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 UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) NO. CR 08-872-SJO
 12)
 Plaintiff,) GOVERNMENT'S SUPPLEMENT TO
 13) OPPOSITION TO DEFENDANT'S MOTION TO
 v.) DISMISS INDICTMENT
 14)
 PIERCE O'DONNELL,)
 15)
 Defendant.)
 16)
 17)

18 The government wishes to correct a statement made at oral
 19 argument yesterday with respect to whether the Federal Election
 20 Campaign Act can be interpreted as allowing a conduit
 21 contribution. The government's position is that it does not
 22 under any circumstances.

23 The section referred to during oral argument, namely,
 24 Section 441a(a)(1)(8) only establishes a reporting requirement
 25 and puts contributors on notice that all contributions made by
 26 that individual regardless of whether it is a direct or indirect
 27 contribution are included in determining whether he has exceeded
 28 his individual limit; it does not, however, define a crime.

1 If a person makes a conduit contribution he has violated
2 Section 441f, regardless of the amount of the conduit
3 contribution. It is true that if a person made total conduit
4 contributions that amounted to less than \$2,000, he would not be
5 subject to a criminal penalty under 2 U.S.C. § 437g(d).
6 Nevertheless, making a conduit contribution is always prohibited,
7 regardless of the amount.

8 The relationship between Sections 441a and 441a(a)(1)(8), on
9 the one hand, and Section 441f, on the other hand, is similar to
10 that between the tax code and various criminal statutes. For
11 example, the tax code requires a drug dealer to report income
12 earned from selling cocaine. The tax code does not make the sale
13 of such a controlled substance illegal - it only requires that
14 the taxpayer report the income from such activity and pay any tax
15 liability generated therefrom. The illegality of the sale of
16 cocaine is established by various provisions contained in Title
17 21 of the United States Code.

18 Respectfully Submitted,

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