

CONFIDENTIAL DEPOSITION OF ALEX CASTELLANOS
CONDUCTED ON FRIDAY, SEPTEMBER 27, 2002

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-x ORIGINAL

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

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CONFIDENTIAL - COUNSEL ONLY

Deposition of ALEX CASTELLANOS
Washington, D. C.
Friday, September 27, 2002
2:00 p.m.

Job No. 12-5945
Pages 1 - 122
Reported by: Vicki L. Forman



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1 Deposition of ALEX CASTELLANOS, held at
2 the offices of:

3 U.S. Department of Justice

4 901 E Street, Northwest, 10th Floor

5 Washington, D. C. 20044

6 (202) 307-3937
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9 Pursuant to agreement, before Vicki L.
10 Forman, Court Reporter and Notary Public in and for
11 the District of Columbia.
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A P P E A R A N C E S

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1 A Yes, a lot of times they want to capture
2 the name, send them information, et cetera.

3 BY MR. KESSELMAN:

4 Q This is the first -- could you tell me
5 who Ernie Fletcher is?

6 A He's a member of congress from Kentucky.

7 Q Do you know what party?

8 A He is a -- yes, he's a republican.

9 Q Do you know whether he supports big
10 government plans or market based plans regarding
11 prescription drugs?

12 A Well, yes.

13 Q Which one?

14 A Yes, believe it or not most of them have
15 a -- most of these plans have a few ingredients of
16 both in them but generally republicans support --
17 are more likely to support market based plans than
18 democrats but not all.

19 Q Have you ever heard the phrase cookie
20 cutter ad?

21 A Yes.

22 Q What does that mean to you?

23 A Cookie cutter ad means that you stamp out
24 the same ad in a lot of places.

25 Q With some minor differences between them?

1 A With some minor difference to localize
2 it, et cetera. You could, for example, say that
3 Toyota does cookie cutter ads when they're selling
4 cars. Well, they actually happen to have a national
5 market but you buy it at each individual place so
6 they -- cookie cutter is not always bad. It's a way
7 to get somebody to the door.

8 Q Do you know if this ad was a cookie
9 cutter ad?

10 A Well, again, I wouldn't use those words
11 but if your question is was this -- this ad with
12 minor variation done in a lot of places, yes, it
13 was.

14 Q Is there a phrase I should use instead of
15 cookie cutter?

16 A No, that's fine.

17 MR. GILLIGAN: It's the limit of our
18 vocabulary.

19 A It's a pretty good word.

20 BY MR. KESSELMAN:

21 Q Could you tell me what that minor
22 variation would have been with respect to this
23 particular ad?

24 A Well, the particular legislator who was
25 making the legislation I think was the one who --

1 that we were urging people to call and support --
2 let him know you support the good policy. I think
3 that was the variation in the different areas.

4 Q Do you remember how many different
5 members of congress approximately?

6 A Approximately 20 something maybe.

7 Q Do you recall if this ad was simply --
8 was a response to anything else that may have been
9 on the air at that time?

10 A Yes, it was. At the time the AFL/CIO and
11 others, lots of others were I think very effectively
12 pushing for a big mandate on the prescription drug
13 issue. They were building I think kind of a very --
14 they had ads out there saying Ernie Fletcher and
15 others I guess are -- don't support -- don't want
16 seniors to get their medicines and we were -- I
17 think that was tilting the playing field quite a
18 bit.

19 Q Do you recall if it -- would you say that
20 "Ardell Miracles" was a response to those ads being
21 run by the AFL/CIO?

22 A Yes.

23 Q So the idea for these ads would have come
24 after seeing the AFL's ads?

25 A I'm not sure that specifically it was the

1 AFL because again the AFL is not the only one.

2 There were others out there but in large part I
3 would say yes.

4 MR. KESSELMAN: I'd like to mark this the
5 next exhibit, please.

6 (Castellanos Deposition Exhibit Number 5
7 was marked for identification and attached to the
8 transcript.)

9 BY MR. KESSELMAN:

10 Q Could you please take a moment to
11 familiarize yourself with this?

12 A Absolutely. I've got to get my wife to
13 stop stealing my glasses.

14 (Pause in the proceedings.)

15 A Okay.

16 Q Could you please tell me what you see
17 here in Exhibit 5?

18 A These are -- these are ads in -- I think
19 they're AFL/CIO ads, all of them maybe paid for
20 by -- I don't know if they're all but these are ads
21 basically that are pushing legislators to -- what
22 their intent is I don't know because I didn't make
23 them but what their effect is is to try to push
24 legislators away from supporting good policy, market
25 based solutions where you wouldn't have a big

1 don't want people telling me what medicines I can
2 take or my parents can take but why would I care?
3 Because that was our client's interest. One of
4 these days somebody is going to need some medicines
5 and it would be nice if they were there.

6 MR. KESSELMAN: I'd like to introduce
7 this as the next exhibit.

8 (Castellanos Deposition Exhibit Number 9
9 was marked for identification and attached to the
10 transcript.)

11 BY MR. KESSELMAN:

12 Q Are you familiar with this document?

13 A Yes, I am.

14 Q Could you please tell me what it is?

15 A It is a power point presentation that
16 took a look at the climate for the debate that we
17 were having.

18 Q What is the title of the document?

19 A Fall 2000 Political Outlook.

20 Q What is the date of the document?

21 A July 31, 2000.

22 Q So this document wouldn't have measured
23 the climate on July 31, 2000 but rather it would
24 have been a forecast for the fall?

25 A I think there's some of both in there but

1 yes, it would have looked ahead as well I think.

2 Q On the first page could you please tell
3 me what that says?

4 A This is describing what the democrats had
5 very publicly and privately said was their agenda
6 for the fall. They wanted to use the prescription
7 drug issue to take back control of the House of
8 Representatives and their top three issues that they
9 were going to use to do that was prescription drugs,
10 prescription drugs, prescription drugs. This was
11 from the chairman of the Democratic National
12 Committee.

13 Q Joe Andrew?

14 A Joe Andrew.

15 Q So certainly your client -- did your
16 client ever express concern to you that the
17 democrats had stated on the public record that they
18 were going to be running their federal campaigns on
19 the basis of the prescription drug issue?

20 A Concerns, yes. They expressed concerns
21 that the democrats would do exactly what they said
22 they would do.

23 Q And why were they concerned about that?

24 A There's actually a pretty good chart here
25 that explains that. Let's see if I can find it. I

1 Canada and we've tried what you guys are thinking
2 about doing down in the United States, this big
3 government run plan and it ain't working so great up
4 here. That was basically the substance of it.

5 Q Were those ads intended to aid
6 candidates' elections for federal office?

7 A No.

8 Q They were simply to -- what was their
9 purpose then?

10 A Their purpose was to build support for
11 good private prescription drug coverage and make
12 sure that that's what Americans and congress wanted.

13 Q In the first hour of this deposition we
14 went through at least six advertisements, "Flo Goes
15 Bowling," "Flo's Commercials," "Price Waterhouse,"
16 "Medicine Cabinet," two bus ads, "Sacred Trust"
17 with Ardell.

18 Not a single one of those advertisements
19 mentioned an elected federal official, did they?

20 A Did you include bus in that list?

21 Q Yes, I did.

22 A I think that one mentioned congress.

23 Q But not a specific federal official?

24 A Right.

25 Q It may have mentioned congress or the

1 White House but it didn't mention the name of a
2 representative or senator or president?

3 A That's right.

4 Q Nor did any of them mention any people
5 who were running for federal office?

6 A That's right.

7 Q And you testified that you considered
8 those to all be very effective issue advertisements?

9 A Yes.

10 Q So why then was it necessary if you had
11 been doing these effective advertisements without
12 mentioning any specific federal officeholders to all
13 of a sudden do it beginning in the fall of 2000 in
14 the weeks and months leading up to the election?

15 A That's a good question.

16 MR. BERGER: Well, we have a different
17 view on that. I'll object. It's argumentative.

18 A Okay.

19 MR. BERGER: But you can respond.

20 A Can we ask the AFL/CIO first because
21 they're the ones who went into these areas and
22 singled out these congressmen for doing a bad job
23 for supporting good policy and we wanted to make
24 sure that these congressmen did not feel that they
25 have to support bad policy to be understood of doing

1 actually makes decisions to say do this and don't do
2 that that's -- we're ultimately directed, I guess,
3 by them, in this case the state party, to do
4 something.

5 Q What communications, if any, did National
6 Media have with the Ohio Republican Party regarding
7 these expenditures?

8 A I don't know specifically but I think
9 very few if any.

10 Q Do you remember whether any of your more
11 national campaigns would have aired any ads in Ohio?

12 A More national campaigns? I'm sorry?

13 Q Strike that.

14 MR. BERGER: How about Bush Cheney?

15 BY MR. KESSELMAN:

16 Q Who asked National Media to develop these
17 ads? Was it the Republican National Committee or
18 the Ohio Republican Party?

19 A Victory 2000, the RNC.

20 Q And which entity approved of whatever the
21 costs were determined to be?

22 MR. BERGER: Objection, lacks foundation
23 but you may answer.

24 A We were -- instead of 50 bosses we had
25 one representative of the RNC who dealt with the

1 state parties and that's who we dealt with so
2 someone at the RNC.

3 BY MR. KESSELMAN:

4 Q And the same would have been said for the
5 content and placements?

6 A Yes.

7 Q And this was common not just with Ohio
8 but with other state parties as well?

9 A Yes.

10 Q Tennessee?

11 A I would think wherever we expended
12 resources.

13 Q Illinois?

14 A Yes.

15 Q I see that the Illinois State Republican
16 Party is not on this list that has been designated
17 as Exhibit 12 but this Exhibit 12 I assume is not
18 exhaustive and it's possible that you could have
19 received payments from the Illinois Republican
20 Party?

21 A That is not a list of people we received
22 payments from. That is a list of people who
23 retained us or hired us and we did -- we dealt with.

24 Q Getting very close to the end. I don't
25 want to mischaracterize your testimony so please