political broadcasts, again, within 60 days
 14 of the election, that mention the candidate but that
 15 don't have one of these so-called magic words. They
 16 don't expressly endorse the candidate by saying, vote
 17 for or against someone. Do you recall whether the
 18 NRA had any of those kinds of broadcasts?
 19 A. I don't, because I don't watch television much
 20 at all. But I do know that Eli proudly said that he had
 21 received word from the NRA that they had endorsed him
 22 and that so-and-so had called from the organization or
 23 he had a letter or he had something that they have
 24 endorsed him as Republican candidate for governor
 25 because of his very fine record on issues of interest to

34

1 the NRA.
2 Q. And a record that the other candidates didn't
3 have?
4 A. That was the eventual description of why they
5 had done that.
6 Q. Do you recall whether the -- did the NRA ever
7 support you in a campaign against another candidate?
8 A. Sure.
9 Q. Did they ever -- do you recall whether they
10 ever ran, what I've just described as issue ads, in your
11 campaigns?
12 A. I don't know. But you see, when you're
13 dealing with a phrase like "magic words," the American
14 public is so turned off by that crap. And that's part
15 of what I'm talking about. When we get to, quote, magic
16 words in an issue ad, magic words are, how do you beat
17 your opponent when you're crafting those?
18 And so I understand what you're talking about.
19 And I certainly know what issue ads are and the magic
20 words. But that's where the cynicism comes. It's not
21 the cynicism between me and your group. I can
22 understand what you're doing. It's the cynicism of
23 Americans watching it happen.
24 Q. Let me ask you about that. Do you think
25 Americans, the American public generally -- first let me

35

1 ask you, do you think that when they see a political
2 broadcast by an issue group like the NRA that they
3 perceive to be in favor of one candidate or another, do
4 you think that they perceive some kind of a corruption
5 when they see that?
6 A. They perceive some kind of hacking on the
7 other guy. Whether it is or not, they perceive that,
8 that somebody is slashing at somebody. You can't do
9 anything anymore, because the media picks it up and
10 says, Joe slashed so-and-so.
11 And hell, I come from the old school, where
12 they tipped your car over back in the '40s, and if you
13 don't like the combat, get out of it. But I've got to
14 go back and go to school, because I believe it's a
15 contact sport. And nowadays everything is -- everything
16 is a savage attack, even the lesser. So people see any
17 kind of an ad, unless it's about your family and what a
18 sweet guy you are, as an attack.
19 Q. In other words, you believe that political
20 campaigns have become more negative recently?
21 A. Sure. Yeah. An attack unanswered is an
22 attack believed. And savagery is a lot of it. It's a
23 case of how far you go.
24 Q. So is the negative -- in your view, the
25 negative reaction, the cynicism that you referred to the

36

1 American public perceiving and having regarding our
2 election system, a result of the negative nature of
3 these attack ads and the fact that they look like they
4 do buy some form of special access or lead to some form
5 of special access?
6 A. They're tired of it. 17 percent of them voted
7 in this last cycle, the primary. So what does that
8 show? That shows they're tired of listening to the
9 crap. They're tired of the advertising. They're fed
10 up. And that's what the American public is right now.
11 Because they know these groups are powerful. And then
12 when these groups come together to try to strike down
13 anything we do on the basis of the First Amendment, I
14 think it's a pretty wretched way to do business.
15 Q. Do you think that the system would be better
16 if there were a smaller quantity, a fewer absolute
17 number of these kinds of political broadcast
18 advertisements in our elections?
19 A. You're never going to get that done, either,
20 because the broadcasters kite up the money. And they
21 make more money off of us when we're running than any
22 other group known to mankind. And then you try to do
23 something with that, and that will fail, too. Because
24 you come home here, and you go to KODI, down at the
25 radio station, and somebody says, they asked me to do an

37

1 hour of free stuff a month or a week. Are you kidding,
2 Simpson? I eat off of that. You're making 133 grand.
3 I'm working my ass off down here at this radio station,
4 and I've got to give free time to jerks like you and
5 lose money for my family. Stuff it.
6 And the broadcasters have that one all sealed
7 up. They'll never get that one done. And it sounds so
8 good. It sounds so good. But see, there's a reality
9 there. You don't want to make that man at KODI or that
10 gal at KODI mad at you, because they won't interview you
11 on the talk show, for God's sake, when you go through
12 there campaigning.
13 The realities of the misfire between what's
14 going on and what we do as politicians is total, and
15 then the misfire of how the public perceives it.
16 Q. What do you think the biggest misperception is
17 that the public has about the way in which the election
18 system works?
19 A. That the more money you got, the more you get
20 your voice heard. Doesn't matter whether you're profit
21 or nonprofit. The more bucks you get into the system --
22 and it's all listed there. They can pick it up in the
23 Casper Star-Tribune and read how much you got. And
24 they'll say, Simpson's a captive of the oil industry.
25 That's for sure. And the coal industry. That's for

38

1 damn sure. We'll list him among the seven deadly sins.
 2 He's one of the dirty dozen. And that would often
 3 happen.
 4 And I represent the largest coal-producing
 5 state in the United States. What the hell do you think
 6 I'm trying to do? I represent the largest trona
 7 producer. Every piece of glass has trona in it. What
 8 the hell do you think I'm trying to do? Because people
 9 eat off those jobs.
 10 And they think, he's a captive. He's not one
 11 of us. He gets all his money from the big guys, gets it
 12 from the NRA and the AARP and all the big guys. And
 13 there are a lot of members in Wyoming, and they write
 14 you nasty letters, too. They say, I received my
 15 scorecard on you, Simpson, from the NRA. And I'd like
 16 to tell you that I'm not going to vote for you again,
 17 because you voted this way on HR Senate File so-and-so,
 18 so stuff it.
 19 Q. Have you received letters like that?
 20 A. Sure.
 21 Q. Did you receive letters like that after this
 22 Los Angeles initiative that you referred to?
 23 A. You bet. How could you do this? How could
 24 you and Dole, people who have supported us, who tried to
 25 get the Brady Bill amended, who tried to do this and

39

1 that -- and you, Simpson, have been right there in our
 2 corner. How could you possibly start us down the
 3 slippery slope?
 4 So I finally just -- I composed a letter that
 5 was magnificent. I find it in my great chronicles. And
 6 I wrote them. I said, if you're this boneheaded about
 7 trying to get guns -- and don't forget what George Bush,
 8 the first finally said about the NRA. Pretty harsh.
 9 jack-booted. Remember that little baby?
 10 Q. I don't, but --
 11 A. Well, look that one up. That's how far groups
 12 can go, including yours. NEA, National Education
 13 Association, tough, mean sons of bitches. AARP, tough,
 14 mean sons of bitches. These guys smile a lot and carry
 15 a dirk up their sleeve.
 16 Q. You mentioned you wrote a letter in
 17 response --
 18 A. Dirk, d-i-r-k. It's marvelous. Snickersnee,
 19 sword, hatchet. No. Shut up, Al. Anyway, you can see
 20 that I've been in it a long time.
 21 Q. I can. And I'm interested in the anecdote
 22 about the letters, the exchange you had with your
 23 constituents over this -- when the NRA sent its
 24 scorecard, they wrote these letters, and you responded.
 25 Was there ever a candidate who opposed you in any

40

1 election who made an issue out of this Los Angeles
 2 initiative?
 3 A. I don't remember that specifically, because
 4 usually I was opposed -- I wasn't opposed in a primary
 5 after the first time I ran. And anyone who was a
 6 Democrat who ran against me who wasn't totally --
 7 Democrats aren't as thorough on their issue of feeling
 8 about gun control sometimes as Republicans. So it never
 9 came up in that setting.
 10 Q. What I'm just trying to explore is whether you
 11 have any gauge, any way to gauge whether the dialogue,
 12 essentially, you had with your constituents over this
 13 issue, whether you were able to succeed in explaining to
 14 them that you don't have to be an absolutist, you don't
 15 have to be an extremist, that you are in favor of gun
 16 rights, the Second Amendment, that you're in favor of
 17 the core agenda. Let's say, of the NRA, but that doesn't
 18 mean that you can't see a good program in terms of
 19 having gang members in LA trading guns to solve the
 20 problem of gang violence in an inner city. Do you have
 21 any way of gauging whether you were effective in that
 22 dialogue?
 23 A. I was always effective in the dialogue,
 24 because I drafted my own letters. I had a thing called
 25 the Correspondence Management System. There are

41

1 probably eight hundred paragraphs in it. And all eight
 2 hundred paragraphs, I had drafted. So when a guy wrote
 3 about gun control, I'd just say, hit lever Number 842.
 4 All mine, all my language. I crafted it. And I go
 5 through, and it would be long, two or three pages, and
 6 always irritated people.
 7 Look, I wrote to you because I was bitching,
 8 and I get back an eight-page letter. I said, yeah, you
 9 did. And you asked about my response, and I've given it
 10 to you. And I'd often hear back, saying, I don't agree
 11 with you at all, but I wanted to know if your brain was
 12 engaged and thank you for this.
 13 And I sure as hell did explain what Dole and I
 14 were trying to do that some jerk on a talk show had
 15 distorted. Today we find out that Al Simpson and Bob
 16 Dole have gone from their -- and that happens all day.
 17 All these damn talk show people, all they do is get
 18 people overwrought and their bowels twisted in a knot.
 19 They don't solve anything.
 20 Q. And I hear you completely. But just to be
 21 clear, that, I can imagine, enormously annoying and
 22 frustrating reality of political life does not -- and
 23 I'm asking this as a question, and I take it -- I'm
 24 asking it in a leading way, I'm afraid. Am I right in
 25 saying that despite that annoying reality, you don't

42

1 think that, for example, the NRA shouldn't be able to go
2 on a talk show and say what it says, but it's just part
3 of reality?

4 A. That's an absurd question, because I have
5 never spoken about limiting anyone's First Amendment
6 right to do anything. I just think that now you reach
7 for the First Amendment, pull it out of the air, and if
8 you can fit it to Buckley, you can fit it to anything,
9 grass roots versus AstroTurf, you know, the old game
10 back down, you know, how do we keep the grass roots and
11 not the AstroTurf? And there's plenty of AstroTurf that
12 flies around Washington, D.C. and comes out of groups
13 like this. Veteran's groups, good God, try them.

14 Oh, don't get me started on that. We're about
15 to have lunch, for God's sake.

16 Q. But let's just take it from that appearance on
17 a talk show, something that is clearly an exercise of
18 their First Amendment right, so nothing that you don't
19 oppose, to something that I also gather from your
20 earlier testimony that you don't oppose but I want to
21 explore, which is the running of issue advertisements,
22 advertisements that satisfy the definition of what BCRA
23 calls an electioneering communication, close to the
24 election, mentioning a candidate.

25 MS. SEALANDER: Objection, targeted to

43

1 relevant constituency.

2 Q. (BY MR. HUME) But I think you understand.
3 So, those types of advertisements. First of all, when
4 the NRA pays for -- let me back up and first ask you,
5 when an issue advocacy group like the NRA wants to
6 convince people to agree with it on a public policy
7 initiative, do you agree that public broadcasting over
8 television is one effective way of trying to do so?

9 A. Well, they all do that, of course.

10 Q. And that, for example, when Hillary Clinton
11 tried and the Clinton administration was considering the
12 reform of our health care system, I recall there being a
13 series of advertisements on both sides of that debate
14 run on broadcast television. Do you recall that?

15 A. Sure.

16 Q. And that those were, if you like, genuine
17 issue advertisements focused on a public policy issue.
18 Would you agree with that?

19 A. Well, you wouldn't be advertising if you
20 weren't trying to influence the election and the
21 campaign or defeat someone.

22 Q. Okay. The reason I give --

23 A. Or elect someone.

24 Q. Fair enough. But the reason I begin with the
25 example of the health care reform is that it wasn't

44

1 close to an election, at least as I recall, and that the
2 advertisements were focused on the initiative, the
3 actual health care proposals. And so I'm trying to
4 begin with that as an example of one that wasn't
5 attempting to influence an election.

6 A. It's attempting to influence a vote.

7 Q. Yes. That's right.

8 A. I mean, the stuff you're talking about is not
9 just about affecting elections. It's affecting voting
10 in America.

11 Q. That's right.

12 A. So up comes an immigration bill, and suddenly
13 the Federation of American Immigration Reform is running
14 issue ads. You do the Bork hearing, and here comes the
15 people from the American Way saying that America will
16 disappear if Robert Bork -- I mean, what the hell? We
17 don't need to isolate this.

18 Q. Exactly. My question is -- the question I'm
19 asking is, is there really a difference between the fact
20 that you're going to hear from groups when their issue
21 is on the table in a legislative initiative and the fact
22 that you're going to hear from all groups when you have
23 an election?

24 A. I don't want to get frustrated. I'm 71 years
25 old, and I get tired of this kind of nitpicking crap.

45

1 What is it you are after from me? What is -- ask the
2 goddamn question. What is it you want from me? Ask me
3 something, not just whatever, whatever, whatever. What
4 is it? What do you want?

5 Q. I'm trying to ask whether you see a difference
6 in terms of the negative effects it has, if it has any
7 negative effects on our system, between issue
8 advertising that is focused on a legislative initiative
9 and issue advertising that mentions candidates' names
10 and that may be intended to influence an election.

11 A. It's all the same. You're influencing people,
12 and you're also going to the Congress person and saying,
13 look, you got to be with us on this. And you're doing
14 ads to run that guy off in a hole. You're doing things
15 to influence the vote. You're doing things to get his
16 constituents irritated.

17 How many times have you read one of those that
18 says "write Simpson" at the bottom of it. Call Simpson,
19 hit the phone tree. You do that. What the hell are we
20 talking about? If something's going on you don't like,
21 you call Virginia, you hit the poller, you hit the phone
22 tree, and my switchboard lights up. My e-mail cracks
23 down. What do you think that is? Real life to a
24 politician, is what it is.

25 And you do that well. And they all do that

46

1 well. And it's called hammering you and influence. And
2 if you've given that guy maxed out over the course of
3 years, he's going to listen to you more than he would
4 somebody else that hasn't, he or she. That's the way it
5 works.
6 Q. Okay. My question was simply focused on the
7 fact that that whole process is not different -- if it's
8 focused on the Brady Bill in June, let's say, and
9 there's a massive campaign by the NRA on that or if it's
10 in the last week of October, in the runoff to an
11 election that's very contested between someone who is
12 for gun control and someone who is not for gun control,
13 the same phenomenon. That's my only question. Would
14 you agree with that?
15 A. I'm not even going to go any further. I've
16 said what I want to say. And I've said it about five
17 times.
18 Q. I understood you to be saying that you do
19 agree with that.
20 A. You can go read it again. It's all there.
21 You've asked that question. And I've been as courteous
22 as I can be. You just keep plumbing around in it. And
23 you're a bright guy and keep plumbing.
24 Q. Senator Simpson, I'm not trying to --
25 A. It's so tedious. You've got some questions.

47

1 Why don't you get to them. Just ask them.
2 Q. I don't think I asked that question more than
3 once, Senator Simpson.
4 A. You keep asking, are issue ads the same
5 whether they're before an election or during an event or
6 something? And I said yeah, they probably are. I mean,
7 that's right. They're to exert pressure to -- to give a
8 scorecard and to get your constituents worked up so they
9 write you. That's what they do.
10 Q. Are you aware of the fact that the new
11 legislation, BCRA, allows media companies to have
12 editorials on candidates for public office and to run
13 the type of advertisements that the NRA and groups like
14 it are not allowed to run within the last 60 days of an
15 election?
16 MS. SEALANDER: I'm going to object as to
17 form.
18 A. A media company?
19 Q. (BY MR. HUME) Yes. In other words, a
20 broadcast company, ABC News, NBC News, Fox TV, CNN, that
21 they are allowed to run advertisements -- or, sorry --
22 editorials that do something that the NRA, other than
23 through its PAC, is not allowed to do under BCRA.
24 A. I don't know anything about that.
25 Q. Is it your view that it is fair to allow, for

48

1 example, ABC News to run an editorial in which it
2 criticizes, let's say, George Bush for being against gun
3 control and supported by the NRA and to attack the
4 NRA and Bush by name within 60 days of the election? Do
5 you think it's fair that they can do that but that the
6 NRA is not allowed to respond with a television
7 broadcast of its own?
8 MS. SEALANDER: Objection.
9 Q. (BY MR. HUME) You're allowed to answer.
10 MS. SEALANDER: I'll explain my
11 objection. The NRA is allowed to do that through its
12 PAC.
13 MR. HUME: We understand the objection.
14 Q. (BY MR. HUME) When I say the NRA, I mean the
15 NRA, not its PAC, unless I say the PAC. If you want to
16 criticize someone for being tedious, I would criticize
17 the government for bringing that up every time. NRA is
18 NRA. PAC is PAC. I will say the PAC when I mean the
19 PAC.
20 The NRA is prohibited by the law, after BCRA
21 becomes effective, from running advertisements that
22 mention the name of a candidate within 60 days of an
23 election. ABC News and other broadcast companies are
24 not. My question is, do you think that's fair?
25 A. If you're explaining it that simplistically,

49

1 it doesn't sound quite fair to me, no.
2 Q. Do you think it's fair that a wealthy
3 individual is able to run those kinds of advertisements,
4 again, let's say criticizing the NRA, or let's say
5 saying exactly what the NRA would say, whatever,
6 whichever side they're on, and the issue group that's on
7 the other side cannot respond? Do you think that's
8 fair?
9 A. I'll bet you that it really doesn't say that
10 in the law. Give me a chunk of the law and let me read
11 it as a lawyer, and then I'll decide if you're phrasing
12 it correctly.
13 Q. I'm representing to you, Senator Simpson, that
14 the issue groups are prohibited from running these
15 electioneering communications unless they do so through
16 their PACs and that BCRA does not affect an individual's
17 ability to run exactly the same advertisements.
18 A. Okay. But now you're saying that they are not
19 prohibited from doing that if they do it through their
20 PAC.
21 Q. That's correct.
22 A. You didn't get that in before.
23 Q. That's not true. I said that several times
24 today, and the counsel from the government has made the
25 same point several times.

50

1 A. Anyway, not the last time. You were talking
2 about the NRA this, the NRA that, as if they were being
3 denied the opportunity to respond. They're not being
4 denied the opportunity to respond if they use a PAC.
5 Isn't that correct? Is that right?
6 Q. So they are allowed to use a PAC. And it's
7 your view that because the PAC is allowed, that that
8 makes it not unfair. In other words, the individual can
9 use their money, and the NRA or other groups can use
10 their PAC money.
11 A. Well, first we're talking about media people
12 and media groups.
13 Q. We've moved on from media.
14 A. Well, I'd like to move back. Because if the
15 media gets to whack on you with an opinion and the
16 NRA, quote, can't respond but the NRA PAC can respond, I
17 think that's perfectly fair.
18 Q. Let me ask this question, then. When the
19 NRA runs an advertisement, a political broadcasting
20 communication, and when the NRA PAC runs it, do you
21 think that the American public perceives a difference
22 between the two broadcast communications?
23 A. Well, not only that, but I don't perceive any
24 difference between a, quote, NRA pronouncement and an
25 NRA PAC announcement. That really is dancing on the

51

1 head of a pin.
2 Q. And to the extent that there is any appearance
3 of corruption associated with such an advertisement or
4 broadcast communication, would you agree that there is
5 no difference between that appearance of corruption
6 whether the ad is paid for by the NRA or whether it is
7 paid for by the NRA's PAC?
8 A. I've never picked a certain piece out of this
9 puzzle and called it corruption on that instance. I'm
10 talking, it has a -- the whole thing has a corruptive
11 influence on Americans and on the political system, the
12 whole issue.
13 So the one ad where you're coming up with, to
14 name it as -- looking at it and say, boy, this is
15 corrupting, the NRA ad, I'm not even going to address
16 that. I'm saying the whole scheme of things here is
17 corruptive. It doesn't look right. It looks like hell.
18 People think it looks like hell. It doesn't work. It
19 works, but it is not -- I'm not going to pick that one
20 right there out of the air and say this is corruptive.
21 And you've got the NRA and the NRA PAC. You
22 know, finally this old cowboy can wake up to that.
23 There's no difference to the American public of who that
24 is. None.
25 Q. When you say you don't want to pick out this

52

1 one piece of the system, namely the piece of issue
2 advertising -- I'm afraid that is what I'm, as you know,
3 have been asking you about and want to ask you about.
4 And so when you say you don't want to pick it out, do
5 you mean you don't have an opinion on whether or not
6 issue advertising that's close to an election generates
7 any kind of an appearance of corruption?
8 A. You haven't asked me that one before. You've
9 talked about --
10 Q. I'm asking now.
11 A. I'm saying the whole scheme of things in
12 campaign finance has the appearance of giving government
13 and the electoral system a corruptive look. If you want
14 to get down into all of it -- I mean, I don't know what
15 ad you're talking about, if you're talking about an
16 NRA ad or an NRA PAC ad. So let me slice it again.
17 I don't think the American people or me make
18 any distinction whether the NRA is doing it or the
19 NRA PAC. And if a radio station or a television outlet
20 has an opportunity to hammer your shorts with an
21 opinion, you ought to respond. And if the PAC can't
22 respond, I think that's a phony restriction.
23 And now go back to, say, the rich guy, who
24 you've asked about, has run an ad and you can't respond.
25 That's phony. But if you're going to respond, then

53

1 respond with the money, which is the PAC. Don't try to
2 say, we're not responding through our PAC because that's
3 about money. We're responding from the goodness of our
4 hearts of the NRA, the beleaguered members of our
5 affiliation. I don't buy that one.
6 Q. But you do agree, don't you, that it's
7 sometimes harder for an organization to raise as much
8 money through its PAC as it can raise through its
9 general membership?
10 A. I don't know. Seems to me with guns, the
11 letters I get would show me that you can raise a hell of
12 a lot more money -- every group I'm connected with, a
13 member of the VFW or the American Legion or the NRA or
14 the AARP -- I joined them just so I could find out how
15 wretched their advertising is -- that the more money
16 they can get is to say, now we're in the political
17 system. Take part or get taken apart.
18 Do you realize as a veteran that you're going
19 to get screwed until your eyeballs fall out unless you
20 get active in lobbying this Congress? And I'm sure
21 that's a hell of a lot more effective than getting a ten
22 dollar thing for my dues.
23 Same with the NRA. They're coming after your
24 guns, guys. So send to the NRA PAC, versus, please send
25 your fifteen dollar dues. You're coming up for renewal.

54

1 We love you and hope you'll embrace. No. You raise a
2 hell of a lot more money by exciting people. hammering.
3 getting all excited. The government is going to do this
4 to you. That's the way you all work.
5 Q. If there's no difference between the PAC and
6 the general treasury, why is it that you think it's
7 important that they should have to respond through their
8 PAC? Or do you not have an opinion on that?
9 MS. SEALANDER: Objection.
10 Mischaracterizes the witness' testimony. You may
11 answer, Senator.
12 A. What is, again, the question?
13 Q. (BY MR. HUME) The question is whether you
14 have an opinion as to whether issue groups ought to be
15 restricted in their ability to run issue advertisements
16 only through their PAC money. Do you have an opinion on
17 it one way or the other?
18 A. I think they should use it only through their
19 PAC money. What the hell else are they raising it for?
20 Q. What if an issue group can't raise enough
21 money through its PAC because, for example, if they
22 raise money from their general membership and only half
23 their membership is able to give additional money to
24 their PAC, doesn't that constrain their ability to run
25 these kinds of broadcasts?

55

1 A. Everybody is restrained in running broadcasts.
2 Little guys on the street in Cody can't run broadcasts.
3 They have no power. That's what we're talking about.
4 The groups have the power. There might be twenty people
5 down here with the AAUW that would like to run ads.
6 They can't raise 50 bucks. Who's feeling sorry for
7 them? Why do I have to feel sorry for you?
8 Q. I'd like to try to run through a couple of
9 specific issue ads or things that may be considered
10 issue ads. Are you happy to keep going?
11 A. Sure. I'm at your disposal.
12 MR. HUME: Why don't we mark this as
13 Simpson Exhibit I, please.
14 Q. (BY MR. HUME) Senator Simpson, do you know --
15 are you familiar with The Concord Coalition?
16 A. Yeah. I'm on their advisory board.
17 Q. Do you recall this particular advertisement
18 I'm showing you. Exhibit I?
19 A. October 1st, 2000. It says, five questions
20 about social security reform. I don't know that I've
21 seen that, but I can probably hunch what's in it with
22 regard to privatization, and what's the future of it.
23 and is anybody paying attention that the damn thing will
24 be broke in 2039? It's pretty important things.
25 especially to people your age.

56

1 Q. I couldn't agree more. And as you noted, it's
2 dated, October 21st, 2000, which was within 60 days of
3 an election. I'd like to refer you to the paragraph
4 right at the top of the page, where it says, "To the
5 American voter." Do you see that?
6 A. Yes.
7 Q. And in that paragraph, in the second sentence,
8 it says, "The two candidates acknowledge the need for
9 social security reform." Would you agree that it's
10 clear that the two candidates referred to there are
11 George Bush and Al Gore, given that this --
12 A. I suppose at that date, assuredly so, yeah.
13 They didn't put presidential in there, but --
14 Q. Having had a minute to review this exhibit,
15 I'd like to just ask you very simply whether you believe
16 this kind of political advertisement generates any kind
17 of an appearance of corruption in our electoral system.
18 A. Well, obviously if I -- I'm on the advisory
19 board of the operation. But all is not corrupt. The
20 entire scope of what you're seeking today is what I'm
21 saying has a corrosive, corruptive effect on American
22 politics.
23 Now, you can go through anything you want to
24 dig up, and I'll then approve it and say this does not
25 look corruptive, and then I'll get over in one with the

57

1 AARP and say this is corruptive, or the American
2 Association for Medicare and Policy, and I can show
3 you -- you stack them up, and I'll go through them all
4 and tell you the ones I think that are phony-baloney and
5 the ones that I think make people cynical.
6 This one should not make people cynical
7 because it's dealing with the stuff from the trustee's
8 report of the Social Security Administration. That's
9 where these facts have come from. I know because I held
10 hearings on this kind of stuff.
11 So ask the candidate, what will happen to the
12 deficit of social security when only three-fourths of
13 the benefits will be paid out in '39? Why have we come
14 to this point where the replacement rate is not 41 to 43
15 percent, but people are getting more? How come you get
16 all your money back in the first three years of the
17 benefit period now and you didn't be able to do that
18 when we started it? How come the life expectancy was 57
19 years when the son of a bitch started and now it's 75
20 and the thing can't work? It's a Ponzi game. That's
21 real.
22 So this is not corrosive or corruptive, and I
23 hereby put my stamp upon it as real, because I happen to
24 know intimately about it.
25 Now, hand me another one.

58

1 Q. I'm afraid I am going to hand you a couple of
 2 others, up to about a dozen.
 3 A. Good.
 4 Q. I have similar questions but slightly
 5 different on some of them. And it is important to this
 6 litigation in the sense that we do have to,
 7 unfortunately, focus fairly specifically on both
 8 understanding your perspective as not only a witness in
 9 the litigation but as a distinguished senator, former
 10 senator, who has obviously a wealth of personal
 11 experience. So I hope you don't mind that I do need to
 12 ask you a few more questions.
 13 A. I don't mean to be offensive. You know, I
 14 practiced law too long. I sat in courtrooms where, if
 15 there were a judge here, the judge would finally say,
 16 you know, please, would you just please -- lunch is
 17 coming, midnight is coming. Would you please direct
 18 your questions to this witness and get to where you're
 19 going. There is no judge here. And I guess I shouldn't
 20 be playing it. I'll be glad to answer questions. But I
 21 just -- just hammer me. Just say, what the hell are you
 22 doing? Are you avoiding my answers? But let's get on
 23 with it.
 24 Q. I'm doing my best.
 25 MS. SEALANDER: Is this Exhibit 1?

59

1 MR. HUME: This is Exhibit 2 coming.
 2 That was Exhibit 1. Please mark this as Exhibit 2 and
 3 3. The top one is 2. This is 3. That's 2.
 4 Q. (BY MR. HUME) Senator Simpson, we've had
 5 marked as Exhibit 2 an excerpt from the National Journal
 6 that they've given us permission to use that first
 7 describes and then essentially transcribes an
 8 advertisement run by Mark Shriver, who was a candidate
 9 for the Democratic nomination for Congress in Maryland,
 10 and secondly an advertisement by Chris Van Hollen, also
 11 a candidate for Congress in Maryland. Both of these
 12 advertisements refer to the NRA. I'd like you to just
 13 take one minute to read them over quickly, if you could.
 14 MS. SEALANDER: Let's add some context.
 15 Senator, these are two Democratic candidates --
 16 THE DEPONENT: He won against Connie
 17 Marello.
 18 MS. SEALANDER: Yeah. And Shriver lost,
 19 and Van Hollen won.
 20 THE DEPONENT: Was it close?
 21 MS. SEALANDER: I think it was not as
 22 close as -- well, yeah, it was very close. Yes, very
 23 close.
 24 A. Are the words "Ad Spotlight," is that just a
 25 regular --

60

1 Q. (BY MR. HUME) It's just a service the
 2 National Journal has for excerpting certain ads.
 3 A. Go ahead.
 4 Q. This question is similar to the one I asked
 5 earlier in the deposition about the NRA's ability to
 6 respond to ads that directly reference or confront or
 7 attack them as an organization. And the question is
 8 similar here but I think with the example of two
 9 specific ads run by candidates in an election during
 10 that primary season that specifically reference the
 11 NRA and specifically oppose the NRA.
 12 And the question is whether it's your view
 13 that the NRA should or should not be able to respond to
 14 those, including through reference to the candidates by
 15 name.
 16 A. Well, they've certainly referred to you by
 17 name and slapped you around. So when you're talking to
 18 a guy like me who says an attack unanswered is an attack
 19 believed -- furthermore, an attack unanswered is an
 20 attack agreed to. So I've lived that way.
 21 Now, there are a couple ways to handle that.
 22 Let old Charlton Heston get on his hind legs at a press
 23 conference and tear this guy to shreds. You don't need
 24 any money to do that. That's called a press conference.
 25 And you don't let people get away with distorting who

61

1 you are.
 2 So you call a press conference or your
 3 national executive director calls a press conference.
 4 And then if you want to do an ad, you do an ad. And if
 5 you do an ad, you pay for it. You're not saying you
 6 don't pay for ads, are you, that you do? Then I don't
 7 care where you get the money. You pay for an ad and you
 8 refute this.
 9 MS. SEALANDER: Mr. Hume, let me just ask
 10 a question. This exhibit is marked "confidential/
 11 attorneys eyes only."
 12 MR. HUME: Which one are you talking
 13 about?
 14 MS. SEALANDER: The Shriver.
 15 MR. HUME: The National Journal
 16 spotlight?
 17 MS. SEALANDER: Excerpt has been
 18 designated by somebody -- I can just assure you, not the
 19 Federal Election Commission -- as confidential/
 20 attorneys' eyes only.
 21 MR. HUME: I believe the reason for that
 22 is that the National Journal has some kind of a
 23 copyright power over these spotlights that they run.
 24 And they've given us special permission to use them.
 25 But maybe that special permission was given pursuant to

62

1 this "attorneys' eyes only."
 2 MS. SEALANDER: Are we concerned of
 3 Senator Simpson as being one of the attorneys involved
 4 in the litigation so that we can show this to him?
 5 MR. HUME: It's my understanding the
 6 National Journal has given us permission to show it,
 7 yes.
 8 MS. SEALANDER: So this is NRA's
 9 designation?
 10 MR. HUME: I don't know that for a fact.
 11 MS. SEALANDER: But it may be the NRA's.
 12 And if it is, it may be because of the deal that you
 13 have cut with the National Journal?
 14 MR. HUME: That's the only rational
 15 explanation I can give to that, given that the ad itself
 16 is public. So it's hardly confidential.
 17 Let's mark this as Exhibit 4, please.
 18 Q. (BY MR. HUME) Senator Simpson, Exhibit 4 has
 19 a Bates stamp, so I'll actually identify it by just
 20 saying the Bates stamp at the bottom right corner is BRE
 21 001223. This is an advertisement run in conjunction
 22 with a Senate race in Nevada, a race between Harry Reid,
 23 who I believe was the Democratic, and John Ensign, who I
 24 believe was the Republican. And if you'd just take a
 25 moment to read it, that would be great.

63

1 A. Okay.
 2 Q. And this advertisement says, as you will have
 3 noticed towards the end, that exhorts the viewer to call
 4 Harry Reid and John Ensign and tell them, quote, no
 5 matter who goes to Washington, you want them to cut your
 6 taxes. In light of the fact that it's phrased that
 7 way -- and you should assume for all these ads, by the
 8 way, that they were run within a period of time close to
 9 the election, within 60 days. For this specific
 10 advertisement, is it your view that this was intended to
 11 influence the outcome of that election?
 12 A. It's intended to let people know that this
 13 group, whoever it is -- I don't see their name, which is
 14 not good. And I'd call it totally inappropriate,
 15 because it doesn't say who the hell these people are.
 16 Q. Aside from the failure to disclose, which I
 17 understand is very important --
 18 A. To me, it is.
 19 Q. -- very important to you, is there anything
 20 else about the ad that you find inappropriate or
 21 objectionable in the sense that we've been discussing
 22 today?
 23 A. It's at least saying that this group stands
 24 for -- it's a single-issue group, and anybody can pick
 25 that out. And they don't want any more taxes. But they

64

1 don't say who they are. And they want whoever goes
 2 back -- they're not hammering either one of them -- tell
 3 them to cut your taxes. And that's what they're saying.
 4 Q. By your reaction to it, is that it is not
 5 intended to influence the outcome of this race between
 6 Harry Reid and John Ensign?
 7 A. I don't see how. It doesn't say vote for one,
 8 who is trying to do it, and the other isn't. It's very
 9 bland. It's a single-issue group. You can spot it in a
 10 minute. I was on a national commission about
 11 advertising, and we didn't resolve anything, because
 12 David Broder would say that's an offensive ad, and Kay
 13 Graham would say that's an offensive ad, and somebody
 14 else would say it's not, and I'd say, well, it isn't.
 15 And so those are just -- that's the way that's going to
 16 be forever.
 17 Q. Could you tell me a little bit more about that
 18 national commission?
 19 A. I can't remember. It was the former gal who
 20 was the head of the -- she died. She was head of the
 21 Christian Science Monitor. And I could get my file on
 22 it. It was trying to bring clean campaigning and stop
 23 savage advertising and take a pledge, sign a pledge
 24 before the campaign that you would not do -- and it
 25 helped candidates who signed it. Those who didn't, they

65

1 felt it hurt them.
 2 And we would go through the ads. And it was
 3 fascinating, the difference of opinion. And that's what
 4 it would be here. To me, you're asking me, and since
 5 I'm the one deposed, I would say that this is not an
 6 offensive ad, but it certainly is a single-issue ad of a
 7 group that is unnamed. So I'd just throw it in the junk
 8 heap quick.
 9 Q. You'd throw it in the junk heap?
 10 A. Yeah. It doesn't have anything to do --
 11 there's no attribution to it. And you've got to have
 12 attribution.
 13 Q. Of who paid for it?
 14 A. Yeah. Who paid for it by who? Who are the
 15 people? Who is Mary Reid? Oh, that's Harry. But who
 16 are these people?
 17 Q. Because that was my next question. I'm sorry
 18 just to belabor this. If this ad did identify who paid
 19 for it, would that -- would it then be something that
 20 you found to be objectionable or something that is part
 21 of the problem in our campaign finance system?
 22 A. It's just campaigning. I don't find it
 23 objectionable. They haven't hammered either one of
 24 them, as I said.
 25 MR. HUME: I'd like to mark Exhibits 5

17 (Pages 62 to 65)

66

1 and 6 together. 5 is the one on top on Orrin Hatch. 6
 2 is the one below on Al Gore.
 3 Q. (BY MR. HUME) Senator Simpson, Exhibit 5 is
 4 an advertisement that refers to Orrin Hatch, and Exhibit
 5 6 is an advertisement that refers to Al Gore. Please
 6 take a moment just to look them over quickly.
 7 A. Uh-huh.
 8 Q. You've had a chance to look at them?
 9 A. Uh-huh.
 10 Q. Both of these ads refer to the health care for
 11 the elderly. Exhibit 5 does so in a way that refers
 12 specifically to Senator Hatch, and Exhibit 6 does so in
 13 a way that refers to Al Gore. Again, I'd like you to
 14 assume that both were run within 60 days of the election
 15 in 2000 and ask you whether or not, looking first at
 16 Exhibit 5, you think it was designed to influence the
 17 outcome of that election.
 18 A. Well, I think so. It talks about Orrin Hatch
 19 and what a sweet guy he is, he's a fascinating friend,
 20 and that they need help. And it would be really nice to
 21 know who the PFB Alliance for Quality Nursing Home Care
 22 is and whether it's a former member of the Republican
 23 National Committee or just who the hell it is.
 24 Q. Let me ask you about that disclosure, because
 25 when you say it's important to know who they are, do you

68

1 listing out every person who has given money to either
 2 The Concord Coalition or the Alliance for Quality
 3 Nursing Home Care. It may be that that information can
 4 be disclosed elsewhere on a website or in an FEC
 5 document or something. My only question is, for purpose
 6 of assessing these advertisements, whether they're run
 7 in print or broadcast, it's not practical, is it, for
 8 them to list more than who they are, what their name is?
 9 A. Yeah. You have a contact there of a person --
 10 you do in Wyoming law. You put P.O. Box Number 402, or
 11 you put the address of the person. And you have to have
 12 a name, paid for by the Alan K. Simpson for Senate
 13 campaign, Joe Ratliffe, chairman. Box so-and-so. That
 14 has to appear.
 15 Q. And does that allow the viewer to find out
 16 where that organization is getting its money?
 17 A. Yeah, sure.
 18 Q. Do you know if it's possible for a member of
 19 the public to find out where The Concord Coalition
 20 raises its money?
 21 A. Yeah. You write to The Concord Coalition and
 22 say, where do you get your money?
 23 Q. And they will tell you?
 24 A. Well, sure, because that's what they are.
 25 They're a public advocacy group, just like the DAV or

67

1 mean it's important to know -- obviously, where the
 2 money is coming from. Right?
 3 A. Yeah. Who are these people?
 4 Q. And if you don't know that, then it's a
 5 problem?
 6 A. Yeah. In my mind, it is.
 7 Q. But I don't quite understand -- although
 8 perhaps there's a ready answer to this. If we go back
 9 to Exhibit 1, which was obviously paid for by The
 10 Concord Coalition, which does have three distinguished
 11 public officials signing it, does the average viewer
 12 know where The Concord Coalition gets its money from?
 13 A. I would think that any American with half a
 14 brain would know that when somebody is putting an ad on
 15 television, that somebody's paying for it. And it's
 16 going to be big money. Or putting an ad in the paper is
 17 going to cost money. And I would assume that they think
 18 they're getting it from people who hold their same view.
 19 Got it? And if that's the case, then they got it from
 20 people who embrace the things in The Concord Coalition
 21 ad and people who embrace the things in the Orrin Hatch
 22 ad and people who embrace the Al Gore ad. And that's
 23 where they got their money.
 24 Q. Right. And my only question is, there's
 25 obviously a practical limitation here in terms of

69

1 the American Legion. All of them have at the bottom of
 2 their annual report -- if I could look at that exhibit
 3 again. And there's an address. Call The Concord
 4 Coalition. There's a phone number. And say, where do
 5 you get your money? And they ought to have that, by
 6 God, right here. And put at the bottom and just say,
 7 post office box, ad, phone number, and then you can call
 8 them and say, where do you get your money?
 9 Well, actually, we got our money through
 10 amazing sources. Soft money. We got our money
 11 through -- really, we got it legally. That's what
 12 they'll say. And then on it goes.
 13 But here is a better example, where you have a
 14 phone number, an e-mail address. Here you have nothing,
 15 and here you have nothing. And both of these -- well,
 16 call Al Gore, this one says. And this one has an eight
 17 hundred number. And you can call and say, where do you
 18 get your money?
 19 Q. On Exhibit 6, is it your interpretation or
 20 assessment that it is intending to influence the outcome
 21 of the election?
 22 A. No. It's attempting to influence Al Gore.
 23 They're not influencing the election here. They're
 24 influencing Al Gore. Keep the promise, Al. They're not
 25 saying vote for Bush.

70

1 Q. It doesn't have a date. But I'd ask you to
2 assume that it was within 60 days of the 2000 election.
3 A. It was during the presidential race? I would
4 have thought it would have been a Senate race of Al
5 Gore, the way that's structured.
6 Q. I will represent that I'm not certain. But
7 I'd like to ask you to assume that it was the
8 presidential race.
9 A. Well, that's a strange one for a presidential
10 race.
11 Q. Why do you say that?
12 A. Because it doesn't say anything about an
13 opponent. It's just putting the heat on Al Gore. And
14 that's what issue groups do. They don't -- they're less
15 interested in -- and they can craft anything. Their
16 purpose is to put the heat on the candidate.
17 Q. Is it your view that this was designed to put
18 the heat on Al Gore?
19 A. Obviously. Yeah, that's my view. Some poor
20 woman with tears in her eyes, help the elderly, because
21 poor old Al is not restoring the Medicare cuts.
22 Q. If this advertisement in Exhibit 6 identified
23 not only the name of the group that paid for it, but the
24 contact information that, for example, The Concord
25 Coalition provided, do you think that -- is it your view

71

1 that it would then be okay and not something that is
2 causing systemic -- perception of systemic corruption?
3 A. I've answered the question. It's an ad,
4 again, putting the heat on Al Gore. That is politics.
5 I'm just saying when you add all this stuff up, it's
6 corrosive and corruptive. I will hereby give my stamp
7 of approval to this as a political ad that is not evil.
8 It's called putting the heat on Al Gore. And it says,
9 Al, you keep your promise. I'll give that the kiss of
10 approval.
11 This one here of Orrin Hatch, this is a sweet
12 ad about Orrin. Orrin is a wonderful guy. And this is
13 a kindly ad about Orrin Hatch. And I hereby approve
14 that as not being evil. And I'd like to know who the
15 hell both of them are.
16 The Harry Reid and John Ensign ad I hereby
17 decry as not evil. It's pabulum. The one from Van
18 Hollen is called politics. And it's a contact sport.
19 And he's saying who he is. You have to divorce yourself
20 from the group versus a campaign.
21 This is a campaign pushing this baby out here,
22 quoting the Washington Post, the Sun, what a sweet guy
23 he is. He hates the NRA, does things for the children
24 and education, is a hero to environmentalists. That's
25 called politics. And Shriver here is pure politics.

72

1 He's hammering you. It doesn't feel good. You don't
2 like it. But it's called politics, a contact sport.
3 The Concord Coalition is giving facts to Americans who
4 are so fast asleep on the issue of social security, they
5 don't even know what the hell is up.
6 And you could hand me stack after stack, and
7 I'll honestly stay here and try to assess my own
8 thoughts of them.
9 Q. I'm going to hand you two on John McCain,
10 which I think are now 7 and 8, 7 on top.
11 MR. HUME: Let me just have the court
12 reporter mark these Exhibit 7 and Exhibit 8.
13 A. Which one is 7, now?
14 Q. (BY MR. HUME) 7 is the one with the darker
15 Storyboard excerpts. Let me identify them for the
16 record. Exhibit 7, Senator Simpson, has the Bates Stamp
17 NRA 09579. Exhibit 8 does not have a Bates stamp on it.
18 Both of them involve Senator McCain. Take a moment to
19 look at them, if you would. Thank you.
20 A. Okay.
21 Q. Senator Simpson, again, assuming that both of
22 these ads were run within 60 days of the election in
23 2000, in which Senator McCain was a presidential
24 candidate during the primary season and I believe was
25 then elected -- reelected to Senate in Arizona, although

73

1 I'm not sure about that, I'd like your impression as to
2 whether you believe these advertisements were designed
3 to influence the outcome of an election.
4 A. Well, first of all, we all in public life are
5 asked to do the public -- what's the proper phrase?
6 Public information campaign. That's not the phrase.
7 MS. SEALANDER: Public service
8 announcements?
9 A. PSAs. PSA's. And you do them about
10 recycling. And they're usually very careful not to ask
11 you to do that in an election year. You do that in your
12 first year of your six-year term. And you go on
13 television, and you say, let's all recycle together,
14 Senator Al Simpson. And it's good, and nobody feels any
15 pain. But it sure as hell doesn't hurt you. It doesn't
16 hurt you at all. You'll be coming home as the guy who
17 likes to recycle.
18 So in looking at these, I don't know where
19 they appeared. But John McCain is speaking as a person
20 in favor of clean elections, which is a good thing to do
21 in an election year or any year.
22 So who are the paid for by the Clean Elections
23 Institute, Inc? Blank, chairman, phone number. And
24 then find out whether they are people who are connected
25 with John McCain's presidential campaign or who they

74

1 are. Are they old friends? Are they just people who
2 like John McCain, or are they people who started a
3 bipartisan Clean Elections Institute? And do they have
4 another ad by Janet Napolitano, the Democratic? Those
5 are things I can't answer in looking at an exhibit like
6 that.

7 But there's nothing wrong with this. But the
8 context can make any one of these look wrong or right.

9 Q. (BY MR. HUME) When you say wrong in a certain
10 context, do you mean wrong in the sense that, clearly
11 much more focused on influencing the election than on
12 speaking to the issue?

13 A. I don't see how this influences the election,
14 except it helps John McCain look like a guy who likes
15 clean elections, and that should be good for John
16 McCain. But I would not consider this corruptive or
17 corrosive here.

18 Q. That's Exhibit 7?

19 A. Yeah.

20 Q. Or either one of them?

21 A. Well, this one is done for Michigan. Now,
22 again, you're talking to a guy that plays in these
23 waters. The real issue is, what's John doing this one
24 in Michigan for? Unless this is really -- this is
25 really to help his campaign, a national campaign, if

76

1 Judge, I want to have a recess, and I want to meet in
2 recess with this jerk, Simpson. Well, no, you don't say
3 that while the jury is listening. You say, if I might
4 visit with counsel for a few moments, Judge. And then
5 you'd get in there and say, what the hell?

6 I've had that happen to me. And you're both
7 very capable. So I calm my heaving bosom. Because the
8 one with Abrams lasted half a day, and all I was saying
9 is that the present system is a bunch of crap.

10 Q. I appreciate that. And I know --

11 A. So go ahead now.

12 Q. Part of what I'm trying to find out for all of
13 these ads is, when I read your declaration, I understand
14 its focus, if not its exclusive focus, to be on the
15 problem of soft money --

16 A. Uh-huh.

17 Q. -- to be on the problem as a senator having to
18 raise soft money constantly, as a political party having
19 to be focused entirely on who the donors are, on the
20 disproportionate impact that has on influence, people
21 coming to see you, the whole problem.

22 A different focus of the legislation, a
23 different title in the legislation deals with issue
24 advertisements, these types of things we've looked at.
25 And I don't understand your declaration to be talking

75

1 this ran in 2000.

2 So that's a different game. Who got him to do
3 this? What was the purpose? How did John get involved
4 in Proposal 1 in Michigan, unless it's totally to make
5 him attractive to the people of Michigan? And
6 therefore, it's really not like the other one, which I
7 guess ran in Arizona, because it's talking about
8 Arizona. This one is where he's flying outside the
9 cage. He's running here. This is an ad of John McCain
10 for president. This one is -- could be just good
11 government in Arizona.

12 Q. I understand what you're saying. But I just
13 also want to understand, when you said "wrong," what you
14 mean by "wrong." In other words, for all of these
15 ads -- which I may not need to show you too many more --

16 A. Go get up some more. I get to be the ad
17 wizard. You have more?

18 Q. I do have more. I know I want to show you at
19 least one more.

20 A. You're not saving that until last, are you?

21 Q. No, I'm not.

22 A. Let me tell you, I apologize for my rudeness.
23 I'm not rude. But you are a very capable young man, and
24 you do good. And, in fact, if I had that crap thrown at
25 me that I dished at you, I'd have gotten up and said,

77

1 about those. But I'm trying to confirm and to
2 understand what your view of them is. But it would help
3 if I could just ask very simply whether you think there
4 needs to be prohibition or tightened regulation of the
5 ability to run these kinds of ads.

6 A. I think that, quote issue ads, magic words and
7 things like that are trickery. They're not real. To
8 run a, quote, issue ad and then to run them again and
9 again with your campaign and your attorney to see if
10 they cross the line, I think it's a phony way to do
11 business. And that's what's happening.

12 And then they go over the line, and they --
13 and then they go back into the arcane of an FEC person
14 who's never carried a yard sign or passed out a bumper
15 sticker or canvassed the fifth precinct in the poorest
16 section of a little town in Wyoming and don't know
17 anything about that stuff. There's a disconnect when
18 they put that little caper together. And that's the
19 opener. The opener is that you can use this other money
20 for these wonderful things. Electioneering, road signs,
21 yard signs, forget it. That's peanuts in a campaign.
22 You can get all those you need. And that was the
23 opener, as I understand it, unless I missed something.
24 That was the opener.

25 MS. SEALANDER: I think the senator is

78

1 talking about the party building exception that the
2 commission made in the '70s that allowed soft money to
3 be used by political parties.
4 MR. HUME: To promote the party?
5 MS. SEALANDER: To do party-building
6 activities that promoted the entire ticket of both
7 federal and nonfederal races.
8 A. That's what I'm speaking of. That was the
9 opener.
10 Q. (BY MR. HUME) But I'm moving, I think, quite
11 far afield to that, to nonparty -- first of all, nothing
12 that the party does. I'm not talking about anything the
13 party does. I'm only talking about what issue groups
14 do.
15 A. Yeah.
16 Q. And I'm talking about specifically what they
17 do in running these kinds of issue ads, some of which
18 come closer to the line of trying to influence the
19 election, some of which seem quite far away from that
20 line. And that's part of what we're talking about. But
21 the big-picture question is, is it your opinion, having
22 lived through the life of a successful politician, that
23 our system is corroded by the existence of these ads,
24 generally?
25 A. I would say yes, they are corroded in the

79

1 sense that they go over the line and you can't find out
2 who they are, and it's too late. So if there is
3 something in the new law, and I have not digested it,
4 that says that you have to disclose who you are within
5 60 days of the campaign, I like that idea.
6 Q. You like the idea of disclosure?
7 A. Yeah, total disclosure. Who is this group?
8 Q. Right.
9 A. Are they 501(c)(3)? And that's what they try
10 to pull. And you can pull their designation if they've
11 gone too far, maybe.
12 Q. If you have disclosure, do you think you need
13 fewer ads? Do you think we ought to be literally
14 restricting the amount of ads that are run?
15 MS. SEALANDER: Objection as to the form
16 of the question. BCRA does not make -- require that
17 there be less ads.
18 Q. (BY MR. HUME) I'm not representing anything
19 about what BCRA does. I want to know --
20 A. You can't do anything by law to restrict --
21 then you're into free speech. All these things -- look,
22 that's why McConnell is in this game. He's in this game
23 because he's going to use the First Amendment like a
24 club in this litigation. That's the purpose. And
25 that's what Mitch is waiting for. This is a misguided

80

1 idea, and it does two things. It takes away your
2 precious right of First Amendment expression, and it
3 probably assures that the Republicans will never control
4 the Senate for 50 years. And it's terrifying to a
5 politician to hear that. And that's why Mitch is so
6 effective.
7 And I have read the update page. You can go
8 in -- you're talking about fund raising. These are my
9 scribbles. Election activities, soft money, voter
10 registration. I have read these things. Party issue
11 ads, corporate union election, contribution limits, yes.
12 I've read that. I know basically what this law is.
13 But again, whether it works -- and they've
14 watered it down tremendously since the first McCain-
15 Feingold or they couldn't have gotten it passed, because
16 there was so many that felt this was the end of the
17 Republican party in the Senate. So forget all the other
18 marvelous reasons why it took so long to get through.
19 That's why they made McCain a pariah. They've isolated
20 him in the Senate, sad to see, because he's got the guts
21 to go ahead and try to get the best he could. This is
22 real life. And so --
23 Q. Your answer to my question about -- the big-
24 picture question about these ads having a corroding
25 effect, you gave that answer in a long -- which we just

81

1 heard. And I'd like to, I'm afraid, focus in on that a
2 little bit more narrowly or specifically on your answer.
3 Looking back at Exhibit 1 on The Concord
4 Coalition, because unfortunately, Senator Simpson, the
5 litigation does require us -- requires me to try to draw
6 some lines in terms of your opinion in this case, in
7 this deposition, as to the corrosive effect that some of
8 these ads might have and what exactly that effect is.
9 Because --
10 A. Wait. I think that would be helpful right
11 there. It's not the going to these ads as the sole
12 basis of corrosive effect. It's calling people on the
13 phone and raising money and sitting with them at the big
14 dinner. Don't miss where I'm going.
15 Q. I understand.
16 A. That's the corrosive, corruptive effect, to
17 have to call the -- I've described that very well,
18 Archer Daniels Midland, or the Brady Bill is coming up,
19 or the AARP is waiting for prescription drugs, and where
20 are you, Simpson, you poor wandering soul? You need to
21 get shaped up. That's what I'm talking about. So they
22 give their bucks and come to these things. They do it
23 with the Democrats. They do it with the Republicans.
24 That's a corrosive effect.
25 Q. I understand. In terms of the ads themselves,

82

1 if all the ads had identifying information that was at
2 least equivalent to what The Concord Coalition has, A,
3 who they are -- some of them don't even give their
4 names -- and B, how do you contact them so you can find
5 out more about them, if those were all there -- as
6 you've said, a lot of them are rough, and a lot of them
7 are contact sport politics -- but are they something
8 that you think are a problem, or are they part of our
9 democratic process?

10 A. Well, they're a problem if they're using -- if
11 they're not explaining who they are. If there's no
12 transparency, that's a problem.

13 Q. I understand. That's why I'm saying, with
14 that very important point now assumed into it, so that
15 all of them do do that, do give at least that much
16 identification, as is in the Concord Coalition's, while
17 some of them may be rougher than others, more negative
18 or what have you, is it your view that they are the part
19 of the dialogue that our political system inevitably
20 has?

21 A. Well, you're talking to a guy that believes it
22 always was a contact sport. We could go through all the
23 ads, and we'll go through some more, and that's good. I
24 guess I should just say I don't give a damn what the ads
25 say. The campaign fund raising system of America has a

83

1 corruptive and corrosive effect on government. And
2 that's what I'm going to say, and I'll stick with that.
3 And it comes from what I've described.

4 Any politician you talk to -- and you have,
5 You've talked to Rudman, and you've talked to Paul
6 Simon, or you will, and they will tell you that it is
7 disgusting, or Fritz Mondale, former vice-president,
8 that it looks like hell, and it makes people cynical.

9 And so you can go through all the ads, and
10 you're never going to get -- you're never going to
11 prevent the First Amendment right of expression. But
12 you ought to know who the hell is doing it. So those
13 are -- and this is an attempt which is so seriously
14 watered down from the original McCain-Feingold in order
15 to get it past both the House and the Senate. And don't
16 you think that every -- most of the Republicans in the
17 House wanted to kill this baby with a dagger through the
18 heart, a wooden stake. So they had to give up this, and
19 they had to give up this, and they had to give up this.
20 And the same in the Senate and then the conference
21 committee. And they kept abusing McCain.

22 So I don't know what you got. But I do know
23 it's a start. No one should be terrified by this latest
24 campaign reform bill. The FEC has already gotten their
25 way around it. The FEC, to a politician, is a

84

1 nonfunctioning agency. That's the way we looked at it.
2 Why don't you people make a decision? Well, they can't.
3 because it's three-three, and then they fight. And then
4 they get appointed, and they fight some more. And they
5 come out with pap and they issue ad stuff on -- I don't
6 know what the hell. But anyway, I've been there.

7 Q. Just very quickly, do you have any specific
8 areas where you think if BCRA was watered down, that you
9 felt it shouldn't have been? I just want to know if
10 there are any very specific proposals that you felt were
11 originally in there and had been taken out.

12 A. I just know enough about -- you know, I've
13 been out of the Senate for almost six years. All I know
14 is that every time I'd read about how campaign reform
15 was doing, they'd say, well, it stalled. And then I'd
16 read that they took out this section and it began to
17 move again. And I knew enough about the game that they
18 were pulling teeth every foot of the way. So you're
19 pulling teeth here. And then they get -- what was the
20 great bill on unions? Humphrey-Hawkins. And finally
21 when it passed, there was nothing left. And it was
22 supposed to be a union -- pro-union bill. And when
23 Humphrey-Hawkins passed, it was nothing but gum.

24 Q. I just wanted to confirm that you're
25 describing the process of having to make concessions to

85

1 get BCRA passed, rather than a specific view that you
2 personally have that, hey, the system needed this reform
3 and they had to jettison that.

4 A. Yeah.

5 Q. You're not saying that?

6 A. No.

7 Q. You're not saying not that, but you don't
8 right now today mean, I remember something that was in
9 there and was taken out?

10 A. They had to give up a lot from the original
11 bill to get this passed. I don't know what it is
12 because I don't have them side by side.

13 Q. I'm going to try to run through some of the
14 remaining ads quickly. This is Exhibit 9. Exhibit 9 is
15 Bates-stamped BRE 001218. Senator Simpson, please take
16 a moment to look at it.

17 A. Uh-huh.

18 Q. Again, assuming it is within 60 days of an
19 election in which David Wu was a candidate, my first
20 question is, do you think this advertisement was
21 intended to influence the outcome of that election?

22 A. Sure. You bet.

23 Q. And this next question is, would you agree
24 that an organization that is committed to the notion of
25 term limits and to having elected representatives make

86

1 voluntary commitments to having a term limit, that the
2 most effective time for them to broadcast and advocate
3 their message is in the period of time immediately
4 before an election?
5 A. It would certainly be the most effective,
6 because the polls show throughout America that 70 to 72
7 percent of the American people favor term limits. They
8 haven't figured out what it's doing to their system yet,
9 but they will soon when you have a whole bunch of new
10 green pea people in every legislature who don't know
11 where the bathrooms are for two years. They'll find out
12 it really wasn't such a dazzling thing. And I favored
13 it at the time. I don't now.
14 Anyway, sure, obviously. So they know they've
15 got power on their side when they mention the flash
16 word. Everything we do in politics has to do with
17 emotion, fear, guilt or racism. And you either pass or
18 kill or pass or do anything with use of emotion, fear,
19 guilt or racism. That's what you do. And it works.
20 But this is obviously to influence an election.
21 Q. Let's move on to Exhibit 10. Senator Simpson,
22 Exhibit 10 doesn't have a Bates stamp. It begins with
23 the phrase "Dear high tech company." Please take a
24 moment to review it.
25 A. Uh-huh. Yes, yes, yes.

87

1 Q. Senator Simpson, this issue ad, I'm showing it
2 to you for a slightly more specific reason than the
3 other ones, because this ad addresses the Foreign Worker
4 Bill, which it states that Congresswoman Northrup is
5 likely to vote for. Do you see that?
6 A. Yeah. I see that, an interesting phrase,
7 likely to vote in favor of.
8 Q. Exactly. Likely to vote in favor of. I'm
9 asking you also to assume that this was ran, broadcast
10 within 60 days of an election in which Congresswoman
11 Northrup was a candidate.
12 MS. SEALANDER: Can we assume in a place
13 where she was a candidate?
14 Q. (BY MR. HUME) Yes, we should and can assume
15 that it was in a place where she was a candidate. I'd
16 like to also represent to you, however, one other fact
17 that's not obvious from the face of this, which is that
18 the Foreign Worker Bill was brought to a vote in the
19 House of Representatives on October 5th, 2000, obviously
20 also within 60 days of the election.
21 And so since it seems obvious from the face of
22 the ad that it hadn't passed yet, we're left to assume
23 that this was run in the one month preceding the vote on
24 the Foreign Worker Bill. And the reason I'm showing it
25 to you is to ask you to consider the question of whether

88

1 an ad like this is more focused on her election or on
2 the vote on this legislation that is coming to a vote at
3 exactly the same time or immediately before the
4 election.
5 A. This is right back to what's simply called
6 putting the heat on the candidate. That's what this is,
7 put the heat on the guy. Run an ad, tell them to write
8 him, call her, and put the heat on. And that's all day
9 long stuff in our line of work. all day long. ads, New
10 York Times. Why doesn't Orrin Hatch move the judicial
11 nominations? Why doesn't Simpson vote against Bork?
12 Life is eternal with these kinds of things. It's called
13 put the heat on.
14 Q. But you could put the heat on Congresswoman
15 Northrup either to get her to vote a certain way on
16 legislation or to try to weaken her in an upcoming
17 election. Isn't that right?
18 A. Yeah. You know, you want to -- people wait
19 until an election year to go to a town meeting and nail
20 the guy, especially senators, because you get a six-year
21 term, and the first year you get reelected you don't --
22 they don't go to any town meetings. With a year to go,
23 they're hanging around like poor relatives. And that's
24 when you hit them. You say, what about nuclear high
25 level waste? I've heard the old crap, you don't want to

89

1 put it in Yucca Mountain. What the hell are you going
2 to do with it? Put the heat on them. If this came up
3 right before the election, it's put the heat on him.
4 And that's politics.
5 Q. But is it possible to know from this, just
6 from reading it, in light of the facts I've represented,
7 whether this is putting the heat on her, on Northrup, to
8 influence her vote or to oppose her candidacy for
9 Congress?
10 MS. SEALANDER: Objection as to form.
11 A. It's in the eye of the beholder. And it could
12 work in ten different methods of what it's doing for
13 her. She can make a lot of mileage out of this by
14 saying, you know, Bill Gates -- if this is her
15 district -- hires people from India. And there's
16 nothing wrong with that, folks. But if they pay them a
17 quarter less than they pay me from MIT, does that sound
18 like America?
19 I've been in this issue up to my hips. This
20 is where American industry -- Kennedy and I put in an
21 amendment on that baby, saying that they couldn't
22 hire -- they had to go to American workers first. Hell,
23 we got torn to bits, you know, God and country and all
24 the rest of it. I said, pay them the same thing you pay
25 an American, and I'll go for it. But they don't. They

90

1 get them cheap.
2 Q. (BY MR. HUME) Do you believe that it is
3 easier for incumbents generally to raise hard money --
4 I'm using the pre-BCRA terminology now, which you're
5 familiar with. Do you believe it's easier generally --
6 was easier generally for incumbents to raise hard money
7 than it is for challengers?
8 A. Of course, without question. That's why they
9 stick around so long. You can't beat them.
10 Q. And does that mean that for a challenger who's
11 trying to race against an incumbent for a Congressional
12 seat or a Senate seat is -- obviously will try to raise
13 hard money but won't raise as much as the incumbent. So
14 does that put pressure on that challenger to raise more
15 soft money?
16 A. They don't care where they get it. They got
17 to go get it.
18 Q. But my question is, given that they don't
19 raise as much hard money, isn't their tactic generally
20 to try to raise more soft money?
21 A. I don't know. I never had to draw that
22 distinction in my own campaign. I would do well enough
23 where they would take my money that was supposed to come
24 to me from the Senatorial Campaign Committee and say,
25 your polls show you can't lose, so we're going to give

91

1 it to John Tower. I said, go ahead. So I gave 60 grand
2 -- I didn't give it. I just said, well, don't give it
3 to me. I'm okay. Give it to Tower.
4 Q. That was the soft money, you mean, the 60
5 grand?
6 A. I don't know what it was. It was just money.
7 Q. And Tower was a challenger in that election?
8 A. John Tower was the senator from Texas and was
9 in a tougher race than I was. So I gave my money to
10 him. He got reelected, and all is well.
11 MS. SEALANDER: To speed this up, I think
12 that was probably hard money.
13 MR. HUME: Yeah. I'm not going to go
14 there, anyway.
15 A. But you see, they don't care where they get
16 it. The candidate doesn't care.
17 Q. (BY MR. HUME) I'll speed it up by coming
18 right to the question, which is, have you considered
19 that because it is easier for incumbents to raise hard
20 money and that therefore because challengers need -- as
21 you said, they don't care where it comes from, but they
22 need to raise money outside of those hard money
23 limitations in order to try to compete with equal
24 resources against incumbents, that whether it was
25 intended to or not, that the effect of BCRA's

92

1 prohibition on soft money may be to protect incumbents
2 against challengers?
3 A. There isn't anything that an incumbent who
4 wants to be there forever wouldn't have done to kill
5 this legislation. Any incumbent in desiring a life
6 tenure would have been doing anything possible to kill
7 this legislation.
8 Q. Why do you say that?
9 A. Just because it's disruptive of the things as
10 they are.
11 Q. But don't they -- don't the incumbents hate
12 having to go and raise soft money?
13 A. Some of them love it.
14 Q. Is it your experience that more loved it or
15 more hated it?
16 A. I don't know. I'm just telling you how I feel
17 about it. I'm sure you can find guys who love it. But
18 this kid didn't love it. I didn't like it at all. And
19 in my campaigns, I'd see that I have this much money,
20 and then somebody would come and say, you can get a free
21 poll. They're going to give you a free poll. I'd say,
22 who's paying for that? And they'd say, well, it's
23 coming from space, but it's 75,000, and you don't have
24 to pay for it. And we've got a computer for you that
25 you don't have to pay for that, either. Well, who is?

93

1 Well, it's from space. So you're always looking for
2 something like that.
3 Q. Regardless of who likes doing what or who
4 enjoys having to do certain things, do you think that
5 the effect of the reforms in BCRA will be to -- lead to
6 more success for incumbents in running for reelection or
7 less success?
8 A. Go back to the public statements of Mitch
9 McConnell, who has fought this with the passion of ages.
10 And that's why he's here right now doing what he's
11 doing, and you're doing it with him. Kill this turkey
12 off so that we can reelect incumbents. That's a great
13 purpose of this.
14 Q. Do you have any basis for thinking that's his
15 motivation?
16 A. Just what we were told at every caucus when I
17 was in the U.S. Senate, from Mitch, standing and saying,
18 don't pass this stuff. It looks attractive. But if you
19 do, it's the end of our control of the Senate. You,
20 Dole, will not be the majority leader. You, Simpson,
21 will not be the assistant majority leader. We'll be out
22 in the sticks for 40 years. I hope you bastards can
23 understand that.
24 Q. But he was not saying it was against
25 incumbents, the effect would be anti-incumbent. He was

94

1 saying the effect would be anti-Republican?
 2 A. He was saying both.
 3 Q. Do you recall specifically when he made those
 4 statements?
 5 A. I don't want to characterize what went on in
 6 caucuses. But you don't have to know. Mitch is a
 7 fascinating guy. I admire him. He's tough. And he's
 8 going to diddle this bill until he dies, period, and
 9 spend resources and your resources.
 10 And what is the reason for that? What do you
 11 think the reason for it is? What is the purpose of
 12 killing off something that will give a little more
 13 credibility to the American political system in the eyes
 14 of the people of America? What's the purpose of killing
 15 it off, other than just simple greed or wanting to be
 16 bull of the woods or simply having your say said and not
 17 others said? What is the purpose -- what is the honest
 18 purpose of getting rid of a very pallid election reform
 19 which strikes basically at one thing, and that's soft
 20 money, which is so pervasive and, quote, unaccountable?
 21 I don't understand. That's where I come from.
 22 Q. I would just like to ask you if you have
 23 specific recollections of specific instances where
 24 Senator McConnell has said it was because of the
 25 negative impact on Republican power in the Senate or the

95

1 Congress that he opposed campaign finance reform.
 2 A. Press the Nexus button and the Lexus button
 3 under "McConnell," and you'll come up with that quote a
 4 hundred times back through the years somewhere,
 5 Kentucky, Washington, after caucuses, on the floor. Get
 6 the Congressional Record. You'll find those things.
 7 They're all there.
 8 Q. You wrote a book about the press. Right?
 9 A. Oh, I did.
 10 Q. Called "Right in the Gazoo"?
 11 A. "Right in the Old Gazoo, a Lifetime of
 12 Scrapping with the Press." People did not know what a
 13 gazoo was. A gazoo is the south end of a horse headed
 14 toward Idaho. The north end. No. West. That's right.
 15 Q. Do you criticize the power of the media in
 16 that book?
 17 A. No. I'll tell you what I do, so you can get
 18 right to the nub of it. I've had people in the media
 19 say, we didn't like that book. I said, great. And then
 20 they'd say, what is it you had in mind, to curb or limit
 21 or restrict us? And I said, well, how stupid a
 22 question. Because I had nothing in mind to curb or
 23 limit or restrict you. I just intend to stick it in one
 24 ear and out the other. It's called the First Amendment.
 25 Now, surely you wouldn't deny me that opportunity.

96

1 And they go, well, it kind of had a chilling
 2 effect. I said, chilling effect is a phony statement.
 3 And you can read all the rest of it. And to think that
 4 you can have a brain the size of a BB rolling on the
 5 edge of a razor blade, to think that I would want to do
 6 something to the media, that shows you that if you think
 7 I'm thin-skinned, you can't find the media's skin with
 8 an epidermal microscope. Epidermal? Yeah. Not
 9 epidural. Epidermis. Anyway, yes. I did write a book,
 10 and it was fun. It's not a nasty book.
 11 Q. Have you written any other books?
 12 A. God, no. It took me five years to write that
 13 one.
 14 Q. What activities have you been involved in
 15 since you retired from the Senate?
 16 A. I went to Harvard and was a visiting lecturer
 17 at Harvard for four full spring semesters, and then I
 18 was director of the Institute of Politics at the Kennedy
 19 School of Government for two years, on the Presidential
 20 Debate Commission, on the American Battle Monuments
 21 Commission. And Lloyd Cutler and I are just chairing a
 22 new Commission on Continuity of Government, what would
 23 happen if Flight 93 had hit the capitol while they were
 24 in session? We have to figure how to get house terms
 25 aligned, might have to try a constitutional amendment.

97

1 And I'm on the Folger Shakespeare Library.
 2 chair of the Buffalo Bill Historical Center, chair of
 3 100 Million Capital Campaign for the University of
 4 Wyoming, Folger Shakespeare Library, the National Energy
 5 Commission under Bill Reilly, and odds and ends,
 6 speaking engagements, various watering holes around the
 7 world.
 8 Q. Aside from those you just mentioned, can you
 9 think of any other entities of any kind, for-profit
 10 corporations, not-for-profit issue groups, that you have
 11 sat on the board of at any time?
 12 A. I was on the Board of FAIR, which was the
 13 Federation of American Immigration Reform. And I got
 14 off of that after they tried to hammer Spence Abraham of
 15 Michigan, that he was not in favor of any kind of thing
 16 and that he was favoring foreigners, and he represents a
 17 large Lebanese-American population. And I resigned from
 18 the board. Dick Lamm and I were very active in that
 19 board, and I no longer do that.
 20 I'm on more than several boards and active in
 21 mental health. I'm on the advisory board of the Third
 22 Millennium, which is a group of young people between
 23 eighteen and thirty who better get off their butts or
 24 there won't be anything left in the till, because
 25 everybody over sixty will have cleaned out the treasury

98

1 within ten years.
 2 Trying to get young people to pay attention,
 3 that's a bipartisan group called the Third Millennium of
 4 New York. I'm on the board of Biogen, which is a
 5 corporation, a profit corporation. And I'm on the board
 6 of IDS-American Express in Minneapolis, which is a
 7 for-profit corporation.
 8 Q. Any other for-profit corporations you're on
 9 the board of?
 10 A. No. I'm on various advisory boards.
 11 Phototonics. And I have no -- I'm not on the board
 12 because I don't want the liability. I'm on the advisory
 13 board of several corporations where I don't receive any
 14 compensation. Eventually there might be compensation
 15 when you take the stock options.
 16 Q. Would it be possible to ask for a -- do you
 17 have a written record of all of your -- I mean, it just
 18 seems like there are a lot.
 19 A. I don't have to share that with you anymore.
 20 Q. No, you don't, unless it's requested in the
 21 litigation.
 22 A. You could do all of that. There's nothing to
 23 hide. But hell, I got a list of stuff that went broke.
 24 A lot of dot-coms would come to me at Harvard and say,
 25 we want you to join, and here's 25,000 shares, and I

99

1 can't even get an address for them. So I wouldn't worry
 2 too much about those. I can give you those names.
 3 They'll go down in history.
 4 Q. Are there any other nonprofit issue groups
 5 like FAIR that you had an active involvement with at any
 6 time in your career?
 7 A. I'm on the Presidential Appointee Commission,
 8 which is how to get rid of streams of crap like this to
 9 get people to come onto the government without giving up
 10 everything they own in life. And we put a report out on
 11 that. Columbia University Group, Kay Fanning -- that's
 12 who it was, Kay Fanning of --
 13 MS. SEALANDER: Christian Science
 14 Monitor.
 15 A. -- Christian Science Monitor. And that was
 16 called the Campaign Reform Group or something. I could
 17 bring any inquisitor to my home and let them go through
 18 four file drawers and let them pick out anything they
 19 want. I have no lock on my safe. You can go through
 20 all the files and see what I have been involved in. And
 21 it's longer than my leg.
 22 Q. (BY MR. HUME) Let me just ask --
 23 A. And you can have access to all of it. But I
 24 don't want to go find it. But you can come to my home,
 25 and I will leave the room, and you can just rat through

100

1 the whole stack. How's that a for deal?
 2 Q. I'm not sure it's a very good one.
 3 A. Of course it is.
 4 Q. Campaign reform, any major political
 5 speeches -- withdraw that. Any major speeches or
 6 publications that you have given or published that give
 7 your views on campaign finance reform over the last --
 8 I'd say since you retired from the Senate?
 9 A. I'm sure that I have spoken on it. Anytime I
 10 get a chance. I just say it's a phony operation.
 11 Nobody's doing their job, same thing that I said before.
 12 Q. But no specific speeches or articles that you
 13 remember publishing or giving since '96?
 14 A. No. But you can pick all that out anywhere.
 15 Then I have another group called the Common Good, where
 16 I ripped into the tort lawyers. George McGovern and I
 17 have done that and were beginning to drive them goofy.
 18 And that was a lot of fun.
 19 Q. But you did say there was a name of a group
 20 that worked on campaign reform that you've been involved
 21 in.
 22 A. Yeah. And I can get you the name. Bill
 23 Bradley and I were the co-chairs. And we tried to use
 24 the mailing list of Common Cause. We tried to get
 25 everybody in there. And it worked fairly well.

101

1 Q. Does that organization still exist?
 2 A. Bradley and I haven't gotten together on it
 3 for two or three years.
 4 Q. We'd like the name of that. Would you be able
 5 to get the name of it?
 6 A. Just go to Washington, D.C. and go back and
 7 look where Simpson and Bradley were the co-chairs of an
 8 outfit called -- whatever.
 9 MS. SEALANDER: Project Independence.
 10 THE DEPONENT: There.
 11 MR. HUME: It's in the declaration?
 12 MS. SEALANDER: It's in the declaration,
 13 in paragraph 2.
 14 THE DEPONENT: Is that it?
 15 MS. SEALANDER: I think that was you and
 16 Senator Bradley.
 17 Hamish, I just wanted to show you this.
 18 MR. HUME: The Boston Globe. Okay.
 19 MS. SEALANDER: And I think there was
 20 one, also, perhaps, in the New York Times. But I don't
 21 seem to have it. Also around the time of the Mariani
 22 litigation.
 23 MR. HUME: The Boston Globe article from
 24 Tuesday, February 24, 1998, it looks like, Senator
 25 Simpson wrote an editorial called Fear of Reform.

102

1 Q. (BY MR. HUME) One last series of questions
2 and we're done. Do you recall when the FEC first
3 contacted you about being involved in this litigation?
4 A. They had seen the affidavit that I had given
5 in that Mariani case. And here's a letter from Brant
6 Levine dated July 31st. Thank you for speaking with me
7 today about the current campaign finance litigation.
8 And I said to him, how have you tracked me to the bottom
9 of the earth? And he said, the Mariani case. And I
10 said, well, send me the deposition so that I can review
11 it again. And they did. And there it is, long and --
12 Q. That one looks longer than this one is going
13 to be.
14 A. See, these are small pages in little
15 quadrants, and it's like a folio of Shakespeare. And
16 there it is. And it took me another hour to read the
17 damn thing and find out what I had said in that
18 remarkable -- and much of it is similar but without all
19 the earthiness and cursing.
20 MR. HUME: And it's your understanding,
21 Colleen, that this deposition has been produced to us?
22 MS. SEALANDER: Yes. I would be willing
23 to stipulate for the record that we interviewed Senator
24 Simpson via telephone on the 28th of August.
25 THE DEPONENT: Before that, it would have

103

1 had to have been.
2 MS. SEALANDER: That's the date we
3 actually talked on the telephone, you and me and a
4 couple other people in my office.
5 THE DEPONENT: Yes. But that was a
6 conference call. But the first contact was before.
7 MS. SEALANDER: Was much earlier. That's
8 right.
9 THE DEPONENT: It was in July, mid July.
10 Q. (BY MR. HUME) Do you remember who the first
11 contact came from?
12 A. Burt. Brant. Brant Levine.
13 Q. And did he call you and speak to you directly?
14 A. Yeah. I was in Washington or New York. He
15 said, we're the FEC, and we have your deposition, and
16 we'd like to have you become a witness in this case. I
17 said, great. Anything I can do to whack on any of that,
18 I'd love to do. And he said, I'll get back to you.
19 Q. So was it your understanding at that time when
20 he called that you would be likely to give a declaration
21 in this case?
22 A. Yeah. I knew that I'd be doing something and
23 not getting paid for it. I've been alive long enough to
24 know what this is. And I'm not being paid a penny.
25 MS. SEALANDER: Just object to the extent

104

1 that it makes him sound cheap.
2 A. In fact, I'm glad you came to my home and that
3 I didn't have to drive to Worland or Casper, which I
4 wouldn't have done.
5 Q. (BY MR. HUME) Since that time to the present,
6 approximately how many conversations do you think you've
7 had with lawyers from the FEC?
8 A. Just the one.
9 Just that conference call with Harry somebody
10 and you.
11 MS. SEALANDER: Brant was there, too.
12 A. And Brant. And then I said, send me a review
13 of the bill, and they sent me this. And I did all
14 these. See, how I've scribbled on it? And so they sent
15 me that. And this morning I picked up this remarkable
16 woman at the Irma Hotel and showed her Cody and said, is
17 there anything that you are going to explain to me? And
18 she said, no, I'll be there. And she had to come here
19 and save me a couple times today already, in a sense,
20 and didn't tell me anything except you'd probably ask me
21 questions about just what you've asked. And that took
22 twelve minutes, and then we came here.
23 Q. (BY MR. HUME) Were you given any advice about
24 answers you should give?
25 A. No.

105

1 Q. Have you talked to any of the --
2 A. They did say what you might ask. There's a
3 difference.
4 Q. There is a difference. I understand.
5 A. And she knew that I was too onery and
6 independent to even listen to what she was going to tell
7 me, as you can see.
8 Q. Both too onery and to honorary?
9 A. Yeah. That's true.
10 Q. Have you spoken to any of the members of
11 Congress, senators and congressmen who have intervened
12 in this case as parties?
13 A. No.
14 Q. Senator McCain or any of the others?
15 A. No. I saw John months and months ago. And I
16 said, how are you doing, John? And he said, they've
17 pretty well isolated me. It was tough to see, because I
18 really like the guy. In fact, he asked me if I would
19 help him for president. I said I would if George Bush
20 doesn't run.
21 Q. But you didn't have a specific conversation
22 with him about the campaign finance litigation?
23 A. No, nor with anyone. The names you've
24 named -- Paul Simon and I are on the Dreyfus Medical
25 Board Foundation. I forgot to mention that. As I say,

106

1 you need to go through my files, because I don't know
2 what I'm on anymore. But I never asked him about that.
3 Rudman's on the same board, the Dreyfus Medical
4 Foundation Advisory Board. And I haven't talked to him.
5 I think I'll call him and ask him if you were as
6 intrepid with them and persistent as you were with me.
7 MR. HUME: Well, it wasn't me. And on
8 that note, I would like to thank you very much for your
9 time.

10 (Deposition proceedings concluded
11 2:16 p.m., October 1, 2002.)
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107

1 DEPONENT'S CERTIFICATE
2 I, Senator Alan Simpson, do hereby certify
3 that I have read the foregoing transcript of my
4 testimony consisting of 106 pages taken on October 1,
5 2002, and that the same is a full, true and correct
6 transcript of my testimony.
7
8
9

10 _____
11 SENATOR ALAN SIMPSON

12 () No changes () Changes attached

13 Subscribed and sworn to before me this _____
14 day of _____, 2002.
15
16

17 _____
18 Notary Public
19

20 My Commission Expires _____
21
22
23
24
25



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Senator Alan Simpson
1201 Sunshine Avenue
Cody, WY 82414

RE: Case Name: McConnell vs. FEC
Case No: 02-0582 and 02-0581
Deposition of: Senator Alan Simpson
Taken: October 1, 2002

Dear Senator Simpson:

Enclosed is the original of your deposition given in the above matter on October 1, 2002 for your approval and signature. Also enclosed is an Amendment to Deposition form for your use should you desire to indicate a change in your sworn testimony.

Please do not write on the face of the original transcript but use the form provided, if necessary. After you have read the transcript and signed it before a notary public, please return the original in the self-addressed postage-paid envelope enclosed.

Please give this matter your immediate attention.

Sincerely,

Jaime S. Connelly
Production Assistant

Enclosure

cc: Mr. Hamish P.M. Hume
Ms. Colleen T. Sealander



A	52:24 53:3	12:12	address 51:15	43:3,13,17	33:13 38:16
AARP 28:23	55:3,20	accounting	68:11 69:3	44:2 47:13	46:20 49:4
29:7,8,24	57:24 58:2	13:5	69:14 99:1	47:21 48:21	52:16 54:12
31:3 38:12	60:5 61:13	acknowledge	addresses	49:3,17	66:13 69:3
39:13 53:14	63:20 64:10	56:8	87:3	54:15 59:12	71:4 72:21
57:1 81:19	64:17 66:18	acronym 3:19	administra...	68:6 73:2	74:22 77:8
AAUW 55:5	66:24 70:12	act 3:18 9:19	10:19 43:11	76:24	77:9 80:13
ABC 47:20	71:12,13	29:25	57:8	advertising	84:17 85:18
48:1,23	73:1,9 75:7	Action 1:7,14	admire 94:7	8:15 36:9	102:11
ability 20:23	77:1,17	11:9,12	ads 9:5 33:11	43:19 45:8	against 5:25
49:17 54:15	78:1,12,13	31:8	33:12 34:10	45:9 52:2,6	11:21 23:1
54:24 60:5	78:16,20	active 11:7	34:19 36:3	53:15 64:11	33:17 34:7
77:5	79:19 80:8	53:20 97:18	44:14 45:14	64:23	40:6 48:2
able 22:21	80:23,24	97:20 99:5	47:4 55:5,9	advice 104:23	59:16 88:11
40:13 42:1	81:21 82:5	activities 78:6	55:10 60:2	advisory	90:11 91:24
49:3 54:23	84:12,14,17	80:9 96:14	60:6,9 61:6	55:16 56:18	92:2 93:24
57:17 60:13	88:24 92:17	actual 44:3	63:7 65:2	97:21 98:10	age 55:25
101:4	95:8 99:2	actually 6:7	66:10 72:22	98:12 106:4	agency 84:1
abortion	102:3,7	62:19 69:9	75:15 76:13	advocacy	agenda 40:17
28:15	104:21,23	103:3	77:5,6	43:5 68:25	ages 93:9
about 3:14,21	105:22	ad 13:14 23:1	78:17,23	advocate 86:2	ago 21:11
5:19 6:3,15	106:2	24:1,1,1	79:13,14,17	affect 49:16	23:5 105:15
7:3,3,4 8:4	Abraham	34:16 35:17	80:11,24	affecting 44:9	agree 27:5
9:4,6,9,12	97:14	51:6,13,15	81:8,11,25	44:9	41:10 43:6
9:20 10:3	Abrams 5:1	52:15,16,16	82:1,23,24	affidavit	43:7,18
15:6 16:13	76:8	52:24 59:24	83:9 85:14	102:4	46:14,19
16:13 21:16	absolute	61:4,4,5,7	88:9	affiliation	51:4 53:6
22:20 23:2	36:16	62:15 63:20	advertise	53:5	56:1,9
23:12,20	absolutist	64:12,13	30:9	afield 78:11	85:23
27:22 28:19	40:14	65:6,6,18	advertisem...	afraid 41:24	agreed 60:20
31:2,3	absurd 42:4	67:14,16,21	2:17,18,19	52:2 58:1	agreement
32:19 33:12	abusing	67:22,22	2:20,21,21	81:1	13:23
34:15,18,24	83:21	69:7 71:3,7	2:22,22,23	after 16:25	ahead 10:25
35:17 37:17	access 10:15	71:12,13,16	50:19 51:3	22:3 38:21	19:25 22:2
39:6,8,22	12:13,19	74:4 75:9	55:17 56:16	40:5 45:1	60:3 76:11
40:8 41:3,9	13:19 15:7	75:16 77:8	59:8,10	48:20 53:23	80:21 91:1
42:5,14	15:8 16:12	84:5 87:1,3	62:21 63:2	72:6 95:5	ain't 29:4
44:8,9	22:8,10,13	87:22 88:1	63:10 66:4	97:14	AIPAC 31:7
45:20 46:16	36:4,5	88:7	66:5 70:22	afternoon	31:7
47:24 50:2	99:23	add 59:14	85:20	17:12	air 42:7 51:20
50:11 52:3	accordance	71:5	advertisem...	ag 18:6,11,12	airline 28:25
52:3,9,15,15	1:23	additional	20:13 36:18	again 3:8	al 1:5,8,12,15
	according	5:8 54:23	42:21,22	9:13 23:4	2:21 9:25

13:1 17:5	amazing	announcem...	63:19 64:11	6:22 32:2	aspects 6:2
39:19 41:15	69:10	73:8	65:10 70:12	104:6	ass 37:3
56:11 66:2	ambassado...	annoying	70:15 77:17	April 3:16	assess 72:7
66:5,13	20:6	41:21,25	78:12 79:18	arcane 77:13	assessing
67:22 69:16	amended	annual 69:2	79:20 86:18	Archer 18:4	68:6
69:22,24,24	38:25	another	92:3,6	18:5,17	assessment
70:4,13,18	amendment	13:15,19	97:24 99:18	81:18	69:20
70:21 71:4	8:21,22	15:13 17:12	103:17	areas 84:8	assistance
71:8,9	22:24 28:4	26:18 34:7	104:17,20	arena 18:3	11:22
73:14	36:13 40:16	35:3 57:25	Anytime	arguing	assistant
Alabama	42:5,7,18	74:4 100:15	100:9	28:16	12:24 17:2
21:16	79:23 80:2	102:16	anyway	Arizona	93:21
Alan 1:18,23	83:11 89:21	answer 14:7	10:25 39:19	72:25 75:7	associated
2:10 3:2	95:24 96:25	21:24 26:7	50:1 84:6	75:8,11	51:3
68:12 107:2	America 19:9	26:11,13,14	86:14 91:14	Armey 17:20	association
107:10	44:10,15	26:16 48:9	96:9	Army 30:23	1:11 3:11
aligned 96:25	82:25 86:6	54:11 58:20	anywhere	around 4:10	21:21 29:6
alive 23:12	89:18 94:14	67:8 74:5	100:14	4:11 10:25	31:16 39:13
103:23	American	80:23,25	apart 53:17	14:10 18:16	57:2
Alliance	31:8 34:13	81:2	apologize	22:25 42:12	assume 27:3
66:21 68:2	34:25 36:1	answered	75:22	46:22 60:17	31:21 63:7
allow 21:7	36:10 44:13	25:13 71:3	appear 68:14	83:25 88:23	66:14 67:17
47:25 68:15	44:15 50:21	answers	appearance	90:9 97:6	70:2,7 87:9
allowed	51:23 52:17	58:22	13:17 25:10	101:21	87:12,14,22
26:10,11	53:13 56:5	104:24	42:16 51:2	article 101:23	assumed
47:14,21,23	56:21 57:1	anti 32:17,20	51:5 52:7	articles	82:14
48:6,9,11	67:13 69:1	anti-incum...	52:12 56:17	100:12	assuming
50:6,7 78:2	86:7 89:20	93:25	appeared	Aside 63:16	72:21 85:18
allows 21:4	89:22,25	anti-Repub...	73:19	97:8	assure 61:18
47:11	94:13 96:20	94:1	applicable	asked 36:25	assuredly
almost 15:20	97:13	anybody 4:8	1:23	41:9 46:21	56:12
84:13	Americans	10:23 55:23	apply 20:22	47:2 52:8	assures 80:3
along 10:1	28:24 34:23	63:24	appointed	52:24 60:4	AstroTurf
already 83:24	34:25 51:11	anymore 35:9	84:4	73:5 104:21	42:9,11,11
104:19	72:3	98:19 106:2	Appointee	105:18	attached
although 7:12	among 38:1	anyone 40:5	99:7	106:2	107:11
67:7 72:25	amount 79:14	105:23	appreciate	asking 7:19	attack 35:16
always 11:5	anecdote	anyone's 42:5	76:10	15:2 26:21	35:18,21,22
14:11 15:9	39:21	anything 7:3	approval	41:23,24	36:3 48:3
17:19 27:10	Angeles 30:9	20:7 35:9	71:7,10	44:19 47:4	60:7,18,18
27:14 40:23	33:22 40:1	36:13 41:19	approve	52:3,10	60:19,20
41:6 82:22	announcem...	42:6,8	56:24 71:13	65:4 87:9	attempt
93:1	50:25	47:24 56:23	approxima...	asleep 72:4	28:15 83:13

attempting	67:8 77:13	22:12	72:24 73:2	81:18 83:24	23:8 41:15
28:1 44:5,6	81:3 88:5	Bebout 32:16	90:2,5	84:20,22	boiled 6:13
69:22	93:8 95:4	32:21	believed	85:11 87:4	boneheaded
attention	101:6	become 35:20	35:22 60:19	87:18,24	39:6
55:23 98:2	103:18	103:16	believes	89:14 94:8	book 9:19
attorney 2:2	backed 33:3	becomes	82:21	97:2,5	95:8,16,19
2:5 77:9	33:5	48:21	below 66:2	100:22	96:9,10
attorneys	backing	before 1:24	beneficiary	104:13	books 18:3
61:11,20	24:15	22:18 32:16	11:21	billion 18:13	96:11
62:1,3	bad 15:17,19	47:5 49:22	benefit 57:17	Biogen 98:4	Bork 44:14
attractive	16:10 26:9	52:8 64:24	benefits	BIPAC 11:13	44:16 88:11
75:5 93:18	balance 11:16	86:4 88:3	57:13	13:9	bosom 76:7
attribution	basically	89:3 100:11	best 58:24	bipartisan	Boston
65:11,12	80:12 94:19	102:25	80:21	3:18 74:3	101:18,23
August	basis 30:18	103:6	bet 38:23	98:3	both 22:6
102:24	36:13 81:12	107:13	49:9 85:22	bit 64:17 81:2	43:13 58:7
average 32:8	93:14	began 84:16	better 5:18	bitch 19:24	59:11 66:10
67:11	bastards	begin 7:19	10:8 12:2,6	57:19	66:14 69:15
avoiding	29:14 93:22	20:21 26:21	16:21 23:12	bitches 39:13	71:15 72:18
58:22	Bates 62:19	43:24 44:4	25:13 36:15	39:14	72:21 76:6
aware 3:24	62:20 72:16	beginning	69:13 97:23	bitching 41:7	78:6 83:15
14:25 47:10	72:17 86:22	100:17	between 8:11	bits 29:15	94:2 105:8
awareness	Bates-stam...	begins 21:25	13:23 26:19	89:23	bother 14:9
20:22	85:15	86:22	34:21 37:13	bitter 19:11	bottom 45:18
away 60:25	bathrooms	behalf 1:19	44:19 45:7	blade 96:5	62:20 69:1
78:19 80:1	86:11	behind 14:12	46:11 50:22	bland 64:9	69:6 102:8
a.m 1:20	Battle 96:20	beholder	50:24 51:5	Blank 73:23	bought 16:9
	BB 96:4	89:11	54:5 62:22	blasted 21:18	17:24
B	BCRA 3:19	being 3:3	64:5 97:22	Blatant 10:21	bound 28:24
B 2:15 82:4	3:24 9:10	16:9 28:8	big 11:9	10:23	bowels 41:18
baby 39:9	9:14 16:25	43:12 48:2	14:21,22,23	Blues 30:10	box 24:2
71:21 83:17	19:14 20:12	48:16 50:2	22:5,5,6,7	board 8:3	68:10,13
89:21	20:22 42:22	50:3 62:3	31:21 38:11	24:4,11	69:7
back 6:25	47:11,23	71:14 102:3	38:12 67:16	55:16 56:19	boy 51:14
10:11 24:9	48:20 49:16	103:24	80:23 81:13	97:11,12,18	Bradley
30:2,3 31:6	79:16,19	belabor 65:18	biggest 37:16	97:19,21	100:23
31:7,10	84:8 85:1	beleaguered	big-picture	98:4,5,9,11	101:2,7,16
32:6 33:6	93:5	53:4	78:21	98:13	Brady 17:22
35:12,14	BCRA's	believe 21:15	bill 17:22,25	105:25	17:25 18:1
41:8,10	91:25	23:4 27:5,6	18:1,6,11,12	106:3,4	38:25 46:8
42:10 43:4	beat 34:16	35:14,19	19:22 28:2	boards 97:20	81:18
50:14 52:23	90:9	56:15 61:21	31:15 38:25	98:10	brain 41:11
57:16 64:2	beautiful	62:23,24	44:12 46:8	Bob 17:3,5	67:14 96:4

brains 27:10	37:21 55:6	21:20 45:18	71:20,21	64:25	Cause 100:24
Brant 102:5	81:22	45:21 61:2	73:6,25	candidate's	causing 71:2
103:12,12	Buffalo 97:2	63:3,14	74:25,25	20:15 22:19	center 18:9
104:11,12	building	69:3,7,16,17	77:9,21	canvassed	97:2
BRE 62:20	17:13 78:1	81:17 88:8	79:5 82:25	77:15	cents 16:5
85:15	bull 94:16	103:6,13	83:24 84:14	capable 32:14	certain 12:18
bribery 14:16	bumper 9:5	104:9 106:5	90:22,24	75:23 76:7	51:8 60:2
bright 46:23	77:14	called 3:3,11	95:1 97:3	caper 77:18	70:6 74:9
bring 64:22	bunch 21:22	3:17 12:8	99:16 100:4	capita 32:4	88:15 93:4
99:17	76:9 86:9	14:16 18:2	100:7,20	Capital 97:3	certainly
bringing 5:25	Burt 103:12	33:11,22	102:7	capitol 96:23	23:17 34:19
48:17	Bush 39:7	40:24 46:1	105:22	captive 26:1	60:16 65:6
broad 7:20	48:2,4	51:9 60:24	campaigning	26:2 37:24	86:5
broadcast	56:11 69:25	71:8,18,25	37:12 64:22	38:10	CERTIFIC...
20:13 21:6	105:19	72:2 88:5	65:22	car-35:12	107:1
22:16 35:2	business 9:2	88:12 95:10	campaigns	care 16:18,19	certify 107:2
36:17 43:14	11:11,13,17	95:24 98:3	7:22 10:14	17:16 24:7	cetera 8:15
47:20 48:7	17:10 22:5	99:16	34:11 35:20	43:12,25	chair 97:2,2
48:23 50:22	22:7 36:14	100:15	92:19	44:3 61:7	chairing
51:4 68:7	77:11	101:8,25	candidacy	66:10,21	96:21
86:2 87:9	businessman	103:20	89:8	68:3 90:16	chairman
broadcasters	32:19	calling 9:13	candidate	91:15,16,21	10:5 12:4
36:20 37:6	butt 12:14	18:5 81:12	8:12 20:14	career 99:6	68:13 73:23
broadcasting	butter 14:23	calls 10:9	22:18 24:18	careful 73:10	challenger
43:7 50:19	button 18:18	17:14 42:23	24:20 25:3	Cargill 18:17	90:10,14
broadcasts	95:2,2	61:3	25:19,23	carried 77:14	91:7
20:24 33:13	butts 97:23	calm 76:7	26:1 32:16	carrion 4:11	challengers
33:18 54:25	buy 13:15	came 5:7 9:6	33:14,16,24	carry 39:14	90:7 91:20
55:1,2	17:21,23,24	11:7,12	34:7 35:3	case 5:2 6:9	92:2
Broder 64:12	18:10 36:4	19:7 21:10	39:25 42:24	6:21 12:21	challenges
broke 55:24	53:5	21:14 40:9	48:22 57:11	16:15 21:16	5:24
98:23	buying 15:7	89:2 103:11	59:8,11	35:23 67:19	challenging
brought 23:9	20:13 30:20	104:2,22	70:16 72:24	81:6 102:5	3:15
24:21,25	buys 22:7,10	campaign	85:19 87:11	102:9	chance 6:24
30:10,11	22:12	3:16,18	87:13,15	103:16,21	7:11 66:8
87:18	B-C-R-A	7:19 8:7	88:6 91:16	105:12	100:10
buck 27:16	3:19	10:5,11	candidates	Casper 37:23	change 27:18
Buckley 8:20		15:5 16:3	7:21 20:24	104:3	changes 6:24
42:8	C	23:17 24:9	32:17 33:1	cat 10:1	107:11,11
bucks 16:2	C 2:1 3:1	24:19 34:7	34:2 45:9	14:21 16:6	chapter 19:14
17:9 18:13	cage 75:9	43:21 46:9	47:12 56:8	caucus 93:16	characterize
24:10 25:21	call 4:8 10:11	52:12 64:24	56:10 59:15	caucuses 94:6	20:20 94:5
30:8,13,13	13:20 17:20	65:21 68:13	60:9,14	95:5	Charles

14:13	43:10,11	10:1 34:20	community	25:7 26:23	constrain
Charlie 16:6	close 11:23	42:12 44:12	9:2 11:17	45:12 53:20	54:24
Charlton	42:23 44:1	44:14 83:3	companies	59:9,11	consultant
11:22 60:22	52:6 59:20	91:21	47:11 48:23	89:9 95:1	14:22
cheap 90:1	59:22,22,23	coming 14:10	company	105:11	contact 35:15
104:1	63:8	15:24 17:22	47:18,20	congressio...	68:9 70:24
check 13:10	closer 78:18	17:25 18:6	86:23	17:18 24:18	71:18 72:2
checks 13:7	club 79:24	51:13 53:23	compensati...	90:11 95:6	82:4,7,22
children	CNN 47:20	53:25 58:17	98:14,14	Congressm...	103:6,11
71:23	coal 37:25	58:17 59:1	compete	29:7	contacted 4:4
chilled 31:11	Coalition	67:2 73:16	91:23	congressmen	4:7,15 5:20
31:12	2:17 55:15	76:21 81:18	completely	105:11	102:3
chilling 96:1	67:10,12,20	88:2 91:17	24:23 41:20	Congressw...	contained
96:2	68:2,19,21	92:23	composed	87:4,10	9:13
choose 27:16	69:4 70:25	comment	39:4	88:14	contested
Chris 2:18	72:3 81:4	26:5	computer	conjunction	46:11
59:10	82:2	commission	92:24	62:21	context 59:14
Christian	Coalition's	1:8,15 2:6	concerned	connected 8:1	74:8,10
64:21 99:13	82:16	4:4 61:19	62:2	53:12 73:24	continues
99:15	coal-produ...	64:10,18	concessions	Connie 59:16	15:10
chronicles	38:4	78:2 96:20	84:25	consider	Continuity
39:5	Cody 1:24	96:21,22	concluded	74:16 87:25	96:22
chunk 19:11	55:2 104:16	97:5 99:7	106:10	considered	contributed
49:10	cold 31:5	107:19	Concord 2:17	55:9 91:18	10:14 17:19
citizens 13:7	Colleen 2:5	commitme...	55:15 67:10	considering	contributing
city 30:8	102:21	86:1	67:12,20	43:11	20:2
40:20	Columbia 1:2	committed	68:2,19,21	consisting	contribution
Civil 1:7,14	99:11	85:24	69:3 70:24	107:4	13:9 24:9
1:23	combat 35:13	committee	72:3 81:3	constantly	80:11
clean 64:22	come 3:11	9:1 11:8,13	82:2,16	76:18	contributions
73:20,22	4:10 14:14	12:5 24:6	conference	constituency	4:21,22
74:3,15	18:3,3	31:9 66:23	60:23,24	43:1	8:12,14
cleaned 97:25	29:19 35:11	83:21 90:24	61:2,3	constituents	control 11:21
clear 15:3	36:12,24	common	83:20 103:6	27:1,15,17	28:14 32:18
26:17 27:13	57:9,13,15	28:24	104:9	27:23 28:8	32:21 40:8
29:2 41:21	57:18 78:18	100:15,24	confidential	28:12,17	41:3 46:12
56:10	81:22 84:5	communica...	61:10,19	30:1 39:23	46:12 48:3
clearer 12:11	90:23 92:20	42:23 50:20	62:16	40:12 45:16	80:3 93:19
clearly 42:17	94:21 95:3	51:4	confirm 77:1	47:8	convention
74:10	98:24 99:9	communica...	84:24	constitutio...	18:9
clink 4:23	99:24	20:13 21:6	confront 60:6	5:24 96:25	conversation
15:12	104:18	22:16 23:19	Congress	constitutio...	105:21
Clinton 10:19	comes 9:23	49:15 50:22	2:23 24:22	3:15 6:15	conversatio...

104:6	12:17 13:18	cracks 45:22	D	deal 62:12	democratic
convince	13:21 14:2	craft 70:15	D 2:9 3:1	100:1	24:5 27:7
27:17 43:6	14:4,6 15:9	crafted 41:4	dad 11:7	dealing 29:17	28:20 59:9
Cooper 2:3	16:9 25:10	crafting	dagger 83:17	34:13 57:7	59:15 62:23
3:9	35:4 51:3,5	34:17	damn 30:15	deals 76:23	74:4 82:9
COPE 9:1	51:9 52:7	crap 34:14	30:23 38:1	Dear 86:23	Democrats
11:7	56:17 71:2	36:9 44:25	41:17 55:23	death 29:9	18:7 40:7
copyright	corruptive	75:24 76:9	82:24	debate 43:13	81:23
61:23	51:10,17,20	88:25 99:8	102:17	96:20	denied 50:3,4
core 40:17	52:13 56:21	create 23:23	dancing 8:8	decal 32:5	deny 95:25
corn 18:12	56:25 57:1	creating 15:8	50:25	decide 24:24	DEPONENT
corner 39:2	57:22 71:6	credibility	Daniels 18:4	25:5,6	59:16,20
62:20	74:16 81:16	94:13	18:5,17	49:11	101:10,14
corporate	83:1	cremate 12:7	81:18	decision 8:20	102:25
20:17 80:11	cost 67:17	cremating	darker 72:14	21:14 23:4	103:5,9
corporation	Cough 19:2	11:10	date 56:12	84:2	DEPONEN...
98:5,5,7	counsel 5:1	criminal 15:1	70:1 103:2	declaration	107:1
corporations	49:24 76:4	Crips 30:10	dated 56:2	4:5 6:5,8,9	deposed 5:6
97:10 98:8	counselors	criticisms	102:6	6:21 7:4,12	65:5
98:13	13:13	19:18	DAV 68:25	7:17 9:9,11	deposition
correct 4:3	country	criticize	David 2:22	15:4 16:12	1:18,22
49:21 50:5	89:23	48:16,16	64:12 85:19	22:3 76:13	2:10 3:13
107:5	couple 55:8	95:15	day 6:25 10:7	76:25	3:20 4:14
corrected	58:1 60:21	criticizes 48:2	17:4,13	101:11,12	5:11 6:12
4:13	103:4	criticizing	21:11 27:25	103:20	15:4 60:5
correctly	104:19	49:4	28:1 31:17	decry 71:17	81:7 102:10
49:12	course 9:22	cross 77:10	41:16 76:8	deep-held	102:21
Correspon...	17:4 18:10	crowds 4:10	88:8,9	12:12	103:15
40:25	43:9 46:2	curb 95:20,22	107:14	defeat 43:21	106:10
corroded	90:8 100:3	current 102:7	days 20:15,25	Defendant	describe
78:23,25	court 1:1 5:8	cursing	21:11 23:5	2:5	28:23
corroding	8:19 21:11	102:19	33:13 47:14	Defendants	described
80:24	72:11	cut 62:13	48:4,22	1:9,16	34:10 81:17
corrosive	courteous	63:5 64:3	56:2 63:9	deficit 57:12	83:3
56:21 57:22	46:21	Cutler 96:21	66:14 70:2	define 33:11	describes
71:6 74:17	courtrooms	cuts 70:21	72:22 79:5	definition	59:7
81:7,12,16	58:14	cycle 36:7	85:18 87:10	14:3 42:22	describing
81:24 83:1	cowboy 51:22	cynical 57:5,6	87:20	delegate	84:25
corrupt 56:19	cowpokes	83:8	dazzling	27:16	description
corrupting	24:2	cynicism	86:12	democracy	28:22 34:4
15:5,7,13,25	co-chairs	34:20,21,22	DC 2:4,7	28:5,6	designated
51:15	100:23	35:25	deadly 38:1	Democrat	61:18
corruption	101:7			40:6	designation

66:16 70:17	dirk 39:15,18	28:18 58:9	15:12 17:11	60:9 70:3	96:2,2
73:2	dirt 18:16	67:10	19:20,20.23	72:24	effective
desiring 92:5	dirty 38:2	distorted	29:1 34:5	duty 29:16	40:21,23
despite 41:25	disagreement	41:15	36:19 37:7	31:18	43:8 48:21
deteriorated	20:19	distorting	74:21 92:4	dynamic 27:4	53:21 80:6
11:16	disappear	60:25	100:17	27:23	86:2,5
determinat...	44:16	distortion 9:6	102:2 104:4	d-i-r-k 39:18	effects 45:6,7
8:19,20	disclose 19:2	district 1:1,2	donor 13:24	D.C 3:10	egg 14:23
Detroit 17:6	63:16 79:4	21:10 24:17	donors 76:19	14:12 42:12	eight 41:1,1
dialogue	disclosed	24:18,24	doom 30:19	101:6	69:16
40:11,22,23	68:4	25:4,6 28:9	dot-coms		eighteen 26:7
82:19	disclosure 8:4	31:6,7	98:24	E	97:23
Dick 17:20	9:17 19:5	89:15	down 6:14	E 2:1.1,6.9.15	eight-page
97:18	66:24 79:6	divorce 71:19	18:6,8 19:7	3:1,1	41:8
Dickins 14:13	79:7,12	document	21:12,14,16	ear 95:24	either 11:3
diddle 94:8	disconnect	68:5	36:12,24	earlier 11:4	15:3 36:19
died 64:20	77:17	doing 15:19	37:3 39:2	18:20 19:13	64:2 65:23
dies 94:8	discounts	16:1 17:14	42:10 45:23	42:20 60:5	68:1 74:20
difference	28:25	17:16 19:2	52:14 55:5	103:7	86:17 88:15
26:19 27:13	discuss 22:4	20:17 22:23	80:14 83:14	early 6:25	92:25
44:19 45:5	discussing	24:14 27:18	84:8 99:3	earth 102:9	elderly 66:11
50:21,24	63:21	34:22 45:13	dozen 38:2	earthiness	70:20
51:5,23	Discussion	45:14,15	58:2	102:19	elect 24:22
54:5 65:3	5:16 7:9	49:19 52:18	drafted 6:22	easier 90:3,5	43:23
105:3,4	31:25	58:22,24	40:24 41:2	90:6 91:19	elected 12:20
different 11:2	disgusting	74:23 83:12	draw 81:5	eat 18:14	13:24 26:22
19:15 46:7	83:7	84:15-86:8	90:21	37:2 38:9	27:1 28:9
58:5 75:2	dished 75:25	89:12 92:6	drawers	eating 23:11	28:10 29:15
76:22,23	disposal	93:3,10,11	99:18	edge 96:5	72:25 85:25
89:12	55:11	93:11	Dreyfus	editorial 48:1	election 1:8
difficulty	disproporti...	100:11	105:24	101:25	1:15 4:4
8:24	15:7 16:12	103:22	106:3	editorials	5:25 20:15
dig 56:24	22:8 76:20	105:16	drive 30:3	47:12,22	20:25 22:19
digested 79:3	disruptive	Dole 17:3	100:17	education 9:2	27:12 32:13
Dingell 12:2	17:15 92:9	29:11 30:5	104:3	29:6 39:12	33:14 36:2
dinner 17:17	distinction	30:17 38:24	drugs 81:19	71:24	37:17 40:1
17:18 81:14	8:11,16	41:13,16	due 29:16	effect 9:21	42:24 43:20
direct 58:17	52:18 90:22	93:20	dues 53:22,25	15:7 56:21	44:1,5,23
directly 8:12	distinctions	dollar 53:22	duly 3:4	80:25 81:7	45:10 46:11
22:15 60:6	8:10 9:4	53:25	dumb 10:23	81:8,12,16	47:5,15
103:13	distinguish	donations	during 3:20	81:24 83:1	48:4,23
director 61:3	13:17	22:7	10:7,18,19	91:25 93:5	52:6 56:3
96:18	distinguished	done 4:20,24	16:3 47:5	93:25 94:1	60:9 61:19

63:9,11	32:16 33:7	24:14	99:10	55:18 56:14	42:21
66:14,17	33:8,21,24	especially	evil 16:8 71:7	58:25 59:1	Express 98:6
69:21,23	ends 97:5	55:25 88:20	71:14,17	59:2,2,5	expresses
70:2 72:22	Energy 97:4	essence 27:25	exactly 10:17	61:10 62:17	10:8
73:3,11,21	engaged	essentially	25:24 29:4	62:18 66:3	expressing
74:11,13	41:12	33:13 40:12	44:18 49:5	66:4,11,12	9:9
78:19 80:9	engagements	59:7	49:17 81:8	66:16 67:9	expression
80:11 85:19	97:6	establish	87:8 88:3	69:2,19	80:2 83:11
85:21 86:4	enjoys 93:4	19:16	examination	70:22 72:12	expressly
86:20 87:10	enormously	et 1:5,8,12,15	2:11 3:3,5	72:12,16,17	33:16
87:20 88:1	41:21	8:15	example 42:1	74:5,18	extent 51:2
88:4,17,19	enough 6:19	eternal 88:12	43:10,25	81:3 85:14	103:25
89:3 91:7	9:20 10:23	even 13:10	44:4 48:1	85:14 86:21	extremist
94:18	21:1 43:24	14:7 25:15	54:21 60:8	86:22	40:15
electioneeri...	54:20 84:12	35:16 46:15	69:13 70:24	Exhibits	eye 89:11
42:23 49:15	84:17 90:22	51:15 72:5	examples	65:25	eyeballs
77:20	103:23	82:3 99:1	29:22	exhorts 63:3	53:19
elections 2:6	Enron 24:20	105:6	exceedingly	exist 101:1	eyes 61:11,20
36:18 44:9	24:20,21,25	event 47:5	6:12,13	existence	62:1 70:20
73:20,22	Ensign 2:20	eventual 34:4	except 19:8	78:23	94:13
74:3,15	62:23 63:4	eventually	74:14	exists 12:17	e-mail 45:22
electoral	64:6 71:16	19:7 98:14	104:20	expectancy	69:14
24:17 27:7	enter 5:2	ever 19:23	exception	57:18	
52:13 56:17	entire 56:20	23:11 27:11	78:1	experience	F
Eli 32:16,21	78:6	34:6,9,10	excerpt 2:18	10:12 16:14	face 87:17,21
32:23 33:3	entirely 76:19	39:25	59:5 61:17	16:17 27:3	fact 8:25
33:3,20	entities 20:12	every 9:24	excerpting	58:11 92:14	18:14 36:3
elsewhere	20:17,23	10:11 19:22	60:2	expert 5:3	44:19,21
68:4	21:7 26:2	24:1 25:22	excerpts	30:22	46:7 47:10
embrace 54:1	97:9	28:2,2	72:15	Expires	62:10 63:6
67:20,21,22	entity 26:2,20	30:23 38:7	exchange	107:19	75:24 87:16
emotion	26:21 28:18	48:17 53:12	39:22	explain 41:13	104:2
86:17,18	environme...	68:1 83:16	excited 54:3	48:10	105:18
employees	71:24	84:14,18	exciting 54:2	104:17	facts 57:9
4:22	epidermal	86:10 93:16	exclusive	explaining	72:3 89:6
enactment	96:8,8	everybody	76:14	40:13 48:25	fail 36:23
16:25	Epidermis	55:1 97:25	Excuse 7:16	82:11	failure 63:16
end 24:1 63:3	96:9	100:25	executive	explanation	fair 25:11
80:16 93:19	epidural 96:9	everyone	61:3	62:15	43:24 47:25
95:13,14	equal 91:23	26:2	exercise	explicitly	48:5,24
endorse	equivalent	everything	42:17	33:8	49:1,2,8
33:16	82:2	8:1 35:15	exert 47:7	explore 16:11	50:17 97:12
endorsed	esoteria 6:14	35:15 86:16	exhibit 55:13	26:18 40:10	99:5

fairly 58:7	77:13 83:24	51:22 58:15	16:4,4	forgot 105:25	28:11,18
100:25	83:25 102:2	84:20	19:10 30:13	form 6:16	32:22 33:21
faithfully	103:15	finance 3:16	46:16 55:19	12:11 36:4	33:22 35:11
23:13	104:7	7:19,22	96:12	36:4 47:17	38:11,12,15
fall 53:19	FECA 6:1	10:14 15:6	flames 30:2	79:15 89:10	41:16 42:16
familiar 4:16	fed 36:9	23:18 24:19	flash 86:15	former 27:21	42:19 44:15
9:19,20	federal 1:8,15	52:12 65:21	flat 21:24	58:9 64:19	44:20,22
21:13 27:4	1:23 2:6 4:3	95:1 100:7	flies 42:12	66:22 83:7	45:1,2
55:15 90:5	5:25 30:21	102:7	Flight 96:23	formerly 3:17	48:21 49:14
family 35:17	61:19 78:7	105:22	floor 95:5	forum 33:2	49:19,24
37:5	Federation	financing	Floyd 4:25	for-profit	50:13 53:3
fan 30:2	44:13 97:13	7:23 8:6	flying 75:8	26:20 28:18	54:22 57:7
Fanning	feel 12:21	find 24:5 30:8	focus 22:14	97:9 98:7.8	57:9 59:5
99:11,12	55:7 72:1	39:5 41:15	58:7 76:14	fought 93:9	63:16 67:2
far 12:1	92:16	53:14 63:20	76:14,22	found 14:25	67:12,18,19
35:23 39:11	feeling 40:7	65:22 68:15	81:1	16:16 65:20	71:17,20
78:11,19	55:6	68:19 73:24	focused 5:24	Foundation	78:19 83:3
79:11	feels 73:14	76:12 79:1	6:2 19:4,6	105:25	83:14 85:10
farts 31:4	Feingold 9:16	82:4 86:11	43:17 44:2	106:4	87:17,21
far-fetched	80:15	92:17 95:6	45:8 46:6,8	four 17:22,23	89:5,6,15,17
26:5	felt 5:19 65:1	96:7 99:24	74:11 76:19	19:9 96:17	90:24 91:8
fascinating	80:16 84:9	102:17	88:1	99:18	91:21 92:23
65:3 66:19	84:10	fine 7:7 33:25	focusing 6:21	Fox 47:20	93:1,17
94:7	few 6:24 22:1	firm 3:9	Folger 97:1,4	free 37:1,4	94:21 96:15
fast 72:4	58:12 76:4	first 3:3 6:21	folio 102:15	79:21 92:20	97:8,17
fat 16:6	fewer 36:16	8:21,22	folks 89:16	92:21	100:8
favor 7:24	79:13	9:15 16:13	followed	freedom 23:3	101:23
8:6 35:3	fifteen 53:25	22:24 34:25	12:10	friend 11:23	102:5
40:15,16	fifth 77:15	36:13 39:8	follows 3:4	66:19	103:11
73:20 86:7	fifty 25:17,20	40:5 42:5,7	foot 84:18	friends 74:1	104:7
87:7,8	fight 31:2	42:18 43:3	foregoing	Fritz 83:7	frustrated
97:15	84:3,4	43:4 50:11	107:3	from 2:17,18	44:24
favor 7:23	figh 31:2	57:16 59:6	Foreign 87:3	4:9 9:22	frustrating
86:12	figure 5:22	66:15 73:4	87:18,24	10:10 12:25	41:22
favoring	10:23 12:2	73:12 78:11	foreigners	13:9,16,19	full 8:4 96:17
97:16	96:24	79:23 80:2	97:16	14:10,20	107:5
fear 86:17,18	figured 86:8	80:14 83:11	forever 23:13	15:20,24	fun 96:10
101:25	file 38:17	85:19 88:21	64:16 92:4	17:20 18:3	100:18
February	64:21 99:18	89:22 95:24	forget 8:5	18:3 19:10	function 6:17
101:24	files 99:20	102:2 103:6	12:25 18:11	20:13,17	fund 17:6
FEC 2:5 3:12	106:1	103:10	24:14 31:13	22:4 24:19	80:8 82:25
4:18 6:17	final 19:7	fit 42:8,8	31:13 39:7	25:4 26:19	further 46:15
8:19 68:4	finally 39:4,8	five 7:8 16:2	77:21 80:17	26:20 28:2	furthermore

60:19	38:11 50:15	52:12 72:3	96:12	20:5,8	39:5 62:25
future 55:22	67:12	99:9 100:13	goddamn	24:14 30:15	84:20 93:12
G	getting 23:9	glad 58:20	45:2	31:2 32:24	95:19
G 3:1	24:12 26:19	104:2	God's 30:25	37:8,8	103:17
gal 37:10	26:20 53:21	glass 38:7	37:11 42:15	40:18 42:13	greater 10:15
64:19	54:3 57:15	Globe 101:18	goes 18:4,16	58:3 63:14	12:19 13:19
Gamble	67:18 68:16	101:23	31:10 63:5	72:1 73:14	greed 94:15
24:12	94:18	go 4:20 5:13	64:1 69:12	73:20 74:15	green 86:10
game 30:12	103:23	6:20 7:7 9:3	going 3:13	75:10,24	group 13:3
42:9 57:20	give 4:22 5:8	10:25 13:15	6:7 7:2,4	82:23 100:2	17:16,19
75:2 79:22	7:8 11:19	15:12,19	10:7,15	100:15	23:6,10
79:22 84:17	11:20 12:3	17:12 18:15	12:4,7,19,23	goodness	24:4 29:17
gang 40:19	12:19,22	19:10,10,25	13:2,20	53:3	30:4 34:21
40:20	13:18 16:1	19:25 22:2	17:23,24	goofy 100:17	35:2 36:22
gangs 30:15	16:2,4 19:9	23:4 24:9	18:9 22:25	Gore 2:21	43:5 49:6
Gates 89:14	19:9 24:10	30:2,3 31:6	24:24 25:6	56:11 66:2	53:12 54:20
gather 42:19	25:20 28:20	31:7,17	25:15,17,18	66:5,13	63:13,23,24
gauge 40:11	30:11 37:4	33:2 35:14	25:20,21,22	67:22 69:16	64:9 65:7
40:11	43:22 47:7	35:14,23	25:23 28:21	69:22,24	68:25 70:23
gauging	49:10 54:23	36:24 37:11	36:19 37:14	70:5,13,18	71:20 79:7
40:21	62:15 71:6	39:12 41:4	38:16 44:20	71:4,8	97:22 98:3
gave 5:10	71:9 81:22	42:1 46:15	44:22 45:12	gorilla 11:10	99:11,16
10:20,24	82:3,15,24	46:20 52:23	45:20 46:3	gotten 75:25	100:15,19
13:3 80:25	83:18,19,19	56:23 57:3	46:15 47:16	80:15 83:24	groups 12:18
91:1,9	85:10 90:25	60:3 65:2	51:15,19	101:2	19:9 21:20
gazoo 95:10	91:2,2,3	67:8 73:12	52:25 53:18	governed	21:23 22:14
95:11,13,13	92:21 94:12	75:16 76:11	54:3 55:10	27:14	22:15,20
general 53:9	99:2 100:6	77:12,13	58:1,19	government	23:11 29:21
54:6,22	103:20	79:1 80:7	64:15 67:16	23:13 48:17	29:24 36:11
generally	104:24	80:21 82:22	67:17 72:9	49:24 52:12	36:12 39:11
34:25 78:24	given 13:24	82:23 83:9	79:23 81:11	54:3 75:11	42:12,13
90:3,5,6,19	14:1,5 25:8	88:19,22,22	81:14 83:2	83:1 96:19	44:20,22
generates	41:9 46:2	89:22,25	83:10,10	96:22 99:9	47:13 49:14
52:6 56:16	56:11 59:6	90:17 91:1	85:13 89:1	governor	50:9,12
genuine	61:24,25	91:13 92:12	90:25 91:13	11:8 32:15	54:14 55:4
43:16	62:5,15	93:8 96:1	92:21 94:8	33:24	70:14 78:13
George 39:7	68:1 90:18	99:3,17,19	102:12	Graham	97:10 99:4
48:2 56:11	100:6 102:4	99:24 101:6	104:17	64:13	guess 4:12
100:16	104:23	101:6 106:1	105:6	grand 7:25	5:4 58:19
105:19	gives 22:12	God 23:13	gone 41:16	8:2 16:4	75:7 82:24
gets 12:7 23:6	22:13	29:12 30:21	79:11	37:2 91:1,5	guilt 86:17,19
28:10 38:11	giving 12:12	31:4 42:13	good 3:7 6:5	grass 42:9,10	gum 84:23
	12:13 25:25	69:6 89:23	7:1 11:15	great 7:15	gun 11:21

28:14 30:10	hammer	Harvard	hearings	hero 71:24	home 36:24
30:11,20,20	52:20 58:21	96:16,17	57:10	Heston 11:22	66:21 68:3
32:17,20	97:14	98:24	heart 83:18	60:22	73:16 99:17
40:8,15	hammered	Hatch 2:20	hearts 53:4	hey 85:2	99:24 104:2
41:3 46:12	21:24 23:10	66:1,4,12,18	heat 70:13,16	hide 98:23	honest 7:24
46:12 48:2	65:23	67:21 71:11	70:18 71:4	hiding 24:3	94:17
guns 30:14,23	hammering	71:13 88:10	71:8 88:6,7	high 32:4	honestly 4:8
39:7 40:19	46:1 54:2	hatchet 39:19	88:8,13,14	86:23 88:24	72:7
53:10,24	64:2 72:1	hate 92:11	89:2,3,7	higher 14:5	honorary
guts 19:8	hand 57:25	hated 92:15	heaving 76:7	32:7	105:8
80:20	58:1 72:6,9	hates 71:23	held 57:9	highly 21:23	hope 28:3
guy 4:9 7:25	handle 60:21	Hatlestad	hell 8:22 9:16	23:14	54:1 58:11
10:2,6,10	hands 18:16	1:24	9:18 10:20	Hillary 43:10	93:22
12:23 13:14	30:15	having 7:17	13:10 15:16	him 4:25 8:1	horse 95:13
14:20 15:11	hanging	16:17 36:1	19:2 32:20	8:2 10:2	hotel 10:9
16:4 30:21	14:10 88:23	40:19 56:14	35:11 38:5	16:5,7 33:5	104:16
35:7,18	happen 34:23	76:17,18	38:8 41:13	33:6,7,8,21	hour 37:1
41:2 45:14	38:3 57:11	78:21 80:24	44:16 45:19	33:24 38:1	102:16
46:2,23	57:23 76:6	84:25 85:25	51:17,18	62:4 75:2,5	house 12:5
52:23 60:18	96:23	86:1 92:12	53:11,21	80:20 88:8	31:15 83:15
60:23 66:19	happened	93:4 94:16	54:2,19	89:3 91:10	83:17 87:19
71:12,22	4:24	head 24:5	58:21 63:15	93:11 94:7	96:24
73:16 74:14	happening	51:1 64:20	66:23 71:15	102:8 104:1	How's 100:1
74:22 82:21	77:11	64:20	72:5 73:15	105:19,22	HR 38:17
88:7,20	happens	headed 4:23	76:5 83:8	106:2,4,5,5	huddle 12:1
94:7 105:18	41:16	95:13	83:12 84:6	hind 60:22	Hume 2:2,11
guys 13:1	happy 55:10	headquarters	89:1,22	hips 89:19	3:6,8 5:15
18:15 21:22	hard 6:16	17:21	98:23	hire 27:9	5:17 7:7,10
29:5,19	8:11 13:13	head-on-a-...	help 10:14	89:22	20:19 29:2
31:11 33:3	21:4 22:10	8:8,9	18:9,10	hires 89:15	32:1 43:2
38:11,12	90:3,6,13,19	head-to-head	28:3 31:4	Historical	47:19 48:9
39:14 53:24	91:12,19,22	9:3	66:20 70:20	97:2	48:13,14
55:2 92:17	harder 53:7	health 43:12	74:25 77:2	history 99:3	54:13 55:12
guy's 9:23	hardly 62:16	43:25 44:3	105:19	hit 10:10 41:3	55:14 59:1
H	harmful	66:10 97:21	helped 64:25	45:19,21,21	59:4 60:1
H 2:15	23:20	heap 65:8,9	helpful 81:10	88:24 96:23	61:9,12,15
hacking 35:6	Harry 2:19	hear 41:10,20	helps 74:14	hog 29:5	61:21 62:5
half 30:7	62:22 63:4	44:20,22	her 8:2 16:5	hold 67:18	62:10,14,18
54:22 67:13	64:6 65:15	80:5	70:20 88:1	hole 45:14	65:25 66:3
76:8	71:16 104:9	heard 16:3	88:8,15,16	holes 97:6	72:11,14
Hamish 2:2	harsh 39:8	37:20 81:1	89:7,8,8,13	Hollen 2:19	74:9 78:4
3:8 101:17	harshest	88:25	89:14	59:10,19	78:10 79:18
	10:17	bearing 44:14	104:16	71:18	87:14 90:2

91:13,17	illegal 15:9	independen...	21:1 68:3	105:11	54:15,20
99:22	15:10	14:8	70:24 73:6	interview	55:9,10
101:11,18	imagine 17:1	India 89:15	82:1	37:10	70:14 72:4
101:23	23:11 41:21	indicted	initiative	interviewed	74:12,23
102:1,20	immaterial	14:20	26:24 38:22	102:23	76:23 77:6
103:10	23:5	indistinguish...	40:2 43:7	intimately	77:8 78:13
104:5,23	immediately	15:20	44:2,21	57:24	78:17 80:10
106:7	86:3 88:3	individual	45:8	intrepid	84:5 87:1
Humphrey...	immigration	13:3 28:11	inner 30:8	106:6	89:19 97:10
84:20,23	19:21 44:12	49:3 50:8	40:20	introduce 3:7	99:4
hunch 55:21	44:13 97:13	individuals	inquisitor	investigation	issues 33:25
hundred 7:25	impact 76:20	12:18	99:17	4:18	J
10:10,22,22	94:25	individual's	insane 30:3	involve 72:18	jack-booted
24:10 25:17	important	49:16	instance 51:9	involved	39:9
25:21 30:13	19:17 54:7	industry	instances	24:11 62:3	jail 15:19
30:13 41:1	55:24 58:5	11:13 12:25	94:23	75:3 96:14	Janet 74:4
41:2 69:17	63:17,19	37:24,25	instead 24:3	99:20	jerk 31:15
95:4	66:25 67:1	89:20	28:8	100:20	41:14 76:2
hunt 30:24	82:14	inevitably	Institute	102:3	jerks 37:4
hurt 65:1	impression	10:15 82:19	73:23 74:3	involvement	Jersey 4:10
73:15,16	73:1	influence 6:4	96:18	5:21 99:5	Jesus 12:2
hymn 9:19	improper	11:14 15:5	instituted	Irma 104:16	jettison 85:3
hypothetical	27:22	15:13,25	9:10	irritated 33:3	job 100:11
25:8,14,19	inappropri...	27:23 28:1	intend 95:23	41:6 45:16	jobs 38:9
26:4,8,15	63:14,20	28:16 29:25	intended	isolate 44:17	Joe 10:1
27:2	Inc 73:23	30:1 32:11	45:10 63:10	isolated 80:19	16:10 24:21
H-u-m-e 3:9	including	43:20 44:5	63:12 64:5	105:17	24:24 35:10
I	39:12 60:14	44:6 45:10	85:21 91:25	isolating 9:4	68:13
Idaho 95:14	incorporated	45:15 46:1	intending	Israel 31:8	John 2:20,21
idea 31:23	20:12,23	51:11 63:11	69:20	issue 4:25 6:3	2:22 62:23
32:1 79:5,6	21:7 22:15	64:5 66:16	intensity 29:1	7:18 9:5	63:4 64:6
80:1	incumbent	69:20,22	interchang...	25:16 28:14	71:16 72:9
identification	90:11,13	73:3 76:20	3:23	28:17 29:13	73:19,25
82:16	92:3,5	78:18 85:21	interest 33:25	33:11,12	74:2,14,15
identified	incumbents	86:20 89:8	interested	34:10,16,19	74:23 75:3
2:16 70:22	90:3,6	influenced	39:21 70:15	35:2 40:1,7	75:9 91:1,8
identify 62:19	91:19,24	26:25	interesting	40:13 42:21	105:15,16
65:18 72:15	92:1,11	influences	87:6	43:5,17,17	join 98:25
identifying	93:6,12,25	74:13	interminably	44:14,20	joined 53:14
82:1	Independe...	influencing	4:14	45:7,9 47:4	Journal 2:18
IDS-Ameri...	101:9	45:11 69:23	interpretati...	49:6,14	59:5 60:2
98:6	independent	69:24 74:11	69:19	51:12 52:1	61:15,22
	105:6	information	intervened	52:6 54:14	

62:6,13	77:3 80:25	44:25 52:7	57:24 58:13	75:20 100:7	legal 15:21
journalist	82:24 84:7	56:16,16	58:16 62:10	102:1	legally 69:11
32:18	84:9,12,24	57:10 61:22	63:12 66:21	lasted 76:8	Legion 53:13
judge 58:15	89:5 91:2,6	96:1 97:9	66:25 67:1	late 79:2	69:1
58:15,19	92:9,16	97:15	67:4,12,14	later 33:12	legislation
76:1,4	93:16 94:15	kindly 71:13	68:18 71:14	latest 83:23	3:16,17,24
judicial 88:10	94:22 95:23	kinds 33:18	72:5 73:18	latter 4:1	6:1 9:14,18
July 102:6	96:21 97:8	36:17 49:3	75:18 76:10	law 2:2,5 3:9	19:4,20,21
103:9,9	98:17 99:22	54:25 77:5	77:16 79:19	4:21 6:14	26:25 30:7
June 46:8	99:25	78:17 88:12	80:12 83:12	8:11 14:16	47:11 76:22
jungle 11:10	100:10	Kirk 2:3 3:9	83:22,22	18:3 20:17	76:23 88:2
junk 65:7,9	101:6,17	kiss 12:13	84:6,9,12,12	20:20 26:6	88:16 92:5
jury 76:3	103:25	71:9	84:13 85:11	48:20 49:10	92:7
just 4:1 6:6	104:8,9,21	kite 36:20	86:10,14	49:10 58:14	legislative
7:5 8:5,25		knew 14:9	88:18 89:5	68:10 79:3	12:24 44:21
9:11 15:1	K	84:17	89:14,23	79:20 80:12	45:8
15:17 17:15	K 2:3 68:12	103:22	90:21 91:6	lawsuit 4:19	legislators
19:15 21:10	Kasten 23:8,8	105:5	92:16 94:6	21:10	29:25
21:11,11,19	Kay 64:12	knocked	95:12	lawyer 5:7	legislature
21:22 23:4	99:11,12	12:15	103:24	49:11	9:17 14:18
23:6,14,14	keep 13:6	knot 41:18	106:1	lawyers	19:1 32:25
24:14 27:20	42:10 46:22	know 3:22	known 24:20	100:16	86:10
29:2 31:12	46:23 47:4	6:18 7:3	36:22	104:7	legs 60:22
32:17,20	55:10 69:24	10:2,6 12:1	knows 13:13	lead 8:5 36:4	less 29:7
34:10 39:4	71:9	12:12 13:4	30:21	93:5	70:14 79:17
40:10 41:3	Kennedy	13:8,10,12	KODI 36:24	leader 17:3	89:17 93:7
41:20 42:2	89:20 96:18	14:8,19,24	37:9,10	27:16 93:20	lesser 35:16
42:6,16	Kentucky	15:23 17:1		93:21	let 7:19,24
44:9 45:3	95:5	17:2,8 18:6	L	leading 27:6	8:1 21:3
46:22 47:1	kept 83:21	18:23 19:13	LA 40:19	41:24	24:16 26:7
53:14 56:15	key 24:4	21:1,13	labor 22:5,6	least 7:11	26:18,21
58:16,21,21	kid 92:18	22:22 23:16	Lakers 30:12	44:1 63:23	27:5,13
58:21 59:12	kidding 37:1	23:20,24	Lamm 97:18	75:19 82:2	30:4 31:3
59:24 60:1	Kids 13:9	25:15,24	language	82:15	33:11 34:24
61:9,18	kill 83:17	26:3,9 28:4	41:4	leave 99:25	34:25 43:4
62:19,24	86:18 92:4	33:6,10,20	large 97:17	Lebanese...	49:10 50:18
64:15 65:7	92:6 93:11	34:12,19	largess 11:22	97:17	52:16 60:22
65:18,22	killing 94:12	36:11 41:11	largest 38:4,6	lecturer	60:25 61:9
66:6,23	94:14	42:9,10	last 4:9 6:23	96:16	63:12 66:24
68:25 69:6	kind 7:24 8:8	47:24 51:22	6:25 19:8	left 16:7	72:11,15
70:13 71:5	13:23 15:11	52:2,14	19:10 32:13	32:20 84:21	75:22 99:17
72:11 74:1	20:12 30:25	53:10 55:14	36:7 46:10	87:22 97:24	99:18,22
75:10,12	35:4,6,17	55:20 57:9	47:14 50:1	leg 99:21	letter 33:23

39:4,16	20:2 21:25	limitations	81:2 94:12	102:12	27:1,17
41:8 102:5	23:25 25:19	21:5 91:23	102:14	Los 30:9	93:20,21
letters 27:10	26:15 28:11	limited 8:2	lived 60:20	38:22 40:1	make 15:17
29:18 38:14	28:14 29:6	limiting 42:5	78:22	lose 12:2 37:5	19:1 24:16
38:19,21	30:5,15	limits 8:5	Lloyd 96:21	90:25	26:23 27:20
39:22,24	34:13 35:2	80:11 85:25	lobbying	lost 59:18	36:21 37:9
40:24 53:11	35:13 36:3	86:7	53:20	lot 9:18 19:8	52:17 57:5
let's 20:21	37:4 38:15	line 77:10,12	lock 99:19	35:22 38:13	57:6 74:8
25:3 29:19	38:19,21	78:18,20	long 4:14	39:14 53:12	75:4 79:16
40:17 42:16	42:13 43:5	79:1 88:9	6:13 7:2	53:21 54:2	84:2,25
46:8 48:2	43:16 45:20	lined 10:3	22:22 25:8	82:6,6	85:25 89:13
49:4,4	47:13 50:14	lines 81:6	27:25 39:20	85:10 89:13	makes 15:15
58:22 59:14	51:17,18	list 24:10	41:5 58:14	98:18,24	15:25 50:8
62:17 73:13	55:5,8 56:3	38:1 68:8	80:18,25	100:18	83:8 104:1
86:21	56:15 59:12	98:23	88:9,9 90:9	lots 25:23	making 37:2
level 88:25	60:18 65:25	100:24	102:11	Lott 17:20	man 10:18
lever 41:3	66:13 68:25	listed 14:11	103:23	love 21:22	11:24 14:23
Levine 102:6	70:7 71:14	37:22	longer 97:19	28:24 30:23	37:9 75:23
103:12	72:2 73:1	listen 46:3	99:21	30:24 54:1	Management
Lexus 95:2	74:2,5,14	105:6	102:12	92:13,17,18	40:25
liability 98:12	75:6 77:7	listening 36:8	look 4:17	103:18	mankind
Library 97:1	79:5,6,23	76:3	6:24 15:15	loved 92:14	36:22
97:4	81:1 83:8	listing 68:1	15:25 16:8	lunch 42:15	many 4:7
life 8:5 18:2	87:16 88:1	lists 25:4	19:20 36:3	58:16	6:10 17:4
41:22 45:23	88:23 89:18	literally	39:11 41:7		31:23 32:2
57:18 73:4	92:18 93:2	24:21 79:13	45:13 51:17	M	45:17 75:15
78:22 80:22	94:22 95:19	litigation	52:13 56:25	mad 37:10	80:16 104:6
88:12 92:5	98:18 99:5	3:12,14,15	66:6,8 69:2	made 6:11,24	Marello
99:10	99:8 101:4	4:6,9,13,16	72:19 74:8	8:11 40:1	59:17
Lifetime	101:24	5:18,20,21	74:14 79:21	49:24 78:2	Mariani 4:13
95:11	102:15	5:24 6:11	85:16 101:7	80:19 94:3	4:19 5:1,18
light 19:17	103:16	58:6,9 62:4	looked 76:24	magic 33:15	5:23,25
63:6 89:6	105:18	79:24 81:5	84:1	34:13,15,16	6:11,12
lights 45:22	106:8	98:21	looking 29:11	34:19 77:6	15:12
like 4:10 6:18	likely 87:5,7	101:22	51:14 66:15	magnificent	101:21
6:20 9:11	87:8 103:20	102:3,7	73:18 74:5	11:24 39:5	102:5,9
10:25 12:5	likes 73:17	105:22	81:3 93:1	mailboxes	mark 55:12
13:17,19	74:14 93:3	little 5:18	looks 15:16	30:22	59:2,8
14:3,13	limit 25:17	9:16 18:15	15:17,18	mailing	62:17 65:25
15:11,15,16	86:1 95:20	21:10 30:6	23:13 51:17	100:24	72:12
16:11 17:11	95:23	32:5 39:9	51:18 83:8	major 19:20	marked 59:5
17:25 19:23	limitation	55:2 64:17	93:18	100:4,5	61:10
19:23 20:1	67:25	77:16,18	101:24	majority 17:2	marvelous

23:14 24:3	26:9 29:5	86:15	mind 8:23	10:20,22,24	87:23
39:18 80:18	29:18 33:11	105:25	26:24 27:18	12:19,23	months
Mary 65:15	39:13,14	mentioned	58:11 67:6	13:3,7,15,15	105:15,15
Maryland	40:18 44:8	5:19 18:20	95:20,22	13:18,24	Monuments
59:9,11	44:16 47:6	19:13 29:22	mine 11:23	14:1,5 15:5	96:20
massive 46:9	48:14,18	39:16 97:8	41:4	15:11 16:2	more 12:19
matter 13:4	52:5,14	mentioning	Minneapolis	16:14,14,17	12:22 13:15
37:20 63:5	58:13 67:1	42:24	98:6	17:17,18	21:3 22:1
maxed 9:24	74:10 75:14	mentions	minute 5:14	19:9 20:3,4	35:20 36:21
13:1 46:2	85:8 90:10	45:9	28:19 56:14	21:4 22:7	37:19,19,21
may 3:19	91:4 98:17	Merit 1:24	59:13 64:10	22:10,15	46:3 47:2
27:14,16	media 35:9	merits 28:16	minutes 7:8	24:12,19,19	53:12,15,21
28:12 33:12	47:11,18	message 30:5	104:22	25:2,3,24,25	54:2 56:1
45:10 54:10	50:11,12,13	86:3	Mischaract...	28:11 30:14	57:15 58:12
55:9 62:11	50:15 95:15	methods	54:10	36:20,21	63:25 64:17
62:12 68:3	95:18 96:6	89:12	misfire 37:13	37:5,19	68:8 74:11
75:15 82:17	media's 96:7	Michigan	37:15	38:11 50:9	75:15,16,17
92:1	Medical	74:21,24	misguided	50:10 53:1	75:18,19
maybe 61:25	105:24	75:4,5	79:25	53:3,8,12,15	81:2 82:5
79:11	106:3	97:15	mispercept...	54:2,16,19	82:17,23
McCain 2:21	Medicare	microscope	37:16	54:21,22,23	84:4 87:2
2:22 9:15	57:2 70:21	96:8	miss 81:14	57:16 60:24	88:1 90:14
72:9,18,23	medicine	mid 103:9	missed 9:11	61:7 67:2	90:20 92:14
73:19 74:2	19:12	Midland 18:4	77:23	67:12,16,17	92:15 93:6
74:14,16	meet 76:1	18:5,17	Misstates	67:23 68:1	94:12 97:20
75:9 80:14	meeting	81:18	20:16	68:16,20,22	morning 3:7
80:19 83:21	12:24 16:5	midnight	MIT 89:17	69:5,8,9,10	6:6-104:15
105:14	88:19	58:17	Mitch 1:4	69:10,18	most 18:15
McCain's	meetings	might 12:2	79:25 80:5	76:15,18	83:16 86:2
73:25	88:22	17:23 32:7	93:8,17	77:19 78:2	86:5
McCain-Fe...	member	32:9 55:4	94:6	80:9 81:13	motivation
3:22 18:21	53:13 66:22	76:3 81:8	moment	90:3,6,13,15	93:15
19:10 83:14	68:18	96:25 98:14	31:24 62:25	90:19,20,23	Mountain
McCONN...	members	105:2	66:6 72:18	91:4,6,9,12	89:1
1:4 3:12,14	28:11 32:3	mileage 89:13	85:16 86:24	91:20,22,22	move 50:14
4:5 79:22	38:13 40:19	milk 21:21,22	moments	92:1,12,19	84:17 86:21
93:9 94:24	53:4 105:10	Millenium	76:4	94:20	88:10
95:3	membership	98:3	Mondale	monies 21:6	moved 50:13
McGovern	53:9 54:22	Millennium	15:15 83:7	Monitor	moving 78:10
100:16	54:23	97:22	money 4:24	64:21 99:14	much 6:9
mean 8:22	mental 97:21	million 18:8	6:4,16,16	99:15	11:21 14:9
11:19 13:22	mention	25:22 28:24	8:12,13 9:3	month 6:23	33:19 37:23
14:1 25:11	33:14 48:22	30:7 97:3	9:20 10:4	32:15 37:1	53:7 74:11

82:15 90:13	62:6,13	103:14	69:15 74:7	60:5 62:8	October 1:20
90:19 92:19	64:10,18	News 47:20	78:11 84:21	62:11	46:10 55:19
99:2 102:18	66:23 74:25	47:20 48:1	84:23 89:16	nub 95:18	56:2 87:19
103:7 106:8	97:4	48:23	95:22 98:22	nuclear 88:24	106:11
myself 3:8	nation's	next 65:17	notice 1:22	number 2:17	107:4
19:21	17:10	85:23	16:6	2:18,18,19	odds 97:5
mysterious	nature 36:2	Nexus 95:2	noticed 63:3	2:20,21,21	off 5:13,16
7:6	NBC 47:20	nice 19:11	notion 85:24	2:22,22,23	7:8,9 12:15
	NEA 29:6,9	66:20	not-for 26:20	9:19 12:21	16:9,21
N	39:12	night 18:8	not-for-pro...	19:15 24:2	18:14 31:23
N 2:1,9 3:1	near 30:23	28:2 31:17	97:10	36:17 41:3	31:25 34:14
nail 88:19	need 4:17	nineteen 10:9	nowadays	68:10 69:4	36:21 37:2
name 3:8	13:8,14	nitpicking	35:15	69:7,14,17	37:3 38:9
7:25 10:21	16:13 18:7	44:25	NRA 1:19 2:2	73:23	45:14 93:12
14:12 20:14	25:21 29:12	nobody 73:14	3:3 11:20	Nursing	94:12,15
20:24 22:17	44:17 56:8	Nobody's	11:25 17:21	66:21 68:3	97:14,23
48:4,22	58:11 60:23	100:11	28:12,22	NW 2:3,6	offensive
51:14 60:15	66:20 75:15	nomination	29:4,8,22,24	O	58:13 64:12
60:17 63:13	77:22 79:12	59:9	30:18 31:6	O 3:1	64:13 65:6
68:8,12	81:20 91:20	nominations	31:21 32:3	oath 3:4	office 7:21
70:23	91:22 106:1	88:11	32:10,15,22	object 28:21	11:3 20:14
100:19,22	needed 85:2	None 51:24	33:18,21	47:16	47:12 69:7
101:4,5	needs 77:4	nonfederal	34:1,6 35:2	103:25	103:4
named	negative	78:7	38:12,15	objection	officers 24:5
105:24	35:20,24,25	nonfunction...	39:8,23	20:16 42:25	offices 12:1
namely 52:1	36:2 45:6,7	84:1	40:17 42:1	48:8,11,13	14:11
names 23:12	82:17 94:25	nonparty	43:4,5 46:9	54:9 79:15	official 13:24
25:5 45:9	Nevada 62:22	78:11	47:13,22	89:10	13:25
82:4 99:2	never 7:23	nonprofit	48:3,4,6,11	objectionable	officials 7:21
105:23	8:22 14:15	28:10 31:12	48:14,15,17	63:21 65:20	12:20 22:8
Napolitano	26:1,7	37:21 99:4	48:18,20	65:23	67:11
74:4	27:11 36:19	north 95:14	49:4,5 50:2	oblivion 8:21	often 38:2
narrowly	37:7 40:8	Northrup	50:2,9,16,16	obvious 87:17	41:10
81:2	42:5 51:8	2:23 87:4	50:19,20,24	87:21	Oh 18:5
nasty 38:14	77:14 80:3	87:11 88:15	50:25 51:6	obviously	42:14 65:15
96:10	83:10,10	89:7	51:15,21,21	11:6 16:15	95:9
national 1:11	90:21 106:2	Notary 1:24	52:16,16,18	25:18 56:18	oil 37:24
2:18 3:10	new 4:9 9:19	107:17	52:19 53:4	58:10 67:1	okay 7:15
20:3 24:6	12:4 17:7	note 106:8	53:13,23,24	67:9,25	43:22 46:6
29:6,13,16	21:19 47:10	noted 56:1	59:12 60:11	70:19 86:14	49:18 63:1
39:12 59:5	79:3 86:9	nothing 4:24	60:11,13	86:20 87:19	71:1 72:20
60:2 61:3	88:9 96:22	7:5 11:16	71:23 72:17	90:12	91:3 101:18
61:15,22	98:4 101:20	27:22 69:14	NRA's 51:7		old 16:6

18:15 21:10	ones 14:25	91:23	82:17 94:17	outside 75:8	pages 41:5
31:4 32:5	57:4,5 87:3	organization	105:14	91:22	102:14
35:11 42:9	only 5:10,22	28:10 33:22	ought 7:21	over 8:24	107:4
44:25 51:22	8:19 16:2	53:7 60:7	20:4 21:23	12:4 16:6	paid 5:2,3
60:22 70:21	25:4 27:11	68:16 85:24	22:20 25:23	17:13 18:16	10:4 17:9
74:1 88:25	46:13 50:23	101:1	26:17 52:21	25:20 28:16	24:1 51:6,7
95:11	54:16,18,22	organization...	54:14 69:5	35:12 39:23	57:13 65:13
once 47:3	57:12 58:8	21:17	79:13 83:12	40:12 43:7	65:14,18
one 4:1 8:10	61:11,20	organized	out 4:9,15	46:2 56:25	67:9 68:12
8:23 10:9	62:1,14	28:13	9:24 12:3	59:13 61:23	70:23 73:22
10:11 12:21	67:24 68:5	original 3:25	13:1,6,11	66:6 77:12	103:23,24
16:18,20	70:23 78:13	3:25 18:21	14:25 16:7	79:1 97:25	pain 73:15
19:7,8,11	onto 99:9	83:14 85:10	19:8 21:10	100:7	pallid 94:18
29:4 30:4	opener 77:19	originally 9:1	21:18 24:7	overwrought	pap 84:5
32:18,18	77:19,23,24	84:11	24:13,14	41:18	paper 16:3
33:4,15	78:9	Orrin 2:20	30:14,20	own 40:24	67:16
35:3 37:6,7	operated	66:1,4,18	31:4,17	48:7 72:7	paragraph
38:2,10	19:18	67:21 71:11	32:20,24	90:22 99:10	16:13 22:4
39:11 43:8	operating	71:12,12,13	35:13 40:1		56:3,7
44:4 45:17	27:15	88:10	41:15 42:7	P	101:13
51:13,19	operation	other 6:25	42:12 46:2	P 2:1,1 3:1	paragraphs
52:1,8 53:5	56:19	10:12 20:6	51:8,20,25	pabulum	41:1,2
54:17 56:25	100:10	21:7,11	52:4 53:14	19:12 71:17	pariah 80:19
57:6,25	opinion 9:8,9	22:3,5,15	53:19 57:13	PAC 11:12	part 4:5 6:5
59:3,13	9:12 21:19	23:25 24:6	63:25 68:1	13:9,9,9	15:22 18:11
60:4 61:12	22:20 50:15	25:3 29:21	68:15,19	31:8 47:23	18:12 20:1
62:3 64:2,7	52:5,21	29:24 30:12	71:21 73:24	48:12,15,15	20:1,11
65:5,23	54:8,14,16	32:5,17	76:12 77:14	48:18,18,18	23:16,17
66:1,2	65:3 78:21	33:1,3 34:2	79:1 82:5	48:19 49:20	28:19 29:9
69:16,16	81:6	35:7,19	84:5,11,13	50:4,6,7,10	34:14 42:2
70:9 71:11	opponent	36:22 47:19	84:16 85:9	50:16,20,25	53:17 65:20
71:17 72:13	34:17 70:13	47:22 48:23	86:8,11	51:7,21	76:12 78:20
72:14 74:8	opportunity	49:7 50:8,9	89:13 93:21	52:16,19,21	82:8,18
74:20,21,23	50:3,4	54:17 64:8	95:24 97:25	53:1,2,8,24	particular
75:6,8,10,19	52:20 95:25	75:6,14	99:10,18	54:5,8,16,19	28:13,14
76:8 83:23	oppose 42:19	77:19 80:17	100:14	54:21,24	55:17
87:16,23	42:20 60:11	87:3,16	102:17	PACs 9:2	particularly
94:19 95:23	89:8	94:15 95:24	outcome	11:15 13:16	23:7
96:13 100:2	opposed 15:8	96:11 97:9	63:11 64:5	21:4,8	parties 8:15
101:20	39:25 40:4	98:8 99:4	66:17 69:20	49:16	16:15 20:3
102:1,12,12	40:4 95:1	103:4	73:3 85:21	page 2:10	22:4 78:3
104:8	options 98:15	others 30:6	outfit 101:8	9:19 56:4	105:12
onery 105:5,8	order 83:14	30:18 58:2	outlet 52:19	80:7	partisan

21:23 23:15	15:15,25	12:17,18	96:2 100:10	86:23	polls 27:11
partly 21:24	19:1 21:9	71:2	phony-balo...	pledge 64:23	86:6 90:25
partnerships	21:23 22:22	perch 12:15	20:5 57:4	64:23	Ponzi 57:20
8:3	24:6 25:25	perfectly	Phototonics	plenty 42:11	poor 70:19,21
parts 19:16	28:1 29:5	50:17	98:11	plumbing	81:20 88:23
19:23,23	31:1,20	perhaps 67:8	phrase 3:14	46:22,23	poorest 77:15
party 16:16	32:14 35:16	101:20	19:14 22:12	point 49:25	popped 4:12
16:18 76:18	38:8,24	period 22:18	34:13 73:5	57:14 82:14	population
78:1,4,12,13	41:6,17,18	57:17 63:8	73:6 86:23	points 6:10	97:17
80:10,17	43:6 44:15	86:3 94:8	87:6	policy 28:14	possible
party-build...	45:11 50:11	permission	phrased 63:6	43:6,17	68:18 89:5
78:5	51:18 52:17	59:6 61:24	phrasing	57:2	92:6 98:16
pass 86:17,18	54:2 55:4	61:25 62:6	49:11	political 6:2,4	possibly 14:7
93:18	55:25 57:5	pernicious	pick 16:3	8:14 9:1	39:2
passed 3:16	57:6,15	11:14	31:1 37:22	11:9,12	post 69:7
19:24 77:14	60:25 63:12	persistent	51:19,25	16:15 20:3	71:22
80:15 84:21	63:15 65:15	106:6	52:4 63:24	20:23 22:4	power 31:9,9
84:23 85:1	65:16 67:3	person 13:3,6	99:18	22:16 31:8	55:3,4
85:11 87:22	67:18,20,21	45:12 68:1	100:14	33:13 35:1	61:23 86:15
passion 93:9	67:22 73:24	68:9,11	picked 4:8,14	35:19 36:17	94:25 95:15
past 83:15	74:1,2 75:5	73:19 77:13	51:8 104:15	41:22 50:19	powerful
Paul 10:8	76:20 81:12	personal	picks 35:9	51:11 53:16	29:25 32:10
83:5 105:24	83:8 84:2	12:22 58:10	picture 80:24	56:16 71:7	32:12 36:11
pay 22:16	86:7,10	personally	piece 26:25	76:18 78:3	practical 9:22
61:5,6,7	88:18 89:15	85:2	30:6 38:7	82:19 94:13	67:25 68:7
89:16,17,24	94:14 95:12	perspective	51:8 52:1,1	100:4	practiced
89:24 92:24	95:18 97:22	7:18 58:8	pin 51:1	politician 6:3	26:6 58:14
92:25 98:2	98:2 99:9	pervasive	place 87:12	13:4,12	preceding
paying 23:24	103:4	94:20	87:15	45:24 78:22	87:23
55:23 67:15	Per 32:4	PFB 66:21	Plaintiff 1:19	80:5 83:4	precinct
92:22	perceive 35:3	phenomenon	2:2 3:3	83:25	77:15
pays 43:4	35:4,5,7	46:13	Plaintiffs 1:6	politicians	precious
pea 86:10	50:23	philosophy	1:13	16:21 37:14	30:20 80:2
peanuts	perceives	11:20 12:13	play 22:24	politics 11:8	precise 15:22
77:21	37:15 50:21	24:7	played 25:14	27:8 28:1	prescription
pen 4:20 13:6	perceiving	phone 17:12	playing 58:20	56:22 71:4	81:19
Pennsylvania	36:1	17:13 28:4	plays 74:22	71:18,25,25	present 6:16
14:21	percent 24:19	45:19,21	please 24:22	72:2 82:7	76:9 104:5
penny 103:24	36:6 57:15	69:4,7,14	28:2 53:24	86:16 89:4	presented 6:6
people 4:7	86:7	73:23 81:13	55:13 58:16	96:18	6:7
11:11,20	percentage	phony 6:15	58:16,17	poll 27:11,11	president
13:14 14:8	32:7	9:6 52:22	59:2 62:17	92:21,21	75:10
14:10,19,24	perception	52:25 77:10	66:5 85:15	poller 45:21	105:19

presidential	104:20	Proposal 75:4	30:14 68:5	41:23 42:4	race 62:22,22
56:13 70:3	probation	proposals	70:16 75:3	44:18,18	64:5 70:3,4
70:8,9	30:22	44:3 84:10	79:24 93:13	45:2 46:6	70:8,10
72:23 73:25	problem 11:4	protect 92:1	94:11,14,17	46:13,21	90:11 91:9
96:19 99:7	40:20 65:21	proudly	94:18	47:2 48:24	races 78:7
president's	67:5 76:15	33:20	pursuant	50:18 54:12	racism 86:17
17:17	76:17,21	provide 4:5	1:22 61:25	54:13 60:4	86:19
press 3:21	82:8,10,12	provided	pursue 21:25	60:7,12	radio 22:17
60:22,24	Procedure	70:25	pushing	61:10 65:17	36:25 37:3
61:2,3 95:2	1:23	pro-union	71:21	67:24 68:5	52:19
95:8,12	proceedings	84:22	put 7:25 8:1,6	71:3 78:21	raise 16:14
pressure 47:7	106:10	PSAs 73:9	10:6 29:10	79:16 80:23	16:17 18:7
90:14	process 46:7	PSA's 73:9	30:6 56:13	80:24 85:20	53:7,8,11
pretend	82:9 84:25	public 1:24	57:23 68:10	85:23 87:25	54:1,20,22
21:21	Procter 24:12	3:21 7:20	68:11 69:6	90:8,18	55:6 76:18
pretty 11:15	produced	7:21 11:3	70:16,17	91:18 95:22	90:3,6,12,13
19:11 32:24	102:21	28:14 33:2	77:18 88:7	questions	90:14,19,20
36:14 39:8	producer	34:14,25	88:8,13,14	22:1 25:14	91:19,22
55:24	38:7	36:1,10	89:1,2,3,20	26:16 46:25	92:12
105:17	profit 26:21	37:15,17	90:14 99:10	55:19 58:4	raised 9:3
prevalence	37:20 98:5	43:6,7,17	putting 67:14	58:12,18,20	21:5
14:6	program	47:12 50:21	67:16 70:13	102:1	raiser 17:7
prevent 83:11	40:18	51:23 62:16	71:4,8 88:6	104:21	raises 68:20
previous	prohibit 20:9	67:11 68:19	89:7	quick 65:8	raising 16:14
23:17	20:17	68:25 73:4	puzzle 51:9	quickly 7:11	54:19 80:8
previously	prohibited	73:5,6,7	P-A-C 11:12	59:13 66:6	81:13 82:25
8:13	48:20 49:14	93:8 107:17	p.m 2:2	84:7 85:14	ran 9:25
pre-BCRA	49:19	publications	106:11	quid 13:20,21	33:10 34:10
90:4	prohibition	100:6	P.O 68:10	14:2,6 15:8	40:5,6 75:1
primary	20:2 77:4	published		quite 49:1	75:7 87:9
32:13,14	92:1	100:6	Q	67:7 78:10	rancher
36:7 40:4	prohibits	publishing	quadrants	78:19	32:18
60:10 72:24	20:12	100:13	102:15	quo 13:21,21	Randy 1:24
print 68:7	Project 101:9	pull 42:7	Quality 66:21	14:2,6 15:8	rat 99:25
privatization	promise	79:10,10	68:2	quote 33:1	rate 57:14
55:22	69:24 71:9	pulling 84:18	quantity	34:15 50:16	rather 27:18
pro 13:20,21	promote	84:19	36:16	50:24 63:4	85:1
14:2,6 15:8	28:13 78:4	punched	quarter 89:17	77:6,8	rational
probably	promoted	18:18	question 7:20	94:20 95:3	62:14
3:23 4:12	78:6	pure 31:9	13:19 15:2	quoting 71:22	Ratliffe 68:13
41:1 47:6	pronounce...	71:25	16:11 20:21		razor 96:5
55:21 80:3	50:24	purity 31:3,3	21:24 26:8	R	reach 42:6
91:12	proper 73:5	purpose 15:2	26:22 27:2	R 2:1 3:1	reaction

35:25 64:4	received	66:4,5,11,13	remaining	40:8 80:3	restricting
read 7:1,8,17	33:21 38:14	reform 3:18	85:14	81:23 83:16	79:14
21:19 27:10	38:19	7:19 20:8	remarkable	requested	restriction
37:23 45:17	recent 9:14	23:18 43:12	102:18	98:20	52:22
46:20 49:10	recently	43:25 44:13	104:15	require 79:16	result 36:2
59:13 62:25	35:20	55:20 56:9	remember	81:5	retired 96:15
76:13 80:7	recess 76:1,2	83:24 84:14	10:20,21	requires 81:5	100:8
80:10,12	recollections	85:2 94:18	18:23 39:9	resident 32:2	retirement
84:14,16	94:23	95:1 97:13	40:3 64:19	residents	11:24
96:3 102:16	record 3:8	99:16 100:4	85:8 100:13	25:4 28:9	reveal 21:2
107:3	5:5,13,16	100:7,20	103:10	resigned	review 7:11
reading 89:6	7:8,9 31:24	101:25	remind 18:12	97:17	56:14 86:24
ready 67:8	31:25 32:24	reforms 9:10	renewal	resolve 64:11	102:10
real 13:11	33:2,25	9:13 93:5	53:25	resources	104:12
18:2 45:23	34:2 72:16	refute 61:8	replacement	91:24 94:9	rich 52:23
57:21,23	95:6 98:17	regard 55:22	57:14	94:9	rid 20:4
74:23 77:7	102:23	regarding	report 57:8	respond 48:6	94:18 99:8
80:22	recycle 73:13	2:18,19,20	69:2 99:10	49:7 50:3,4	Rifle 1:11
realities	73:17	2:21,21,22	reporter 1:24	50:16,16	3:10
37:13	recycling	2:22,23	72:12	52:21,22,24	right 3:24 5:6
reality 37:8	73:10	36:1	represent	52:25 53:1	5:7,21 7:13
41:22,25	Reds 30:11	Regardless	3:10 21:3	54:7 60:6	8:23 10:13
42:3	reelect 93:12	93:3	25:6 38:4,6	60:13	12:9 14:17
realize 53:18	reelected	Registered	70:6 87:16	responded	17:20 21:18
really 6:17	72:25 88:21	1:24	representat...	32:23 39:24	22:9,11,18
21:22 44:19	91:10	registration	26:22	responding	22:23 23:22
49:9 50:25	reelection	80:10	representat...	53:2,3	28:6 32:8
66:20 69:11	93:6	regular 59:25	27:24 85:25	response	36:10 39:1
74:24,25	refer 3:19	regulation	87:19	32:22 39:17	41:24 42:6
75:6 86:12	15:4 20:14	77:4	represented	41:9	42:18 44:7
105:18	20:24 31:14	regulations	89:6	rest 11:13	44:11 47:7
reason 43:22	56:3 59:12	20:22	representing	12:14 29:17	50:5 51:17
43:24 61:21	66:10	Reid 2:19	49:13 79:18	30:17 89:24	51:20 56:4
87:2,24	reference	62:22 63:4	represents	96:3	62:20 67:2
94:10,11	22:5 60:6	64:6 65:15	97:16	restoring	67:24 69:6
reasons 80:18	60:10,14	71:16	Republican	70:21	74:8 79:8
recall 33:17	referred 3:18	Reilly 97:5	11:6 16:16	restrained	80:2 81:10
34:6,9	3:22 35:25	related 13:20	16:17 32:15	55:1	83:11 85:8
43:12,14	38:22 56:10	relatively	33:24 62:24	restraint 23:3	88:5,17
44:1 55:17	60:16	7:11	66:22 80:17	restrict 79:20	89:3 91:18
94:3 102:2	referring	relatives	94:25	95:21,23	93:10 95:8
receive 38:21	8:10	88:23	Republicans	restricted	95:10,11,14
98:13	refers 22:17	relevant 43:1	11:11 23:8	54:15	95:18 103:8

rights 40:16	23:21 32:14	15:18 17:15	95:12	72:4	20:20 21:15
rings 28:4	36:21 42:21	26:4 33:16	scratch 12:6	see 9:7,8,24	23:8 27:4
ripped	44:13 48:21	41:10,25	screwed	13:7 14:14	27:22 46:24
100:16	49:14 55:1	44:15 45:12	53:19	16:4,5 32:5	47:3 49:13
rise 14:5	75:9 78:17	46:18 49:5	scribbled	34:12 35:1	54:11 55:14
Rivers 12:3	93:6	49:18 51:16	104:14	35:5,16	58:9,10
road 77:20	runoff 46:10	52:11 56:21	scribblings	37:8 39:19	59:4,15
Robert 44:16	runs 50:19,20	61:5 62:20	80:9	40:18 45:5	62:3,18
Rodino 19:22		63:23 64:3	scrubbing	56:5 63:13	66:3,12
rolling 96:4	S	69:25 71:5	18:15	64:7 74:13	72:16,18,21
romance	S 2:1,15 3:1	71:19 75:12	SEALAND...	76:21 77:9	72:23 73:14
10:25	sad 80:20	76:8 82:13	2:5 5:13	80:20 87:5	76:17 77:25
room 2:6	saddle 21:18	85:5,7	20:16 21:15	87:6 91:15	81:4 85:15
10:9 99:25	safe 99:19	89:14,21	28:21 42:25	92:19 99:20	86:21 87:1
roots 42:9,10	sake 30:25	93:17,24	47:16 48:8	102:14	91:8 94:24
rotten 16:8	37:11 42:15	94:1,2	48:10 54:9	104:14	101:16,24
rough 82:6	salami 15:23	says 6:9 9:23	58:25 59:14	105:7,17	102:23
rougher	same 6:10,10	23:25 24:1	59:18,21	seeking 56:20	105:14
82:17	16:23 28:17	31:15 35:10	61:9,14,17	seem 78:19	107:2,10
rude 75:23	45:11 46:13	36:25 42:2	62:2,8,11	101:21	Senatorial
rudeness	47:4 49:17	45:18 55:19	73:7 77:25	seems 53:10	90:24
75:22	49:25 53:23	56:4,8	78:5 79:15	87:21 98:18	senators
Rudman 83:5	67:18 83:20	60:18 63:2	87:12 89:10	seen 6:8	88:20
Rudman's	88:3 89:24	69:16 71:8	91:11 99:13	32:25 55:21	105:11
106:3	100:11	79:4	101:9,12,15	102:4	send 10:1
Rules 1:23	106:3 107:5	scared 29:9	101:19	semesters	29:18,19
run 20:23	sat 58:14	scene 11:7	102:22	96:17	31:5 53:24
21:6 43:14	97:11	scheduled	103:2,7,25	Senate 17:3	53:24
45:14 47:12	satisfy 42:22	17:5	104:11	26:23 38:17	102:10
47:14,21	savage 35:16	scheme 51:16	sealed 37:6	62:22 68:12	104:12
48:1 49:3	64:23	52:11	season 60:10	70:4 72:25	sense 11:2
49:17 52:24	savaged	school 35:11	72:24	80:4,17,20	15:14 58:6
54:15,24	30:17	35:14 96:19	seat 90:12,12	83:15,20	63:21 74:10
55:2,5,8	savagery	Science 64:21	second 40:16	84:13 90:12	79:1 104:19
59:8 60:9	35:22	99:13,15	56:7	93:17,19	sent 6:25
61:23 62:21	save 7:6	scope 56:20	secondly	94:25 96:15	39:23
63:8 66:14	104:19	scorecard	59:10	100:8	104:13,14
68:6 72:22	saving 75:20	31:5,6,9,14	section 21:12	senator 1:4	sentence 56:7
77:5,8,8	saw 14:15	38:15 39:24	23:2 77:16	1:18,22	September
79:14 85:13	105:15	47:8	84:16	2:10 3:2,7	7:14
87:23 88:7	saying 4:3,19	scorecards	security	5:17 7:10	series 43:13
105:20	10:5,13	29:19	55:20 56:9	10:13 11:8	102:1
running	13:14 15:18	Scrapping	57:8,12	14:13 19:19	serious 29:20

seriously	Shriver 59:8	72:21 73:14	slightest	35:6 36:4,4	99:16
83:13	59:18 61:14	76:2 81:4	14:15	41:14 46:25	103:22
service 60:1	71:25	81:20 85:15	slightly 58:4	58:5 59:14	something's
73:7	Shut 39:19	86:21 87:1	87:2	61:22 70:19	45:20
session 96:24	side 49:6,7	88:11 93:20	slippery	75:16 78:17	sometime
set 25:17	85:12,12	101:7,25	30:19,19	78:19 81:6	11:3
setting 40:9	86:15	102:24	39:3	81:7 82:3	sometimes
seven 38:1	sides 43:13	107:2,10	slope 30:19	82:17,23	3:18 6:17
several 49:23	sign 64:23	Simpson's	30:19 39:3	84:4 85:13	40:8 53:7
49:25 97:20	77:14	37:24	small 102:14	92:13	somewhere
98:13	signed 6:24	Simpson-M...	smaller 36:16	somebody	21:11 30:8
Shakespeare	7:12,13,14	19:22	smile 39:14	10:5 12:25	95:4
97:1,4	64:25	since 65:4	Smith 24:21	13:5 23:1,6	son 19:24
102:15	signing 67:11	80:14 87:21	24:25	35:8,8	57:19
shaped 81:21	signs 9:5	96:15 100:8	smoke 24:7	36:25 46:4	sons 39:13,14
share 98:19	77:20,21	100:13	24:14	61:18 64:13	soon 86:9
shares 98:25	similar 58:4	104:5	Snickersnee	67:14 92:20	sorry 47:21
Shipper's	60:4,8	single 26:1	39:18	104:9	55:6,7
18:17	102:18	single-issue	social 55:20	somebody's	65:17
shoot 30:24	Simon 10:8	63:24 64:9	56:9 57:8	67:15	soul 81:20
shooting	83:6 105:24	65:6	57:12 72:4	Somehow	sound 49:1
30:22	simple 25:16	single-judge	soft 4:24 6:16	24:15	89:17 104:1
short 6:13	94:15	21:19	8:13 9:20	someone	Sounded
shorts 52:20	simplistically	singular	10:22 13:13	11:19 15:19	30:15
shot 30:22	48:25	25:18,22	14:5 16:14	24:15,25	sounds 37:7,8
show 17:9	simply 27:18	26:1	20:3,4 22:7	33:17 43:21	source 28:2
18:7 32:12	28:8 46:6	sins 38:1	22:10 69:10	43:23 46:11	sources 69:10
36:8 37:11	56:15 77:3	sitting 6:3	76:15,18	46:12 48:16	south 95:13
41:14,17	88:5 94:16	81:13	78:2 80:9	something	so-and-so 8:3
42:2,17	Simpson 1:18	six 84:13	90:15,20	7:3 8:16	8:4 24:2
53:11 57:2	1:23 2:10	sixty 97:25	91:4 92:1	10:4 12:3	31:15 33:22
62:4,6	3:2,7 5:17	six-pack	92:12 94:19	14:18 15:19	35:10 38:17
75:15,18	7:10 19:21	16:10	sole 81:11	15:20 17:5	68:13
86:6 90:25	20:20 21:15	six-year	solely 27:14	27:4 33:23	so-called 8:11
101:17	24:2 37:2	73:12 88:20	solution	36:23 42:17	8:13 33:15
showed	38:15 39:1	size 96:4	23:23	42:18,19	space 92:23
104:16	41:15 45:18	skin 96:7	solve 20:6	45:3 47:6	93:1
showing	45:18 46:24	slapped 60:17	40:19 41:19	47:22 65:19	speak 103:13
55:18 87:1	47:3 49:13	slashed 35:10	some 7:17,24	65:20 68:5	speaking
87:24	55:13,14	slashing 35:8	12:6,23	71:1 77:23	73:19 74:12
shows 36:8	59:4 62:3	sleeve 39:15	13:15,23	79:3 82:7	78:8 97:6
96:6	62:18 66:3	slice 15:23	28:12 30:6	85:8 93:2	102:6
shreds 60:23	68:12 72:16	52:16	30:12 35:4	94:12 96:6	speaks 16:12

special 36:4,5 61:24,25	100:1 staff 9:23	95:23 sticker 77:15	succeed 40:13 success 93:6	45:22 sword 39:19	85:9 107:4 takes 13:6
specific 9:9 9:12 26:24	12:23 stake 83:18	stickers 9:5 sticks 93:22	93:7 successful	sworn 3:4 107:13	80:1 talk 3:14 8:4
26:25 55:9 60:9 63:9	stalled 84:15 stamp 57:23	still 101:1 stipulate	78:22 suddenly	system 6:4 8:7,17	10:3 12:16 16:22 37:11
84:7,10 85:1 87:2	62:19,20 71:6 72:16	102:23 stock 98:15	44:12 Suite 2:3	12:17 14:4 14:22 15:6	41:14,17 42:2,17
94:23,23 100:12	72:17 86:22 standing	stop 7:5 11:14 64:22	summary 4:2 Sun 71:22	16:1,20 19:18 23:24	83:4 talked 52:9
105:21 specifically	93:17 standpoint	Storyboard 72:15	support 19:17 26:19	24:23 25:9 25:11,12	83:5,5 103:3 105:1
40:3 58:7 60:10,11	9:23 stands 63:23	strange 70:9 streams 99:8	34:7 supported	27:7 28:20 36:2,15	106:4 talking 3:21
66:12 78:16 81:2 94:3	start 22:5 26:8 39:2	street 1:23 2:3,6 55:2	38:24 48:3 suppose 32:4	37:18,21 40:25 43:12	15:6 16:7 21:16 34:15
speech 23:3 79:21	83:23 started 11:3	strictly 27:15 stridency	56:12 supposed	45:7 51:11 52:1,13	34:18 44:8 45:20 50:1
speeches 100:5,5,12	11:15 42:14 57:18,19	31:1 strike 36:12	27:8 84:22 90:23	53:17 56:17 65:21 76:9	50:11 51:10 52:15,15
speed 91:11 91:17	74:2 Star-Tribune	strikes 94:19 stringency	sure 5:15 7:24 12:10	78:23 82:19 82:25 85:2	55:3 60:17 61:12 74:22
Spence 97:14 spend 8:21	37:23 state 1:24	31:1 strong 22:20	13:22 15:17 24:16 27:20	86:8 94:13 systemic 71:2	75:7 76:25 78:1,12,13
29:16 94:9 spent 17:2	9:17 23:10 24:17 29:14	struck 21:12 structured	31:22 34:8 35:21 37:25	71:2	78:16,20 80:8 81:21
spirits 14:14 split 4:21	31:20,21 32:5,8 38:5	70:5 stuff 4:9 19:6	38:1,20 41:13 43:15	T T 2:5,15	82:21 talks 66:18
spoke 4:13 spoken 42:5	statement 96:2	37:1,5 38:18 44:8	53:20 55:11 68:17,24	table 44:21 tables 17:22	tape 11:23 targeted
100:9 105:10	96:2 statements	57:7,10 71:5 77:17	73:1,15 85:22 86:14	17:23 18:11 tactic 26:10	42:25 taxes 28:15
sport 35:15 71:18 72:2	93:8 94:4 states 1:1	84:5 88:9 93:18 98:23	92:17 100:2 100:9	90:19 take 7:2 22:6	63:6,25 64:3
82:7,22 spot 64:9	10:13 13:8 25:7 27:3	stupid 95:21 subject 21:5	surely 95:25 sweeping	28:20 41:23 42:16 53:17	taxpayer 7:23 8:6
spotlight 59:24 61:16	27:21 38:5 87:4	Subscribed 107:13	19:21 sweet 21:22	59:13 62:24 64:23 66:6	tear 29:14 60:23
spotlights 61:23	station 36:25 37:3 52:19	subsidy 18:13 substantive	35:18 66:19 71:11,22	72:18 85:15 86:23 90:23	tech 70:20 tedious 46:25
spring 96:17 stack 57:3	statutes 14:17 stay 72:7	6:10 substantively	sweetest-so... 23:10	98:15 taken 1:19,23	48:16 teeth 84:18
72:6,6	stick 17:10 83:2 90:9	28:16	switchboard	53:17 84:11	

84:19	testimony 5:8	23:25 26:18	51:18 52:17	101:3	99:6 101:21
telephone	5:10,23	28:25 30:15	52:22 54:6	three-fourths	103:19
102:24	42:20 54:10	40:24 51:10	54:18 57:4	57:12	104:5 106:9
103:3	107:4,6	53:22 55:23	57:5 59:21	three-three	times 17:4
television	Texas 91:8	57:20 73:20	60:8 66:16	84:3	21:20 45:17
22:17 33:19	thank 41:12	86:12 89:24	66:18 67:13	through	46:17 49:23
43:8,14	72:19 102:6	94:19 97:15	67:17 70:25	16:13 19:7	49:25 88:10
48:6 52:19	106:8	100:11	72:10 77:3	19:25 21:8	95:4 101:20
67:15 73:13	their 7:22	102:17	77:6,10,25	31:17 37:11	104:19
tell 12:24,25	11:22 12:1	things 8:10	78:10 79:12	41:5 47:23	tipped 35:12
16:23 17:3	18:16 20:25	10:7 12:14	79:13 81:10	48:11 49:15	tired 36:6,8,9
17:24 19:22	21:8 22:15	13:8 15:23	82:8 83:16	49:19 53:2	44:25
19:25 25:15	24:4,5 25:5	19:15 23:14	84:8 85:20	53:8,8 54:7	title 76:23
30:4 31:3	25:24 27:18	30:12 45:14	91:11 93:4	54:16,18,21	today 41:15
38:16 57:4	27:23 30:11	45:15 51:16	94:11 96:3	55:8 56:23	49:24 56:20
63:4 64:2	39:15 40:7	52:11 55:9	96:5,6 97:9	57:3 60:14	63:22 85:8
64:17 68:23	41:16,18	55:24 67:20	101:15,19	65:2 69:9	102:7
75:22 83:6	42:18 44:20	67:21 71:23	104:6 106:5	69:11 78:22	104:19
88:7 95:17	49:16,19	74:5 76:24	thinking	80:18 82:22	together
104:20	50:9,10	77:7,20	93:14	82:23 83:9	21:20 23:7
105:6	53:15 54:7	79:21 80:1	thinks 16:10	83:17 85:13	28:24 30:6
telling 92:16	54:15,16,18	80:10 81:22	thin-skinned	95:4 99:17	36:12 66:1
ten 17:24,24	54:22,23,24	88:12 92:9	96:7	99:19,25	73:13 77:18
18:10 53:21	54:24 55:16	93:4 95:6	Third 97:21	106:1	101:2
89:12 98:1	63:13 67:18	think 7:1,20	98:3	throughout	told 93:16
tenure 92:6	67:23 68:8	8:16 9:25	thirteen	86:6	tonight 17:6
term 73:12	69:2 70:15	10:20 11:4	14:19 32:25	throw 65:7,9	17:22
85:25 86:1	79:10 81:22	16:9,13,20	thirty 97:23	thrown 75:24	top 56:4 59:3
86:7 88:21	82:3 83:24	19:16 20:4	thorough	ticket 78:6	66:1 72:10
terminology	86:3,8,15	21:23,25	40:7	tickets 30:12	torn 89:23
90:4	90:19 97:23	22:23 23:2	thought	tightened	tort 100:16
terms 3:23	100:11	24:16 25:10	11:15 70:4	77:4	torture 8:18
20:19 40:18	themselves	25:11 26:8	thoughts 72:8	till 10:6 97:24	torturing 8:7
45:6 67:25	81:25	29:7 30:1,7	thousand	time 7:6,6	total 37:14
81:6,25	they'd 16:23	34:24 35:1	4:22 10:7	9:24 10:18	79:7
96:24	17:5 32:25	35:4 36:14	10:10,22,22	17:2 18:4	totally 20:10
terrified 29:8	84:15 92:22	36:15 37:16	24:10 25:17	19:1 22:25	40:6 63:14
83:23	95:20	38:5,8,10	25:18,21	29:17 37:4	75:4
terrifying	thin 15:23	42:1,6 43:2	three 8:2	39:20 40:5	tough 23:7
80:4	thing 5:22	45:23 47:2	10:22 14:14	48:17 50:1	29:18 39:13
terrorize 29:5	6:15 7:24	48:5,24	30:13 32:14	63:8 84:14	39:13 94:7
testified 3:4	8:8 15:1	49:2,7	32:15 41:5	86:2,3,13	105:17
10:18	16:23 23:20	50:17,21	57:16 67:10	88:3 97:11	tougher 91:9

tour 31:18	troops 31:5	56:8,10	understand...	61:24 77:19	83:7
toward 95:14	true 13:2	59:15 60:8	7:18 13:23	79:23 86:18	view 12:16,22
towards 63:3	49:23 105:9	72:9 80:1	16:24 27:21	100:23	14:4 20:8
Tower 91:1,3	107:5	86:11 96:19	58:8 62:5	used 11:19	20:11 22:6
91:7,8	trustee's 57:7	101:3	102:20	17:8 78:3	23:19 35:24
town 16:5	try 19:16	two-month	103:19	using 82:10	47:25 50:7
77:16 88:19	26:18 30:14	22:18	understood	90:4	60:12 63:10
88:22	36:12,22	type 8:9 14:6	46:18	usually 14:9	67:18 70:17
tracked 102:8	42:13 53:1	15:8 47:13	unfair 50:8	40:4 73:10	70:19,25
trading 40:19	55:8 72:7	types 43:3	unfortunat...	U.S. 11:8	77:2 82:18
Traficant	79:9 80:21	76:24	58:7 81:4	14:13 24:22	85:1
14:21	81:5 85:13		union 11:14	26:23,23	viewer 63:3
transcribes	88:16 90:12	U	80:11 84:22	93:17	67:11 68:15
59:7	90:20 91:23	U 14:12	unions 11:17		viewpoint
transcript	96:25	Uh-huh 3:25	84:20	V	28:13
107:3,6	trying 17:17	5:7,12	United 1:1	v 1:7,14 3:12	views 27:1
transparency	17:18 22:14	18:22 66:7	10:12 13:7	Van 2:19	100:7
19:3,5 24:3	26:23 38:6	66:9 76:16	21:21 25:7	59:10,19	violated 4:21
82:12	38:8 39:7	85:17 86:25	27:3,21	71:17	violation
transparent	40:10 41:14	unaccounta...	38:5	various 97:6	14:16
23:24 24:23	43:8,20	94:20	University	98:10	violence
25:1	44:3 45:5	unanswered	97:3 99:11	verse 19:14	40:20
transportat...	46:24 64:8	35:21 60:18	unless 35:17	version 7:13	Virginia
14:22	64:22 76:12	60:19	48:15 49:15	versus 26:20	45:21
treasurer	77:1 78:18	undecided	53:19 74:24	42:9 53:24	visit 76:4
13:5	90:11 98:2	14:11	75:4 77:23	71:20	visited 14:13
treasury	Tuesday 1:20	under 8:21	98:20	very 11:23	visiting 96:16
24:13 54:6	101:24	17:3 47:23	unlimited	33:25 46:11	voice 16:2
97:25	turkey 10:1	95:3 97:5	8:14	56:15 59:22	37:20
tree 45:19,22	93:11	understand	unnamed	59:22 63:17	voluntary
tremendous	turned 19:11	5:18 7:12	65:7	63:19 64:8	28:11 86:1
8:23	34:14	13:22 15:18	until 53:19	73:10 75:23	vote 13:25
tremendou...	TV 47:20	16:16 24:16	75:20 88:19	76:7 77:3	14:1 17:9
80:14	twelve 104:22	27:13,20	94:8	81:17 82:14	26:24 27:10
trend 27:17	twenty 55:4	34:18,22	upcoming	84:7,10	28:2,3
Trent 17:20	twisted 41:18	43:2 48:13	88:16	94:18 97:18	29:12,13
trickery 77:7	two 4:22	63:17 67:7	update 80:7	100:2 106:8	33:16 38:16
trickling 19:7	10:21 17:23	75:12,13	use 3:13,23	veteran 53:18	44:6 45:15
tried 16:5	21:11 23:4	76:13,25	3:23 14:5	Veteran's	64:7 69:25
38:24,25	25:22 30:7	77:2,23	21:4 22:7	42:13	87:5,7,8,18
43:11 97:14	30:12 32:17	81:15,25	22:15 30:9	VFW 53:13	87:23 88:2
100:23,24	33:1,3,4	82:13 93:23	50:4,6,9,9	via 102:24	88:2,11,15
trona 38:6,7	41:5 50:22	94:21 105:4	54:18 59:6	vice-presid...	89:8

voted 4:1	88:25 94:5	38:17 40:11	91:2,10	76:24 92:24	34:20 35:19
9:15 14:8	96:5 98:12	40:21 41:24	92:22,25	whack 50:15	47:19 50:8
18:20,24	98:25 99:19	43:8 44:15	93:1 95:21	103:17	59:24 75:14
31:16,17	99:24	46:4 54:4	96:1 100:25	whichever	77:6
36:6 38:17	wanted 41:11	54:17 60:20	102:10	49:6	work 3:9 8:16
voter 56:5	83:17 84:24	63:7,8	105:17	while 19:18	8:18 27:8
80:9	101:17	64:15 66:11	106:7	32:23 76:3	51:18 54:4
voters 24:23	wanting	66:13 70:5	went 94:5	82:16 96:23	57:20 88:9
25:5 32:2	94:15	77:10 83:25	96:16 98:23	whole 24:7	89:12
32:11	wants 7:25	84:1,18	were 5:3,6,20	31:18 46:7	worked 25:9
votes 29:11	10:3 43:5	88:15	9:2,3,13	51:10,12,16	47:8 100:20
33:1	92:4	ways 60:21	10:15 11:9	52:11 76:21	100:25
voting 32:23	Washington	weaken 88:16	11:9,10,21	86:9 100:1	Worker 87:3
44:9	2:4,7 3:10	wealth 58:10	14:1 19:18	whoring 12:8	87:18,24
W	14:12 42:12	wealthy 49:2	23:14 26:22	wife 24:10	workers
wait 81:10	63:5 71:22	weapon	32:17 36:16	willing	89:22
88:18	95:5 101:6	30:23	40:13,21	102:22	working 9:17
waiting 79:25	103:14	website 68:4	41:14 43:16	Wisconsin	18:25 37:3
81:19	wasn't 6:14	week 6:25 7:1	44:2 50:1,2	23:9	works 28:6
wake 51:22	14:11 40:4	37:1 46:10	58:15 63:8	withdraw	37:18 46:5
wall 14:17	40:6 43:25	weeks 17:23	66:14 72:22	100:5	51:19 80:13
wallflower	44:4 86:12	32:16	73:2 82:5	witness 5:1,3	86:19
29:4	106:7	well 6:12 7:23	84:10,18	26:7 54:10	Worland
wandering	waste 88:25	10:1,3 11:6	93:16 96:23	58:8,18	104:3
81:20	watch 12:3	12:11 17:11	97:18	103:16	world 25:20
want 15:17	33:19	18:6,9,10,23	100:17,23	wizard 75:17	97:7
17:21 18:7	watching 6:4	21:3,9	101:7	woman 2:23	worry 99:1
18:10 19:15	34:23	26:13,15	104:23	70:20	worthy 28:23
19:25 24:24	watered	27:9 29:15	106:5,6	104:16	wouldn't
24:25 27:20	80:14 83:14	32:9,19	weren't 43:20	won 33:4	43:19 92:4
29:16 37:9	84:8	39:11 43:9	West 95:14	59:16,19	95:25 99:1
42:20 44:24	watering	43:19 45:25	we'll 38:1	wonderful	104:4
45:2,4	97:6	46:1 50:11	82:23 93:21	71:12 77:20	wretched
46:16 48:15	waters 74:23	50:14,23	we're 31:7	wooden	36:14 53:15
51:25 52:3	waves 14:14	56:18 59:22	32:20 36:21	83:18	write 38:13
52:4,13	way 3:20 8:5	60:16 64:14	42:14 50:11	woods 94:16	45:18 47:9
56:23 61:4	12:2 13:25	66:18 68:24	53:2,3,16	word 11:17	68:21 88:7
63:5,25	15:13 20:5	69:9,15	55:3 78:20	12:8 29:8	96:9,12
64:1 75:13	22:7 25:9	70:9 73:4	87:22 90:25	33:21 86:16	written 96:11
75:18 76:1	27:6,7,10	74:21 76:2	102:2	words 10:12	98:17
76:1 79:19	28:3,17	81:17 82:10	103:15	22:3,6	wrong 18:18
84:9 88:18	29:25 31:16	82:21 84:2	we've 50:13	29:21 33:15	74:7,8,9,10
	36:14 37:17	84:15 90:22	59:4 63:21	34:13,16,16	75:13,14

89:16	73:12,21,21	1135 1:23	40s 35:12	70s 78:2
wrote 39:6,16	88:19,21,22	133 37:2	402 68:10	71 44:24
39:24 41:2	years 14:19	133,600 17:9	41 57:14	72 2:21,22
41:7 95:8	19:10 26:7	14th 1:23	43 57:14	86:6
101:25	32:25 44:24	1500 2:3		75 57:19
Wu 2:22	46:3 57:16	17 36:6	5	75,000 92:23
85:19	57:19 80:4	1998 101:24	5 2:20 65:25	
Wyoming	84:13 86:11		66:1,3,11,16	8
1:24,25	93:22 95:4	2	5th 87:19	8 2:22 22:4
14:16 19:1	96:12,19	2 2:18 59:1,2	5.2 18:13	72:10,12,17
31:21 32:2	98:1 101:3	59:3,3,5	50 8:1 55:6	842 41:3
32:11 38:13	York 17:7	101:13	80:4	85 2:22
68:10 77:16	21:19 88:10	2:16 106:11	501(c)(3) 79:9	86 2:23
97:4	98:4 101:20	200 2:3	501(c)(3)s	
	103:14	2000 55:19	23:1	9
X	young 75:23	56:2 66:15	527 21:16	9 2:22 85:14
X 2:9,15	97:22 98:2	70:2 72:23	55 2:17	85:14
	Yucca 89:1	75:1 87:19	57 57:18	93 96:23
Y		2000 5 2:4	59 2:18,18	96 100:13
yard 9:5	\$	2002 1:20		999 2:6
77:14,21	\$16 18:8	106:11	6	
yeah 12:21	0	107:5,14	6 2:21 66:1,1	
15:11 18:25	001218 85:15	2039 55:24	66:5,12	
20:10 22:10	001223 62:21	20463 2:7	69:19 70:22	
26:6 27:9	02-0581 1:14	21st 56:2	60 20:15,25	
28:7 29:12	02-0582 1:7	24 101:24	33:13 47:14	
29:15,16	09579 72:17	25,000 98:25	48:4,22	
33:9 35:21		2597 21:12	56:2 63:9	
41:8 47:6	1	27th 7:14	66:14 70:2	
55:16 56:12	1 1:20 2:17	28th 7:16,16	72:22 79:5	
59:18,22	55:13,18	102:24	85:18 87:10	
65:10,14	58:25 59:2	3	87:20 91:1	
67:3,6 68:9	67:9 75:4	3 2:11,18 59:3	91:4	
68:17,21	81:3 106:11	59:3	62 2:19	
70:19 74:19	107:4	31st 102:6	657 2:6	
78:15 79:7	1st 55:19	33 28:24	66 2:20,21	
85:4 87:6	10 2:23 86:21	39 57:13	7	
88:18 91:13	86:22		7 2:21 16:13	
96:8 100:22	100 24:19	4	72:10,10,12	
103:14,22	97:3	4 2:19 62:17	72:13,14,16	
105:9	106 107:4	62:18	74:18	
year 3:17	11:40 1:20	40 93:22	70 86:6	
27:12 73:11				