



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20461

THIS IS THE END OF MUR # 700

Date Filmed 6/14/79 Camera No. --- 2

Cameraman BPC

19040132756



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 19, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Hein
2824 Seabrook
Topeka, Kansas 66614

Re: MUR 700(78)

Dear Mr. Hein:

Based on the allegation contained in your complaint, an investigation was conducted in this matter. On March 6, 1979 the Commission after considering the results of this investigation gave final approval to a conciliation agreement between Dr. Lacy and the Commission, a copy of which is enclosed. Accordingly, our file in this matter is now closed.

If further information comes to your attention which you believe establishes other violations of the Federal Election Campaign Act of 1971, as amended, please contact me.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "William C. Oldaker", is written over a large, stylized flourish.

William C. Oldaker
General Counsel

Enclosure
Conciliation Agreement



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 8, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas Odell Rost, Esq.
Rost & Rost
Civic Center Office Building
629 Quincy Street
Topeka, Kansas 66603

Re: MUR 700 (78)

Dear Mr. Rost:

Enclosed is a copy of the conciliation agreement in the above-referenced matter. As the Commission has approved, and I have signed, the agreement, the matter is now closed.

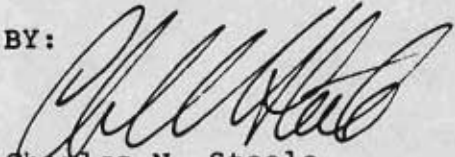
If you have any questions, please contact Gary D. Lipkin at (202) 523-4057.

Thank you for your cooperation.

Sincerely yours,

William C. Oldaker
General Counsel

BY:


Charles N. Steele
Associate General Counsel

enclosure

79040132758



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

NOT SENT TO COMMISSION
PER OLDAKER
PUT IN FILE INSIGNED

MEMORANDUM

TO: The Commission

FROM: William C. Oldaker

DATE: March 6, 1979

RE: Communications from complainant
in MUR 700(78)

While this matter was in the conciliation stage we were contacted by the U.S. Attorney in Topeka, Kansas, and the Department of Justice concerning a possible criminal investigation of the respondent. In addition, the complainant wrote us, urging us to forego conciliation, "prosecute" the respondent and cooperate in bringing a criminal prosecution.

Dr. Lacy has signed the conciliation agreement and the agreement has been accepted by the Commission. In the agreement, he has admitted that his failure to note on the face of the brochure in question that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

On January 16, 1979 the Office of the General Counsel received a call from James Buchele, the U.S. Attorney in Topeka, Kansas. He inquired as to the status of this MUR, as it had been brought to his attention by the complainant, Ronald Hein. Mr. Buchele said he would consider initiating a criminal prosecution of this matter depending on our disposition of it. Since we could not release information on the open MUR, Mr. Buchele stated that he would check back with us in 60 days.

On February 16, 1979, the General Counsel's Office received a letter, dated February 10, 1979, from the complainant. Mr. Hein wrote that he understood from Mr. Buchele that we were continuing with our civil enforcement procedures. The complainant found this action



79040132759

"reprehensible" due to the alleged "flagrant and egregious violations of the FECA" involved here. This letter implies that the source of the money for the brochure that is the subject of this MUR is from an entity other than the respondent (see General Counsel's Report of December 6, 1978)^{1/}. Accordingly, the complainant "demanded" that we drop any conciliation effort and that "prosecution of this flagrant abuse of the laws" commence. The letter did not provide any information which was inconsistent with the Commission's aspect of the investigation or with the conciliation agreement.

On March 1, 1979, Craig Donsanto of the Department of Justice called this office. He advised us that Mr. Buchele was considering convening a grand jury to examine evidence that the respondent, Dr. Lacy, criminally violated 2 U.S.C. §441d. Mr. Donsanto was informed that the Commission had not closed its file in this matter as yet.

We will keep the Commission advised of any future developments in this regard.

^{1/} Respondent timely reported this expenditure of approximately \$2,300 and swore to the fact that it was an independent expenditure.

79040132760

SENDER Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):

☒ Show to whom and date delivered c

☒ Show to whom, date, and address of delivery c

☐ RESTRICTED DELIVERY
Show to whom and date delivered c

☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery \$

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Donald Hein
2824 Seabrook
Topeka, Kansas 66614

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438576	

(Always obtain signature of addressee or agent)

I have received the article described above

SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY

5. ADDRESS (Complete only if required)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

POST OFFICE
MAR 24 1979
ST. LOUIS, MO 63101

79040132762

MUR 700(78)

1. SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered
☒ Show to whom, date, and address of delivery
☐ RESTRICTED DELIVERY
Show to whom and date delivered
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Thomas O. Rort, Eng.
Post & Post
629 Quincy Street
Topeka, Kansas

3. ARTICLE DESCRIPTION: REGISTERED NO. CERTIFIED NO. INSURED NO.
438258

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Linda Koch

4. DATE OF DELIVERY: MAR 13 1979 POSTMARK

5. ADDRESS (Complete only if requested):
629 QUINCY ST
#101 66603

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

BEFORE THE FEDERAL ELECTION COMMISSION
January 5, 1979

600* 9383
'79 FEB 22 AM 10:55

In the Matter of)
)
Dr. Sterling Lacy) MUR 700 (78)

600950

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §441d(2);

Now therefore, the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978.

C. That the brochure advocated the defeat of a candidate for the Republican nomination for election to the U.S. House of Representatives, 2nd District, Kansas.

79040132763

D. That the respondent clearly and conspicuously noted on the face of the brochure his identity as the one who authorized the direct mailing item in question as required by 2 U.S.C. §441d(2), but that respondent failed to clearly and conspicuously note on the face of the brochure that it was "not authorized by any candidate", as further required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to conspicuously and clearly note on the face of the brochure that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

V. That the respondent will pay a civil penalty in the amount of one hundred dollars (\$100) pursuant to 2 U.S.C. §437g (a) (6) (B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement becomes effective

79040132764

to comply with and implement the requirements contained therein
and to so notify the Commission.

18 MAR 1979

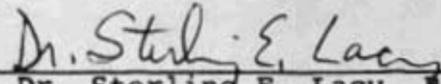
Date

 *for WCO*

William C. Oldaker
General Counsel
Federal Election Commission

2-5-79

Date



Dr. Sterling E. Lacy, Respondent

79040132765

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Dr. Sterling Lacy)

MUR 700 (78)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on March 6, the Commission gave final approval by a vote of 5-0 to the Conciliation Agreement, attached to the General Counsel's Memorandum dated March 2, 1979, which has been signed by the respondent and accompanied by a check in the amount of \$100.

Voting for this determination were Commissioners Aikens, Friedersdorf, Tiernan, McGarry, and Harris.

Attest:

3/7/79

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 3-2-79, 11:03
Circulated on 48 hour vote basis: 3-2-79, 4:30

9040132766

March 2, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Carr
SUBJECT: MUR 700

Please have the attached Memo distributed to the
Commission on a 48 hour tally basis.

Thank you.

79040132767



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

79 MAR 2 All: 03

MEMORANDUM TO: The Commission
FROM: William C. Oldaker *W.C. Oldaker*
DATE: March 2, 1979
RE: MUR 700 (78) Conciliation Agreement

The approved conciliation agreement in this matter has been signed by the respondent and a check, in the amount of one hundred dollars, has been received. Accordingly, the agreement is being circulated for final approval prior to my signature.

Attachments

1. Conciliation Agreement
2. Letter to respondent's attorney

79040132768

LAW OFFICES
Rost & Rost
CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

(912) 234-8809

February 14, 1979

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MUR 700 (78)

Dear Mr. Lipkin:

Enclosed please find the Conciliation Agreement in the above entitled matter which has been executed by my client, Dr. Sterling E. Lacy. Also enclosed is my Trust Account Check No. 2347 in the amount of \$100.00 made payable to the Treasurer of the United States, pursuant to your instructions.

Sincerely yours,

Tom Rost

Thomas Odell Rost

TOR:gt
enc.

79040132769

BEFORE THE FEDERAL ELECTION COMMISSION
January 5, 1979

COC # 9383

79 FEB 22 AM 10:55

In the Matter of
Dr. Sterling Lacy

)
)
)

MUR 700 (78)

900950

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §441d(2);

Now therefore, the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978.

C. That the brochure advocated the defeat of a candidate for the Republican nomination for election to the U.S. House of Representatives, 2nd District, Kansas.

19040132770

D. That the respondent clearly and conspicuously noted on the face of the brochure his identity as the one who authorized the direct mailing item in question as required by 2 U.S.C. §441d(2), but that respondent failed to clearly and conspicuously note on the face of the brochure that it was "not authorized by any candidate", as further required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to conspicuously and clearly note on the face of the brochure that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

V. That the respondent will pay a civil penalty in the amount of one hundred dollars (\$100) pursuant to 2 U.S.C. §437g (a) (6) (B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement becomes effective

177210409

to comply with and implement the requirements contained therein
and to so notify the Commission.

Date _____

William C. Oldaker
General Counsel
Federal Election Commission

2-5-79

Date _____

Dr. Sterling E. Lacy
Dr. Sterling E. Lacy, Respondent

19040132772

THOMAS ODELL ROST - TRUST ACCOUNT
ATTORNEY-AT-LAW
629 QUINCY
TOPEKA, KANSAS 66603

2347

44-18
1011

Feb. 14 1972

PAY
TO THE
ORDER OF

Treasurer of the United States

\$ 100.

00

One hundred and no/100

DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

Sterling Lacy

⑆101100168⑆

⑈136448⑈

Virginia Tapp

1904013273



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas Odell Rost, Esq.
Rost & Rost
Civic Center Office Building
629 Quincy Street
Topeka, Kansas 66603

Re: MUR 700 (78)

Dear Mr. Rost:

Enclosed is a copy of the conciliation agreement in the above-referenced matter. As the Commission has approved, and I have signed, the agreement, the matter is now closed.

If you have any questions, please contact Gary D. Lipkin at (202) 523-4057.

Thank you for your cooperation.

Sincerely yours,

William C. Oldaker
General Counsel

BY:

Charles N. Steele
Associate General Counsel

enclosure

40132774

LAW OFFICES
ROST & ROST
CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

(913) 234-5609

February 14, 1979

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MUR 700 (78)

Dear Mr. Lipkin:

Enclosed please find the Conciliation Agreement in the above entitled matter which has been executed by my client, Dr. Sterling E. Lacy. Also enclosed is my Trust Account Check No. 2347 in the amount of \$100.00 made payable to the Treasurer of the United States, pursuant to your instructions.

Sincerely yours,

Tom Rost

Thomas Odell Rost

TOR:gt
enc.

THOMAS ODELL ROST - TRUST ACCOUNT
ATTORNEY-AT-LAW
629 QUINCY
TOPEKA, KANSAS 66603

2347

44-16
1011

Feb. 14 1979

PAY
TO THE
ORDER OF

Treasurer of the United States

\$ 100.

00

One hundred and no/100

DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

Sterling Lacy

⑆101100168⑆

⑈136448⑈

Virginia Tuggs

LAW OFFICES

ROST & ROST

CIVIC CENTER OFFICE BUILDING

629 QUINCY STREET

TOPEKA, KANSAS 66603



Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: JANUARY 22, 1979
SUBJECT: PLACEMENT OF MUR 700 ON THE EXECUTIVE
SESSION AGENDA FOR JANUARY 25, 1979

The General Counsel's Report dated 1-5-79 on MUR 700 was circulated on a 48 hour vote basis at 3:30, January 15, 1979.

A certification was transmitted to your office at 12:20, January 18, 1979.

Commissioner Aikens returned her approval of this matter at 4:41, January 19, 1979; however, she has requested MUR 700 be placed on the Executive Session Agenda for discussion.

ATTACHMENT:
Copy of Chairman Aikens'
vote sheet

cc: Chairman Aikens

79040132778

48 HOUR TALLY SHEET



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

79 JAN 19 P 4: 41

Date and Time Transmitted: Jan. 15, 1979 - 3:30

Commissioner SPRINGER, AIKENS, TIERNAN, McGARRY, THOMSON, HARRIS

RETURN TO OFFICE OF COMMISSION SECRETARY BY: JAN. 17, 1979, 3:30

MUR No. 700 (78) - General Counsel's Report dated 1-5-79

☒ I approve the recommendation

☐ I object to the recommendation

COMMENTS: Please place on agenda for discussion

Date: 1/19

Signature: J. Aikens

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

January 19, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas Odell Rost, Esquire
Rost and Rost
Civic Center Office Building
629 Quincy Street
Topeka, Kansas 66603

Re: MUR 700 (78)

Dear Mr. Rost:

Enclosed for your client's signature is a copy of the revised conciliation agreement which the Commission would accept in the above-referenced matter.

Please advise your client that his check, in the amount of one hundred dollars (\$100), should be made payable to the order of the "Treasurer of the United States," and forwarded to the Commission.

If you have any questions, please contact Gary D. Lipkin, the attorney assigned to this matter, at (202) 523-4175.

Thank you for your cooperation.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "William C. Oldaker", is written over the typed name.

William C. Oldaker
General Counsel

Enclosure

7191040132780

PS Form 3811, Apr 1977 RETURN RECEIPT REGISTERED INSURED AND CERTIFIED MAIL

Lipkin *MUR-700*

● SENDER Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered. _____¢
☒ Show to whom, date, and address of delivery. _____¢
☐ RESTRICTED DELIVERY
Show to whom and date delivered. _____¢
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$_____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO
Thomas Odell Kost, Esq.

3. ARTICLE DESCRIPTION
REGISTERED NO. _____ CERTIFIED NO. *94253* INSURED NO. _____
(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Thomas Odell Kost Esq.

4. DATE OF DELIVERY *JAN 29 1978* POSTMARK _____

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE _____ CLERK'S INITIALS _____

BEFORE THE FEDERAL ELECTION COMMISSION
January 5, 1979

In the Matter of)
)
Dr. Sterling Lacy) MUR 700 (78)

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §441d(2);

Now therefore, the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a)(5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978.

C. That the brochure advocated the defeat of a candidate for the Republican nomination for election to the U.S. House of Representatives, 2nd District, Kansas.

9040132702

D. That the respondent clearly and conspicuously noted on the face of the brochure his identity as the one who authorized the direct mailing item in question as required by 2 U.S.C. §441d(2), but that respondent failed to clearly and conspicuously note on the face of the brochure that it was "not authorized by any candidate", as further required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to conspicuously and clearly note on the face of the brochure that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

V. That the respondent will pay a civil penalty in the amount of one hundred dollars (\$100) pursuant to 2 U.S.C. §437g (a) (6) (B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement becomes effective

19040132783

to comply with and implement the requirements contained therein
and to so notify the Commission.

Date

William C. Oldaker
General Counsel
Federal Election Commission

Date

Dr. Sterling E. Lacy, Respondent

79040132784

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Dr. Sterling E. Lacy)

MUR 700

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on January 17, 1979, the Commission determined by a vote of 4-0 to adopt the following recommendations, as set forth in the General Counsel's Report dated January 5, 1979, regarding the above-captioned matter:

1. Approve the revised conciliation agreement attached to the above-named report.
2. Approve the letter attached to the above-named report.
3. Take no further action against Respondent with regard to any violation of 2 U.S.C. §434(e).

Voting for this determination were Commissioners Springer, Tiernan, McGarry, and Thomson.

Attest:

1/18/79

Date

Marjorie W. Emmons

Marjorie W. Emmons

Secretary to the Commission

Signed by General Counsel:

1-12-79

Received in Office of Commission Secretary:

Friday, 1-12-79, 3:19

Circulated on 48 hour vote basis:

Monday, 1-15-79, 3:30

January 12, 1979

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 700

Please have the attached General Counsel's Report
on MUR 700 distributed to the Commission on a 48 hour
tally basis.

Thank you.

79040132786

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION
January 5, 1979

79 JAN 12 P 3: 19

In the Matter of
Dr. Sterling E. Lacy

)
)
)

MUR 700 (78)

GENERAL COUNSEL'S REPORT

BACKGROUND:

On December 12, 1978, the Commission found reasonable cause to believe that the respondent violated 2 U.S.C. §434(e) and 2 U.S.C. §441d(2) by preparing and disseminating a brochure advocating the defeat of a primary candidate for nomination for a seat in the U.S. House of Representatives and failing to both report the expenses thus incurred and to state on the face of the brochure that it was not authorized by any candidate. Accordingly, a conciliation proposal was forwarded to the respondent on December 15, 1978.

PERTINENT FACTS

A response was received to our conciliation proposal on December 26, 1978 from the respondent's counsel. (See Attachment I) The respondent is willing to concede a violation of §441d(2) but requests that the penalty be reduced to \$100 (from \$1,000). The respondent also contests the finding of a violation of §434(e), i.e., failure to file a report of the expenses incurred in the publication and dissemination of the brochure that is in issue here.

Counsel for Dr. Lacy has forwarded to us a copy of a letter (and its return receipt) Dr. Lacy sent to the Commission on July 26, 1978. The letter states that the respondent had been unable to

79040132787

procure the FEC form used to report independent expenditures. Accordingly, the letter itself set out all the information that the form would require (letter and its return receipt attached). This letter was received by the Commission on July 31, 1978, according to the return receipt. 1/ No record of this letter exists in the files of the Commission. This led to the finding that there was reasonable cause to believe that 2 U.S.C. §434(e) was violated.

ANALYSIS

The respondent's unwillingness to admit a violation of §434(e) appears to be well founded. It is clear that the respondent did, in fact, make a good faith effort to comply with this section of the Act and fully report the expenditures incurred in the publication and dissemination of the brochure in question. Accordingly, no basis exists for proceeding further with this portion of our claim against Dr. Lacy. Accordingly, those sections of our original conciliation proposal which dealt with a violation of §434(e) have been deleted from the revised version.

The request for a reduction in the penalty to \$100 does not appear unreasonable in light of the fact that the only remaining violation concerns a failure to note on the face of the brochure that it was not authorized by any candidate. The respondent is willing to concede this violation and, in view of his very modest financial situation, the Commission should accept a penalty of \$100.

1/ For some unknown reason, however, this letter was never filed with the reports of any candidate or committee, nor under Dr. Lacy's name. Further, the letter was not logged into the Commission's computer, and the Commission apparently never requested that Dr. Lacy make his report on the proper form.

Finally, at the request of the respondent's counsel, we have added a phrase to paragraph "D" of the agreement stating that Dr. Lacy did identify himself as the author of the brochure on the face of the brochure as required by 2 U.S.C. §441d(2).

RECOMMENDATIONS

1. Approve the attached revised conciliation agreement
2. Approve the attached letter
3. Take no further action against Respondent with regard to any violation of 2 U.S.C. §434(e).

1/12/79
Date

William C. Oldaker
General Counsel

ATTACHMENTS

1. Original conciliation proposal
2. Letter and conciliation counter proposal from counsel for respondent
3. Letter filed as a report and return receipt
4. Revised Conciliation Agreement
5. Letter

9040132789

BEFORE THE FEDERAL ELECTION COMMISSION
December 6, 1978

Attachment I

Original Proposal

In the Matter of)
Dr. Sterling Lacy)

MUR 700 (78)

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §434(e) and 2 U.S.C. §441d(2);

Now therefore the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978.

C. That the brochure advocated the defeat of a candidate for election to the U.S. House of Representatives.

067210132790

D. That the respondent failed to report the costs incurred in printing and distributing this brochure, estimated at \$2,493.58, as required by 2 U.S.C. §434(e).

E. That the respondent failed to clearly and conspicuously note on the face of the brochure that it was not authorized by any candidate, as required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to report the costs incurred in printing and distributing this brochure was a violation of 2 U.S.C. §434(e).

V. That the failure to conspicuously and clearly note on the face of the brochure that it was not authorized by any candidate was a violation of 2 U.S.C. §441d(2).

VI. That the respondent will pay a civil penalty in the amount of one thousand dollars (\$1,000) pursuant to 2 U.S.C. §437g(a)(6)(B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is mutually agreed that this agreement shall become effective as of the date that all parties have executed same and the Commission approves the entire agreement.

79040132791

III. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement became effective to comply with and implement the requirements contained therein and to so notify the Commission.

Date

William C. Oldaker
General Counsel
Federal Election Commission

Date

Dr. Sterling E. Lacy
Respondent

79040132792

Attachment II

LAW OFFICES
ROST & ROST

CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

RECEIVED
FEDERAL ELECTION
COMMISSION

78 DEC 26 AM 10:35

(813) 234-8609

F. J. ROST

THOMAS ODELL ROST

December 21, 1978

000000

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MJR 700(78)

Dear Mr. Lipkin:

This letter confirms our telephone conversation of December 20, 1978. I have altered my suggestions after reconsidering Dr. Lacy's financial situation.

It should be noted that the 6th Division of the Shawnee County District Court in its Memorandum Decision, which was forwarded to you on December 19, 1978, in the civil litigation found that Dr. Lacy did in fact state the truth in his open letter to the constituents of the Second District with regards to the comments as to the voting record of Senator Hein. We suggested that you review that decision.

The Commission erred it appears with reference to the suggestion that Dr. Lacy did not make a filing with your Commission pursuant to the requirements. If not heretofore taken into consideration, it should be noted that I have a returned United States Postal Service certified mail return receipt being numbered 763107 date time stamped Federal Election Commission 78 July 31 PM 4:16. Attached you will find a photocopy of same on the same sheet of paper reflecting that the Secretary of State, Capitol Bldg., Topeka, Kansas, by Bouyie Wright, acting on behalf of the same, signed for a copy of the report on July 28, 1978. This was under certificate No. 763108. You further will note that in Dr. Lacy's response to your questions, we stated that we had filed a report with the Federal Election Commission in an attempt to meet the requirements of the mailings in that the said mailings took place on or about the 25th and 26th of July, 1978. Please find enclosed a photocopy of the filing made with your Commission.

In reference to the second finding of the Commission that the open letter failed to state that it was not authorized by any candidate, may be a debatable issue, ie, did in fact the open letter call for the defeat of

December 21, 1978

Page Two

Ron Hein or did it indicate that Ron Hein should not receive support of those persons opposed to laws such as Mr. Hein had voted for in the Kansas Senate. However, as to this particular issue, I feel that is a negotiable issue and could best be resolved in the form of a civil conciliation agreement. However, I am of the opinion that the staff should have some knowledge of the problems of Dr. Lacy and some communication with me before they make a recommendation to the Commission as to what type of civil penalties should be imposed. At this point you have no idea as to his ability to pay and/or raise money to pay a suggested civil penalty. The imposition to Dr. Lacy of \$1000.00 penalty is like asking a newborn baby to personally pay \$25,000.00 to your Commission. Dr. Lacy does not have the ability at this time or in the foreseeable future to raise \$1000.00 cash to be paid within thirty days to the Commission as a civil penalty, and considering the decision of the civil court and further considering the fact that he attempted to comply with the requirements of your regulation by reporting he has certainly attempted to act as a responsible citizen of the United States operating under the First Amendment, exposing the truth to other persons, which is my recollection is an absolute defense to any type of action in the area of libel or slander. He is not precluded from stating the truth openly and publicly under the United States Constitution though the Commission through its administrative arm is attempting to penalize Dr. Lacy in an arbitrary and capricious manner should he be required to pay a large sum of money.

It is requested that you contact me with regards to the conciliation agreement after having reviewed your file as to the registration of the filing and/or send one of your agents to my office for a view of the returned mail receipt. I do realize that the light ink used by your office is not easily copied on a copy machine, particularly when the U.S. Post Office uses green material for their return receipts.

Please contact me with regards to this letter at your earliest opportunity. You are advised that I will not be in my office until January 4, 1979, however, considering the time restraints, if you desire to call me before 9 AM your time at my home in Vail, Colorado, please do not hesitate to do so. The phone number is unlisted, but I give it to you for your use if you desire to communicate with me prior to January 4, 1979 - 303-476-4461.

Please find attached our proposal for a suggested conciliation agreement, which substantially follows the format you sent Dr. Lacy deleting the violation with regards to failing to report.

It should be noted that with reference to 2U.S.C. §441d(2) as set forth in §109.4, it is required and the communication did reflect the author and person making the expenditure particularly through the openness of the letter as well as bold face type. If there is a violation, which I contend there is not one, it could only be that the words "not authorized

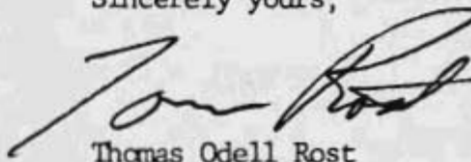
December 21, 1978
Page Three

by any candidate" was left out. It is certainly evident from the letter on its face, that the same is from Dr. Lacy to the constituent, that it was authored by him, that he is speaking for himself and no others. I repeat, for emphasis, that the brochure is a direct communication between Dr. Lacy and the constituent, and does not reflect any indication that it is for or on behalf of any candidate in any form so at least within the spirit of the regulations and statute I am convinced that Dr. Lacy openly met the spirit of the regulation although I can understand that a case could be made by a prosecutor that Dr. Lacy technically did not comply with that one regulation. You must understand that Dr. Lacy is a layman not versed in extensive government regulations, and I am of the opinion that a jury would not find him in violation considering the use of the First Amendment allows at least to my best recollection to speak and present true and factual statements to others of the same community and in fact embraces and encourages people to communicate.

It further should be noted that §441d states that if authorized, it must be clearly shown, but if it is not authorized, it is to show by whom it is authorized, and in this instance that was clearly shown by Dr. Lacy when he states that he is the author.

I await to hear from you.

Sincerely yours,



Thomas Odell Rost

TOR:gt
enc.

cc: Dr. Sterling E. Lacy

BEFORE THE FEDERAL ELECTION COMMISSION
December 6, 1978

Respondent's Counterproposal

In the Matter Of)
Dr. Sterling Lacy)

MUR 700 (78)

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §441d(a) to the extent that he failed to use the words "Not authorized by any candidate"; however, he did clearly and conspicuously make his identity known as the one who authorized the direct mailing as required by 2 U.S.C. §441d (1) and (2).

Now therefore the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978,

C. That the brochure advocated not to send a candidate for election to the U. S. House of Representatives.

D. That the respondent clearly and conspicuously noted on the face of the brochure his identity as the one who authorized the direct mailing item in question as required by 2 U.S.C. §441d(2), but that respondent failed to clearly and conspicuously note on the face of the brochure that it was "not authorized by any candidate", as further required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to conspicuously and clearly note on the face of the brochure that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

V. That the respondent will pay a civil penalty in the amount of one hundred dollars (\$100) pursuant to 2 U.S.C. §437g (a) (6) (B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g (a) (1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is mutually agreed that this agreement shall become effective as of the date that all parties have executed same and the Commission approves the entire agreement.

III. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement became effective to comply with

19040132797

and implement the requirements contained therein and to so notify the Commission.

Date

William C. Oldaker
General Counsel
Federal Election Commission

Date

Dr. Sterling E. Lacy, Respondent

79040132798

Attachment D

July 26, 1978

Having exhausted all avenues to find "FEC Form 5" in time to comply completely with Federal Election Commission regulations, I have chosen to be timely with my report rather than waiting days for "FEC Form 5" to be mailed to me from Washington. I will furnish all information required by law, though in my own format as below. If you wish me to submit my report on "FEC Form 5" in the near future, please send me a copy of that form by return mail.

NAME: Sterling E. Lacy

ADDRESS: 2552 Golden, Topeka, Kansas 66605

OCCUPATION: Marriage and Family Counselor

PRINCIPAL PLACE OF BUSINESS: 629 Quincy, Suite 204, Topeka, Kansas 66603

EXPENDITURE MADE TO	AMOUNT	DATE
Shawnee County Election Commission	\$ 70.24	7-18-78
Shawnee County Election Commission	70.24	7-21-78
Carla's Type	52.63	7-20-78
R.C. Publications	400.00	7-22-78
R.C. Publications	51.67	7-26-78
U.S. Postal Service	1842.80	7-25-78

CANDIDATE'S NAME: Ron Hain

OFFICE SOUGHT: U.S. Representative

The above expenditures were made in opposition to the above named candidate.

The above independent expenditures were not made with the cooperation, consultation, concert with, at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

Sincerely,

Sterling E. Lacy
Sterling E. Lacy

No. 763107

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO FEDERAL ELECTION COMMISSION		POSTMARK OR DATE
STREET AND NO. 1235 "K" ST. N.W.		7-26-78
P.O. STATE AND ZIP CODE WASHINGTON, DC 20463		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered With delivery to addressee only	15¢ 65¢
	2. Shows to whom, date and where delivered With delivery to addressee only	35¢ 85¢
DELIVER TO ADDRESSEE ONLY		50¢
SPECIAL DELIVERY (extra fee required)		
PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side) Apr. 1971 NOT FOR INTERNATIONAL MAIL • GPO : 1972 O - 480-742		

PS Form 3800, Jan. 1973

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space reverse.

1. The following service is requested (check one):

☐ Show to whom and date delivered

☒ Show to whom, date, & address of delivery

☐ RESTRICTED DELIVERY. Show to whom and date delivered

☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery

2. ARTICLE ADDRESSED TO:
**FEDERAL ELECTION COMMISSION
1235 "K" Street, NW
WASHINGTON, D.C. 20463**

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	763107	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
P. Hd 18 JUN 82

4. DATE OF DELIVERY
NOV 14 1977

5. ADDRESS (Complete only if requested)
07111

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIAL

No. 763108

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO SECRETARY OF STATE		POSTMARK OR DATE
STREET AND NO. CAPITOL BLDG.		7-26-78
P.O. STATE AND ZIP CODE TOPEKA, KS.		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES	1. Shows to whom and date delivered With delivery to addressee only	15¢ 65¢
	2. Shows to whom, date and where delivered With delivery to addressee only	35¢ 85¢
DELIVER TO ADDRESSEE ONLY		50¢
SPECIAL DELIVERY (extra fee required)		
PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side) Apr. 1971 NOT FOR INTERNATIONAL MAIL • GPO : 1972 O - 480-742		

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☐ Show to whom and date delivered

☒ Show to whom, date, & address of delivery

☐ RESTRICTED DELIVERY. Show to whom and date delivered

☐ RESTRICTED DELIVERY. Show to whom, date, and address of delivery

2. ARTICLE ADDRESSED TO:
**SECRETARY OF STATE
CAPITOL BLDG.
TOPEKA, KS.**

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	763108	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
Bonnie Wright

4. DATE OF DELIVERY
JUL 26 1978

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIAL



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas Odell Rost, Esquire
Rost and Rost
Civic Center Office Building
629 Quincy Street
Topeka, Kansas 66603

Re: MUR 700 (78)

Dear Mr. Rost:

Enclosed for your client's signature is a copy of the revised conciliation agreement which the Commission would accept in the above-referenced matter.

Please advise your client that his check, in the amount of one hundred dollars (\$100), should be made payable to the order of the "Treasurer of the United States," and forwarded to the Commission.

If you have any questions, please contact Gary D. Lipkin, the attorney assigned to this matter, at (202) 523-4175.

Thank you for your cooperation.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

**Ron
Hein
Congress**

mae 700
GOC*
9348
RECEIVED
FEDERAL ELECTION
COMMISSION

February 10, 1979 PM 2:10

968036

Mr. Brad Litchfield
Federal Election Commission
1325 "K" St., N.W.
Washington, D.C. 20463

Re: Complaint No. 884941

Dear Mr. Litchfield:

200001010067
I understand from Mr. Jim Buchele, U.S. Attorney in Topeka, Kansas, that the F.E.C. is considering a conciliation agreement with Mr. Sterling Lacy regarding the above complaint which was filed by me. I find this totally reprehensible, and I simply cannot understand how such an action can be contemplated. Mr. Lacy was aware of the provisions of the federal election law, having established two political action committees pursuant to statutory law and to your regulations. Despite the knowledge of the requirements of the F.E.C., Mr. Lacy mailed the brochure which was attached to my original complaint. This flagrant and egregious violation of the campaign finance law is without excuse, and to attempt conciliation of any sort on your part will, in my opinion, make a mockery of the statutes, and be an invitation to any person who desires to violate the law that prosecution will not result.

I understand that Mr. Buchele is ready, willing, and able to prosecute Mr. Lacy, but that the approval of the Justice Department will be necessary before he will be able to commence prosecution. As chairman of the American Party in Kansas, as a former paid political operative of the John Birch Society, as the treasurer of two federal political action committees, and as an avowed lobbyist in the state of Kansas, Mr. Lacy certainly must be held to a standard of accountability in terms of his actions under the federal election law, which are higher than those of other uninformed citizens who are unfamiliar with the political process.

I heartily request and demand that Mr. Lacy be prosecuted according to the terms of the act, and that the Federal Election Commission do whatever in their powers permissible to ascertain the true source of the funding of the brochure which was distributed. According to the deposition that was taken in this matter, approximately two thousand

**Ron Hein for Congress • 2824 Seabrook • Topeka, Kansas 66614
Phone 913-272-1592**

Paid for by: Ron Hein for Congress Committee, Ron Stewart, Treasurer

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C. 20463

page two
Mr. Brad Litchfield
February 10, 1979

dollars' worth of postage was purchased, and, by Mr. Lacy's own admission, there were no written documents evidencing such a purchase. Thus, either the check was written by some other contributor to the publication and dissemination of the brochure, or the stamps were purchased with cash. In either case, substantial violations of the federal act and the federal regulations are involved, and it simply escapes me how the F.E.C. can even contemplate conciliation under such circumstances. I also question by what authority unilateral conciliation of my complaint can be rendered by the F.E.C., without additional notice to me of the attempts toward conciliation, or even notice to me advising me of the status of the complaint or of the investigation.

I trust that I will be hearing from you shortly regarding this matter, and I also expect that investigation and prosecution of this flagrant abuse of the laws will be forthcoming immediately.

Thank you very much for your cooperation, and if I can provide any more assistance, or answer any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,

Ronald R. Hein
State Senator

RRH:dka

cc: Mr. Jim Buchele, U.S. Attorney
Mr. Eric Holder
Mr. Jay Byerson
Mr. Gary Lipkin

**Ron
Hein
Congress**

FEDERAL ELECTION
COMMISSION

FEB 15 PM 2:10
February 10, 1976

Mr. Brad Litchfield
Federal Election Commission
1325 "K" St., N.W.
Washington, D.C. 20463

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page two
Mr. Brad Litchfield
February 10, 1979

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Sincerely,

Ronald R. Hein
State Senator

RRH:dka

cc: Mr. Jim Buchele, U.S. Attorney
Mr. Eric Holder
Mr. Jay Myerson
Mr. Gary Lipkin

Ron
Hein
Congress



Mr. Jay Myerson
Federal Election Commission
Office of General Counsel
1325 "K" St., N.W.
Washington, D.C. 20463

79 FEB 12 PM 2:10

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611

Ron
Hein
Congress



15c

OLIVER
WENDELL
HOLMES



79 FEB 15 PM 2:10

Mr. Gary Lipkin
Federal Election Commission
Office of General Counsel
1325 "K" St., N.W.
Washington, D.C. 20463

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611

600+
5-979

LAW OFFICES
ROST & ROST

CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

78 DEC 26 AM 10:35

(012) 234-8600

December 21, 1978

000000

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MJR 700(78)

Dear Mr. Lipkin:

This letter confirms our telephone conversation of December 20, 1978. I have altered my suggestions after reconsidering Dr. Lacy's financial situation.

It should be noted that the 6th Division of the Shawnee County District Court in its Memorandum Decision, which was forwarded to you on December 19, 1978, in the civil litigation found that Dr. Lacy did in fact state the truth in his open letter to the constituents of the Second District with regards to the comments as to the voting record of Senator Hein. We suggested that you review that decision.

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December 21, 1978

Page Two

79040132809
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Please contact me with regards to this letter at your earliest opportunity. You are advised that I will not be in my office until January 4, 1979, however, considering the time restraints, if you desire to call me before 9 AM your time at my home in Vail, Colorado, please do not hesitate to do so. The phone number is unlisted, but I give it to you for your use if you desire to communicate with me prior to January 4, 1979 - 303-476-4461.

Please find attached our proposal for a suggested conciliation agreement, which substantially follows the format you sent Dr. Lacy deleting the violation with regards to failing to report.

It should be noted that with reference to 2U.S.C. §441d(2) as set forth in §109.4, it is required and the communication did reflect the author and person making the expenditure particularly through the openness of the letter as well as bold face type. If there is a violation, which I contend there is not one, it could only be that the words "not authorized

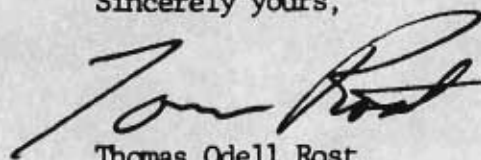
December 21, 1978
Page Three

by any candidate" was left out. It is certainly evident from the letter on its face, that the same is from Dr. Lacy to the constituent, that it was authored by him, that he is speaking for himself and no others. I repeat, for emphasis, that the brochure is a direct communication between Dr. Lacy and the constituent, and does not reflect any indication that it is for or on behalf of any candidate in any form so at least within the spirit of the regulations and statute I am convinced that Dr. Lacy openly met the spirit of the regulation although I can understand that a case could be made by a prosecutor that Dr. Lacy technically did not comply with that one regulation. You must understand that Dr. Lacy is a layman not versed in extensive government regulations, and I am of the opinion that a jury would not find him in violation considering the use of the First Amendment allows at least to my best recollection to speak and present true and factual statements to others of the same community and in fact embraces and encourages people to communicate.

It further should be noted that §441d states that if authorized, it must be clearly shown, but if it is not authorized, it is to show by whom it is authorized, and in this instance that was clearly shown by Dr. Lacy when he states that he is the author.

I await to hear from you.

Sincerely yours,



Thomas Odell Rost

TOR:gt
enc.

cc: Dr. Sterling E. Lacy

0132310

No. 763107

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO FEDERAL ELECTION COMMISSION		POSTMARK OR DATE 7-26-78
STREET AND NO. 1235 "K" ST. N.W.		
P.O. STATE AND ZIP CODE WASHINGTON, DC 20463		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES DELIVER TO ADDRESSEE ONLY SPECIAL DELIVERY (extra fee required)	1. Shows to whom and date delivered With delivery to addressee only 2. Shows to whom, date and where delivered With delivery to addressee only	15¢ 65¢ 35¢ 85¢ 50¢
PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side) Apr. 1971 NOT FOR INTERNATIONAL MAIL • GPO : 1972 O - 480-743		

PS Form 3811, Jan. 1973

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.		
1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered..... 15¢ <input checked="" type="checkbox"/> Show to whom, date, & address of delivery.. 35¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢		
2. ARTICLE ADDRESSED TO: FEDERAL ELECTION COMMISSION 1235 "K" Street, NW WASHINGTON, D.C. 20463		
3. ARTICLE DESCRIPTION: REGISTERED NO. 763107 CERTIFIED NO. INSURED NO. (Always obtain signature of addressee or agent)		
I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent 4 Md 18 JUL 28		
4. DATE OF DELIVERY JUL 26 1978		POSTMARK
5. ADDRESS (Complete only if requested)		
6. UNABLE TO DELIVER BECAUSE:		CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

No. 763108

RECEIPT FOR CERTIFIED MAIL—30¢ (plus postage)

SENT TO SECRETARY OF STATE		POSTMARK OR DATE 7-26-78
STREET AND NO. CAPITOL BLDG.		
P.O. STATE AND ZIP CODE TOPEKA, KS.		
OPTIONAL SERVICES FOR ADDITIONAL FEES		
RETURN RECEIPT SERVICES DELIVER TO ADDRESSEE ONLY SPECIAL DELIVERY (extra fee required)	1. Shows to whom and date delivered With delivery to addressee only 2. Shows to whom, date and where delivered With delivery to addressee only	15¢ 65¢ 35¢ 85¢ 50¢
PS Form 3800 NO INSURANCE COVERAGE PROVIDED— (See other side) Apr. 1971 NOT FOR INTERNATIONAL MAIL • GPO : 1972 O - 480-743		

PS Form 3811, Jan. 1973

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.		
1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered..... 15¢ <input checked="" type="checkbox"/> Show to whom, date, & address of delivery.. 35¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢		
2. ARTICLE ADDRESSED TO: SECRETARY OF STATE CAPITOL BLDG. TOPEKA, Ks.		
3. ARTICLE DESCRIPTION: REGISTERED NO. 763108 CERTIFIED NO. INSURED NO. (Always obtain signature of addressee or agent)		
I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent Bonnie Wright		
4. DATE OF DELIVERY JUL 26 1978		POSTMARK
5. ADDRESS (Complete only if requested)		
6. UNABLE TO DELIVER BECAUSE:		CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

BEFORE THE FEDERAL ELECTION COMMISSION
December 6, 1978

In the Matter Of)
Dr. Sterling Lacy)

MUR 700 (78)

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §441d(a) to the extent that he failed to use the words "Not authorized by any candidate"; however, he did clearly and conspicuously make his identity known as the one who authorized the direct mailing as required by 2 U.S.C. §441d (1) and (2).

Now therefore the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978,

79040132812

C. That the brochure advocated not to send a candidate for election to the U. S. House of Representatives.

D. That the respondent clearly and conspicuously noted on the face of the brochure his identity as the one who authorized the direct mailing item in question as required by 2 U.S.C. §441d(2), but that respondent failed to clearly and conspicuously note on the face of the brochure that it was "not authorized by any candidate", as further required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to conspicuously and clearly note on the face of the brochure that it was "not authorized by any candidate" was a violation of 2 U.S.C. §441d(2).

V. That the respondent will pay a civil penalty in the amount of one hundred dollars (\$100) pursuant to 2 U.S.C. §437g (a) (6) (B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g (a) (1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is mutually agreed that this agreement shall become effective as of the date that all parties have executed same and the Commission approves the entire agreement.

III. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement became effective to comply with

79040132813

and implement the requirements contained therein and to so notify the
Commission.

Date

William C. Oldaker
General Counsel
Federal Election Commission

Date

Dr. Sterling E. Lacy, Respondent

79040132814

July 26, 1978

Having exhausted all avenues to find "FEC Form 5" in time to comply completely with Federal Election Commission regulations, I have chosen to be timely with my report rather than waiting days for "FEC Form 5" to be mailed to me from Washington. I will furnish all information required by law, though in my own format as below. If you wish me to submit my report on "FEC Form 5" in the near future, please send me a copy of that form by return mail.

NAME: Sterling E. Lacy

ADDRESS: 2552 Golden, Topeka, Kansas 66605

OCCUPATION: Marriage and Family Counselor

PRINCIPAL PLACE OF BUSINESS: 629 Quincy, Suite 204, Topeka, Kansas 66603

EXPENDITURE MADE TO	AMOUNT	DATE
Shawnee County Election Commission	\$ 70.24	7-18-78
Shawnee County Election Commission	70.24	7-21-78
Carla's Type	51.63	7-20-78
R.C. Publications	400.00	7-22-78
R.C. Publications	51.67	7-26-78
U.S. Postal Service	1942.80	7-25-78

CANDIDATE'S NAME: Ron Hein

OFFICE SOUGHT: U.S. Representative

The above expenditures were made in opposition to the above named candidate.

The above independent expenditures were not made with the cooperation, consultation, concert with, at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

Sincerely,

Sterling E. Lacy
Sterling E. Lacy

LAW OFFICES
ROST & ROST
CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



LAW OFFICES
ROST & ROST
CIVIC CENTER OFFICE BUILDING
626 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

(913) 234-5609

December 19, 1978

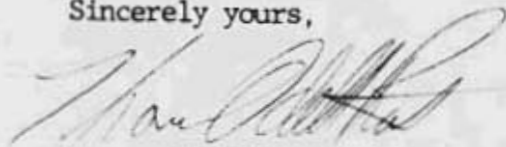
Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MJR 700(78)

Dear Mr. Lipkin:

Please find enclosed the Memorandum Decision constituting the Journal Entry of final judgment in the civil case involving the above entitled matter. If you read the opinion, and we submit the same as additional evidence in this case on behalf of Dr. Lacy, you will find that the Court found that Dr. Lacy did not misstate the actions of Senator Hein, and has dismissed Senator Hein's civil litigation without trial on Motion For Summary Judgment after the initial pleading and response having been filed thereto.

Sincerely yours,



Thomas Odell Rost

TOR:gt
enc.

100-443886-100

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
SIXTH DIVISION

Plaintiff.

vs.

STERLING E. LACY.

Defendant.

CASE NO. 78-CV-746

898612

MEMORANDUM DECISION

On July 21, 1978, plaintiff, a State Senator in the Kansas Legislature and then a candidate for the Kansas Second District Congressional Republican nomination, filed this action in defamation. Plaintiff's contentions are that defendant published and circulated to Second District voters a document styled "An Open Letter From: a family therapist to: Second Congressional District Republicans Re: Senator Ron Hein's legislative stand on decriminalization of marijuana and legalization of homosexuality", a copy of which document is attached hereto marked Exhibit "A" and incorporated by this reference. Plaintiff further contends in his petition that the document contains false and defamatory statements, within the meaning of the law and resulted in damages for which he seeks reimbursement in this action. Defendant has denied that the statements contained in this document are defamatory, contending that the statements therein are true and, if not true in the fullest sense, are at least not actionable because he lacked any knowledge of their falsity and was not reckless with respect to the truth or falsity thereof, the stringent test applied under the First Amendment to the Constitution of the United States to comments made pertaining to elected public figures in campaign literature. Affidavits have been filed by both sides herein, admissions have been sought and gained (identifying and placing in the record certain documents, bills and journals of the Kansas Senate) and the

-2-

deposition of the defendant has been taken. On the basis of this record before the Court defendant has moved for summary judgment contending that the record does not support a finding of actual malice or reckless disregard for truth and specific intent to injure, which is the constitutional criteria by which his publication must be tested. Both sides have briefed the legal issues involved and have submitted the same to the Court for decision without oral argument. The Court has carefully considered and has carefully scrutinized the entire record before it with a view to determining whether the constitutional test has been met. The Court, having carefully considered the record, and the briefs of counsel, now makes and enters the following findings of fact, conclusions of law and judgment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Eliminating extraneous matters, Exhibit "A" contains two basic statements purporting to be fact upon which all other opinions and conclusions are obviously founded. If those statements are true, plaintiff's claim must fail. If those statements are false, plaintiff's claim must still fail unless the record shows that defendant, in making those statements either knew the same were false at the time the statements were made or had a reckless disregard concerning whether the same were true or false and was possessed with a specific intent to injure the plaintiff herein. (New York Times v. Sullivan, 376 U.S. 254; Gertz v. Robert Welch, Inc., 418 U.S. 323; Henry v. Collins, 380 U.S. 356; St. Amant v. Thompson, 390 U.S. 727; Kennedy v. Mid-Continent Telecasting, Inc., 193 Kan. 544; Munsell v. Ideal Food Stores, 208 Kan. 904 and PIK Civil 2d §14.54.) The two statements contained in Exhibit "A" to which this constitutional test must be applied are:

1. "The records of the Federal and State Affairs Committee hearings on March 17 & 31, 1977 clearly show that both Ron Hein's arguments and his votes were in favor of the decriminalization

of marijuana." and,

2. "When a friend told me that the Kansas Senate had passed a bill (Senate Bill 310) this legislative session that removed homosexuality as an "unlawful sexual act" (except in cases of aggravated sodomy), I just couldn't believe it!...Senate Bill 310 (which died in the House committee) was indeed designed to legalize homosexuality and...a majority of our State Senators had voted for it -- including State Senator Ron Hein!"

With respect to the first statement, the records of the Senate reflect the following:

At the time House Bill 2313 was being considered by the Kansas Legislature the penalty for possession of marijuana, first offense, was a Class A Misdemeanor punishable by imprisonment in the county jail for up to one year or a fine of up to \$2,500 or both such fine and imprisonment (K.S.A. 65-4125, 21-4502 and 21-4503.) House Bill 2313, inter alia, had the same been enacted by the Legislature, would have reduced the penalty for the possession of one ounce or less of marijuana to an unclassified misdemeanor punishable by a fine of not more than \$100 for the first offense. The minutes of the Federal and State Affairs Committee of the Senate, dated March 31, 1977 reflect that Senator Hein seconded the motion of Senator Allegruci to recommend House Bill 2313 favorably for passage. This motion failed and the bill was ultimately reported to the Senate without recommendation. Senator Hein again seconding this motion. The Journal of the Senate for April 4, 1977 (pp. 560-561) reflect that Senator Hein moved that House Bill 2313 be referred back to the Committee on Federal and State Affairs after Senator Angell moved that the bill be stricken from the calendar. On that same date, the Journal of the Senate reflects (p. 584) a roll call vote was taken on whether to reconsider the action of the Senate on House Bill 2313. Senator Hein voted to reconsider the action of the Senate (which action had failed to enact the bill) but the motion to reconsider failed and the bill was not adopted.

In his affidavit, filed in this action, Senator Hein, at Paragraph 5, states that those convicted of the possession of a small amount of marijuana "...should be sentenced, convicted and fined as provided by the terms of House Bill 2313...." Based upon these documents, the Court has no hesitation in finding from the uncontested facts that the comments and votes of Senator Hein reflect that he favored the adoption of House Bill 2313. The only question remaining, therefore, is whether House Bill 2313 provided for the "decriminalization of marijuana". There can be no doubt but that House Bill 2313 would

have provided for a substantial reduction in the penalty for first time conviction of the possession of a small quantity of marijuana. Carefully refined, therefore, the ultimate issue is whether this result would constitute the "decriminalization of marijuana" as that term is generally understood in common, modern usage. It has been urged that the term "decriminalization", given a very technical legal definition, should be held to mean "legalize". Of course, if this definition were found to be commonly accepted, the statement contained in Exhibit "A" would not be precisely true in that the possession of marijuana, even under House Bill 2313, would remain illegal and a penalty would continue to be prescribed for the conviction of such possession. Such a narrow definition, however, is not the common understanding of this term as applied to the social problem of the use and possession of marijuana. It is well known to lawyers and laymen alike that the term "decriminalization of marijuana" has come to mean, in commonly accepted parlance, the reduction of the penalty for first time conviction of small quantities of marijuana to a reasonably small monetary fine. This term is often used in contrast to the term "legalization of marijuana" which is understood to mean the removal altogether of any penalty for the possession of small quantities of marijuana. The proceedings of the Federal and State Affairs Committee of the Senate, during the Committee's consideration of House Bill 2313 (which proceedings are before the Court by way of exhibits to admissions) clearly show that the witnesses appearing both in favor of and against the bill understood and used the terms "decriminalize" and "legalize" in a manner reflecting this common understanding of these terms. Given this understanding of the commonly accepted usage in modern times of the term "decriminalization of marijuana", the statement made by defendant in Exhibit "A" that Senator Hein's "arguments and his votes were in favor of the decriminalization of marijuana" must be found to be within the ambient of fair comment

protected by the First Amendment when applied to comments concerning the official actions of elected public officials. Consequently, on the record before this Court, there is no evidence sufficient to satisfy the extremely stringent test for malice which is an essential part of the proof required for the maintenance of the action of the plaintiff in this cause.

In his affidavit herein, Senator Hein has stated that he does not favor the use of marijuana, that he speaks against the use of it, that he has never used marijuana or any other illegal drug personally and that he often uses his good offices to discourage drug abuse of all kinds. The Court has absolutely no doubt concerning the truth of these statements. But the question in this cause is whether his comments and votes with respect to House Bill 2313 can be fairly interpreted to indicate that he favored the "decriminalization of marijuana". The precise question before the Court is not whether the statement in Exhibit "A" is false or true but whether if false the comment is so recklessly made as to show a disregard for the truth and an intent to injure. The defendant's comments are not so unreasonable, given the common usage of the terms involved to which reference has been previously made, to rise to this level of offensiveness and are, therefore, protected under the freedom of speech guaranteed to citizens under the First Amendment to the Constitution of the United States.

Turning to the second statement contained in Exhibit "A", the records of the Senate disclose the following:

At the time Senate Bill 310 was being considered, intercourse between consenting adults of the same sex was illegal. Such intercourse between consenting adults of the opposite sex and between married persons was not illegal under any circumstances (K.S.A. 21-3505). Senate Bill 310, had the same been enacted by the Legislature, would have made intercourse between all persons for hire illegal and would have repealed the prohibitions against adultery, unlawful cohabitation and intercourse between consenting adults of the same sex. The title of Senate Bill 310 clearly reflects that the bill pertains to the four categories of sexual offenses listed. The brief of the bill, a synopsis for legislative use

in evaluating the contents of a proposed bill, also clearly indicates the quadruple impact of the proposed legislation. The minutes of the Senate Judiciary Committee dated March 3, 1977 labels Senate Bill 310 as "an act concerning sexual privacy." At that hearing, a representative of the Civil Liberties Union of Kansas, appearing in support of the bill stated that "private sexual activities are of no concern to the State." The Journal of the Senate (1977 Session, p. 296) indicates that Senate Bill 310 was adopted by the Senate and that, upon roll call vote, Senator Hein voted in favor of the bill.

Again, it is clear that Senator Hein voted in favor of Senate Bill 310. The remaining question then, is whether Senate Bill 310, as asserted by defendant in Exhibit "A", "removed homosexuality as an 'unlawful sexual act' " and whether, therefore, Senator Hein voted, as defendant asserted, "to legalize homosexuality." In this connection it is urged that the term "homosexuality", is broadly defined as an entire lifestyle or philosophical preference. It is further urged, given this definition, that homosexuality has never been illegal and needs no "legalization". In this connection, it is urged that only certain sexual acts have been heretofore prohibited but not homosexuality in its entirety. Under the fair comment First Amendment rule pertaining to public figures, however, this Court is not satisfied that the term can be held to have only this definition. Although it has been correctly stated that the principle focus of the Senate Bill 310 was to outlaw oral sex for money between consenting adults of the opposite sex, as was reported to have occurred in some "massage parlor" settings, there is no doubt but that the bill also removed penalties for adultery, unlawful cohabitation and intercourse between consenting adults of the same sex. In light of this fact, this Court cannot say that defendant's comments which pertain to this bill alone, were so recklessly false and demonstrated the needed malicious intent to injure required by the Constitution to permit an action in defamation by a public figure about whose voting record such comments were made. Again, Senator Hein in his affidavit has stated that he does not favor homosexuality, that he does not encourage the same and that he in no way ever intended to

-7-

vote for a bill which would legalize homosexuality or promote the same. Once again, the Court is fully convinced of the truth of these statements. Nonetheless, the undisputed record is clear: Senator Hein voted for Senate Bill 310 and Senate Bill 310 among other things, removed the prohibition of intercourse between consenting adults of the same sex. Given this fact, this Court cannot say that defendant's comments that the effect of Senate Bill 310, among other things, would have been, at least in some particulars, a legalization of homosexuality are so recklessly false and maliciously made as to satisfy the test required by the Constitution in order for this action to be maintained.

Although this Court cannot resolve factual disputes in a motion for summary judgment, this Court has an absolute duty to uphold the Constitution and in cases of this type to make the initial assessment concerning whether the record sets forth facts sufficient to meet the very high burden upon plaintiffs in cases of this type. This Court's duty has been stated as follows:

"Actual malice is a constitutional issue to be decided initially by the trial judge vis-a-vis motions for summary judgment and directed verdict. The functions of the trial judge and the jury have been explained as follows:

'In my judgment New York Times Co. v. Sullivan makes actual malice a constitutional issue to be decided in the first instance by the trial judge applying the Times' test of actual knowledge or reckless disregard of the truth. [Citations omitted] Unless the court finds, on the basis of pretrial affidavits, depositions or other documentary evidence, that the plaintiff can prove actual malice in the Times sense, it should grant summary judgment for the defendant.
***'

Thus, it is clear that, where a publication is protected by the New York Times immunity rule, summary judgment, rather than trial on the merits, is a proper vehicle for affording constitutional protection in the proper case." (Bon Air Hotel Inc. v. Time, Inc., 426 F.2d 858 (5th Cir. 1970)).

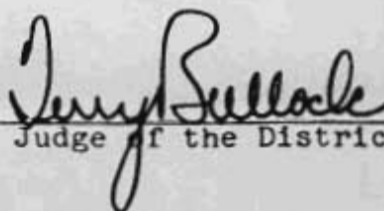
JUDGMENT

Based upon the foregoing findings of fact and conclusions of law it is the judgment of this Court that the record before this

-8-

Court does not contain proof sufficient to sustain the proof of malice requirement necessary for plaintiff's claims to be actionable and sufficient for presentation to a jury. Consequently, pursuant to this Court's sworn duty to uphold and defend the Constitution of the United States and consonant with its duty to assess the quantum of proof on the question of malice required of the trial judge in cases of this type, defendant's motion for summary judgment is herewith sustained, costs taxed to plaintiff. This Memorandum Decision shall serve as the Court's entry of judgment herein, no further journal entry being required.

DATED: December 15, 1978



Judge of the District Court

LAW OFFICES

Rost & Rost

CIVIC CENTER OFFICE BUILDING

629 QUINCY STREET

TOPEKA, KANSAS 66603



DEF 05 09 11 57

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

December 14, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

Re: MUR 700(78)

Dear Dr. Lacy:

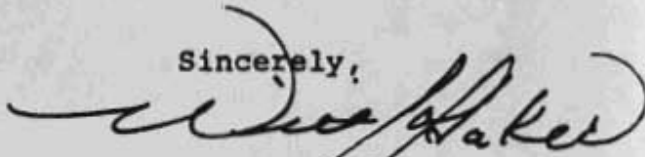
On December 12, 1978, the Commission determined there was reasonable cause to believe that you committed violations of 2 U.S.C. §434(e) and 2 U.S.C. §441d(2) of the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission found reasonable cause to believe that your failure to both report the expenses incurred in the publication and distribution of your "open letter" regarding Ronald Hein and to clearly and conspicuously state on the face of the "open letter" that it was not authorized by any candidate, are violations of the above sections of the Act.

The Commission has a duty to attempt to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. 2 U.S.C. §437g(a)(5)(B). If we are unable to reach an agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit in United States District Court and seek payment of a civil penalty not in excess of \$5,000.

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed conciliation agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Gary D. Lipkin, the attorney assigned to this matter, at 202-523-4175.

Sincerely,



William C. Oldaker
General Counsel

Enclosure

Lipkin ✓ *MUR-700(78)*

20 Form 3811, Apr 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

1. The following service is requested (check one).
☐ Show to whom and date delivered.....\$
☒ Show to whom, date, and address of delivery.....\$
☐ RESTRICTED DELIVERY
Show to whom and date delivered.....\$
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery \$.....
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
943299

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Dr. S. E. Lacy

DATE OF DELIVERY *DEC 20 1978* POSTMARK

4. ADDRESS (Complete only if requested)

5. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

★ 492 1877-1

9040132829

In the Matter of)
) MUR 700 (78)
Dr. Sterling Lacy)

CONCILIATION AGREEMENT

This matter, having been initiated by a notarized complaint, and reasonable cause to believe having been found that the respondent, Dr. Sterling E. Lacy, violated 2 U.S.C. §434(e) and 2 U.S.C. §441d(2);

Now therefore the respective parties herein, the Federal Election Commission and the respondent, Dr. Sterling E. Lacy, having duly entered into conciliation pursuant to 2 U.S.C. §437g (a)(5), do hereby agree as follows:

I. That the Federal Election Commission has jurisdiction over the respondent and the subject matter of this proceeding.

II. That the respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. That the pertinent facts in this matter are as follows:

A. Respondent had printed 25,000 copies of a brochure entitled "An Open Letter From: A Family Therapist."

B. That respondent caused 22,000 of these brochures to be mailed to Republican voters of the Second Congressional District of Kansas on July 25, 1978.

C. That the brochure advocated the defeat of a candidate for election to the U.S. House of Representatives.

D. That the respondent failed to report the costs incurred in printing and distributing this brochure, estimated at \$2,493.58, as required by 2 U.S.C. §434(e).

E. That the respondent failed to clearly and conspicuously note on the face of the brochure that it was not authorized by any candidate, as required by 2 U.S.C. §441d(2).

WHEREFORE, respondent agrees:

IV. That the failure to report the costs incurred in printing and distributing this brochure was a violation of 2 U.S.C. §434(e).

V. That the failure to conspicuously and clearly note on the face of the brochure that it was not authorized by any candidate was a violation of 2 U.S.C. §441d(2).

VI. That the respondent will pay a civil penalty in the amount of one thousand dollars (\$1,000) pursuant to 2 U.S.C. §437g(a)(6)(B).

GENERAL CONDITIONS:

I. The Commission, on the request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matter at issue herein, or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

II. It is mutually agreed that this agreement shall become effective as of the date that all parties have executed same and the Commission approves the entire agreement.

III. It is agreed that the respondent shall have no more than thirty (30) days from the date this agreement became effective to comply with and implement the requirements contained therein and to so notify the Commission.

Date

William C. Oldaker
General Counsel
Federal Election Commission

Date

Dr. Sterling E. Lacy
Respondent

79040132831

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Dr. Sterling E. Lacy)

MUR 700 (78)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on December 12, 1978, the Commission determined by a vote of 6-0 to adopt the following recommendations, as set forth in the General Counsel's Report dated December 6, 1978, regarding the above-captioned matter:

1. Find reasonable cause to believe that Sterling Lacy violated 2 U.S.C. §434(e) and 2 U.S.C. §441d(2).
2. Approve the conciliation agreement and letter attached to the above-named report.

Attest:

12/13/78

Date

Margaret E. Chaney
for Marjorie W. Emmons
Secretary to the Commission

Signed by the General Counsel:

Received in Office of Commission Secretary:

Circulated on 48 hour vote basis:

12-7-78

12-8-78, 12:49

12-11-78, 9:00

19040132852

December 8, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Carr
SUBJECT: MUR 700

Please have the attached General Counsel's Report
on MUR 700 distributed to the Commission on a 48 hour
tally basis.

Thank you.

79040132833

BEFORE THE FEDERAL ELECTION COMMISSION
December 6, 1978

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

78 DEC 8 P12: 49

In the Matter of)
Dr. Sterling E. Lacy)

MUR 700 (78)

GENERAL COUNSEL'S REPORT

SUMMARY OF PRIOR PROCEEDINGS

On September 28, 1978 the Commission found reason to believe that the respondent violated 2 U.S.C. §441d and §434(e) by publishing a brochure expressly advocating the defeat of a Congressional candidate and failing to report the expenses incurred thereby. Pursuant to this finding, a series of questions were posed to Dr. Lacy, which were answered in a letter from respondent's counsel of November 6, 1978.^{1/}

PERTINENT FACTS

The information supplied by the respondent reveals that 25,000 copies of the brochure were printed with a distribution of approximately 22,000 occurring on July 25, 1978. The costs incurred in the distribution was \$2,493.58, with less than \$100 of this from contributions. The respondent claims to have had no aid from Mr. Hein's opponent, Jim Jeffries, in the preparation of the brochure, but did tell a staffer of Mr. Jeffries' that he did intend to put out a brochure regarding Mr. Hein.

^{1/} In addition, we have received a 294 page copy of a deposition of the respondent taken by the complainant, Ronald Hein, as part of a libel action Mr. Hein has pending against Dr. Lacy as a result of the brochure that is the subject of this matter.

ANALYSIS

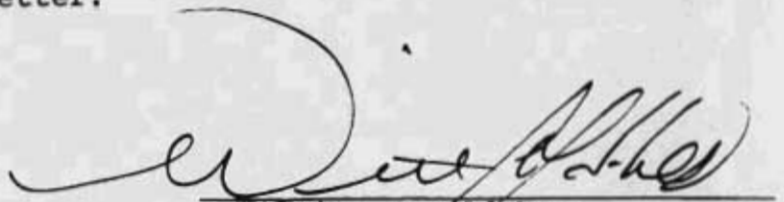
Section 434(e) of the Act requires every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the defeat or election of a candidate, other than by contributions to a political committee, that exceeds \$100 in a calendar year, to file a report of the activity with the Commission. As no such report has been filed by Dr. Lacy that reflects the expenditure, and since this brochure undeniably and admittedly advocated Hein's defeat, this section of the Act has been violated.

The brochure in question did not state anywhere on its face that the communication was not authorized by any candidate in the election, but did give the name of the brochure's originator, i.e., the brochure used the format of an "open letter" and was "signed" by Dr. Lacy. The failure to note the communication's lack of candidate authorization is a violation of 2 U.S.C. §441d(2).

RECOMMENDATIONS

1. Find reasonable cause to believe that Sterling Lacy violated 2 U.S.C. §434(e) and 2 U.S.C. §441d(2).
2. Approve the attached conciliation agreement.
3. Approve the attached letter.

12/7/78
Date


William C. Oldaker
General Counsel

ATTACHMENTS

1. Brochure
2. Response to Commission inquiries
3. Letter
4. Conciliation Agreement

AN OPEN LETTER FROM: A FAMILY THERAPIST

TO: SECOND CONGRESSIONAL DISTRICT REPUBLICANS

RE: SEN. RON HEIN'S LEGISLATIVE STAND ON DECRIMINALIZATION
OF MARIJUANA AND LEGALIZATION OF HOMOSEXUALITY

DEAR REPUBLICAN VOTER,

I counsel teenagers. I counsel teenagers and their families. I am on the firing line regularly with families being torn apart by marijuana or homosexuality. The battleground is the minds of our youth. The ammunition is ideas expressed in words. Whoever is the most persuasive wins the war.

My task of trying to salvage any future happiness for these young people is made extremely more difficult by personable political leaders like Ron Hein who try to make homosexuality respectable by voting to legalize it and marijuana more acceptable by personal efforts to decriminalize it.

RON HEIN AND THE DECRIMINALIZATION OF MARIJUANA

The records of the Federal and State Affairs Committee hearings on March 17 & 31, 1977, clearly show that both Ron Hein's arguments and his votes were in favor of the decriminalization of marijuana. Can't Senator Hein and those who are lax about marijuana see that their arguments have the effect of encouraging marijuana use?

In order to promote the decriminalization of marijuana they argue that marijuana isn't harmful, doesn't slow thinking or reactions, in no way causes a dependency by the user, doesn't lead to so-called "hard" drugs, etc. And yet, my personal observations of those who use marijuana regularly shows the opposite—how about you?

I WAS SHOCKED TO FIND THAT SENATOR HEIN HAD VOTED TO LEGALIZE HOMOSEXUALITY

When a friend told me that the Kansas Senate had passed a bill (S.B. 310) this last legislative session that removed homosexuality as an "unlawful sexual act" (except in cases of aggravated sodomy), I just couldn't believe it! A bill to legalize homosexuality would pave the way for it to be presented in our schools as an "acceptable," "legal" alternate life style. Sixteen-year-olds could not be protected by law from the advances of a homosexual unless it was done by force or for hire.

I couldn't believe this was happening in Kansas. It sounded more like San Francisco. I told my friend I didn't believe it. However, I called a state senator who voted against S.B. 310 and he confirmed what my friend had said. He sent me to Legislative Research and they confirmed that S.B. 310 (which died in a House committee) was indeed designed to legalize homosexuality and that a majority of our State Senators had voted for it—including state senator Ron Hein! While homosexuals certainly need our concern and help, I can't for the life of me, understand the vote of Ron Hein and 21 of his colleagues.

AN OPEN LETTER (concluded inside)

*"The hottest places in hell are
reserved for those who, in a
period of moral crisis maintain
their neutrality."
Dante*

*I am only one person, but I
shall no longer refuse "to get
involved." I have had enough.
What about you? How much
longer will you stand aside?*

Dr. Sterling E. Lacy
Marriage and Family Counselor
629 Quincy—Suite 204
Topeka, Kansas 66603



Pot
"Gays" &
the coming
election. . .

A Second look
at the personable
RON HEIN

MCCULLOUGH VIVIAN A
4336 SE 26TH
TOPEKA KS 66605

Please read this letter before you vote this Tuesday—Aug. 1st

"CLEAN" POLITICS VS. "DIRTY" POLITICS

I met a politician recently who believes that "clean" politics is when candidates run on their own personalities and "dirty" politics is when someone dares to drag issues into a campaign.

Has it become wrong to tell the truth? I ask, in the words of the apostle Paul, "Am I become your enemy because I tell you the truth?" No! Here in America, we still want the truth, no matter how bitter it is at times.

PLEASE DON'T SEND RON HEIN'S VIEWS TO WASHINGTON

We are being asked to send Ron Hein and his views to Washington as being representative of us and our views. In my opinion, Ron Hein's views do not represent the views of most Republicans. If you agree with me, then please don't help send him on to Washington by voting for him next Tuesday.

Sen. Hein still has two years to serve in the Kansas Senate. Let's let him complete his term as state senator and watch his voting record more closely in the future.

While Ron Hein would undoubtedly make a good next-door neighbor, the U.S. House of Representatives is a too critically important segment of our national government to entrust to someone with his present views.

THEY JUST DIDN'T KNOW

I'm confident that Ron Hein's supporters were unaware of his position on the legalization of homosexuality and the decriminalization of marijuana when they contributed to his campaign. . . or when they put that bumper sticker on their car. . . or when they okayed that sign to be placed in their yard. Please, don't assume that Ron Hein's supporters were for the legalization of homosexuality or for the decriminalization of marijuana. **They just didn't know!**

Now that you do know, how about quickly cutting off the support. . . quietly peeling off the bumper sticker . . . and calmly taking down your yard sign? And, if the secrecy of the voting booth next Tuesday, refuse to lend your support to the legalization of homosexuality and the decriminalization of marijuana by refraining from voting for Ron Hein.

Sincerely,

Dr. Sterling E. Lacy
Sterling E. Lacy, Ph.D.

P.S. Write me today if you would like to see a committee formed to stop the legalization of homosexuality and decriminalization of marijuana.



DON'T FORGET YOUR RESPONSIBILITY TO HIM

TWO MAJOR MORAL ISSUES FACING AMERICA'S YOUTH TODAY

HOMOSEXUALITY

The sin of Sodom and Gomorrah came close to being legalized in the State of Kansas

Most people remember the Bible story of the destruction of Sodom and Gomorrah, but few remember that the sin of those two wicked cities was homosexuality.

Let's review the story: Abraham pleaded with God to save the city of Sodom if as few as ten righteous men could be found. God sent two messengers, angels who were dressed as men, to destroy the city. The two men spent the night in Sodom with Abraham's nephew, Lot. When the inhabitants of the city heard that Lot had the two visitors in his home, they surrounded the house and demanded: "Where are the men who came to visit you tonight? Bring them out to us that we may rape them." (Genesis 19:5, Moffatt)

In the process of caring about the homosexual and helping him out of his perverted lifestyle, we must not accept that lifestyle as a legal, operational part of our schools, churches, business and government programs. We must legally reject this immoral behavior or lose God's blessing on our nation and incur the wrath of God. Let's send the message to those state senators who voted to legalize homosexuality.



MARIJUANA

A Case History by a Marijuana User:

"I started smoking hashish and marijuana on a very casual basis (you go to a friend's house and a joint is passed around), but after a short while use became more frequent and weekend experiences extended well into the week.

"The dreamlike state of drugs is too powerful, too convincing, too subtle to permit insight. Before long the drugs themselves mollify and eventually suppress all conflicts about their use.

"Another joint, and all anxiety miraculously vanished.

"An individual can carry on virtually any task even while drugged, at least initially, effects can be so misleading. These don't reveal the inner anguish, the subconscious gropings, the elaborate network of delusions, the insidious deterioration in intellectual functioning, or the collapse of self-discipline."

"I even managed to get myself another degree; of course I had to have a few joints to cope with the slightest pressure, the slightest demands. The cost was enormous. After five years of using 'soft' drugs (with supposedly no dependence), its evils finally emerged: Divorce, chronic unemployment, two psychotic breakdowns and the suicide of a friend as I stood by helpless because of my own turmoil.

"Recovery hasn't been easy. I have had to cope with tenacious visual and auditory hallucinations, frequent and long memory lapses, frightening flashbacks, the inability to focus my attention and a lingering world of dreams and fantasies so convoluted as almost to defy description. And far worse for me was the painful realization that five years in the prime of my life were utterly lost.

"A large part of the problem with 'soft' drugs is that they have received, and still receive, so much sanction from respectable and well-meaning people."

"Marijuana Reappraised: Two Personal Accounts by Martin Croes & Andre McNicoll. (The Myrin Institute for Adult Education, 521 Park Ave., New York, N.Y. 10021)

BEFORE THE FEDERAL ELECTION COMMISSION

TO: Dr. Sterling E. Lacy

MUR 700(78)

QUESTIONS

1. In the complaint filed by Mr. Hein, (See Attachment I), he states that you acknowledged in a public press conference that you authored and disseminated a brochure advocating the defeat of Hein's election to the U.S. House of Representatives. Is this correct? If so, YES.
- (a) How many of these brochures did you publish and distribute? Approximately 25,000 printed and approximately 22,000 distributed.
- (b) On what date(s) did you distribute the brochures? Mailed on July 25, 1978.
- (c) Aside from the ~~(brochure attached)~~ ^(BROCHURE NOT ATTACHED) did you publish any other literature concerning Mr. Hein's or Mr. Jeffries' candidacy for the U.S. House of Representatives? NO If so, include copies of such publications and state how many were published and distributed, and the cost of the publications. N/A
2. The address label on the brochure ^(NOT ATTACHED.) (see Attachment II), appears to be a label from a pre-printed list. Where did you obtain the mailing list used in distributing the brochures? Shawnee County Election Commission Office, Topeka, Kansas.
- (a) Did you have to purchase the mailing list? YES.
- (b) If so, from whom or what organization did you purchase the list? See 2 above.
- (c) How much did you pay for the list? The sum of \$70.24 on two different days totaling \$140.48.
3. Mr. Hein's complaint also alleges that you acknowledged informing the staff and office of Jim Jeffries' campaign that 1) you wanted to help their campaign, 2) you were not going to contribute directly to the campaign, but 3) you were going to distribute the document against Hein. Is this correct? If so,
1. False. 2. False. 3. False. The document was not written even in rough form at the time. I was not for Jeffries. I was opposed to Hein for his stand through his voting record in the Kansas Senate on House Bill 2313, (a copy attached referred to as the decriminalization bill on marijuana and Senate Bill 310, (a copy attached) which decriminalized homosexual acts between consenting adults.

(a) Did you ever discuss the production and distribution of the brochure with Mr. Jeffries or any member of his campaign committee staff? NO. I did not discuss the production and/or distribution other than in approximately March, 1978, I told a Jeffries' staff member that I intended to put out a brochure on Hein's decision making.

(b) If so [i] did this discussion occur before or after you produced and mailed the brochures? A passing comment was made approximately four months before even a rough was developed of the brochure.

[ii] What was the name and position of the person(s) at the Jeffries campaign with whom you discussed this? There was no discussion, only a passing comment by me to a very young man in the office, whose name is not known. [iii] What was said to you by this person(s)? I was asked in the organizational stages of the campaign to be a block worker, which I declined to do and I told him that I was not going to get involved as a worker.

4. Mr. Hein's complaint further alleges that you publicly admitted accepting some contributions for the publication and dissemination of the brochure. Is this correct? If so, YES.

(a) Who made contributions to you for this purpose? I assumed a man by the name of Dick Fatherly, but I have later found that the money was for a subscription to CLAMP, Tolla Ross, and others not recollected at this time.

(b) How much did you receive in contributions for this purpose? Less than \$100.00, exact amount not known.

(c) How much was the total cost of producing and distributing the brochure? As stated in my filing with your agency, \$2,493.58.

5. In a postscript at the end of the "open letter" part of the brochure, you invite all those interested in seeing "a committee formed to stop the legalization of homosexuality and the decriminalization of marijuana" to write you.

(a) Has such a committee been formed? Partially yes. A committee was contemplated, but a business service was offered instead where an individual will receive information as to pending legislation.

(b) If so, when was it formed?

October 7, 1978.

(c) Has/does the committee contribute(d) to any candidates running for Federal office? NO.

(d) If so, how much was given and to whom? N/A.

Dr. Sterling E. Lacy
Dr. Sterling E. Lacy

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Dr. Sterling E. Lacy, of lawful age, being first duly sworn on oath, states:

That he is has read the above and foregoing answers, knows the contents thereof, and that the facts contained therein are true to the best of his knowledge and belief.

Dr. Sterling E. Lacy
Dr. Sterling E. Lacy

Subscribed and sworn to before me, a Notary Public, in and for the County and State aforesaid, on this 6th day of November, 1978.

Virginia Tugg
Notary Public

My commission expires: September 17, 1980



79040132840



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

Re: MUR 700(78)

Dear Dr. Lacy:

On , 1977, the Commission determined there was reasonable cause to believe that you committed violations of 2 U.S.C. §434(e) and 2 U.S.C. §441d(2) of the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission found reasonable cause to believe that your failure to both report the expenses incurred in the publication and distribution of your "open letter" regarding Ronald Hein and to clearly and conspicuously state on the face of the "open letter" that it was not authorized by any candidate, are violations of the above sections of the Act.

The Commission has a duty to attempt to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion, and by entering into a conciliation agreement. 2 U.S.C. §437g(a)(5)(B). If we are unable to reach an agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit in United States District Court and seek payment of a civil penalty not in excess of \$5,000.

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed conciliation agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement.

- 2 -

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Gary D. Lipkin, the attorney assigned to this matter, at 202-523-4175.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

GDC*
5538

LAW OFFICES
Rost & Rost

CIVIC CENTER OFFICE BUILDING

626 QUINCY STREET

TOPEKA, KANSAS 66603

F. J. ROST

THOMAS ODELL ROST

NOV 9 12:18

(913) 234-5609

November 6, 1978

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MJR 700(78)


807706

Dear Mr. Lipkin:

This letter confirms my telephone conversation of November 6, 1978, wherein I indicated that I was transmitting this date the Answers in response to the Commission's inquiry into the above matter. After you review the same, please contact me and indicate your evaluation of the situation.

The reason the response was not transmitted last week was due to illness of office personnel. Mr. Lacy did meet with me on November 1, 1978 as I had previously indicated in my conversation with you.

Sincerely yours,



Thomas Odell Rost

TOR:gt
enc.

BEFORE THE FEDERAL ELECTION COMMISSION

TO: Dr. Sterling E. Lacy

MUR 700(78)

QUESTIONS

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- (c) How much did you pay for the list? The sum of \$70.24 on two different days totaling \$140.48.
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1. False. 2. False. 3. False. The document was not written even in rough form at the time. I was not for Jeffries. I was opposed to Hein for his stand through his voting record in the Kansas Senate on House Bill 2313, (a copy attached) referred to as the decriminalization bill on marijuana and Senate Bill 310, (a copy attached) which decriminalized homosexual acts between consenting adults.

79040132844

(a) Did you ever discuss the production and distribution of the brochure with Mr. Jeffries or any member of his campaign committee staff? NO. I did not discuss the production and/or distribution other than in approximately March, 1978, I told a Jeffries' staff member that I intended to put out a brochure on Hein's decision making.

(b) If so [i] did this discussion occur before or after you produced and mailed the brochures? A passing comment was made approximately four months before even a rough was developed of the brochure.

[ii] What was the name and position of the person(s) at the Jeffries campaign with whom you discussed this? There was no discussion, only a passing comment by me to a very young man in the office, whose name is not known. [iii] What was said to you by this person(s)? I was asked in the organizational stages of the campaign to be a block worker, which I declined to do and I told him that I was not going to get involved as a worker.

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(a) Who made contributions to you for this purpose? I assumed a man by the name of Dick Fatherly, but I have later found that the money was for a subscription to CLAMP, Tolla Ross, and others not recollected at this time.

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(c) How much was the total cost of producing and distributing the brochure? As stated in my filing with your agency, \$2,493.58.

5. In a postscript at the end of the "open letter" part of the brochure, you invite all those interested in seeing "a committee formed to stop the legalization of homosexuality and the decriminalization of marijuana" to write you.

(a) Has such a committee been formed? Partially yes. A committee was contemplated, but a business service was offered instead where an individual will receive information as to pending legislation.

(b) If so, when was it formed?

October 7, 1978.

(c) Has/does the committee contribute(d) to any candidates running for Federal office? NO.

(d) If so, how much was given and to whom? N/A.

Dr. Sterling E. Lacy
Dr. Sterling E. Lacy

Session of 1977

SENATE BILL No. 310

By Committee on Judiciary

2-15

0015 AN ACT relating to sex offenses; amending K.S.A. 21-3501 and
0016 21-3512, and repealing the existing sections; also repealing
0017 K.S.A. 21-3505, 21-3507 and 23-118.

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. K.S.A. 21-3501 is hereby amended to read as fol-
0020 lows: 21-3501. The following definitions apply in this article
0021 unless a different meaning is plainly required:

0022 (1) "Sexual intercourse" means any penetration of the female
0023 sex organ by the male sex organ;

0024 (2) "Sodomy" means oral or anal copulation. Any penetration,
0025 however slight, is sufficient to complete an act of oral or anal
0026 copulation;

0027 (3) "Unlawful sexual act" means any rape, indecent liber-
0028 ties with a child, aggravated sodomy, or lewd and lascivious
0029 behavior, as defined in this article.

0030 (4) "Woman" means any female human being.

0031 Sec. 2. K.S.A. 21-3512 is hereby amended to read as follows:
0032 21-3512. Prostitution is performing an act of sexual intercourse or
0033 sodomy for hire, or offering or agreeing to perform an act of
0034 sexual intercourse, sodomy or any unlawful sexual act for hire.

0035 Prostitution is a class B misdemeanor.

0036 New Sec. 3. Bestiality is coitus with an animal. Any penetra-
0037 tion, however slight, is sufficient to complete an act of bestiality.

0038 Bestiality is a class B misdemeanor.

0039 Sec. 4. K.S.A. 21-3501, 21-3505, 21-3507, 21-3512 and 23-118
0040 are hereby repealed.

0041 Sec. 5. This act shall take effect and be in force from and after
0042 its publication in the statute book.

Supplemental Information on SENATE BILL 310 AS REPORTED BY SENATE COMMITTEE ON JUDICIARY

Brief of Bill *

SB 310 would affect several statutes in Article 35 of Chapter 21, which concerns Sex Offenses. K.S.A. 21-3512, the prostitution statute, would be amended to include sodomy for hire. Bestiality (coitus with an animal) would be defined as a crime by SB 310, and the sections establishing sodomy, adultery, and unlawful cohabitation as crimes would be repealed. Aggravated sodomy would continue to be a Class B felony. Adultery would continue to be grounds for divorce.

* Bill briefs do not express legislative intent. They give general information about the bill, not details or expected effects. They are prepared by the Legislative Research Department. The sponsors have not reviewed the briefs.

STATE OF KANSAS)
) ss:
COUNTY OF SHAWNEE)

Dr. Sterling E. Lacy, of lawful age, being first duly sworn on oath, states:

That he is has read the above and foregoing answers, knows the contents thereof, and that the facts contained therein are true to the best of his knowledge and belief.

Dr. Sterling E. Lacy
Dr. Sterling E. Lacy

Subscribed and sworn to before me, a Notary Public, in and for the County and State aforesaid, on this 6th day of November, 1978.

Virginia Trogg
Notary Public

My commission expires: September 17, 1980



79040132847

0049 (e) "Controlled substance" means any drug, substance or
0050 immediate precursor included in any of the schedules designated
0051 in K.S.A. 65-4105 and 65-4113 and K.S.A. ~~1975~~ 1976 Supp.
0052 65-4107, 65-4109 and 65-4111.

0053 (f) "Counterfeit substance" means a controlled substance
0054 which, or the container or labeling of which, without authoriza-
0055 tion bears the trademark, trade name or other identifying mark,
0056 imprint, number or device or any likeness thereof of a manufac-
0057 turer, distributor or dispenser other than the person who in fact
0058 manufactured, distributed or dispensed the substance.

0059 (g) "Deliver" or "delivery" means the actual, constructive or
0060 attempted transfer from one person to another of a controlled
0061 substance, whether or not there is an agency relationship.

0062 (h) "Dispense" means to deliver a controlled substance to an
0063 ultimate user or research subject by or pursuant to the lawful
0064 order of a practitioner, including the packaging, labeling or
0065 compounding necessary to prepare the substance for that deliv-
0066 ery.

0067 (i) "Dispenser" means a practitioner or pharmacist who dis-
0068 penses.

0069 (j) "Distribute" means to deliver other than by administering
0070 or dispensing a controlled substance.

0071 (k) "Distributor" means a person who distributes.

0072 (l) "Drug" means (1) substances recognized as drugs in the
0073 official United States pharmacopoeia, official homeopathic
0074 pharmacopoeia of the United States or official national formulary
0075 or any supplement to any of them; (2) substances intended for use
0076 in the diagnosis, cure, mitigation, treatment or prevention of
0077 disease in man or animals; (3) substances (other than food)
0078 intended to affect the structure or any function of the body of
0079 man or animals; and (4) substances intended for use as a compo-
0080 nent of any article specified in clause (1), (2) or (3) of this
0081 subsection. It does not include devices or their components, parts
0082 or accessories.

0083 (m) "Hashish" means the resin extracted from any variety of
0084 the plant *Cannabis* and every compound, salt, derivative mixture
0085 or other preparation of such resin.

0086 ~~(m)~~ (n) "Immediate precursor" means a substance which the
0087 board has found to be and by rule designates as being the
0088 principal compound commonly used or produced primarily for
0089 use and which is an immediate chemical intermediary used or
0090 likely to be used in the manufacture of a controlled substance, the
0091 control of which is necessary to prevent, curtail or limit man-
0092 ufacture.

0093 ~~(n)~~ (o) "Manufacture" means the production, preparation,
0094 propagation, compounding, conversion or processing of a con-
0095 trolled substance either directly or indirectly by extraction from
0096 substances of natural origin or independently by means of
0097 chemical synthesis or by a combination of extraction and chemi-
0098 cal synthesis and includes any packaging or repackaging of the
0099 substance or labeling or relabeling of its container, except that
0100 this term does not include the preparation or compounding of a
0101 controlled substance by an individual for his or her own use or
0102 the preparation, compounding, packaging or labeling of a con-
0103 trolled substance: (1) By a practitioner or his or her agent pursu-
0104 ant to a lawful order of a practitioner as an incident to his or her
0105 administering or dispensing of a controlled substance in the
0106 course of his or her professional practice; or

0107 (2) by a practitioner or by his or her authorized agent under
0108 such practitioner's supervision for the purpose of or as an in-
0109 cident to research, teaching or chemical analysis or by a pharma-
0110 cist or hospital as an incident to dispensing of a controlled
0111 substance.

0112 ~~(o)~~ (p) "Marihuana" means all parts of all varieties of the
0113 plant *Cannabis* whether growing or not, and the seeds thereof; the
0114 resin extracted from any part of the plant and every compound,
0115 manufacture, salt, derivative, mixture or preparation of the plant;
0116 its seeds or resin, except that it does not include the mature stalks
0117 of the plant, fiber produced from the stalks, oil or cake made from
0118 the seeds of the plant, any other compound, manufacture, salt,
0119 derivative, mixture or preparation of the mature stalks, except the
0120 resin extracted therefrom, fiber, oil, or cake or the sterilized seed
0121 of the plant which is incapable of germination.

0122 ~~(p)~~ (q) "Narcotic drug" means any of the following whether

[As Amended by Senate Committee of the Whole]

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 1977

HOUSE BILL No. 2313

By Representatives Glover, Cribbs, Duncan, Justice, Love, Luz-
zati, Ungerer, Walker and Wilkin

2-9

0023 AN ACT relating to controlled substances; amending and sup-
0024 plementing the uniform controlled substances act; defining
0025 certain terms; declaring certain acts to be a crime and pre-
0026 scribing penalties therefor; prescribing procedures involving
0027 the detention of persons for certain crimes; concerning the
0028 disposition of certain fines, penalties and forfeitures; amend-
0029 ing K.S.A. 65-4105 and 65-4135 and K.S.A. 1976 Supp. 20-
0030 2801, 65-4101 and 65-4127b and repealing the existing sec-
0031 tions.

0032 *Be it enacted by the Legislature of the State of Kansas:*

0033 Section 1. K.S.A. 1976 Supp. 65-4101 is hereby amended to
0034 read as follows: 65-4101. As used in this act: (a) "Administer"
0035 means the direct application of a controlled substance, whether
0036 by injection, inhalation, ingestion or any other means, to the body
0037 of a patient or research subject by: (1) A practitioner or pursuant
0038 to the lawful direction of a practitioner; or
0039 (2) the patient or research subject at the direction and in the
0040 presence of the practitioner.

0041 (b) "Agent" means an authorized person who acts on behalf
0042 of or at the direction of a manufacturer, distributor or dispenser.
0043 It does not include a common or contract carrier, public ware-
0044 houseman or employee of the carrier or warehouseman.

0045 (c) "Board" means the state board of pharmacy.

0046 (d) "Bureau" means the bureau of narcotics and dangerous
0047 drugs, United States department of justice, or its successor
0048 agency.

0123 produced directly or indirectly by extraction from substances of
0124 vegetable origin or independently by means of chemical synthe-
0125 sis or by a combination of extraction and chemical synthesis: (1)
0126 Opium and opiate and any salt, compound, derivative or prepa-
0127 ration of opium or opiate;

0128 (2) any salt, compound, isomer, derivative or preparation
0129 thereof which is chemically equivalent or identical with any of
0130 the substances referred to in clause (1) but not including the
0131 isoquinoline alkaloids of opium;

0132 (3) opium poppy and poppy straw;

0133 (4) coca leaves and any salt, compound, derivative or prepa-
0134 ration of coca leaves, and any salt, compound, isomer, derivative
0135 or preparation thereof which is chemically equivalent or identical
0136 with any of these substances, but not including decocanized coca
0137 leaves or extractions of coca leaves which do not contain cocaine
0138 or ecgonine.

0139 (†) (r) "Opiate" means any substance having an addiction-
0140 forming or addiction-sustaining liability similar to morphine or
0141 being capable of conversion into a drug having addiction-form-
0142 ing or addiction-sustaining liability. It does not include, unless
0143 specifically designated as controlled under K.S.A. 4075 1976
0144 Supp. 65-4102, the dextrorotatory isomer of 3-methoxy-n-methyl-
0145 morphinan and its salts (dextromethorphan). It does include its
0146 racemic and levorotatory forms.

0147 (†) (s) "Opium poppy" means the plant of the species *Papaver*
0148 *somniferum* L., except its seeds.

0149 (†) (t) "Person" means individual, corporation, government,
0150 or governmental subdivision or agency, business trust, estate,
0151 trust, partnership or association or any other legal entity.

0152 (†) (u) "Poppy straw" means all parts, except the seeds, of the
0153 opium poppy, after mowing.

0154 (†) (v) "Pharmacist" means an individual currently licensed
0155 by the board to practice the profession of pharmacy in this state.

0156 (†) (w) "Practitioner" means a physician (M.D. or D.O.), den-
0157 tist, podiatrist, veterinarian, scientific investigator or other person
0158 licensed, registered or otherwise authorized by law to administer
0159 and prescribe, use in teaching or chemical analysis, or conduct

0160 research with respect to a controlled substance in the course of
0161 professional practice and research.

0162 (†) (x) "Production" includes the manufacture, planting,
0163 cultivation, growing or harvesting of a controlled substance.

0164 (†) (y) "Ultimate user" means a person who lawfully pos-
0165 sesses a controlled substance for his or her own use or for the use
0166 of a member of his or her household or for administering to an
0167 animal owned by him or her or by a member of his or her
0168 household.

0169 Sec. 2. K.S.A. 65-4105 is hereby amended to read as follows:
0170 65-4105. (a) The controlled substances listed in this section are
0171 included in schedule I;

0172 (b) any of the following opiates, including their isomers,
0173 esters, ethers, salts, and salts of isomers, esters and ethers, unless
0174 specifically excepted, whenever the existence of these isomers,
0175 esters, ethers and salts is possible within the specific chemical
0176 designation:

- 0177 (1) Acetylmethadol;
- 0178 (2) Allylprodine;
- 0179 (3) Alphacetylmethadol;
- 0180 (4) Alphameprodine;
- 0181 (5) Alphamethadol;
- 0182 (6) Benzethidine;
- 0183 (7) Betacetylmethadol;
- 0184 (8) Betameprodine;
- 0185 (9) Betamethadol;
- 0186 (10) Betaprodine;
- 0187 (11) Clonitazene;
- 0188 (12) Dextromoramide;
- 0189 (13) Dextrophan;
- 0190 (14) Diampromide;
- 0191 (15) Diethylthiambutene;
- 0192 (16) Dimenoxadol;
- 0193 (17) Dimepheptanol;
- 0194 (18) Dimethylthiambutene;
- 0195 (19) Dioxaphetyl butyrate;
- 0196 (20) Dipipanone;

- 0197 (21) Ethylmethylthiambutene;
 0198 (22) Etonitazene;
 0199 (23) Etoxadine;
 0200 (24) Furethidine;
 0201 (25) Hydroxypethidine;
 0202 (26) Ketobemidone;
 0203 (27) Levomoramide;
 0204 (28) Tetrahydrocannabinols;
 0205 (29) Morpheridine;
 0206 (30) Noracymethadol;
 0207 (31) Norlevorphanol;
 0208 (32) Normethadone;
 0209 (33) Norpipanone;
 0210 (34) Phenadoxone;
 0211 (35) Phenampromide;
 0212 (36) Phenomorphan;
 0213 (37) Phenoperidine;
 0214 (38) Piritramide;
 0215 (39) Proheptazine;
 0216 (40) Properidine;
 0217 (41) Racemoramide;
 0218 (42) Trimeperidine;
 0219 (c) any of the following opium derivatives, their salts, isomers
 0220 and salts of isomers, unless specifically excepted, whenever the
 0221 existence of these salts, isomers and salts of isomers is possible
 0222 within the specific chemical designation:
 0223 (1) Acetorphine;
 0224 (2) Acetyldihydrocodeine;
 0225 (3) Benzylmorphine;
 0226 (4) Codeine methylbromide;
 0227 (5) Codeine-N-Oxide;
 0228 (6) Cyprenorphine;
 0229 (7) Desomorphine;
 0230 (8) Dihydromorphine;
 0231 (9) Etorphine;
 0232 (10) Heroin;
 0233 (11) Hydromorphanol;

- 0234 (12) Methyl-desorphine;
 0235 (13) Methyl-dihydromorphine;
 0236 (14) Morphine methylbromide;
 0237 (15) Morphine methylsulfonate;
 0238 (16) Morphine-N-Oxide;
 0239 (17) Myrophine;
 0240 (18) Nicocodeine;
 0241 (19) Nicomorphine;
 0242 (20) Normorphine;
 0243 (21) Pholcodine;
 0244 (22) Thebacon;
 0245 (d) any material, compound, mixture or preparation which
 0246 contains any quantity of the following hallucinogenic sub-
 0247 stances, their salts, isomers and salts of isomers, unless specifi-
 0248 cally excepted, whenever the existence of these salts, isomers and
 0249 salts of isomers is possible within the specific chemical designa-
 0250 tion:
 0251 (1) 3,4-methylenedioxy amphetamine;
 0252 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
 0253 (3) 3,4,5-trimethoxy amphetamine;
 0254 (4) Bufotenine;
 0255 (5) Diethyltryptamine;
 0256 (6) Dimethyltryptamine;
 0257 (7) 4-methyl-2,5-dimethoxyamphetamine;
 0258 (8) Hashish;
 0259 (9) Ibogaine;
 0260 ~~(9)~~ (10) Lysergic acid diethylamide;
 0261 ~~(10)~~ (11) Marihuana;
 0262 ~~(11)~~ (12) Mescaline;
 0263 ~~(12)~~ (13) Peyote;
 0264 ~~(13)~~ (14) N-ethyl-3-piperidyl benzilate;
 0265 ~~(14)~~ (15) N-methyl-3-piperidyl benzilate;
 0266 ~~(15)~~ (16) Psilocybin;
 0267 ~~(16)~~ (17) Psilocyn;
 0268 ~~(17)~~ (18) Synthetic tetrahydrocannabinols.
 0269 Sec. 3. K.S.A. 1976 Supp. 65-4127b is hereby amended to
 0270 read as follows: 65-4127b. (a) Except as authorized by the uni-

0271 form controlled substances act, it shall be unlawful for any
0272 person to manufacture, possess, have under his *or her* control,
0273 prescribe, administer, deliver, distribute, dispense or compound:

0274 (1) Any depressant designated in subsection (e) of K.S.A. 1976
0275 Supp. 65-4107, subsection (b) of K.S.A. 1976 Supp. 65-4109 or
0276 subsection (b) of K.S.A. 1976 Supp. 65-4111, and any amend-
0277 ments thereto;

0278 (2) Any stimulant designated in subsection (d) of K.S.A. 1976
0279 Supp. 65-4107 or subsection (d) of K.S.A. 1976 Supp. 65-4109,
0280 and any amendments thereto;

0281 (3) Any hallucinogenic drug, *other than marihuana*, desig-
0282 nated in subsection (d) of K.S.A. 65-4105; or

0283 (4) Any substance designated in subsection (c) of K.S.A. 1976
0284 Supp. 65-4111, and any amendments thereto.

0285 Any person who violates this subsection shall be guilty of a
0286 class A misdemeanor, except that upon conviction for a second or
0287 subsequent offense, such person shall be guilty of a class D
0288 felony.

0289 (b) Except as authorized by the uniform controlled sub-
0290 stances act, it shall be unlawful for any person to sell, offer for
0291 sale or have in his *or her* possession with the intent to sell:

0292 (1) Any depressant designated in subsection (e) of K.S.A. 1976
0293 Supp. 65-4107, subsection (b) of K.S.A. 1976 Supp. 65-4109 or
0294 subsection (b) of K.S.A. 1976 Supp. 65-4111, and any amend-
0295 ments thereto;

0296 (2) Any stimulant designated in subsection (d) of K.S.A. 1976
0297 Supp. 65-4107 or subsection (d) of K.S.A. 1976 Supp. 65-4109,
0298 and any amendments thereto;

0299 (3) Any hallucinogenic drug, *other than marihuana*, desig-
0300 nated in subsection (d) of K.S.A. 65-4105; or

0301 (4) Any substances designated in subsection (c) of K.S.A. 1976
0302 Supp. 65-4111, and any amendments thereto; or

0303 (5) *Any marihuana; except that any gift or other delivery of*
0304 *marihuana for no remuneration shall not be deemed a sale for the*
0305 *purposes of this subsection.*

0306 Any person who violates this subsection shall be guilty of a
0307 class D felony.

0308 New Sec. 4. (a) Except as authorized by the uniform con-
0309 trolled substances act, it shall be unlawful for any person to
0310 manufacture, possess, have under his or her control, prescribe,
0311 administer, deliver, distribute, dispense or compound any mari-
0312 huana.

0313 (1) Any person who violates this section, when the amount of
0314 marihuana involved is over ~~two ounces~~ one ounce, shall be
0315 deemed guilty of a class A misdemeanor, ~~except that upon con-~~
0316 ~~viction for a third [second] or subsequent offense, such person~~
0317 ~~shall be deemed guilty of a class D felony.~~

0318 (2) Any person who violates this section, when the amount of
0319 marihuana involved is ~~two ounces~~ one ounce or less shall be
0320 deemed guilty of an unclassified misdemeanor punishable by a
0321 fine of not more than one hundred dollars (\$100), ~~except that~~
0322 ~~upon conviction for a third [second] or subsequent offense, such~~
0323 ~~person shall be deemed guilty of a class A misdemeanor.~~ If the
0324 violation of any city ordinance or county resolution also would
0325 constitute a violation punishable by this paragraph, such ordi-
0326 nance or resolution violation shall be punishable as provided in
0327 this paragraph.

0328 (3) Notwithstanding paragraphs (1) and (2) of this subsection,
0329 any violation of this section by a defendant eighteen (18) years of
0330 age or older involving delivery of marihuana to a minor shall be
0331 punishable as a class D felony.

0332 (b) The provisions of this section shall be a part of and
0333 supplemental to the uniform controlled substances act.

0334 New Sec. 5. Whenever a person is detained for a violation
0335 punishable under paragraph (2) of subsection (a) of section 4, the
0336 detaining officer shall prepare a written notice or summons to
0337 appear in court, which written notice or summons shall contain
0338 the name and address of such detained person, the time and place
0339 where such person shall appear, and a place for such person to
0340 execute his or her written promise to appear at the time and place
0341 indicated on the notice or summons. One copy of said notice or
0342 summons shall be given to the person detained, one copy shall be
0343 sent to the court where the detained person is to appear, and such
0344 other copies as may be required by the law enforcement depart-

0345 ment or agency employing the detaining officer shall be sent to
0346 the places designated by such law enforcement department or
0347 agency. The time specified in said notice to appear must be at
0348 least five days after such detention unless the person detained
0349 shall demand an earlier hearing. The place specified in said
0350 notice to appear must be before a judge within the county in
0351 which the offense charged is alleged to have been committed.
0352 The detained person in order to secure release from arrest or
0353 detention must give his or her written promise to appear in court
0354 by signing the notice or summons prepared by the detaining
0355 officer. It shall be a class C misdemeanor for any person to violate
0356 a written promise to appear given to an officer upon detention or
0357 issuance of summons under this section.

0358 Sec. 6. K.S.A. 65-4135 is hereby amended to read as follows:
0359 65-4135. (a) The following are subject to forfeiture: (1) All con-
0360 trolled substances which have been manufactured, distributed,
0361 dispensed or acquired in violation of this act;

0362 (2) all raw materials, products and equipment of any kind
0363 which are used or intended for use in manufacturing, com-
0364 pounding, processing, delivering, importing or exporting any
0365 controlled substance in violation of this act;

0366 (3) all property which is used or intended for use as a con-
0367 tainer for property described in paragraph (1) or (2);

0368 (4) all conveyances, including aircraft, vehicles or vessels,
0369 which are used or intended for use to transport or in any manner
0370 to facilitate the transportation for the purpose of sale or receipt of
0371 property described in paragraph (1) or (2), but:

0372 (A) No conveyance used by any person as a common carrier in
0373 the transaction of business as a common carrier is subject to
0374 forfeiture under this section unless it appears that the owner or
0375 other person in charge of the conveyance is a consenting party or
0376 privy to a violation of this act;

0377 (B) no conveyance is subject to forfeiture under this section
0378 by reason of any act or omission established by the owner thereof
0379 to have been committed or omitted without his or her knowledge
0380 or consent;

0381 (C) a conveyance is not subject to forfeiture for a violation of

0382 ~~section 22~~ subsection (c) of K.S.A. 65-4123; and

0383 (D) a forfeiture of a conveyance encumbered by a bona fide
0384 security interest is subject to the interest of the secured party if he
0385 such party neither had knowledge of nor consented to the act or
0386 omission;

0387 (E) No conveyance is subject to forfeiture under this section
0388 by reason of its use in transporting, delivering, importing or
0389 exporting marihuana, ~~unless~~ if the amount of marihuana found in
0390 such conveyance is ~~in excess of two ounces~~ one ounce or less and
0391 is in the locked rear trunk or rear compartment, or in any locked
0392 outside compartment, which is not accessible to the driver or any
0393 other person in such conveyance while it is in motion.

0394 (5) all books, records and research products and materials,
0395 including formulas, microfilm, tapes and data which are used or
0396 intended for use in violation of this act.

0397 (b) Property subject to forfeiture under this act may be seized
0398 by any law enforcement officer upon process issued by any
0399 district court having jurisdiction over the property.

0400 (c) In the event of seizure pursuant to subsection (b), pro-
0401 ceedings under subsection (d) shall be instituted promptly.

0402 (d) Property taken or detained under this section shall not be
0403 subject to replevin, but is deemed to be in the custody of the law
0404 enforcement agency seizing it subject only to the orders of the
0405 district court having jurisdiction over the forfeiture proceedings.

0406 When property is seized under this act, the law enforcement
0407 agency seizing it may: (1) Place the property under seal;

0408 (2) remove the property to a place designated by it; or

0409 (3) require the board to take custody of the property and
0410 remove it to an appropriate location for disposition in accordance
0411 with law.

0412 (e) When property is forfeited under this act the law enforce-
0413 ment agency having custody of it may: (1) Retain it for official
0414 use;

0415 (2) sell that which is not required to be destroyed by law and
0416 which is not harmful to the public. The proceeds shall be used for
0417 payment of all proper expenses of the proceedings for forfeiture
0418 and sale, including expenses of seizure, maintenance of custody,

0419 advertising and court costs;

0420 (3) transfer it for medical or scientific use to any state agency
0421 in accordance with the rules and regulations of the board;

0422 (4) require the sheriff of the county in which the property is
0423 located to take custody of the property and remove it to an
0424 appropriate location for disposition in accordance with law; or

0425 (5) forward it to the bureau for disposition.

0426 (f) Controlled substances listed in schedule I that are pos-
0427 sessed, transferred, sold or offered for sale in violation of this act
0428 are contraband and shall be seized and summarily forfeited to the
0429 state. Controlled substances listed in schedule I which are seized
0430 or come into the possession of the state, the owners of which are
0431 unknown, are contraband and shall be summarily forfeited to the
0432 state.

0433 (g) Species of plants from which controlled substances in
0434 schedules I and II may be derived which have been planted or
0435 cultivated in violation of this act, or of which the owners or
0436 cultivators are unknown or which are wild growths may be seized
0437 and summarily forfeited to the state.

0438 (h) The failure, upon demand by the law enforcement agency
0439 having jurisdiction, of the person in occupancy or in control of
0440 land or premises upon which the species of plants are growing or
0441 being stored, to produce an appropriate registration, or proof that
0442 ~~he~~ such person is the holder thereof, constitutes authority for the
0443 seizure and forfeiture of the plants.

0444 New Sec. 7. (a) Any fines, penalties or forfeitures arising
0445 from violations of the uniform controlled substances act shall be
0446 paid to the county treasurer who shall remit the same to the state
0447 treasurer. The state treasurer shall credit the same to the drug
0448 abuse fund hereby created, specifying to the secretary of social
0449 and rehabilitation services the county from which the same were
0450 paid. All expenditures from the drug abuse fund shall be made
0451 upon warrants of the director of accounts and reports issued
0452 pursuant to vouchers approved by the secretary of social and
0453 rehabilitation services or by a person designated by the secretary.

0454 (b) In any county where there is a licensed treatment facility
0455 for drug abusers, the secretary or the secretary's designee shall

0456 make available for such facility money from the drug abuse fund
0457 equal to the amount of money collected from fines, penalties and
0458 forfeitures arising from violations of the uniform controlled sub-
0459 stances act in such county. If there is more than one such facility
0460 in the county, such money shall be divided equally among such
0461 facilities. In counties where there is no such treatment facility the
0462 secretary or the secretary's designee may authorize the use of
0463 money from the drug abuse fund arising from violations of the
0464 uniform controlled substances act in such county to be made
0465 available to assist in establishing a licensed treatment facility for
0466 drug abusers in such county or make such money available to an
0467 established licensed treatment facility for drug abusers in any
0468 county.

0469 Sec. 8. K.S.A. 1976 Supp. 20-2801 is hereby amended to read
0470 as follows: 20-2801. (a) Notwithstanding any other provision of
0471 law, the county treasurer of each county shall collect all moneys
0472 due the county from fines, penalties and forfeitures, including all
0473 moneys collected under this act. The officers of each court of this
0474 state shall pay all of the proceeds of fines, penalties and for-
0475 feitures to the county treasurer who shall remit the same to the
0476 state treasurer, and the state treasurer, *except as otherwise pro-*
0477 *vided in section 7*, shall deposit the same in the state treasury to
0478 the credit of the state general fund.

0479 (b) The director of accounts and reports or the state treasurer,
0480 whenever it is deemed necessary by either of said officers in order
0481 to determine the amount available under this section, may request
0482 of county treasurers or any one or more of them the information
0483 indicated herein. Within ten (10) days of the receipt of any such
0484 request, each county treasurer receiving the same shall certify the
0485 amount of moneys collected to which this section applies to the
0486 director of accounts and reports and the state treasurer.

0487 (c) This act shall not apply to municipal courts. The require-
0488 ments of this section shall not apply to court costs, fees or other
0489 moneys received by a court except fines, penalties and forfeitures.

0490 Sec. 9. K.S.A. 65-4105 and 65-4135 and K.S.A. 1976 Supp.
0491 20-2801, 65-4101 and 65-4127b are hereby repealed.

0492 Sec. 10. This act shall take effect and be in force from and
0493 after its publication in the statute book.

LAW OFFICES
ROST & ROST
CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

NOV 18 1983

6



Mr. Gary Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE
FROM: MARJORIE W. EMMONS *more by je*
DATE: NOVEMBER 1, 1978
SUBJECT: MUR 700 - Interim Status Report dated
10-25-78; Signed: 10-27-78
Received OCS: 10-30-78, 1:21

The above-named document was circulated on a 24
hour no-objection basis at 4:00, October 31, 1978.

The Commission Secretary's Office has received
no objections to the Interim Status Report as of 4:30
this date.

79040132856

October 30, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 700

Please have the attached Interim Status Report
on MUR 700 distributed to the Commission.
thankyyou.

79040132857

BEFORE THE FEDERAL ELECTION COMMISSION
October 25, 1978

RECEIVED
OFFICE OF THE
COMMISSIONER

78 OCT 30 P 1: 21

In the Matter of
Dr. Sterling E. Lacy

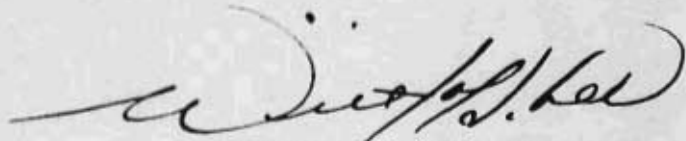
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MUR 700 (78)

INTERIM STATUS REPORT

On September 28, 1978 the Commission found reason to believe that the respondent violated 2 U.S.C. §441d and §434(e) of the Act by publishing a brochure expressly advocating the defeat of a Congressional candidate and failing to report his expenses incurred thereby. The letter notifying Dr. Lacy of the finding also posed a series of questions, to be answered within ten (10) days. Counsel for the respondent, by letter of October 5, 1978 requested an additional 30 days for the response. This request was denied by letter of October 20, 1978. Accordingly, we are now awaiting a response to these questions, but will shortly make a fuller report to the Commission whether or not these inquiries are answered in a timely manner.

10/27/78
Date



William C. Oldaker
General Counsel

29040130

ACC 5460

LAW OFFICES
Rost & Rost

CIVIC CENTER OFFICE BUILDING
628 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

RECEIVED
FEDERAL ELECTION
COMMISSION

'78 NOV 3 PM 12:24
(1913) 234-8000

October 26, 1978

807612

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MUR 700(78)

Dear Mr. Lipkin:

This letter confirms our telephone conversation of today's date wherein I stated that Dr. Sterling Lacy has an appointment with me on Wednesday, November 1, 1978, at which time we will prepare the answers to the questions posed to him in your letter of September 29, 1978. I anticipate having the answers ready to mail by November 3, 1978.

Sincerely yours,

Thomas Odell Rost

Thomas Odell Rost

TOR:gt

LAW OFFICES

ROST & ROST

CIVIC CENTER OFFICE BUILDING

629 QUINCY STREET

TOPEKA, KANSAS 66603



NOV 3 PM 12:24

Mr. Gary D. Lipkin
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



700
GCC 5315

SLOAN, LISTROM, EISENBARTH, SLOAN & GLASSMAN

LAWYERS

714 CAPITOL FEDERAL BUILDING

700 KANSAS AVENUE

TOPEKA, KANSAS

66603

AREA CODE 913
TELEPHONE 357-6311

MYRON L. LISTROM
LOUIS F. EISENBARTH
JAMES W. SLOAN
ARTHUR A. GLASSMAN
GARY E. LAUGHLIN
THOMAS A. VALENTINE
J. GREGORY SWANSON
THOMAS L. THEIS

October 24, 1978

OF COUNSEL:
ELDON SLOAN

RONALD R. HEIN
JODY R. OLBERDING

Mr. Gary Lipkin
Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, D.C. 20463

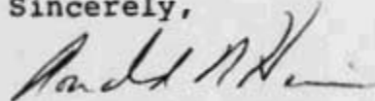
Dear Gary:

Enclosed please find a Xeroxed copy of the first volume of the deposition of Sterling Lacy which we have taken in the libel action which I have pending against him. As I indicated to you on the phone, a copy of this deposition has been filed with the District Court as an exhibit attached to our Response to Defendant's Motion for Summary Judgment, and, as such, is now available for public inspection. As per your request when we complete the deposition, I will forward you a copy of the additional volumes.

Also find enclosed a statement for photocopy expenses. Reimbursement may be made payable to me or to the firm as you desire.

Thank you very much for your cooperation and if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,



Ronald R. Hein

RRH:ph

Enclosure

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
SIXTH DIVISION

78 OCT 26 P 2: 42

RONALD R. HEIN,

Plaintiff,

vs.

No. 78-CV-746

STERLING E. LACY,

Defendant.)

DEPOSITION

OF

STERLING E. LACY,

the defendant, taken on behalf of the plaintiff, on the 19th day of September, 1978, beginning at 9:15 o'clock A.M., in the offices of Sloan, Listrom, Eisenbarth, Sloan and Glassman, Attorneys at Law, 714 Capitol Federal Building, Topeka, Kansas, pursuant to Notice to Take Deposition, before Darwin W. Lehning, Certified Shorthand Reporter.

I N D E X

Certificate-----Case 295

W I T N E S S

On Behalf of the Plaintiff: Direct Cross

Sterling E. Lacy 74 --

E X H I B I T S

Deposition Exhibit Nos. Marked

1	3
2	3
3	3
4	247

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Deposition of STERLING E. LACY, the defendant, taken on behalf of the plaintiff, before me, Darwin W. Lehning, Certified Shorthand Reporter in and for the State of Kansas, authorized to take depositions anywhere in the State of Kansas by K.S.A. 60-228, taken in the offices of Sloan, Listrom, Eisenbarth, Sloan and Glassman, Attorneys at Law, 714 Capitol Federal Building, Topeka, Kansas, beginning at 9:15 o'clock A.M., on the 19th day of September, 1978, pursuant to Notice to Take Deposition; said deposition being taken in stenograph by the said Darwin W. Lehning, C.S.R., and afterwards reduced to type-writing under the supervision of the said Darwin W. Lehning, C.S.R.

APPEARANCES

The plaintiff, Ronald R. Hein, appeared in person and through his counsel, Sloan, Listrom, Eisenbarth, Sloan and Glassman, Attorneys at Law, 714 Capitol Federal Building, Topeka, Kansas, by Mr. Myron L. Listrom.

The defendant, Sterling E. Lacy, appeared in person and through his counsel, Rost and Rost, Attorneys at Law, 629 Quincy Street, Suite 101, Topeka, Kansas, by Mr. Thomas O. Rost.

(THEREUPON, at this time Lacy Deposition Exhibits 1, 2 and 3 were marked for identification by the reporter.)

MR. LISTROM: Okay. The record should show that this is the deposition of the defendant being taken

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by the plaintiff pursuant to notice, and we are reserving the objections except as to the form, is that correct?

MR. ROST: Except as to the form with the exclusion which we've discussed with the Judge yesterday.

MR. LISTROM: I don't know what you're talking about, so you make your objection when you feel the time is appropriate.

STERLING E. LACY,

the defendant, called as a witness on behalf of the plaintiff, having first been duly sworn on his oath to tell the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. LISTROM:

- Q. Would you state your name please?
- A. Sterling Lacy.
- Q. Where do you live?
- A. You want my street address?
- Q. Yes, sir.
- A. 2552 Southeast Golden Avenue, Topeka, Kansas 66605.
- Q. How old are you?
- A. Thirty-seven.
- Q. Are you married?

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- A. Yes.
- Q. And your wife's first name?
- A. Her first name is Wilma. She goes by the initial W and her middle name is Jean, J-e-a-n.
- Q. And is she employed?
- A. Yes.
- Q. Where?
- A. Highland Park Christian Academy.
- Q. And in what capacity?
- A. A kindergarten supervisor.
- Q. Do you have children?
- A. Yes.
- Q. How many?
- A. Three.
- Q. And their ages?
- A. Eleven, twelve and thirteen.
- Q. What is your professional occupation?
- A. Primarily I'm a marriage and family counselor.
- Q. And where do you conduct your profession?
- A. At 629 Quincy, Suite 204.
- Q. What is the name of your business if it has a name?
- A. I do business under the name of Civic Center Counseling Clinic.
- Q. Is that a corporation or is that just a name, a business name?

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1 A. That's just a business name.

2 Q. And are you the sole proprietor of this business?

3 A. No. ~~you share the same~~ but not the same offices--

4 Q. Is there more than one person?

5 A. Yes.

6 Q. Who is the other person?

7 A. Dr. R. Don Strong.

8 Q. Is it a partnership?

9 A. It has never been formally set up as a partnership.

10 Q. Well, are the two of you associated together? Do you
11 share income or just expenses or etcetera?

12 A. Neither.

13 Q. Neither?

14 A. Neither.

15 Q. Who rents the suite there?

16 A. I do.

17 Q. And the lease is in your name?

18 A. Yes.

19 Q. It's not in the name of Don Strong?

20 A. Well now, he has his office on the same floor. His
21 suite is an entirely separate suite.

22 Q. Okay. He rents from the landlord and you rent from the
23 landlord under separate leases?

24 A. Right. He has Suite 202.

25 Q. And does he do business under the Civic Center Counseling

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Service or Counseling Clinic? I would put them in.

A. Yes.

Q. So, you share the same name, but not the same offices--
(interrupted)

A. Yes.

Q. (Continuing)--is that right?

A. That's correct.

Q. Do you share any other expenses in common like telephone,
utilities, letterheads?

A. We share the fee for consulting with the psychologist,
Dr. John Chotlos.

MR. ROST: I object to that as being irrelevant
and immaterial to this particular issue. Go ahead.

A. C-h-o-t-l-o-s.

MR. LISTROM: Now, is he a psychiatrist or a
psychologist or what?

A. A psychologist.

Q. (By Mr. Listrom) And you use, you and Dr. Strong, use
his services, do you?

MR. ROST: I want a continuing objection to
this business. It's irrelevant and immaterial.

MR. LISTROM: Well, now, let's just get this
on the record. Just a moment. You can clutter this
record with all kinds of objections, but I thought we
agreed that--(interrupted)

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1 MR. ROST: Only that I would put them in.

2 MR. LISTROM: You're making an objection? Is
3 that what you're doing? I just want an understanding
4 that we had an agreement here that we were going to
5 reserve them except to the form, and now you're starting
6 by making a bunch of speeches. Are you going to keep on
7 doing that?

8 MR. ROST: I'm not going to make any speeches.
9 I'm just going to put the objections in.

10 MR. LISTROM: All of them?

11 MR. ROST: Not all of them.

12 MR. LISTROM: The stipulation then I guess is
13 withdrawn. Let him make all of his objections if he
14 wants to. We'll just take our time. If it takes a week,
15 it takes a week.

16 MR. ROST: Go ahead and answer. Would you read
17 it back?

18 MR. LISTROM: You remember the question, sir?

19 A. No.

20 Q. (By Mr. Listrom) All right. I'll ask the reporter to
21 read it back then.

22 THE REPORTER: "Question: And you use, you and
23 Dr. Strong, use his services, do you?"

24 A. Yes.

25 Q. The answer is yes?

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1 A. (Nodding affirmatively)

2 Q. All right. Anything else that the two of you use in
3 common in the conducting of the counseling clinic?

4 A. I have some chairs that belong to him in my waiting
5 room.

6 Q. Do you share the waiting room?

7 A. No.

8 Q. You have separate waiting rooms?

9 A. Yes.

10 Q. And separate offices, is that correct?

11 A. Yes.

12 Q. All right. Where is your home, sir, originally?

13 A. Miami, Oklahoma.

14 Q. Miami?

15 A. Miami.

16 Q. Is that where you went to school in the lower grades?

17 A. Uh-huh.

18 Q. What is your education beyond the lower grades?

19 MR. ROST: Again, I object to that as being
20 irrelevant and immaterial. You can go ahead and tell
21 him.

22 A. Beyond the lower grades?

23 Q. (By Mr. Listrom) Yes.

24 A. The high school years?

25 Q. (By Mr. Listrom) Beyond high school.

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1 A. Beyond high school?

2 Q. Yes, sir.

3 A. I had a year in Northeast Oklahoma at A&M Junior
4 College. I had two years at the Cincinnati Bible
5 Seminary in Cincinnati, Ohio. I had three years in the
6 Ozark Bible College, Joplin, Missouri. I had a year in
7 the Midwestern School of Evangelism, Ottumwa, Iowa.
8 I had a year--a little over a year at Emporia State
9 University, Emporia, Kansas, and I had a year at Toledo
10 Bible College in Toledo, Ohio.

11 Q. From what educational institutions do you hold degrees?
12 And identify the degree, please.

13 A. I have a Bachelor of Sacred Literature from the Ozark
14 Bible College.

15 Q. Now, excuse me for interrupting you. When did you get
16 that degree?

17 A. 1965. By the way, Tom, if I can't remember exactly some
18 of these dates, how should I answer that?

19 MR. ROST: Approximately to the best of your
20 recollection, and identify it to the best of your
21 recollection.

22 A. Okay.

23 MR. LISTROM: All right. And from there, where
24 did you go?

25 A. Oh, by the way, I did take some classes at the St. Louis

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1 Christian College in St. Louis, Missouri. Are you
2 asking relevant to the granting of degrees?

3 Q. (By Mr. Listrom) Yes, sir.

4 A. The next degree would have been a Master of Theology
5 degree from Midwestern School of Evangelism.

6 Q. Where is that?

7 A. Ottumwa, Iowa.

8 Q. Is that a denominational school?

9 A. Without getting into a theological discussion, I think
10 the answer is yes. It is a religious school. They would
11 claim to be nondenominational.

12 Q. And when did you obtain that degree approximately?

13 A. That would have been '75.

14 Q. Okay. Were you awarded any degrees after that?

15 A. Yes.

16 Q. What?

17 A. A Master of Science degree from Emporia State University.

18 Q. And that would have been about when?

19 A. '76.

20 Q. Prior to that time, had you ever resided in Topeka?

21 A. Prior to receiving that degree?

22 Q. Yes, sir.

23 A. Yes.

24 Q. When have you lived in Topeka prior to 1976?

25 A. Are you asking me when I moved here?

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1 Q. Yes, sir.

2 A. It would have been '75 I think.

3 Q. All right. And when you came to Topeka in 1975 what was
4 the purpose of your coming here? That would have been

5 A. It was more convenient for me. I was closer to my job.

6 Q. What was your job at that time?

7 A. Counselor with the Civic Center Counseling Clinic.

8 Q. And did you form that clinic in 1975?

9 A. No.

10 Q. Who did?

11 A. It was not formed in 1975.

12 Q. Well, when was it formed?

13 A. I don't know for sure. I think it was formed in 1970.

14 Q. Did you form it?

15 A. No.

16 Q. Who did?

17 A. Well, I'm sure Don Strong would have been involved. I
18 don't know who else was involved at that time.

19 Q. Did you come to Topeka to go to work for the counseling
20 clinic?

21 A. No, I was already working for them.

22 Q. When did you start working for them?

23 A. 1975.

24 Q. Where were you prior to when you started working for them?

25 A. St. Marys, Kansas.

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Q. What were you doing in St. Marys, Kansas?

A. I had lived in St. Marys, Kansas. he held some position

Q. How long?

A. We moved there in December, '71. That would have been just short of four years.

Q. And why had you gone to St. Marys, Kansas?

A. Because I wanted to live in a small town.

MR. ROST: I again object to that as being irrelevant and immaterial.

MR. LISTROM: What was your work?

A. My work at that time? When I moved to St. Marys, I was coordinator for the John Birch Society.

Q. (By Mr. Listrom) Were you paid by the John Birch Society?

A. Yes.

Q. Who hired you?

A. Who?

Q. For the John Birch Society.

A. Bob Koenigs.

Q. And did he at that time hold some position with the society?

A. Yes.

Q. And what was it as you understand it?

MR. ROST: I object as being irrelevant and immaterial.

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1 A. He would have been a major coordinator.

2 MR. LISTROM: Where did he hold forth his
3 office?

4 A. In Chicago.

5 Q. (By Mr. Listrom) And had you applied through him for
6 the position at St. Marys?

7 A. There was no position at St. Marys, Kansas.

8 Q. Well, you were a coordinator, weren't you?

9 A. Uh-huh.

10 Q. You got that job through him in Chicago from Mr. Koenigs?

11 A. Are you asking if I went to Chicago?

12 Q. I want to know who gave you your job in St. Marys,
13 Kansas. Now, that's a simple question.

14 MR. ROST: I object to that as being argumen-
15 tative with the witness. The witness already answered
16 the question. There was no job in St. Marys, Kansas,
17 and he obtained his job from Mr. Koenigs in Chicago.

18 MR. LISTROM: Now, Tom, you just made a purely
19 contradictory statement. You first said there wasn't
20 any job and then you said he got the job. Now, I want
21 you to answer my question. You went to St. Marys, Kansas,
22 as a coordinator for the John Birch Society?

23 A. I was already a coordinator.

24 Q. (By Mr. Listrom) For the John Birch--(interrupted)

25 A. I was already a coordinator.

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- 1 Q. When did you become coordinator? while I still living in
2 A. In December, 1971.
3 Q. How did you become a coordinator?
4 A. By a visit from Mr. Koenigs from Chicago to my home.
5 Q. And at that time you were living where?
6 A. In the St. Louis area.
7 Q. All right. Were you employed at that time in St. Louis?
8 A. Yes.
9 Q. And where were you employed then?
10 A. Primarily by the Brentwood Business College.
11 Q. In what capacity?
12 A. I was hired to organize their data processing department
13 for the data processing school.
14 Q. All right. How long had you held that position before
15 you left and went to St. Marys?
16 A. I really don't remember.
17 Q. Well, was it more or less than a year?
18 A. It would have been more than a year. We can stop and
19 figure it out. I believe it was in the summer of 1970
20 that I took that position.
21 Q. All right. Now, when you left that position to come to
22 St. Marys, Kansas--am I correct? You did do that, didn't
23 you?
24 A. Now, I left what position?
25 Q. With the college.

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1 A. No. I resigned from the college while I still living in
2 St. Louis County.

3 Q. All right. Then, where was your next position or job?

4 A. Well, my next job while I was living in St. Louis County
5 was coordinator of the John Birch Society.

6 Q. So, you became coordinator for the John Birch Society
7 while you were living in St. Louis?

8 A. Yes.

9 Q. And was this a better paying job?

10 A. Yes.

11 Q. And you were paid by the John Birch Society?

12 A. No.

13 Q. Who were you paid by?

14 A. One of their corporations. I think that it was the
15 General Birch Services, Incorporated.

16 Q. I'm sorry. General what?

17 A. General Birch Services, Incorporated. I'm fuzzy on that,
18 but I think that's it.

19 Q. What did you understand that to be? What was your
20 understanding as to what that corporation was?

21 A. I believe that it is a business corporation of the John
22 Birch Society.

23 Q. What business are they in?

24 A. Educational.

25 Q. Who do they educate?

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1 A. The public.

2 Q. What is the source of their revenue?

3 MR. ROST: If you know.

4 A. Okay. One source for it would be the dues of membership.

5 MR. LISTROM: Okay. What is another source?

6 A. Another source would be--you mean for their various
7 corporations?

8 Q. (By Mr. Listrom) I'm talking about the General Birch
9 Services Corporation?

10 A. They are a book supplier to, I think, approximately
11 400 book stores across the country.

12 Q. So, they sell books you mean?

13 A. Yeah. Well, yes. First of all, they are a wholesaler
14 supplier. What I'm trying to say is that also they do
15 retail sales. I'm not really sure how the corporate
16 structure is to tell you the truth. In other words, they've
17 got magazines, but I think that is a separate corporation
18 for the magazines, each one of them.

19 MR. ROST: Just explain what you know.

20 MR. LISTROM: Now, counselor, just let him
21 answer the question. Just leave him alone.

22 A. That was my way of saying that's as much as I could care
23 to say from my understanding unless you want me telling
24 you something I'm not clear on.

25 Q. (By Mr. Listrom) Whether clearly or unclearly, I just

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asked for your understanding. Have you given me your understanding of it?

A. Do you want my unclear understanding?

Q. I want your understanding whether it's clear or unclear.

A. It would be pure speculation as to what the source of revenue was, pure speculation. Probably in some way the corporate structure--they have some revenue from the publishing of their magazines, A Review of the News, which is weekly and probably in some way they have revenue from the publication of their monthly magazine, their journal, American Opinion. By the way, there's a subscription to the bulletin at the John Birch Society that would be separate from the members dues and the members get that as a part of the membership. They have a speaker's bureau. I would assume that it's under General Birch Services.

Q. Did you at that time belong to the John Birch Society?

A. Yes.

Q. When did you join that society?

A. I joined in approximately the fall of 1968.

Q. And what are your dues to that organization?

A. Now?

Q. Then and now both.

A. Then, I think it was \$2 a month and now they are \$4 a month.

1 Q. Is there any kind of a joining fee, a one-time fee?

2 A. No.

3 Q. Okay. Now, prior to becoming a coordinator for the
4 society, had you held any other paying positions with the
5 society?

6 A. No.

7 Q. Never been a part of the speakers bureau or any of the
8 other--(interrupted)

9 A. No. I've never received a penny from them.

10 Q. Well, okay. You've never received any money. Have you
11 performed any services for them?

12 A. In a paid position?

13 Q. In a paid position prior to coming to St. Marys, Kansas.

14 A. Now, you asked me--(interrupted)

15 Q. Or, prior to becoming a coordinator.

16 A. Prior to becoming a coordinator you're asking me if I
17 did anything for the John Birch Society?

18 Q. Yes.

19 A. Starting in the fall of 1968, other than I belonged.

20 Q. Did you perform duties for them?

21 A. Sure. Sure, like holding a meeting.

22 Q. Okay. Did you hold meetings in your home or what?

23 A. Right.

24 MR. ROST: I again object to being irrelevant
25 and immaterial.

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1 MR. LISTROM: On a regular basis?

2 MR. ROST: And too remote to this lawsuit.

3 A. What is regular?

4 MR. LISTROM: You tell us how often you were
5 holding meetings.

6 A. I don't know.

7 Q. (By Mr. Listrom) More than once a month?

8 A. Not usually. Sometimes, we had weekly meetings.

9 Q. All right. Did you perform any other functions for the
10 John Birch Society prior to becoming a coordinator other
11 than holding meetings?

12 A. I think I helped in a book store they had in the St.
13 Louis area.

14 Q. What would you have done?

15 MR. ROST: I again object as too remote time
16 and place to the issues in this lawsuit and it's
17 irrelevant and immaterial.

18 A. I probably helped shelf books and make sales.

19 MR. LISTROM: Was this what you would call
20 volunteer work?

21 A. Yes.

22 Q. (By Mr. Listrom) Did you ever write any books for the
23 society?

24 A. No.

25 Q. Do you have any experience of any kind?

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1 A. No. John Birch Society.

2 Q. Anything else that you've not described prior to
3 becoming a coordinator?

4 MR. ROST: That you can remember at this time.

5 A. Oh, I helped circulate some petitions.

6 MR. LISTROM: For what?

7 A. For support your local police.

8 Q. (By Mr. Listrom) In the St. Louis area?

9 A. Yes, Berkley.

10 Q. Anything else you can think of?

11 A. Well, nothing else I can think of right now. If you
12 want me to--(interrupted)

13 Q. What are the purposes of the objectives as you understand
14 it of the John Birch Society?

15 MR. ROST: I again object as being irrelevant
16 and immaterial to this lawsuit. You can answer.

17 A. Less government, more individual responsibility and with
18 God's help, a better world.

19 MR. LISTROM: Now, did you take that from the
20 preamble of the constitution, or is that pretty much
21 verbatim or is that just your understanding?

22 A. That's my wording.

23 Q. (By Mr. Listrom) All right.

24 A. That's within a couple of three words of the objectives
25 set out by Robert Welch in 1958 at the founding meeting of

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the John Birch Society.

Q. Okay. Is it part of the John Birch Society to influence elections?

A. No.

Q. To support or help a particular candidate for office?

A. No. In fact, it is forbidden.

Q. What do you mean it is forbidden?

MR. ROST: I again object as being irrelevant and immaterial.

MR. LISTROM: Who forbids it?

It's forbidden in the name of the John Birch Society to participate in these kinds of activities. It's not that kind of organization.

(By Mr. Listrom) Does the organization prohibit individual members from working for or against candidates for public office?

No. They encourage them to get active politically.

But just simply not in the organization's name, is that what you're saying?

A. Well, I think I know what you mean, yes. It's not just the name. I mean it's the organization itself. It simply does not do it whether in name or not.

Q. Okay.

A. But it encourages members to. We are forbidden in the educational meetings or the official meetings of the

society from getting into these areas, purely political areas.

Q. But you are not on an individual basis forbidden?

A. Oh, no.

Q. You are encouraged?

A. Yes. By the way, we wind up on opposite sides of the fence sometimes too.

Q. What is your--what was your position as coordinator?
What were your duties?

MR. ROST: I again object as being irrelevant and immaterial and too remote in time to this lawsuit.

A. The primary function I had was to recruit members. Well, I would say an equal primary function was to help maintain the chapters in existence in the area that I was responsible for.

MR. LISTROM: And was that in that position that you came to St. Marys, is that correct?

A. Well, I was in that position, yes.

Q. (By Mr. Listrom) That's what I think you said, 1971.

A. December, '71.

Q. And were you paid by John Birch Services, Inc., for your services as coordinator?

A. Yes.

Q. And what was your salary?

A. I don't remember.

1 Q. Well, what's your best recollection?

2 A. I can tell you what it was when I quit.

3 Q. When did you quit?

4 A. I think I turned in my resignation about the 1st of
5 August, 1975.

6 Q. So, you were then around four years as a coordinator?

7 A. Just short of four years.

8 Q. What were your earnings when you quit?

9 A. \$300 a week.

10 Q. Now, relating that to when you began, can you give us
11 some pretty close ballpark figure as to what you were
12 earning when you started?

13 MR. ROST: I again object as being irrelevant
14 and immaterial and too remote in time. If you can tell
15 him, fine. If you can't, so say.

16 A. I don't remember, but it was probably \$250.

17 MR. LISTROM: Okay. That's close enough.
18 Now, primarily as a coordinator, it was your duty to try
19 to increase the size of the chapter by recruiting new
20 members. Is that what I understood your job was?

21 A. Where there were chapters, that's true.

22 Q. (By Mr. Listrom) And was there a chapter at St. Marys
23 in '71?

24 A. No, there was not.

25 Q. And were you responsible for creating a chapter there?

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1 A. In the area.

2 Q. All right.

3 A. Not just in the city.

4 Q. And did you create a chapter?

5 A. You mean--well, my job was to create dozens of chapters.

6 Q. Well then, could you answer simply when you did create a
7 chapter?

8 A. But you're asking me about St. Marys.

9 Q. Yes.

10 A. Okay. Technically, I did not create a chapter in St.
11 Marys.

12 Q. Where did you create one?

13 MR. ROST: I again object as being irrelevant
14 and immaterial and too remote in time.

15 A. If you can specify whatever it was. You mean physically
16 the cities where I created a chapter?

17 MR. LISTROM: That's fine. That would be good
18 for starters.

19 A. I think I started one in Topeka. I don't remember.

20 Q. (By Mr. Listrom) You don't remember whether you created a
21 John Birch Society chapter in the City of Topeka?

22 A. I don't remember whether there was already one going
23 when I got here or whether they had some of them that were
24 going.

25 Q. Can you remember where your first chapter was that you

created?

A. No.

Q. You can't remember?

A. No.

Q. Can you remember how many you created?

A. No.

Q. No idea?

A. No.

Q. You said a moment ago I think about a dozen. What did you mean?

A. I don't think that's what I said.

Q. You have no idea?

A. I really don't have any idea how many chapters I started.

Q. Were there others working with you in the creation of chapters that were paid by the same corporation that you were paid by?

A. Well, only my major coordinator.

Q. And who was that?

A. Well, Bob Koenigs.

Q. Well, he held forth in Chicago, didn't he?

A. Right.

Q. Did he come and see you here sometime and give you assistance?

A. He came down. I don't remember how many times he came down.

Q. Any other coordinators working with you in forming chapters of the society?

A. Technically, yes.

Q. Who?

MR. ROST: Again, I object as being irrelevant and immaterial and too remote in time to this lawsuit. To the best of your recollection, tell him who.

A. Can we take a break here pretty soon? Can I talk to you in private anytime I want to?

MR. ROST: No. Tell him to whatever extent you can.

A. There was a fellow by the name of Dave Keller.

MR. LISTROM: Keller?

A. Keller.

Q. (By Mr. Listrom) Where does he live?

A. Rolla, Missouri.

Q. All right. Who else? Anybody else?

A. There was a coordinator in North Dakota and he and I worked together on one occasion.

Q. What's his name?

A. I just remember his first name is Gill.

Q. Gill?

A. That's all I can remember.

Q. Well, when you formed--(interrupted)

A. I'm not through.

Q. Oh, excuse me. Go ahead.

A. There was another coordinator.

Q. Okay. Do you remember his name?

A. No, I don't. There were two other coordinators. One of them is in the home office now.

Q. You don't remember their names?

A. I don't remember either one of them right now. The Oklahoma coordinator.

Q. Who's that?

A. His last name is Cherry, Bill Cherry. I think Bill is out of Oklahoma.

Q. Okay. Any others?

A. There was. I guess he didn't help form chapters. I cannot remember who the others were.

Q. There were others?

A. Each state would have a coordinator generally.

MR. ROST: Again, I object to this as irrelevant and immaterial as to the time of this lawsuit.

A. I don't know how to answer your question.

MR. LISTROM: Well, were there any other coordinators in Kansas that you knew about other than you at the time you were a coordinator?

A. Uh-huh.

Q. (By Mr. Listrom) Who?

MR. ROST: You have to answer yes or no.

1 A. Yes. I'm sorry. I don't remember his name.

2 MR. LISTROM: Where did he live?

3 A. He was out of Colorado. He covered a section of Western
4 Kansas, and I never--(interrupted)

5 Q. (By Mr. Listrom) Wasn't that your territory?

6 A. At what timeframe?

7 Q. Well, when you started in 1971.

8 A. Okay. December, 1971, my territory would have been
9 Kansas except for the western--especially the northwestern
10 area of about 15 counties and except for Johnson and
11 Wyandotte Counties. The coordinator for Missouri handled
12 those two counties.

13 MR. ROST: If you know.

14 A. Yes.

15 MR. LISTROM: And the one from Colorado took
16 15 Western Kansas counties?

17 A. Right.

18 Q. (By Mr. Listrom) And you had the rest of the state then?

19 A. I had the rest of the state. Did you want me to finish
20 answering your question?

21 Q. If you haven't, go ahead.

22 A. Okay. I covered Nebraska except for the congressional
23 district that Omaha was in. I think that was the Second
24 Congressional District in Nebraska, but I'm not sure.
25 That's all.

1 Q. You covered all of Nebraska then except the congressional
2 district in which Omaha was situated?

3 A. Uh-huh. I covered two of the three congressional
4 districts in Kansas.

5 Q. Okay. And then later, was your territory expanded or
6 decreased?

7 A. Decreased.

8 Q. And ultimately when you resigned, what was your territory?

9 A. It would have been Kansas except for the 15 counties
10 and the Kansas City, Missouri, area.

11 Q. Did you have Kansas City, Missouri, or except for that?

12 A. No, I had Kansas.

13 Q. Yes.

14 A. Except for the northwest counties and I had the Kansas
15 City, Missouri, area.

16 Q. Okay. So, in one sense of the word, your territory
17 extended over into Kansas City, Missouri, did it not?

18 A. Technically you're right.

19 Q. Did you have Johnson and Wyandotte Counties at the time?

20 A. Yes.

21 Q. As a coordinator?

22 A. Except northwest Kansas.

23 Q. Except what?

24 A. Except the northwest corner.

25 Q. During the time that you held your position with the

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John Birch Society, did you hold any other income paying positions of any kind? In other words, did you have any source of income other than through your position as coordinator for the society?

A. I sold eggs.

Q. Sold what?

A. Eggs.

Q. Eggs? All right. Anything else?

A. I sold books.

Q. Who did you sell books for?

A. For--for me.

Q. For yourself? And you raised chickens?

A. Yeah.

Q. All right. Who did you sell books for?

A. For me.

Q. Did you write books?

A. No, no. I just sold books.

Q. What kind of books?

A. Now, technically, you're right. I have written a book, but I don't remember selling that book.

Q. You have written a book?

A. A book called Why Should I. It's a religious book. It's an illustrated book that is designed to get people to set up home Bible studies.

Q. Is it published or in print?

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1 A. Uh-huh.

2 Q. Hard book?

3 A. No, no. It's just actually a very small paperback.

4 Q. Okay. What books did you sell? all these to organization?

5 A. Basically religious and political books that I agreed
6 with.

7 Q. Where did you get these books?

8 A. From suppliers all over the country.

9 Q. And you would sell them on a commission-type basis?

10 A. I ran it as a business.

11 Q. You bought the books?

12 A. I would buy them and sell them. I bought them and then
13 resold them retail.

14 Q. How many different authored books did you sell?

15 A. I would estimate it would be in the hundreds.

16 Q. Okay. And both political and religious?

17 A. Uh-huh.

18 MR. ROST: You have to answer yes or no.

19 A. Yes.

20 MR. LISTROM: And to whom would you sell these
21 books?

22 A. I don't know how to answer your question.

23 Q. (By Mr. Listrom) Well, I don't know how to ask it any
24 differently.

25 A. Well, I sold them to people willing to buy them. I

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1 A. don't know.

2 Q. I just said: "To whom did you sell?"

3 A. People. I'm sorry.

4 Q. Just individuals? You didn't sell them to organizations?

5 A. I'm not real--possibly I sold a book or two to an
6 organization, but I don't ever remember an organization
7 buying a book from me.

8 Q. Ordinarily then, it was individuals, is that correct?

9 A. Yes.

10 Q. And how long were you in that business?

11 A. I still am.

12 Q. You're still selling books?

13 A. That's right.

14 Q. Where do you keep your inventory of books?

15 A. Some of them are at the--well, they're in my counseling
16 office.

17 Q. Do you sell them to your clients?

18 A. And as I think back, I've got some in storage too.

19 Q. Do you sell them to your clients?

20 A. No.

21 Q. Well, how do you advertise and how do you go about
22 selling them?

23 A. Well, over the years, we've used radio and we've used
24 primarily mail order service.

25 Q. You say we, who's we?

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1 A. My wife and I. "pastorates?"

2 Q. Do you have some business name?

3 A. Christian Book Center of America.

4 Q. And is that an entity, or is that just a name under which
5 you do business?

6 A. It's a name under which we do business.

7 Q. You are the sole owners, you and your wife?

8 A. Right.

9 Q. Any other sources of income?

10 A. What's the timeframe?

11 Q. At that time.

12 A. I've forgotten.

13 Q. When you were in St. Marys.

14 A. I probably received some fees for marriages and funerals.

15 Q. You are authorized to perform marriages under the laws
16 of Kansas?

17 A. Yes.

18 Q. And by virtue of what?

19 A. Being a minister.

20 Q. Okay.

21 A. Being an ordained minister as--(interrupted)

22 Q. An ordained minister?

23 A. As recognized by the laws of Kansas.

24 Q. When were you ordained?

25 A. 1962.

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Q. And have you held any pastorates?

A. Yes.

Q. On a full-time basis?

A. Yes.

Q. And do you at this time?

A. On a full-time basis?

Q. Yes, sir.

A. No.

Q. On a part-time basis?

A. Yes.

Q. And where?

A. I'm associate minister of The Church, 316 West Grant,
Incorporated.

Q. Is that the academy?

A. Yes.

Q. What is the name of that church at 316 West Grant?

A. Well--(interrupted)

MR. ROST: Let me just say that it's called
The Church, in caps, at 316 West Grant.

MR. LISTROM: All right. And is Don Strong a
pastor of that church?

A. No.

Q. (By Mr. Listrom) Who is?

A. Bob Bowers.

Q. What denomination is that church, or can you describe it

by denomination?

A. I cannot describe it by denomination.

Q. It doesn't have a label like Presbyterian or Methodist or Church of Christ, anything like that?

A. Right.

Q. It has its own faith then?

A. Yes.

Q. Is that the only church of that nature in Topeka?

A. It's hard to answer that question without getting into a theological discussion. In my opinion, the church is very similar to the Independent Christian Church and the Church of Christ, however, all groups involved would deny it.

Q. Okay. Now, when you left St. Marys in 1975, where did you go?

A. The address where I moved would have been 2555 Golden Avenue.

Q. Okay. You came to Topeka that year?

A. Yes.

Q. And have you remained here ever since?

A. Yes.

Q. Did you attend any other institutions of higher learning after coming to Topeka other than Emporia?

A. Emporia and the Toledo Bible College.

Q. Toledo, Ohio?

1 A. Yes.

2 Q. Is that a correspondence course?

3 A. An off-campus program.

4 Q. Well, is it a correspondence course? Did you attend
5 classes in Toledo, Ohio?

6 A. No, I did not attend classes.

7 Q. Did you attend classes period?

8 A. At this college you mean?

9 Q. Yes, sir.

10 A. No.

11 Q. So, it would have been by correspondence?

12 A. I guess you're going to have to define what you mean by
13 correspondence. I don't think so.

14 Q. Well, where did you get your study materials?

15 A. My class materials were on the same basis that I had with
16 several classes at Emporia. Once you get to the graduate
17 level of work, you are assigned independent studies and I
18 was approved for some independent studies for credit by
19 Emporia State University and--(interrupted)

20 Q. Toledo?

21 A. (Continuing)--the Toledo Bible College. Now, if Toledo
22 Bible College were a correspondence, then so is Emporia
23 State University. In other words, the same procedure was
24 used at both places.

25 Q. My only question was: You didn't--you weren't physically

present in Toledo, Ohio, to gain education or credits from that college, but you were here in Topeka?

A. I think that's right.

Q. And I think you described it accurately when you said your studies were by correspondence for credits, were they?

A. Uh-huh. Very much.

Q. Now, when you came to Topeka from St. Marys, you resigned your employment with the John Birch Society, is that correct?

A. I resigned from the John Birch Society while I lived in St. Marys.

Q. Before you came to Topeka?

A. Yes.

Q. Okay. You came to Topeka then and did you become employed at the clinic?

A. No. I became associated with the clinic before I moved to Topeka.

Q. Okay. When you came to Topeka, you were employed by the clinic?

A. Yes.

Q. And who paid you?

A. I was paid by my counseling.

Q. You weren't working for the clinic, you were associated?

A. Associated with. When you use the word employed by, it--

(interrupted)

Q. Well, okay. And that is the same position you hold now--

(interrupted).

A. Yes.

Q. (Continuing)--is that correct? Okay. Now, let me hand you Deposition Exhibit 1, Doctor. Tell me if you can identify that?

A. Yes. This is a copy of a letter that I mailed out in August--no, in July.

Q. All right. Did you author all of the contents of Exhibit 1?

A. Yes.

Q. Alone?

A. Yes.

Q. Anybody else assist you insofar as the content is concerned? I mean as far as authoring it.

A. No one else assisted, right.

Q. You did it all yourself?

A. Yes.

Q. And all of the information in Exhibit 1 was gathered by you?

A. Yes. I gathered it. I'm not sure I know what you mean.

Q. Well, where did you get the information that's contained in Exhibit 1?

A. I wrote it except for--except for the story under the

1 heading "Marijuana." That is attributed to the source
2 at the bottom here. In other words, I wrote all that
3 material that's on the front and back.

4 Q. Except that part that is under where we've got in large
5 letters "Marijuana," that was taken from a source
6 indicated at the bottom, is that correct?

7 A. Yes. Right.

8 Q. All right. Why did you prepare this document? What was
9 the purpose of it?

10 A. The purpose of that document was to make the public aware
11 of Senator Ron Hein's position--legislative position on
12 the issue of decriminalization of marijuana and the
13 legalization of homosexuality.

14 Q. And what was his position on those two topics?

15 A. He voted for the legalization of homosexuality by voting
16 for Senate Bill 310. He indicated support for House
17 Bill 2313 by voting to report the bill favorably--by
18 seconding a motion to report the bill favorably out of a
19 committee hearing.

20 Q. And how did you find this out?

21 A. Last January or February, I heard a WIBW Editorial by
22 Police Chief Howard about the marijuana issue. Shortly
23 after that, I heard--I think a news item that Captain
24 Ritchie of the Topeka Police Department was going to some
25 kind of a meeting on the issue of marijuana, and so I

called Captain Ritchie and he invited me to that meeting.

It was a meeting of professionals, and they had gotten ahold of attorneys, pharmacists, psychiatrists, medical doctors, counselors like myself and people from various organizations together to educate the public about the dangers of marijuana use.

Q. Did you attend such a meeting?

A. So, I attended the meeting.

Q. Where was it?

A. At the Holiday Inn Downtown at the Don Quixote Room.

Q. Go on.

A. It was at that meeting--there were two meetings, and it was at those meetings that I heard it discussed, the difficulty that they were having in the committee hearing with Senator Hein's promotion or stand for House Bill 2313 and at that time, I got ahold of a copy of the bill. Later, I got ahold of a copy of the committee hearings on that bill. In 1977 when the bill came up before the committee, at that time, there was a great deal of discussion about it and from that, I decided that I would use my basic political principles that I have learned in order to educate the public, and that is, unlike evidently Senator Hein's, I believed the public should take a stronger more or less stand on the issues like decriminalization of marijuana than what

the legislators are doing. I believe whenever that happens, that the people have enough backbone if they were informed about what their legislators are doing, that they would--that it would make a difference when they go to the polls to vote for or against that legislator in the future.

Q. Well--(interrupted)

A. And so--(interrupted)

Q. (Continuing)--I object to that response as not being responsive to the question.

MR. ROST: You asked the question.

MR. LISTROM: And I ask that it be stricken.

MR. ROST: And I ask that it not be stricken.

MR. LISTROM: There were others who supported this bill, were there not, Doctor, other legislators?

A. I don't know who they were.

Q. (By Mr. Listrom) Well, didn't you find out when you got to the minutes?

A. It seems like there was a senator from out of my area that--there was a copy of his speech in the exhibits. I don't even remember his name now, but I never heard of him. Evidently, he was from out of the Topeka area.

Q. Why did you single out Senator Hein?

A. The rest of them like that fellow, whoever he is--if you want me to, I'll look it up in the exhibits, but to my

knowledge he is not running for office.

Q. Well, Senator Gaar voted for the bill, didn't he?

A. I don't know.

Q. Well, didn't you find out?

A. Well, I looked over the list.

Q. Well, do you know whether or not he did?

A. I do not know for a fact right now whether or not he did.

Q. Did you ever know?

A. I probably did when I looked over the list. I don't know very many of the senators.

Q. Well, you don't know Senator Hein either, do you?

A. Oh, I've heard the name for years.

Q. Well, but do you know him?

A. Well, I recognize the name.

Q. But did you ever talk to Senator Hein about his view on House Bill 2313?

A. No.

Q. Or Senate Bill 310?

A. No.

Q. Did you ever come and ask him to share with you why he voted the way he did?

A. Oh, no.

Q. You didn't do that, did you?

A. Of course not.

Q. You weren't interested in it, were you?

- A. I was only interested in his legislative stand.
- Q. Only interested in what he voted on, not the reasons for voting on it, is that correct?
- A. His reasons--(interrupted)
- Q. Answer the question. Is that correct?
- A. (Continuing)--only his voting record, not the reasons.
- Q. That's all you were interested in?
- A. That's correct.
- Q. All right. Now, how much--well, strike that. To whom did you circulate Exhibit 1?
- A. I made an effort to distribute copies to every household in Shawnee County that has a registered Republican in that household.
- Q. Now, you say you made an effort. Explain that to me.
- A. Well, when I had the Election Commission print out the labels, there was a more efficient way of having them printed and that made it difficult for us in striking the duplicate registered voters within the household, the second or third or fourth registered Republican within a household. And so, we may have missed some households there by striking too many, by accidentally striking everybody in the household. Also, we got--when we got through and went through those boxes and boxes of what was to be blank label sheets, there were some labels that had not been put on like this label to Vivian

McCullough. There were labels that had subsequently not been put on, and they had not been stricken and we found those names, and we do not go back and mail them.

Q. How many did you mail out?

MR. ROST: The total to the best of your ability.

A. Okay. You want an approximate figure?

MR. LISTROM: Yes, sir.

A. Because I don't have the exact figure. Approximately 22,000.

Q. (By Mr. Listrom) And you got a list of the registered voters from the Shawnee County Election Commissioner's office. Did you have to pay anything for that?

A. Yes.

Q. What?

A. (No response)

Q. Can you answer the question?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Do I understand then that you are refusing to answer my question, Doctor, as to how much you paid the Election Commissioner's office for furnishing you the labels? Are

you refusing to answer that question?

A. Yes.

Q. Now, Mr. Rost, I don't want you to be nodding your head yea or nay when I ask a client a question. He's capable of making his own answers without any suggestions from you as to what the answer should be. Let's have that understanding, please, and it's very poor conduct.

MR. ROST: We had an understanding yesterday and I brought it up to the Judge that with regard to the expenses, based upon the F.E.C. investigation, that he would claim the Fifth Amendment and you made the statement that I would be there to advise him and I am here to advise him and I am going to advise him.

MR. LISTROM: I have no objection to your advising him, but I don't want you nodding and suggesting an answer. I would hope that you have visited with him and advised him before we got here. Doctor, let me hand you Exhibit 2. I want you to tell me what that is please?

A. I refuse to identify any of the exhibits for the reason stated before, because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and refuse to answer your question.

1 Q. (By Mr. Listrom) Is Exhibit 2 an invoice that was sent
2 to you? Strike that. Does Exhibit 2 purport to be a
3 copy of an invoice sent to you by R. C. Publications
4 of Topeka, Kansas, under date of July 22, 1978?

5 A. Because Senator Hein has reportedly asked the F.E.C. to
6 investigate this situation and under the advisement of
7 my attorney, I hereby exercise my right under the Fifth
8 Amendment to the United States Constitution and will not
9 answer your question.

10 Q. Does Exhibit 2 contain an invoice from Carla's Type of
11 Topeka, Kansas, that was sent to you?

12 A. Because Senator Hein has reportedly asked the F.E.C. to
13 investigate this situation and under the advisement of
14 my attorney, I hereby exercise my right under the Fifth
15 Amendment to the United States Constitution and will not
16 answer your question.

17 Q. Does Exhibit 2, the second page, contain a receipt showing
18 you paid somebody \$70.24 under date of July 21, 1978,
19 and have the notation on there "balance labels"?

20 A. Because Senator Hein has reportedly asked the F.E.C. to
21 investigate this situation and under the advisement of
22 my attorney, I hereby exercise my right under the Fifth
23 Amendment to the United States Constitution and will not
24 answer your question.

25 Q. Did you incur any expense in connection with the printing

and dissemination of Deposition Exhibit 1?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Now, you mentioned awhile ago with reference to obtaining the labels, you said we. Who is we?

MR. ROST: Answer him.

A. My wife and I.

MR. LISTROM: You and your wife?

A. Yes.

Q. (By Mr. Listrom) Anybody else?

A. No.

Q. In the preparation of Exhibit 1 and in the dissemination of it, did you have any assistance from anybody besides you and your wife?

A. Yes.

Q. Who?

A. Friends.

Q. Well, I want names, friends or otherwise.

A. There was a fellow--Dick Fatherly.

Q. Richard Fatherly?

A. Yes.

Q. Now, before you go on, Doctor, who is he? What does he do

1 for a living?

2 A. I have no idea.

3 Q. Where does he live?

4 A. His mailing address is Tonganoxie.

5 Q. How long have you known him?

6 MR. ROST: Answer.

7 A. A couple of years.

8 MR. LISTROM: How did you come to know him,
9 the circumstances of surrounding your becoming
10 acquainted?

11 A. I don't remember.

12 Q. (By Mr. Listrom) You don't remember?

13 A. No.

14 Q. Have you had any kind of dealings with him either business
15 or political activities? Was he a John Bircher?

16 A. You'll have to ask him if he's a member of the John
17 Birch Society.

18 Q. Do you know?

19 A. I do not know for a fact.

20 Q. But you can't tell us here today, this Court and jury,
21 how you became acquainted with this man two years ago?

22 A. You asked me as to the occasion. I don't remember the
23 occasion.

24 Q. You don't have any idea?

25 A. No.

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Q. As to how it came about or anything else?

A. No. I don't remember when I met him.

Q. You remember where you were when you met him?

A. No. I don't remember the occasion.

Q. Have you ever been in his home?

A. Yes.

Q. Has he been in your home?

A. I don't think so.

Q. How did you happen to be in his home?

A. I went to his home about a year ago to try to get him interested in a business venture.

Q. What kind of a business venture was that?

A. It was one of those direct marketing plans like Am-Way. It's called Sea Forth. It's Sea Forth Laboratories, Incorporated.

Q. What were you going to market?

A. Food supplements.

Q. Were you in the business at that time?

A. Uh-huh.

Q. And still are?

A. Uh-huh.

MR. ROST: You have to answer yes or no.

A. Yes.

MR. LISTROM: What do you deal with in that business?

1 A. Vitamin supplements, proteins--well, that's the basic
2 ingredients in mostly these products.

3 Q. (By Mr. Listrom) Well, let's see if we can--(interrupted)

4 A. It included some cosmetics and I think a skin cleansing
5 program.

6 Q. You are working as a counselor, you're selling books and
7 you're also selling food supplements, is that correct?

8 A. Uh-huh.

9 Q. Any other business activities you're engaged in?

10 A. I'm an Am-Way distributor.

11 Q. What is Am-Way?

12 A. Am-Way is a corporation.

13 Q. What do you sell?

14 A. Food supplements, soap products, gifts, a whole catalog
15 of things.

16 Q. And where is your office in connection with the
17 distribution of Am-Way products and so forth?

18 A. My counseling office.

19 Q. Is that where you have your inventory?

20 A. Yes. Now, I'm also a Shaklee distributor.

21 Q. A what?

22 A. A Shaklee distributor.

23 Q. Would you spell Shaklee?

24 A. I can't right now.

25 Q. You are distributing a product you can't spell, is that

correct?

A. Well, Shaklee--yes, that's right.

Q. What kind of product is it if you can't spell it?

A. Well, they have basically the same products as Am-Way except that they don't have a catalog and gift items and smoke alarms and bicycles and things that Am-Way has.

Q. Are you in any other business retail or wholesale?

A. Probably. Let me think a minute. I can't think of any others right now.

Q. You think maybe there are some you can't think of?

A. There might be some I can't think of.

Q. You are engaged in a lot of activities, aren't you?

A. I am that. By the way, I'm also superintendent of the Highland Park Christian Academy.

Q. Is that a paying job?

A. Yes.

Q. What are your duties in that job?

A. My primary responsibilities--by the way, you are an attorney.

Q. I'm asking the questions, Doctor, not you.

A. My primary job is liaison between The Church and the academy.

Q. And what do you get paid in that capacity?

A. Well, it looks like it's going to be \$1,000 for this school year. In other words--(interrupted)

Q. Okay.

A. (Continuing)--that's no big thing.

Q. Does that pretty well cover your business interest and activities?

A. I still have weddings and funerals. I have speaking engagements--(interrupted)

Q. Okay.

A. (Continuing)--all over the country.

Q. Well--(interrupted)

A. These are all income producers.

Q. You have speaking engagements all over the country?

Give me some examples in the past year.

A. Uh-huh. Kansas City International Airport and the Sheraton Hotel, December, '77. There was some political party forming and they asked me to come and speak.

Q. What's the name of it?

A. I don't remember.

Q. Did they pay you?

A. I think they did.

Q. How much?

A. \$50 I think.

Q. You don't remember the name of the organization?

A. No, I don't. I don't think it ever got off the ground.

Q. Tell me a little bit about what kind of party it was.

You say it was a political party?

A. Yes.

Q. What did you understand at the time as to what kind of political party it was? It wasn't Republican or Democrat, was it?

A. No.

Q. It had a different name?

A. I don't even think they had a name. This was to be their formation meeting.

Q. How would they have gotten ahold of you?

A. Someone working with them in Kansas knew me and was at a meeting in the area.

Q. Is it some party that had the endorsement and the support of the John Birch Society?

MR. ROST: If you know.

A. Of course not, anymore than a Republican or Democrat would get their endorsement.

MR. LISTROM: Okay. What other speaking engagements have you had outside the state in the last year?

A. Okay. I think about a year ago is when it was that I spoke to the--to a cattlemen's group. Some company that has a feed service company of Creighton, Nebraska, they were meeting at the Crown Center. This spring, I flew to Portland, Oregon, to speak several times on a program of the church growth clinic there.

Q. (By Mr. Listrom) That would have been a religious type of meeting?

A. Yes.

Q. And would it have been in connection with your so-called church?

A. Yes, uh-huh.

Q. Okay.

A. I don't understand the so-called. I answered your question. I'd like you to retract that answer to that question.

Q. I didn't mean anything demeaning, but I mean in connection with your church, and I don't--whatever the name of it is. That's what I'm talking about.

A. Okay. Yes.

Q. All right.

A. And then--(interrupted)

MR. POST: Let's go off the record for a minute.

(THEREUPON, at this time a discussion was had which was not made a matter of record, following which the further testimony was had:)

MR. LISTROM: Have you finished your answer to my question?

A. I've forgotten the question.

Q. (By Mr. Listrom) Well, I asked you to name the places

that you were speaking of out of state.

A. Okay. No. I never finished. In the end of July or the first of August, I was on the program for several speeches to a nationwide youth group up in Denver, Colorado--in that area. I was paid for that.

Q. Is that, incidentally, connected with your church?

A. Yes.

Q. Okay.

A. By the way, those are the only ones I can remember right now. Probably there were some others.

Q. All right. You were in Dick Fatherly's home in Tonganoxie, is that correct, asking him to participate with you somehow in the Sea Porth food supplement--
(interrupted)

A. Uh-huh.

Q. (Continuing)--venture that you are in?

A. Yes.

Q. How did you happen to go to his home?

A. A friend of mine knew him.

Q. Did you?

A. I knew of him. I may have met him before then.

Q. You think maybe this might have been the first time you met him then?

A. It would have been the first time we got acquainted.

Q. Okay. That was the question I asked awhile ago and you

couldn't remember. Now, you remember that you became acquainted with him in his home, is that correct?

A. You were asking me when I became acquainted with the man.

Q. Yes.

A. I thought you were asking me when I first met him.

Q. Well, either one.

A. In any event now, that answers both questions. I've answered your question about when I met him. I didn't know when I met him. I've answered your question about when I became acquainted with him.

Q. You were in his home when?

A. Approximately a year ago.

Q. All right. And that's when you say you became acquainted with him?

A. That is when I became acquainted with him.

Q. Yes. Anyone else with you?

A. Yes. This friend that I had signed up in the direct marketing business under me, I went with him in his car to help him recruit Dick Fatherly into the business under him.

Q. Did he come into the business?

A. No.

Q. And that's the only time you've been in his home?

A. No.

Q. When was the next occasion?

A. I have been in their home several times.

Q. When was the next occasion?

A. I don't remember.

Q. What was it about?

A. It probably would have been a conservative meeting.

Q. And what is a conservative meeting?

A. Well, that's where we would look at conservative politics. We look at film strips. We write letters to our senators and congressmen.

Q. Is that another organization or is that part of the John Birch Society or what?

A. Are you talking about these particular meetings?

Q. I'm asking you.

A. I do not know for a fact that these meetings were John Birch Society meetings.

Q. Well, do you know what they were?

A. They were just conservative meetings where we got together and watched the film strips on a particular subject and wrote letters to our congressmen and senators on the subject.

Q. Did you write letters to Senator Hein?

A. No. I don't believe I ever have. By the way, I'm going to qualify that. I have on occasion written to a list of state representatives and state senators, so there is a possibility that I have written to Senator Hein under

that circumstance.

Q. But you don't have any recollection of it? I right, and

A. I don't have a recollection of writing a letter to him.

Q. The thing I'm trying to find out is why you were this attending conservative party or meetings as you call them?

A. Meeting for the purpose of influencing the congressmen and senators when they vote on legislation.

Q. Is that some kind of an organized group?

A. I don't know how to answer your question. You mean a national organization? Somebody called a meeting and somebody said, "We're having a film. This thing might come up for discussion, and let's get together and write letters."

Q. Are there some of you that are regularly called for these things?

A. Oh, yeah.

Q. Who is this group? That's what I'm trying to find out. Who is the organization?

A. Now, I go whenever these meetings are held.

Q. Are these John Birch meetings or some of them?

A. No.

Q. What are those that are not?

A. I mean, I don't--you know, I don't have any organization or I don't have any name.

Q. Are they John Birch?

A. I know which ones are John Birch meetings all right, and the other ones, you know, I don't know that it's any more than getting a group of people together and doing this.

Q. Are they all John Birchers?

A. No, I don't think so.

Q. Well, is there some--is it a political party?

A. No. There are three categories, educational, legislative and political. All right. None of these meetings are political action.

Q. All right. These are all either--well, is it a combination of educational and influencing legislation and this is political action, isn't it, Doctor?

A. Well, I define political action as an attempt to elect or defeat a candidate.

Q. And you do that, don't you?

A. No.

Q. You don't?

A. No, not these meetings.

Q. You did publish Exhibit 1, didn't you?

A. Not--I thought we were talking about the meetings.

Q. That's why I'm asking you the question. You tried to influence an election with Exhibit 1, didn't you?

A. I'm just trying to answer your question. Would you reword your question in context?

Q. Did you try and influence an election with the publication of Exhibit 1?

A. Can I ask you a question?

Q. You answer the question.

MR. ROST: He's trying to answer the question.

MR. LISTROM: Answer the question.

MR. ROST: He's trying to.

A. I'm trying to answer the question.

MR. LISTROM: Were you trying to influence an election of a candidate in the dissemination of Exhibit 1?

A. I'm trying to answer the question that you already asked. I asked you to repeat it.

Q. (By Mr. Listrom) You answer the question that I asked you.

A. Would you repeat the question?

MR. ROST: The question to the witness has to do with a meeting. Mr. Listrom asked him as to what the association was with regard to the meetings and he was explaining that, and that is the question that he's asking. Would you read it back so he can complete his answer please?

THE REPORTER: "Question: Were you trying to influence an election of a candidate in the dissemination of Exhibit 1?"

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MR. ROST: For purposes of the record, I request Mr. Listrom to ask a new question and a new answer to the question.

MR. LISTROM: You were trying to influence the election or nonelection of a candidate when you disseminated Exhibit 1, were you not?

A. Can I answer the question that we went back to?

MR. ROST: Answer this question. Answer this question.

A. I answered the question previously.

MR. LISTROM: Now, you answer this question, Doctor.

MR. ROST: Answer the question now.

A. With the understanding of the context that you meant before.

MR. ROST: Just answer the question yes or no.

A. Ask your question again and I'll listen this time.

MR. LISTROM: In the printing and dissemination of Exhibit 1, you were attempting to influence the election or nonelection of Senator Hein, weren't you?

A. Yes.

Q. (By Mr. Listrom) All right.

A. Now, I want to--(interrupted)

Q. That was the purpose of the exhibit--(interrupted)

- A. That's right.
- Q. (Continuing)--wasn't it?
- A. When you asked your question awhile ago, you said--
(interrupted)
- Q. The next question was when was the next time you had been in Fatherly's home and you said at some of these meetings where you had film strips.
- A. I don't remember.
- Q. No, but you described the occasion, didn't you?
- A. I guess I did.
- Q. All right. Any other occasions that you can think of?
- A. I don't remember.
- Q. For any purpose?
- A. I don't remember.
- Q. What about for the preparation of Exhibit 1?
- A. I don't remember.
- Q. Well now, you know whether or not you discussed the preparation and proposed dissemination of Exhibit 1 with Mr. Fatherly, don't you?
- A. I don't remember.
- Q. Are you saying you don't recall ever discussing with Mr. Fatherly even the idea for the preparation of Exhibit 1?
- A. I don't ever remember doing it.
- Q. You have no recollection of it?
- A. I don't remember.

- Q. When did you prepare Exhibit 1--start preparing it and conclude the preparation of it?
- A. I started writing it Tuesday night, July 25, I believe.
- Q. You're looking at a note calendar. You have a calendar. How did you fix and arrive at that date?
- A. Well, I can remember on Monday Alan Speck (sp) of ABC News in Washington calling me after talking to the Hein office and asking me about the letter and I thought it was interesting, because I had not yet written the letter.
- Q. Okay. You started writing it when again please, according to your calendar?
- A. Tuesday night, July 25.
- Q. 1978?
- A. 1978.
- Q. You had had the idea before then?
- A. Yes.
- Q. When did you conceive the idea?
- A. February.
- Q. 1978?
- A. 1978.
- Q. Had you discussed it with anybody from February of 1978 to July of 1978 besides with members of your family?
- A. I probably did.
- Q. Did you discuss it with Fatherly?
- A. I do not remember discussing it with Fatherly.

Q. Who do you remember discussing it with during that time-frame?

A. I really don't remember.

Q. Nobody? You don't remember anyone's name?

A. I discussed it with a fellow by the name of Ron Christian.

Q. And who is he?

A. He's a--I don't know. He was running for office, public office.

Q. When?

A. In the primary.

Q. The last primary?

A. Yeah.

Q. For what office?

A. I'm not sure. I think it was state representative.

Q. Where does he live?

A. I don't know. I think he lives in Lawrence.

Q. Lawrence?

A. Lawrence.

Q. Where were you when you discussed the preparation of Exhibit 1 with him?

A. I was at the American Party meeting in Leavenworth County.

Q. And are you a member of that party?

A. Yes.

Q. How long have you been?

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- A. You mean this time?
- Q. Have you belonged to it more than once?
- A. Yes. We have a problem here with words, because--
(interrupted)
- Q. I asked if you were a member of the party. Are you registered with the party? Are you registered with the American Party?
- A. I'm registered with the American Party.
- Q. Have you been on more than one occasion?
- A. I'm not sure I have been on more than one occasion in Kansas.
- Q. Where else?
- A. I don't--I don't think I have been come to think of it.
- Q. In what other states were you registered?
- A. Well, that's--that's a good point too, because in Missouri I actively worked in the American Party for a short time, but Missouri doesn't have a registration by party, so I guess this would be the only registration I have that I can remember.

(THEREUPON, at the hour of 11:01 o'clock A.M. a recess was had until the hour of 11:05 o'clock A.M., whereupon all parties appearing as before, the further testimony was had:)

- A. May I correct something?

MR. ROST: He'll ask the questions.

MR. LISTROM: You'll have a chance to do that when we're done on direct.

MR. ROST: What he wants to do is correct a date, Myron. The date he was telling you about, the 25th, that's wrong. It was about a week earlier.

A. That's right, of the writing on Tuesday the 25th. It would have been Tuesday, the week before that.

MR. LISTROM: Why do you say that?

A. Well, I--(interrupted)

MR. ROST: Just say you were in error.

MR. LISTROM: Just a minute. You don't need to suggest as to how he should answer a question. You can advise him as to his testimony and talk with him, but don't tell him how to answer the questions in this deposition. If I want your answers, I'll take your deposition. It's just that simple.

MR. ROST: Thank you, counselor.

MR. LISTROM: Now, why did you change the date of the preparation of Exhibit 1 from July 25?

A. Because I was in error.

Q. (By Mr. Listrom) And how did you find out you were in error?

A. I looked at Exhibit No. 2.

Q. And what told you you were in error when you looked at

Exhibit 2?

A. That it had been typeset on the 20th.

Q. How do you know that? Show me on Exhibit 2 where it says something about that?

A. July 20.

Q. Where are you reading from?

A. Well, your xerox doesn't come out very good.

Q. Point to it for me.

A. This date right here (indicating).

MR. ROST: Read it to him.

A. 7-20-78.

MR. LISTROM: What does that mean?

A. It means that's the date that we picked up the typesetting.

Q. (By Mr. Listrom) What typesetting, for what?

A. For Exhibit 1.

Q. Is that right, this check, No. 160, what, 15? Is that what that is?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Mr. Reporter, I want all refusals to answer all questions certified. But you look at Exhibit 2 that you are now refusing to testify about and you said that there was

something on there that told you that you had answered a previous question wrong, is that right?

- A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. When did you prepare Exhibit 1?

- A. Because Senator Hein has reportedly--(interrupted)

MR. ROST: No. You're going to have to answer that. I direct you to answer that question as to preparing it. When did you?

- A. May I, you know, make a correction?

MR. LISTROM: Will you answer my question?

MR. ROST: Just a minute.

MR. LISTROM: When do you think you prepared it or when did you prepare it?

- A. Previously, I was mistaken and now I am uncertain, but I think it was Tuesday night, July 18.

Q. (By Mr. Listrom) Why do you think it was Tuesday night, July the 18th?

- A. It just sticks out in my mind.

Q. You referred to a calendar before you corrected your answer to that question, did you not?

- A. Oh, well, the calendar made me correct my memory.

Q. What was on that calendar that told you it was Tuesday, July 18, as opposed to Tuesday, July the 11th?

A. Nothing.

Q. Then, it could have been July 11 just as easily?

A. I don't think so, but, you know, right now, I don't have a record of it.

Q. Do you have a record anywhere of when you started preparing it?

A. No.

Q. Or started writing it?

A. No.

Q. Could it have been in June?

A. I don't think so.

Q. You think it was in July?

A. I really do.

Q. And your best judgment is that it was July 18, Tuesday night?

A. That's my best judgment, yeah.

Q. It's purely a judgment and a guess, nothing to relate it to that?

A. I've proven that here.

Q. I beg your pardon?

A. I've proven that here.

Q. Yes, you have and a few other things. Now, back to these meetings that you said that you attended, one of them in

Mr. Fatherly's home, those were conservative meetings I think you called them, is that correct?

A. Yes.

Q. Why do you call them conservative meetings?

A. I consider the issues that we talked about to be conservative.

Q. You mean that take a conservative stand?

A. Yes.

Q. And who calls these meetings?

A. I suppose whoever's home they are in.

Q. About how many people attend?

A. Ten or a dozen.

Q. Do you remember how frequently you had those meetings?

A. Yes.

Q. How frequently?

A. I don't know.

Q. Did you have them in your home?

A. I have, yes.

Q. You have had?

A. Uh-huh.

MR. ROST: You have to answer yes or no.

A. Yes.

MR. LISTROM: Give me the names of some of the people that attended those meetings please.

A. I've attended. My wife has attended. This fellow I

signed up in the business, Mike Martin.

Q. (By Mr. Listrom) Mike who?

A. Martin, M-a-r-t-i-n.

Q. Okay.

A. He has attended.

Q. And Mr. Fatherly?

A. Yes.

Q. Who else?

A. I don't remember right now.

Q. Well, there are ten to a dozen people at these meetings, aren't there?

A. Well, I didn't know these people at Dick's home.

Q. You didn't know any of them?

A. I didn't know any of them.

Q. By face or name?

A. By face or name.

Q. Obviously these meetings are held--I'm talking about these conservative meetings--at places other than the City of Topeka, because you were in Mr. Fatherly's home at Tonganoxie. What other cities are they held in that you have attended or have attended?

A. I have attended in Lawrence.

Q. All right. Whose home?

A. A fellow by the name of Tom Hart.

Q. Okay. So, he would have been at one of these meetings,

would he not?

A. We're not talking about the meetings at Dick Fatherly's place?

Q. No. I'm talking about--I'm talking about meetings plural. I want the names of people that are at or have been at these conservative meetings irrespective of where they were held, that you've attended.

A. All the conservative meetings I've ever attended?

Q. Well, in the past year.

A. In the past year?

Q. Yes, sir. You've had a long hesitation. Can't you think of any of those people's names, Doctor?

A. Well, going back a year, and trying to go through the list--(interrupted)

Q. When is the last time you attended a conservative meeting?

MR. ROST: I object. Give him a chance to answer.

MR. LISTROM: Let me withdraw the question. When is the last conservative meeting you attended?

A. I don't remember.

Q. (By Mr. Listrom) Well, was it within the past 30 days?

A. I don't remember.

Q. Before or after the primary election?

A. I don't remember.

Q. Where was the last conservative meeting held?

A. I don't remember that either.

Q. You don't remember the city even?

A. No.

Q. You can't remember the last conservative meeting you attended?

A. That's right.

Q. And you can't tell us whether it was within 30 days ago or not?

A. That's right.

Q. How about 60 days?

A. I really don't remember the last one.

Q. How about 90 days?

A. I don't remember the last one.

Q. How about six months?

A. I don't remember the last one.

Q. How about a year?

A. I don't remember the last one.

Q. Well, did you attend one in the last year?

A. I'm sure I have.

Q. Well, you were in Fatherly's home, weren't you, in Tonganoxie? Didn't you testify that was about a year ago?

A. That's what I said. I'm sure of that.

Q. And then, you attended one in Lawrence, didn't you?

A. I don't think I've been in Lawrence in the last year for

a meeting, but--(interrupted)

Q. Well, didn't I ask you a moment ago where you had attended meetings in the last year and you mentioned someplace in Lawrence?

A. You were asking me ever--about ever.

Q. Have you attended--(interrupted)

A. You didn't ask me about--(interrupted)

Q. Have you ever attended a conservative meeting in the last year, Doctor?

A. Yes.

Q. Where?

A. I attended one in the Holiday Inn Downtown.

Q. When?

A. It was within the last year. It seems like it was last fall. I don't remember for sure.

Q. A year ago?

A. Uh-huh.

MR. ROST: You have to answer yes or no.

A. Yes.

MR. LISTROM: Thank you, Tom. How many people attended that meeting approximately?

A. About a hundred.

Q. (By Mr. Listrom) Okay. Did you see anybody there that you knew?

A. There were some newspaper reporters.

- Q. I mean people that attended. I mean the ones that were regularly attending the meetings.
- A. I think these people were there to cover the meeting.
- Q. All right.
- A. There was a congressman, Dr. Larry McDonald. However, that was the first occasion that I met him.
- Q. How about Mr. Fatherly?
- A. Mr. Fatherly, he was the emcee of the program.
- Q. Who else do you remember being there?
- A. There was a lady. It seems like they had somebody I knew give a speech, but I can't remember now. I think that there was--(interrupted)
- Q. Let me ask the questions, will you please, Doctor? Anybody else at that meeting that you can remember?
- A. I met a lady by the name of Tola Ross. I mean, I didn't meet her for the first time, but I saw her for the first time in a long time at the meeting.
- Q. Is that the last conservative meeting you attended, the one you just described?
- A. I don't know. I doubt it.
- Q. How often do you attend these meetings?
- A. They aren't held on a regular basis. I don't even know how many I've attended in the last year.
- Q. Can you reasonably recall or would you have some idea as to someplace in the last year?

A. I think I've attended more than one.

Q. You've attended? Where were they?

A. I've talked about the Holiday Inn.

Q. That's one.

A. We talked about the one at Dick Fatherly's house.

Q. All right. Where else?

A. I don't remember the others now.

Q. Those are the only two that you think you've attended in the past year?

A. The only two I can think of.

Q. Was Mr. Jeffries at the one at the Holiday Inn in Topeka?

A. I don't remember whether he was or not.

Q. Do you know him?

A. I've met him once.

Q. When?

A. I met him at the Holiday Inn at the meeting.

Q. When?

A. I said I didn't know when it was.

Q. Well, was it within the past year?

A. It may have been. I really don't remember.

Q. You just don't know?

A. I don't know.

Q. You can tell us almost to the day when you started preparing or writing Exhibit 1, but you can't tell us about when you met a man that you met only once, is that

right?

A. That's right.

Q. Okay. And you think you've attended some other conservative meetings besides the one at the Holiday Inn and the one at Mr. Fatherly's house in the past year, but you can't tell us when or where?

A. That's right.

Q. Were they in the City of Topeka or outside the City of Topeka?

A. That's right.

Q. Have you ever attended any in the City of Topeka other than the one at the Holiday Inn?

A. Yes. I had some at my house.

Q. All right. But not in the past year?

A. I don't remember whether I have or not.

Q. You don't know whether you had a meeting in your house, a conservative meeting, in the past year, Doctor?

A. That's right.

Q. As a matter of fact, aren't these meetings called on a pretty regular basis, once a month or so? Don't you receive an invitation to go to them?

A. I do not receive an invitation to go to them.

Q. Or a telephone call or--(interrupted)

A. I'm not in any way invited to monthly meetings, no.

Q. Well, you are invited occasionally to attend meetings, are

you?

A. Yes.

Q. And you do attend them, don't you?

A. Sometimes.

Q. Well, don't you most of the time?

A. No.

Q. How do people find out about these conservative meetings?

Is there a mailing list of some kind or does somebody call them?

A. I think both.

Q. Have you ever been on a mailing list for conservative meetings?

A. I'm sure I have.

Q. Well, are you now?

A. I haven't received any invitations lately. I don't know.

Q. Well, what is lately?

A. I don't remember receiving an invitation in the summer.

Q. What about last spring?

A. I don't remember.

Q. What about last winter?

A. I don't remember.

Q. What about last fall other than the two that we've talked about?

A. I don't remember.

Q. What about the summer of '77?

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A. I really don't remember.

Q. How about the spring of '77?

A. It seems like there was another one at the Holiday Inn, but I don't--I can't pin down as to when it was.

Q. Have you--that wasn't the question. The question was when you were on the mailing list and received mailing notifications of a conservative meeting, Doctor.

A. Okay. I don't remember the dates or times.

Q. You said that there were several times and I'm trying to find out within the past six months if you were ever on a mailing list.

A. I thought the question was about the spring of '77.

Q. It got back to that simply because we went back in the normal progression to try to find out dates as to when you were on the list.

A. I was trying to remember.

Q. All right. And so, if I start over again, maybe I'll get another answer. In the past six months, have you been on a mailing list for a conservative meeting?

A. I don't remember.

Q. Can you tell us when you do remember being on a list?

MR. ROST: I object to that. He wouldn't know whether he was on a list or not.

MR. LISTROM: Answer the question, Doctor.

MR. ROST: And it's outside the scope and the

knowledge of the witness.

A. I need the question again.

MR. LISTROM: I will repeat the question. Can you tell us, that you have knowledge of, that you received the last mailing of a meeting of the conservatives?

A. No. I don't remember.

Q. (By Mr. Listrom) You can't tell us--(interrupted)

A. I don't remember.

Q. (Continuing)--can't tell us the year even?

A. I don't remember.

Q. I said: You can't even tell us the year, can you, that you last received a mailing for a conservative meeting? Is that your testimony?

A. My testimony is that I cannot tell you the year that I last received an invitation.

Q. That's fine. Who would the mail come from?

A. From whoever was holding the meeting I guess.

Q. Are these meetings--do the memberships or the names of the people that notice is given to come from people that are registered with the American Party, or is it some other list?

A. I don't know. I don't know how the invitations are sent out.

Q. Who sent out the invitations when you had them at your house?

A. Okay. I invited over the people that I knew.

Q. Who, for example?

A. Mike Martin who lives right across the lake.

Q. Who else?

A. I don't really remember when we held the meeting.

Q. I didn't ask you that. Who was present?

A. I don't remember who was present.

Q. You've had how many meetings in your home of conservatives?

A. I don't know.

Q. Well, it's more than one, isn't it?

A. I'm sure we have.

Q. More than six, haven't you?

A. In what timeframe?

Q. In any timeframe.

A. Our lifetime?

Q. Yes, sir, in Topeka?

A. Oh, in Topeka? I don't know. We may not have.

Q. And you can only name one person that you've invited to your home to a conservative meeting and that's Mike Martin? Is that your answer to my question, Doctor?

A. That's the only one I can remember.

Q. The only one you can think of?

A. Yeah.

Q. Do you have a record anywhere at home of those who attended?

A. No.

Q. What would be the largest number of people that would have been in your home to attend one of these meetings?

A. I don't remember.

Q. Well, what's your best judgment?

A. I really don't remember.

Q. What's your best judgment? I realize you don't remember. What's your best judgment, six, a dozen?

A. I really can't remember any meetings that we held right now.

Q. You have held meetings in your home, haven't you?

A. Yes, we have.

Q. Let's take the one that you remember Mike Martin attending.

A. I remember him--inviting him.

Q. Do you remember whether he attended?

A. No.

Q. Do you remember anybody that attended?

A. No.

Q. Do you remember whether anybody attended?

A. We've had a couple of those meetings. No.

Q. You don't remember?

A. No.

Q. So, you can't say you had a meeting of conservatives in your house, can you?

A. You mean because I can't remember how many came?

Q. You can't remember whether you ever held a meeting of conservatives in your house, can you?

A. I'm sure I have.

Q. You called one, but you can't ever remember anybody attending?

A. Right now, I don't remember.

Q. You can't remember anybody?

A. A specific meeting?

Q. Well, or at any meeting? You can't remember who attended?

Is that your testimony to this Court and jury?

A. That's right.

Q. All right. How did you know who to invite?

A. I think I probably invited people who I knew that would be interested in that issue.

Q. All right. Who did you know that was interested in any issue at that time besides Mike Martin?

A. I suppose everybody I knew that was interested.

Q. All right. Who are some of those people? That's my question, Doctor.

A. I don't remember.

Q. You don't remember any of them?

A. No.

Q. How many different people would you be talking about, Doctor?

A. I don't know.

Q. As many as a dozen?

A. I don't know.

Q. More or less than twenty?

A. I don't know that either.

Q. What's your best judgment?

A. My best judgment now? Is that the whole question?

Q. As to the number of people that would have been
interested or that might have been invited to your home.

A. I have no idea.

Q. Would it be more or less than ten?

A. I don't know.

Q. What's your judgment?

A. I have no judgment.

Q. Could it be more or less than twenty?

A. I have no judgment.

Q. Could it be as many as fifty?

A. I have no judgment.

Q. Could it be as many as a hundred?

A. I don't know.

Q. Could it be as many as five hundred?

A. I don't know.

Q. Could it be--then, what you're saying is you do not know,
but it could be as many as five hundred, is that correct?

A. Well, that strikes me as a little bit high.

Q. You think that's on the high side?

- A. I'm sure it was no five hundred.
- Q. Let's go to the low side. Would it be as many as ten people?
- A. I don't know.
- Q. What's your best judgment now?
- A. I have no idea.
- Q. Would it be as few as one person?
- A. I doubt it.
- Q. So, it would be more than one person, wouldn't it?
- A. I'm sure it would be.
- Q. Would it be fewer than five persons?
- A. I don't know.
- Q. Then, it could be as few as five or as many as five hundred, is that correct?
- A. I don't know.
- Q. That's your best judgment, somewhere in there?
- A. I have no judgment.
- Q. You have no judgment as to whether the list would be five people or five hundred, is that your testimony to this jury?
- A. I don't have a list.
- Q. Well, the names of the people that you would have invited to your home--(interrupted)
- A. I don't know.
- Q. (Continuing)--would be somewhere between five and five

hundred, is that your best judgment?

A. I have no--no judgment.

Q. That's your judgment? You have no judgment whether it was five or five hundred? Is that your testimony?

A. That's my testimony. I have no judgment.

Q. Okay. You have no judgment. All right. You have no names other than Mike Martin?

A. What do you mean by that?

Q. That you would have invited to your home to a conservative meeting.

A. You mean that I know of right now?

Q. That you know of period, now or ever. Is that your testimony?

A. I don't understand the question you're asking me now.

Q. Do you know anybody that would have been invited to a conservative meeting at your house besides Mike Martin?

A. I can't remember of any.

Q. I want names, Doctor.

A. I can't think of who it would be.

Q. You don't know anyone then, do you? You don't have any other names, do you?

A. For a fact, I do not. No.

Q. Well, you just have to answer the question, Doctor. It's very easy.

MR. ROST: He did. I object. It's argumentative.

He's answered the question over and over again.

MR. LISTROM: You don't remember the names of any people that you have invited to your house to conservative meetings at your house other than Mike Martin? Is that your testimony?

A. I think I pointed out--(interrupted)

Q. (By Mr. Listrom) You answer the question.

A. I invited Mike Martin. I do not even remember for sure whether or not he was there.

Q. I understand. That's the only name you can think of that you've invited to your house?

A. That's the only one I can think of.

Q. All right. You know there are others, but you can't think of them, is that correct?

A. I'm sure there have been. I really don't know for sure.

Q. Okay. Who designed Exhibit 1? I think you've testified you wrote the material in there except that is quoted from some other source, isn't that correct?

A. Uh-huh.

MR. ROST: You have to say yes or no.

A. Yes.

MR. LISTROM: Okay. Who designed it, the layout?

A. Now, you're actually talking about two things when you talk about design or layout.

Q. (By Mr. Listrom) Okay. Maybe I am. Let's talk about

design. Who designed it?

A. I designed it.

Q. Who laid it out?

A. My wife.

Q. Anybody else?

A. No.

Q. Now, we were talking about the assistance that you had in the preparation and dissemination of Exhibit 1, and you named Mr. Fatherly, is that correct? That is one individual, is that correct?

A. Yes.

Q. And what assistance did he provide?

A. You're talking about before it was mailed?

Q. Yes, sir.

A. I don't remember which job he had, but he had the job of pasting on stamps or pasting on address labels.

Q. What? I'm sorry.

A. Either pasting on stamps or pasting on address labels.

Q. Did he have anything else to do with either the preparation or dissemination of Exhibit 1 other than licking stamps or labels and putting them on the exhibit?

A. No, I don't believe he would have.

Q. And were you the one that asked him to put on the--lick the stamps and labels and put them on?

A. I must have, but I don't remember asking him.

Q. Did I ask you—I don't want to be repetitious, but how many things or copies of this were printed? How many did you order of Exhibit 1?

A. I ordered 25,000 to be printed.

Q. All right. And that is the quantity that is shown on Exhibit 2 of the invoice, is it not?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. You did order 25,000, did you not? You said that I think just a moment ago, is that correct?

A. Yes.

Q. All right. Was there more than one printing, in other words, where you ordered some one day and then another supplemental printing or anything like that or was it all in one batch?

A. It was all one order.

Q. Okay. And from the same place? In other words, you didn't order "x" number over here and then "x" number over here, it was one order at one place?

A. That's right.

Q. So, when you say 25,000, that's what you mean? You ordered once 25,000 and you got 25,000?

A. Yes, qualified.

Q. Okay. Qualified.

A. Any printer overruns a run. I assume that may be 5 percent overrun or underrun. I never did count them.

Q. Okay. But that is the amount that you ordered, 25,000?

A. Yes, that's right.

Q. Now, who else besides Mr. Fatherly and your wife assisted you either in the preparation or dissemination of Exhibit 1?

A. Mr. Fatherly brought some people from Leavenworth County.

Q. And who were those?

A. It seems like there was a family by the name of Humbelguard.

Q. Do you know how to spell that last name for the reporter?

A. I'm not sure, no. It would be like H-u-m-b-e-l-g-u-a-r-d.

Q. And that would be it in effect, wouldn't it?

A. Well, it sounds like it.

Q. All right. Now, you say--let me interrupt just a minute, please. Mr. Fatherly brought them from Leavenworth? You mean he brought them to Topeka?

A. Uh-huh.

Q. To your home?

A. No. We assembled in the counseling office.

Q. Okay. And that's at 629 Quincy?

1 A. Yes.

2 Q. And this family, you mean the husband and the wife? Is
3 that what you're referring to that he brought?

4 A. I believe both Mr. and Mrs. Humbelguard.

5 Q. Were they young people?

6 A. No, they are older people.

7 Q. And they went to your office and what did they do?

8 A. Either one or the other, they either put stamps on or
9 helped put labels on.

10 Q. The same thing that Fatherly was doing?

11 A. Uh-huh.

12 Q. All right. Did they do anything else?

13 A. There wasn't anything else to do.

14 Q. Okay. Well, they had to be mailed, didn't they?

15 A. I deposited them in the mail. I did that.

16 Q. You did all that?

17 A. Uh-huh.

18 Q. Now, did you also if anybody besides these people put the

19 stamps on the letters and the letters in any way

20 with the preparation and dissemination of Exhibit 1?

21 A. Mike Martin.

22 Q. What did he do?

23 A. I don't remember. One or the other or both, probably
24 both, through the course of the--(interrupted)

25 Q. Licking stamps and labels?

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A. Yeah.

Q. Is that all?

A. Yeah.

Q. Anybody else?

A. Well, his family would have been there, his wife--(interrupted)

Q. Mike? What does he do for a living?

A. (Continuing)--and his children.

Q. His wife? Did she go to your office?

A. Uh-huh.

Q. How old a man is Mike?

A. Thirty.

Q. Okay. His wife came and helped you then?

A. I think she did.

Q. Okay. Anybody else?

A. My wife helped.

Q. Okay. I think I have your wife down.

A. Mike's boys helped, three boys.

because I don't want you to overlook anyone that helped you either in the preparation or dissemination of Exhibit 1. So, take your time so that when I ask you if you have named everybody, you're sure that you've named everybody.

A. I want to keep track so I can be sure too.

Q. Yes.

A. Oh, John Davis.

Q. John Davis?

A. Davis.

Q. Where is his home? Is it Topeka?

A. Yeah, it's Topeka.

Q. Okay. And what does he do for a living?

A. I don't know.

Q. How did he happen to be in your office?

A. I invited him to come in.

Q. Well, you don't know anything about him?

A. Yes. I know something about him.

Q. What do you know about him?

A. I know he has a family.

Q. How did you happen to know him?

A. John is my second district chairman for the American Party.

Q. But you don't know what he does for a living?

A. I do not.

Q. What do you mean he is your second district chairman for the American Party? Do you hold some official office or position with the American Party?

A. Uh-huh.

Q. What is it?

A. State chairman.

Q. You are state chairman?

A. Uh-huh.

1 Q. How long have you been state chairman?

2 A. Since sometime in June.

3 Q. Were you elected or appointed?

4 A. Elected.

5 Q. And where were you elected?

6 A. Here in Topeka.

7 Q. And was that the annual convention of that party or--
(interrupted)

8 A. They have them semi-annually. This would have been the
9 state central committee meeting of the other side of
10 Kansas. *on the other side of*
11 *in the other district?*

12 Q. Okay. Prior to your being state chairman, did you hold
13 any office or position with the party?

14 A. No.

15 Q. And did you--you say you were elected by the state
16 committee?

17 A. Yes.

18 Q. How many people does that involve?

19 A. I assume there was 25 people there.

20 Q. Okay. And then, this John Layle is chairman of the
21 second district, congressional district? Do your
22 districts correspond with congressional districts?

23 A. Yes.

24 Q. So, he's second district chairman--(interrupted)

25 A. Yes.

- Q. (Continuing)--is that correct?
- A. That's right.
- Q. Okay. You say he lives in Topeka?
- A. Uh-huh.
- Q. But you don't know what he does?
- A. No.
- Q. And he came to your office?
- A. Yes.
- Q. Where does he live?
- A. John lives out there on the road on the other side of Lake Shawnee. Is that 47th Street?
- Q. Okay.
- A. It's out in the country.
- Q. Has he ever been to any of these conservative meetings that you have been to?
- A. I can remember being at John's once.
- Q. John's house?
- A. Uh-huh.
- Q. For a conservative meeting?
- A. But that's when I was a coordinator I'm sure.
- Q. Is there any correlation between the John Birch Society and the conservative meetings at all?
- A. As I said before, some of them are Birch meetings.
- Q. Well, as a matter of fact, aren't those people who
-

A. I don't know.

Q. I know you don't know. I'm just asking your judgment. Is it your understanding that most of the people there are?

A. I have no judgment.

Q. You have no judgment? All right. I agree with that. Who else now besides those that you named--(interrupted)

MR. ROST: I object to that and ask that it be stricken. Counsel is not testifying.

MR. LISTROM: (Continuing)--assisted you in the preparation or dissemination of Exhibit 1?

A. Mary Davis.

Q. (By Mr. Listrom) John's wife?

A. Yes.

Q. Is she a housewife or is she employed or do you know?

A. I don't know.

Q. All right. Anybody else?

A. I think their two daughters helped.

Q. And were the Davis' licking stamps and labels?

A. Uh-huh.

Q. All right.

MR. ROST: Yes?

A. Yes.

MR. LISTROM: Who else?

A. There was a young man by the name of Ed Garcia.

- Q. (By Mr. Listrom) Did you ask him to come help you?
- A. I don't remember asking him.
- Q. Do you know how he happened to be there? Did you know him?
- A. Yes, I know him. By the way, I know him, so he probably heard that.
- Q. What would he have heard?
- A. That I was having a work day.
- Q. A what?
- A. A work day.
- Q. What is a work day?
- A. A work day, that's when I've got some work that I need some help on.
- Q. Do you kind of put out the word?
- A. Uh-huh.
- Q. How do you do that?
- A. I just start talking to people and tell them that I've got a work day coming up.
- Q. Do you have those very often?
- A. No.
- Q. Huh?
- A. No.
- Q. So, if you said that you've got a work day--(interrupted)
- A. Yeah.
- Q. (Continuing)--they would know what you're talking about?

A. (Nodding affirmatively)

Q. So, you have them? You have to answer for the record, Doctor.

A. Yes.

Q. So, you have them every so often. Now, the people that come know what you're talking about, don't they?

A. Right.

Q. How often do you have work days?

A. That's the second one I can remember this year.

Q. What about last year?

A. I don't remember any from last year.

Q. You don't remember having any last year? How about the year before?

A. (Shaking head negatively)

MR. ROST: You have to answer yes or no.

A. I forget. Now, last year was 1977. 1976--I may have had one in '76.

MR. LISTROM: What are work days in conjunction with? What constitutes a work day or what do you mean by a work day?

A. Now, you're asking me in conjunction with or what constitutes them or--(interrupted)

Q. (By Mr. Listrom) Both.

A. The one in the spring was in conjunction with the mailing to several community churches in the area. I've forgotten

how many there were.

Q. And what was that mailing about?

A. I'm sorry. I didn't hear you.

Q. I say: What was that mailing about?

A. A program that I was helping conduct called Pastor Clinic.

Q. All right. And what other work days have you had in the past and what was the objective and the purpose of it?

A. I can't remember for sure whether or not I had one in '76. There was a radio broadcast by the Socialist Party or something, I forget, that I heard on the radio and I called WIBW and secured some time to answer those broadcasts. And this work day would have been to prepare mailings to try to get people educated on the issue and to raise some support for the radio program.

Q. Did you have some mailing in connection with that in 1976?

A. Yes.

Q. Who paid for that mailing?

A. I did.

Q. You remember how much was involved?

A. No, I don't.

Q. Approximately?

A. I don't even approximately.

Q. As much as \$1,000?

A. I don't remember.

- Q. As much as \$2,000?
- A. I don't remember.
- Q. What is your best judgment? Was it more or less than \$5,000?
- A. Less than \$5,000, I believe.
- Q. More or less than \$2,500?
- A. (No response)
- Q. Now, bear in mind that I'm asking only for your best judgment, Doctor. You don't have to be specific.
- A. I have no judgment.
- Q. So, you think it was less than 5,000, do you?
- A. I'm sure it was less than 5,000.
- Q. But you can't tell me whether it was more or less than 2,500, is that correct?
- A. I have no judgment in the matter.
- Q. And you stood that entire expense?
- A. No.
- Q. Oh, I'm sorry. I thought you said you did. Who did?
- A. Okay. I had some contributions come in. I don't remember, but maybe \$100 of contributions come in.
- Q. Maybe \$100?
- A. Uh-huh.
- Q. No more?
- A. I'm not saying there wasn't any more, give or take a little bit. I took that clear off the top of my head,

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but I don't remember.

Q. Do you have any records?

A. No.

Q. Why not?

A. Those records have been destroyed. I don't know.

Q. Well, do you know whether you have any or not?

A. I do not know.

Q. You don't know, do you?

A. No.

Q. Now, that was the mailing in '76, you say?

A. Uh-huh.

Q. Did you have just one mailing in '76?

A. I don't remember.

Q. You don't remember whether you had any more or not?

A. Huh-uh.

Q. How about '77?

A. '77? I just don't remember.

Q. You can't tell us whether you conducted a mailing in the past twelve months, Doctor?

A. I thought you were asking about 1977.

Q. Well, the last twelve or fifteen months. You can't tell us any time in '77? You can't tell us?

A. Now, are you talking about the past twelve months or are you talking about 1977?

Q. Let's take 1977.

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- A. I don't remember whether or not I made a mailing in 1977.
- Q. How about 1978?
- A. Only two that I remember.
- Q. Two in '78?
- A. Uh-huh.
- Q. Okay. Who else besides the people that you've already named--the last one you named was Ed Garcia--did you have help you?
- A. It seemed like there might have been some young people with him, but I don't remember who they were.
- Q. Would you have known their names at the time?
- A. I didn't know everybody that was there that day. I probably would have known who was with Ed.
- Q. Okay. Who was with Ed?
- A. I don't remember.
- Q. I thought you said you would know. You mean you would have known at the time?
- A. Yeah, you know, the crowd that ran around with Ed. He's one of my Bible college students.
- Q. Okay. But you can't remember the names now?
- A. I don't remember which of the other Bible college students would have been with him.
- Q. Anybody else?
- A. A lady by the name of Tola Ross I believe was there that day.

- Q. How do you spell her name?
- A. T-o-l-a.
- Q. Where did she live, what city?
- A. She lives in Topeka.
- Q. Do you know what address?
- A. No.
- Q. Did you know her prior to her coming to your office?
- A. Yes.
- Q. Is she a housewife or is she employed?
- A. I think she's retired.
- Q. From what?
- A. When I first met her, I believe she owned the Baskin-Robbins Ice Cream Store in Lawrence.
- Q. Again, you do not know what she's done since then?
- A. I get the idea that maybe she's retired.
- Q. Is she registered with the conservative party or the American Party?
- A. I'm sure she is.
- Q. Does she come to any of these conservative meetings that you've attended?
- A. I don't--well, it seems like I saw her at that meeting that Dr. McDonald spoke at.
- Q. Has she been in your home at conservative meetings?
- A. No, I don't think so.
- Q. Or you in hers?

A. No. I don't even know where she lives.

Q. How did she happen to come to your office and help you?

A. I don't know. The record shows that he

Q. You don't know?

A. I really don't. The record should show also that he

Q. When--did I ask you what the date was that these people came to your office?

A. No.

Q. What was that date?

A. I'm not sure. I'll look at my calendar and try to give you an approximate date. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation--
(interrupted)

MR. ROST: Go ahead and answer. Go ahead and answer the question.

A. (Continuing)--and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

MR. LISTROM: Your attorney has told you to answer it.

MR. ROST: Go ahead and answer the approximate date.

A. The way I've been handling dates today, I don't know.

MR. ROST: Go ahead and give the approximate

date these people came to your office.

MR. LISTROM: Consult your calendar as you said you'd do, please. Let the record show that he's not looking at a calendar.

MR. ROST: The record should show also that he has previously looked at his records.

MR. LISTROM: Then, is he ready to answer the question?

MR. ROST: I think he is.

A. I'll look again. Being uncertain, I'm guessing that date would have been approximately July the 22nd.

MR. LISTROM: What day of the week was that, please?

A. It was on Saturday.

Q. (By Mr. Listrom) Does that help your recollection any, the fact that it was on Saturday?

A. No.

Q. It doesn't help you one way or the other?

A. Well, I don't want to miss a whole week like I did awhile ago looking at my calendar. Okay. I don't remember a lot of these things.

Q. Okay. Who else was present in your office for the purposes of assisting you in this publication besides those people you already named?

A. I do not remember the names of the rest of the people that

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came from Leavenworth County.

Q. You mean besides--there were some people besides Mr. and Mrs. Humbelguard and their family from Leavenworth?

A. Humbelguard?

Q. Or Humbelguard. Excuse me.

A. Oh, yes.

Q. Who?

A. I don't know.

Q. Did you answer the question when I was talking to him or are you still thinking?

MR. ROST: He answered the question.

MR. LISTROM: I'm sorry. I was talking.

MR. ROST: As I understand your question, it was whether there were other people and he said yes, there were other people, but he did not know their name.

MR. LISTROM: He said there were some others from Leavenworth, but you don't know the names, is that correct?

A. That's correct.

Q. (By Mr. Listrom) Have you ever seen them before to your knowledge?

A. I think I had met some of them at an American Party meeting in Leavenworth County.

Q. Okay. But you don't remember any of their names?

A. I do not.

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Q. Today?

A. I don't know their names.

Q. All right. Did Fatherly bring anybody with him?

A. That's who we're talking about.

Q. He brought the Humbelguards?

A. He must have brought them. I don't know. He may have had 20 people with him.

Q. How many people do you think that were there at the most that day helping you?

A. I don't think there was more than 30.

Q. Okay. And have you so far identified by name everybody that you can remember? I'll run back over the list.

You and your wife, Mr. Fatherly, Mr. and Mrs. Humbelguard, John Davis, Mary Davis, Ed Garcia, Tola Ross. Anybody else by name either first or last name?

MR. ROST: Any further names? Any of the children if some of them were there?

Q. Yes, that were there. Whatever children that were there, but anybody else by name? Maybe this would be a good time to break for lunch. He can think about it, and we can be sure that he has searched his mind and gotten everybody that he can possibly think of. Is that okay?

MR. ROST: I think it might be well to go ahead and finish this question first.

MR. LISTROM: If he's ready to finish the

question, I'm ready.

A. Okay. I do not remember anybody else.

Q. (By Mr. Listrom) This isn't the question, but maybe you've already answered it, but have you identified by name everybody that you can identify--in your memory can identify that was at that meeting that you were talking about, your work day?

A. Okay. You're saying that I remember?

Q. Yes, sir.

A. I do not remember who else was there.

Q. All right. You wouldn't have a record of any of the people being there, would you, by name?

A. No.

Q. You stated--strike that. How were these put in the mail? Were they folded up something like this or stapled together or sealed together some way, or how were they? Can you show me?

A. They were folded as you have folded this one.

Q. Okay. So that when they were folded in quarters? In other words, what I'm saying is they were folded once in half and then another time so that the address labels were on one side, correct?

A. That's correct.

Q. And the quote from Dante or somebody else was on the back side?

A. That's correct, Dante. you stated you mailed all of them.

Q. Then, they were sealed together in some manner by staple or a seal?

A. No.

Q. They just went out so that when you would open it up, you would open it up like I'm opening this one all the way? Is that the way they were mailed?

A. They were mailed--they were mailed shut without being stapled or sealed, yes.

Q. They weren't sealed in any way?

A. That's right.

Q. You didn't have to break open or tear loose anything to open them up and be able to read the whole document, is that correct?

A. That's correct.

Q. Were they hand folded or was that done by machine?

A. This was done by machine.

Q. So that when you got them and put the stamps and addresses on them, they were in the same form that they were in when they were mailed out? You didn't have to do anything in that regard, is that correct?

A. That's right.

Q. All you had to do is put the name seals on it and the stamps?

A. Address labels and the stamps.

- Q. Yes. Then, I believe you stated you mailed all of them, is that correct?
- A. That's correct.
- Q. Nobody assisted you in that?
- A. That's not correct.
- Q. Okay. What is correct?
- A. My wife and I mailed them.
- Q. All right. Anybody else?
- A. No.
- Q. Where did you mail them?
- A. Topeka, Kansas.
- Q. Did you take them all down here to the post office?
- A. To the sectional center.
- Q. Where?
- A. In North Topeka.
- Q. Are you sure of that, Doctor?
- A. Fairly sure of it.
- Q. Well, you know where you took them, don't you?
- A. I told you where I took them.
- Q. And that is the sectional center here in North Topeka?
- A. Yes.
- Q. Where is that located?
- A. I don't know.
- Q. Well, you went there, didn't you?
- A. Well, what do you mean? You mean the address?

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- Q. Yes.
- A. I don't know what the address is.
- Q. What street is it on?
- A. I don't know what street it's on.
- Q. Do you know how to get there?
- A. Yes.
- Q. How do you get there? Tell me how you get there.
- A.. You go out to Topeka Boulevard to Highway 24 East. Well, the first streetlight, you turn north which would be left and you go the equivalent of three blocks and on the right-hand side of the road--on the east side of the road would be the sectional center.
- Q. It's on Highway 24?
- A. I believe I gave the direction that from Highway 24, I turned left and went three blocks north off of Highway 24.
- Q. All right. And why did you take them there?
- A. That's my understanding of where the post office wanted them.
- Q. Did you find out from somebody down there where to take them?
- A. Uh-huh.
- Q. You called the post office and asked them?
- A. Uh-huh.
- Q. What was the cost of mailing all of those brochures?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Were any of these mailed from any other city other than Topeka?

A. No.

Q. None?

A. Well, are you asking me if I mailed any others?

Q. You mailed them all didn't you testify a moment ago?

A. I mailed all of them that were mailed and stamped with that stamp that you see on the corner there--(interrupted)

Q. All right.

A. (Continuing)--all of them that I mailed. I mailed all that got mailed with that kind of stamp on it at the North Topeka sectional.

Q. What kind of stamp is it?

A. It was a 7.7 cent precanceled postage stamp.

Q. Well, what does it look like?

A. I don't know.

Q. Well, you saw them?

A. I don't remember.

Q. Well, is it a tear away stamp or does it just look like first class postage?

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A. Yes.

Q. And comes on a roll?

A. Yes.

Q. And you got those rolls, didn't you?

A. Yes.

Q. And where did you get them, at the post office?

A. Yes.

Q. All right. Did they all, to your knowledge, bear cancellation of the Topeka, Kansas, post office?

A. No.

Q. Did they bear some other city?

A. Yes.

Q. What?

A. Some of them had the Kansas City--I don't remember now, Kansas City, Missouri. Kansas City, Missouri.

Q. Do you know why or how that came about?

A. Yes.

Q. How?

A. The last time I got precanceled stamps in Topeka, I had to wait days for them.

Q. You had to wait?

A. I had to wait days--(interrupted)

Q. All right.

A. (Continuing)--for them, because they didn't have enough. They didn't have them ready.

Q. Okay.

A. I had to turn in an order for them and it took days before I got them.

Q. All right. So, what's that got to do with this?

A. So, I went over to Kansas City and got a few.

Q. You bought some in Kansas City then?

A. Kansas City, Missouri.

Q. All right. Did you have that done?

A. Because they had them ready to go. In place the first of

Q. All right. Did you purchase those in Kansas City?

A. Yes. You have that on a calendar year had it?

Q. You don't remember how many you got in Kansas City, Missouri, and how many you got here?

A. I don't know. 1940-1941

Q. Did you get them any other place other than those two places?

A. No. 1942-1943

Q. Okay. Well, it's after 12:00. Let's break to 1:30.

(THEREUPON, at the hour of 12:08 o'clock P.M. the luncheon recess was had until the hour of 1:30 o'clock P.M., whereupon all parties appearing as before, the further testimony was had:)

MR. LISTROM: How were these Exhibit Ones--did they go out all at bulk rate, Doctor?

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A. Yes.

Q. Some bulk permit?

A. Yes.

Q. All right. And whose permit was it?

A. My permit.

Q. In your name?

A. In my name.

Q. How long have you had that permit?

A. Well, they are annual, so it would be since the first of the year.

Q. And do you have that on a calendar year basis?

A. Yeah. They are issued on a calendar year basis on that, yeah.

Q. Did you have one in 1966--1977?

A. I don't remember whether I did.

Q. Explain to me what, if you know, what are the requirements to get a bulk mailing permit?

MR. ROST: I object to that as irrelevant and immaterial. Go ahead and answer.

A. Okay. There is an application you fill out for it and there's a fee. I even forget what the fee is. I think it's \$45 or something.

MR. LISTROM: A year?

A. Right.

Q. (By Mr. Listrom) And then you are given a number, assigned

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some kind of a bulk rate number, do you know?

A. I don't think so. I mean maybe, but--(interrupted)

Q. You're not sure?

A. Right.

Q. Then, you get a rate for any mailings that you want to make, is that correct?

A. Yes, there's a special rate.

Q. And what is the rate currently?

A. Currently, I believe it's 8.4 cents.

Q. Do you know what it was in July, 1978?

A. I think it was the same, 8.4 cents.

Q. And then to mail under that permit number, if you want to make a bulk mailing--well, in disseminating and mailing out Exhibit 1, did you have to have that bulk permit to get the stamps that you put on these exhibits which were mailed?

A. Yes.

Q. And because you have that permit number, you get the stamps at whatever that rate is, is that correct?

A. I think there's a separate permit to be able to purchase precanceled stamps.

Q. A separate permit?

A. I believe so.

Q. How do you get that?

A. By just application. I don't even believe there's a fee

for it.

- Q. Did you make application?
- A. Yes. I believe I did.
- Q. What does that accomplish, precanceled stamps? What does that accomplish?
- A. I'm sorry. What does what?
- Q. The latter permit that you're talking about, what does it accomplish?
- A. It gives me permission to attach a precanceled stamp to my bulk rate mailing.
- Q. Is there any savings that way? In other words, without that precanceled stamp, would you have had to have mailed these exhibits at the same rate?
- A. At the same rate, yes.
- Q. What would have been the difference if you wouldn't have had precanceled stamps?
- A. Now, you had to have a permit to imprint the form of a stamp, imprint the information in place of a stamp.
- Q. Well, if you wanted to mail under a bulk mailing permit that you had, the stamps would cost at that time 8.4 cents, wouldn't they?
- A. If I'm going to do what now?
- Q. Under your permit, your bulk mailing permit?
- A. Yes.
- Q. And it would cost the same when you get precanceled stamps,

does it not?

- A. Well, the postage is the same. The precanceled permit, I don't believe there's a charge for it, but there's a charge for the--for the right to imprint the information rather than put on the stamps.
- Q. What is the purpose or the advantage of it?
- A. You mean why the post office does it that way?
- Q. What is the purpose in having precanceled stamps?
- A. I just told you. It cost more.
- Q. What?
- A. It's my understanding that the permit not to use a postage stamp costs. The permit to use a precanceled stamp does not cost.
- Q. What is the difference in cost on a mailing?
- A. Now, the postage is the same. It's the price of the permit that's different.
- Q. Well, you had a bulk permit. You've paid for it and that was forty-five and some odd dollars a year.
- A. Okay.
- Q. If you wanted to mail under the bulk permit Exhibit 1, what would you do?
- A. If I'm going to use precanceled stamps?
- Q. No, if you're not going to use precanceled stamps.
- A. Then, I have to get a permit to imprint in place of the stamp.

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Q. You can't put a stamp on it? Is that what you're telling me?

A. I can either use precanceled stamps. We're not talking about that. Or I can have the printer print on there at the time he prints the material the information required by the post office in a box up there.

Q. Which is?

A. I don't know. I don't have that one, because that one costs--that permit costs and this one does not.

Q. Okay. When you got the permit, did you have to make any representations as to what it was to be used for?

A. No.

Q. They didn't ask you any such questions as that?

A. I don't know.

Q. There are no qualifying questions then in order to get that permit, is that correct?

A. None that I know of.

Q. All right. Did I ask you when you mailed these Exhibit Ones? If not, would you tell me?

A. I don't remember whether we've discussed that already or not.

Q. When did you mail them?

A. It was the Tuesday before the election I believe.

Q. A week before the election?

A. Yes.

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- Q. That would have been the last Tuesday in July?
- A. Yes.
- Q. Why did you pick that day to mail them?
- A. I believe I made some reference in the material to voting next Tuesday or the election next Tuesday. It would have been out of place to have put them in the mail. At the time they would have been received, somebody might have gotten ahold of them on the Tuesday before election.
- Q. What do you mean?
- A. If somebody had received them in the mail and it was Tuesday before election, then this appeal for something about the election Tuesday would have been in error.
- Q. Okay. Did you mail all of the 25,000 that you had printed if that was the amount that was delivered to you?
- A. No.
- Q. How many did you mail?
- A. Approximately 22,000. I don't have the exact figure.
- Q. There was about 3,000 left that you did not mail, is that correct?
- A. That would be correct.
- Q. What happened to those?
- A. Oh, I have several scattered around here and there.
- Q. All right. The 3,000--I don't care about several, where are the 3,000?

- A. Well, I guess they would be somewhere laying around.
- Q. Where is that? That's my question. Where?
- A. Well, I've got a couple of boxes of them at my counseling office.
- Q. How many in a box? you said some of them to, did you
- A. I don't know.
- Q. How many boxes did you get?
- A. I don't know how many boxes there were.
- Q. Are you telling this jury you don't know how many are in a box? Is that what you don't remember? Is that what
- A. That's right.
- Q. Do you have all that you did not mail? in answering the
- A. I doubt it.
- Q. What happened to them?
- A. I believe some of the people helping mail took some of them with them.
- Q. For what purpose?
- A. I assume they handed them out. but you don't remember?
- Q. All right. How many did they take?
- A. I don't know.
- Q. Well, you were there. Did you give them some to take home to pass out?
- A. I didn't count them.
- Q. Did you give them some to take home and disseminate?
- A. No.

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Q. At various meetings?

A. Did I give them permission to take them?

Q. You told them they could take them and pass them out?

A. Uh-huh. Yes.

Q. As a matter of fact, you asked some of them to, did you not?

A. No.

Q. You did not ask anybody?

A. I do not remember asking anybody to take them.

Q. You could have, but you don't remember? Is that what you're telling us?

MR. ROST: I object. Counsel is answering the question that he asked.

MR. LISTROM: Well, you explain.

MR. ROST: I object to the form.

A. What was the question again?

MR. LISTROM: You could have asked somebody to take some and disseminate them, but you don't remember? Is that your testimony?

A. I don't remember.

Q. (By Mr. Listrom) You don't remember. All right. Did you give some to Mr. Fatherly to take home and distribute?

A. I don't remember giving any to anybody.

Q. Did he take any, to your knowledge?

MR. ROST: If you know.

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A. To my knowledge, he did.

MR. LISTROM: All right. And did the

Humbelguard family take some?

A. I do not know.

Q. (By Mr. Listrom) Davis?

A. I don't know.

Q. Garcia?

A. I don't know. I doubt it.

Q. Tola Ross?

A. I don't know.

Q. Now, you've had the noon hour to think about whether or not you would have had anybody else at your office on July 22, 1978, assisting you in preparing this document for mailing. Have you thought of anybody else over the noon hour?

No.

All right. Now, whose money was it that paid for the preparation of Exhibit 1?

Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

How many checking accounts were you authorized to write checks on in July of 1978, Doctor?

4. I'm getting ready to answer you. Probably six or seven.
- Q. Okay. Let's take each one of them either you owned or were authorized to draw checks on. Where is the first one?
- A. The first one would be Silver Lake.
- Q. The Silver Lake State Bank?
- A. That's right.
- Q. Whose account is that, the name?
- A. Christian Book Center of America.
- Q. That's your company?
- A. Yes.
- Q. Or venture? Are you the only one authorized to write checks on this account?
- A. No.
- Q. Who else?
- A. I'm sure my wife is.
- Q. Anybody else?
- A. Not to my knowledge.
- Q. All right. What is the next one?
- A. Merchants.
- Q. Here in Topeka?
- A. Uh-huh.
- Q. Do you have more than one account at Merchants?
- A. Yes.
- Q. All right. And in whose name?

A. Well, one of them is Dr. Sterling E. Lacy doing business as Civic Center Counseling Clinic.

Q. Well, let me hand you Exhibit 3 and refer you to the second page and ask you if those are or if that is the account you're referring to as evidenced by the photocopy of that check on that page?

MR. ROST: Answer that.

A. That's the account.

MR. LISTROM: All right. Who if anybody besides yourself is authorized to draw checks on that account?

A. My wife.

Q. (By Mr. Listrom) Anybody else?

A. None that I know of.

Q. Well, you'd know if anybody else was, wouldn't you?

A. (No response)

Q. Your lawyer isn't authorized, is he?

A. No, he's not.

Q. Okay. Now, you have another account at Merchants?

A. Yes. I have a personal account there.

Q. In whose name is that account?

A. That would be in the name of my wife and I.

Q. Now, backing up to the Silver Lake State Bank. What is the source of the deposits then into that account?

Is that from the sale or proceeds from the books that you sell that you've described earlier?

MR. ROST: Which bank are you talking about?

Wait a minute.

MR. LISTROM: Silver Lake State Bank. What are the source of deposits to that account, from the sale of books?

A. That is a source of deposits.

Q. (By Mr. Listrom) Are there other sources?

A. I sometimes do a mailing service for other people.

Q. Out of that account?

A. Yes.

Q. But that is not a deposit, that's where you draw a check out, isn't it? I'm talking about deposits.

A. Well--okay.

Q. Where does the income into this account come from?

A. Yeah. Primarily it comes from my business venture.

Q. From the sale of books?

A. Yes.

Q. No other business venture in there, is that right?

A. Oh, yeah.

Q. What?

A. Well, everything that I've done under the CBCA title I've deposited the funds in there.

Q. What do you do besides sell books?

MR. ROST: I object to that as irrelevant and immaterial.

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MR. LISTROM: On that account?

MR. ROST: I withdraw the objection.

1. I have a mailing service.

MR. LISTROM: A mailing service? We haven't talked about that business, have we?

2. It's part of my book service and my mail order business.

3. (By Mr. Listrom) What is your mail order business? What is that?

4. The book mail order business, CBCA.

5. Is there any other mailing order business besides the books that come out of that account?

Yeah.

What?

That's the account I've used for my Shaklee and Am-Way and Sea Forth distributorships.

So, you sell food supplements and you get deposits from selling those food supplements, Am-Way and so forth.

Do those deposits go into this Silver Lake account?

MR. ROST: I object to that as irrelevant and immaterial and is completely outside and has nothing to do with this particular lawsuit as to what his business enterprises are.

MR. LISTROM: That's what we hope to find out, about the enterprises. You may answer the question. What was the question?

Q. (By Mr. Listrom) Are you listening, Doctor, or not?

MR. ROST: Yes, he's listening. Don't get smart. Have the reporter read the question back.

MR. LISTROM: I'm not going to have the reporter go digging all that back. I'll rephrase it. Is the source of deposits to that account, does that include proceeds from the sale of food supplements and other home products that you sell?

A. It has, yes.

Q. (By Mr. Listrom) As well as books?

A. Yes.

Q. So, you're selling food supplements out of it, depositing receipts out of the account under the title of Christian Book Center of America, is that correct?

A. Yes.

Q. You can answer this yes or no. Is there any other deposits in there besides the sale of books and food supplements and Am-Way products and so on?

A. Yes. We put some of our personal money in that account.

Q. You're referring to your business as counseling?

A. Yes. I have done that too.

Q. Uh-huh. Anything else in that account?

A. You mean personal?

Q. I say: Is there anything else, any other sources of money in that account?

A. Whatever I do in the way of business enterprise, I use that account for.

Q. Well, personal money isn't a business enterprise.

MR. ROST: I object to that as being argumentative with the witness. He's already answered the question. He says he puts all his business through there.

MR. LISTROM: That's not all of the question. Go ahead and answer it. You put some personal money in there, don't you?

A. Uh-huh.

Q. (By Mr. Listrom) Do you deposit any kind of money, anybody else's money?

A. Anybody else's?

Q. Uh-huh.

A. I have never put anybody else's money in there but mine.

Q. What about your Civic Center Counseling checking account at Merchants National, is there any money that goes in there besides what you receive from counseling?

A. Uh-huh.

Q. What?

A. I sometimes put some of my product money in there.

Q. All right. Excuse me. Go ahead.

A. Or personal money.

Q. In your personal account at Merchants National Bank, do

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you sometimes deposit business receipts in that account?

A. I don't ever remember doing that.

Q. Now, what is the fourth account that you have?

A. There's an account at Merchants under the name of Pastor's Clinic.

Q. What's that?

A. That's a one-day seminar program that I helped conduct here in the Topeka area for ministers who want to sharpen their expertise in counseling.

Q. Do you sponsor or conduct the clinic?

A. Uh-huh. Yes.

Q. And what funds go into that account?

A. The receipts from the seminar.

Q. Is that all?

A. No. I'm sure I put some personal money into that venture.

Q. How about some of your other business ventures? Does some of that money get into that account too?

A. I don't think so.

Q. All right.

A. By the way, that account--well, go ahead.

Q. Who's authorized to sign on that account?

A. Dr. R. Don Strong I believe and I think he and I are the only ones authorized.

- Q. Your wife is not authorized on that? - is that account?
- A. I don't think so, but I don't remember for sure.
- Q. All right. What is the next account?
- A. Merchants National still or yet. I have an account, Citizens Opposed to Tax Funded Abortions.
- Q. Did you say that's at Merchants?
- A. Yes.
- Q. Who are the authorized signers on that?
- A. My wife and I would be on that one.
- Q. What is the source of revenue or deposits to that account?
- A. So far, our personal money.
- Q. How long has that account been opened?
- A. I'm not sure. It's been since the first of the year.
- Q. What is the purpose of that account?
- A. The account serves as a depository for the funds raised or contributed for the committee.
- Q. What committee?
- A. Citizens opposed to maybe the GM tax. It's a committee opposed to tax funded abortions.
- Q. Who constitutes the committee?
- A. My wife and I. I'm the treasurer.
- Q. What is she?
- A. She's Chairman.
- Q. There are just two members of the committee?
- A. Yes.

- Q. Has there been any contributions made to that account from people other than you and your wife?
- A. I don't believe so. I don't have a list to check.
- Q. Are you not sure?
- A. I'm not sure.
- Q. Have there been any checks drawn on that account?
- A. Again, I'm not sure. I don't think so, but I'm not sure.
- Q. You think there might be only deposits to that account?
- A. There's that possibility. I don't remember.
- Q. What are some of the sources of your personal income besides the sale of Am-Way products, Sea--(interrupted)
- A. Sea Forth.
- Q. (Continuing)--Sea Forth, your counseling, your books, the Pastor's Clinic--or, do you get paid for that?
- A. We try to make some money out of it.
- Q. And you get some revenue from the Highland Park Academy?
- A. The Christian Academy.
- Q. You get some money from The Church of 310 West Grant?
- A. 316 West Grant.
- Q. Or 316.
- A. Not usually.
- Q. All right. Any other sources of personal income that you have?
- A. I'm sorry. I wasn't keeping up on the whole list nor do I have a list to check off of, but I do not know that

we have covered everything. I don't know if you've

Q. Well, if we haven't, let's talk about it.

A. Okay. Well, I don't know. I don't have a list to compare that to.

Q. You do know what your sources of income are, don't you, Doctor?

A. Well, for instance, I told you about my speaking engagements.

Q. Okay. That's another one. Did you have the list?

A. You did not enumerate that. You got

Q. That's another one. I'm not saying that I have listed them all inclusive.

A. I don't have a list to compare it to.

Q. I don't either. That's the reason I'm asking you to tell me all of the sources.

A. All right. When we get through, I just want you to know that I've told you what I've remembered.

Q. That's all anybody expects you to do, but let's wait until we get through before you say that or are you through?

A. I don't know.

Q. All right. Then, let's get to talking. Are there some more?

A. I don't know. We've talked about a lot today.

Q. Well--(interrupted)

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A. You might have left some out. I don't know if you've left any others out.

Q. I don't know that I left any out, but you can answer as to any other source.

A. Well, you gave your list and you asked me to tell about all the sources of income.

Q. Yes.

A. All right. And I do not--I don't even have a list of what you said a minute ago when you gave the list.

Q. Let's start right now. You've got your clinic? You got that?

A. Uh-huh. You're right.

Q. And you've got the sales of books?

A. Uh-huh.

Q. You've got the sale of Am-Way?

A. Go ahead.

Q. Sea Porth or whatever it is, Highland Park Academy, The Church at 316 West Grant and whatever you get from speaking engagements?

A. Funerals and weddings.

Q. And funerals and weddings. Now, what else?

A. Are you talking about taxable income?

Q. For the time being, yes.

A. I don't know that list is all inclusive, but I cannot think of another source right now.

- Q. Have you received in 1978 any contributions?
- A. Have I received any contributions?
- Q. Yes, sir.
- A. Me, personally?
- Q. Well, let's start with that.
- A. Well--okay. Personal contributions?
- Q. Uh-huh.
- A. Are you talking about a gift?
- Q. A contribution.
- A. Okay. I'm not sure that I know what you mean by me personally.
- Q. Well, maybe I can help. Have you received any gifts?
- A. I have received gifts.
- Q. Who from?
- A. From whoever will give them to me.
- Q. Well, let's talk about some of them that have given you gifts, people that have given you gifts in 1978.
- A. I got one this week from a lady over in--and her husband, over in Leavenworth County.
- Q. How much?
- A. I think \$15. I've got it on my desk.
- Q. You haven't deposited that to an account?
- A. No.
- Q. And did that come to you in the form of a check?
- A. Yes, that one did.

Q. And did you understand that was for any particular purpose?

A. It was just marked belated birthday gift.

Q. And was it a birthday gift for you?

A. That's what it said on the check.

Q. On the check?

A. Well, it came with a birthday card.

Q. Okay. Any others?

A. I had some gifts as a result of a letter I wrote to Senator Hein.

Q. You have a list of those gifts?

A. No.

Q. Do you have a record of the gifts that you received in response to that mailing?

A. No.

Q. Where did those receipts go, what account?

MR. ROST: If any.

A. Well, they didn't--you mean checking account, a bank account?

MR. LISTROM: Yes, sir.

A. They didn't go into any checking or bank account.

Q. (By Mr. Listrom) Where did they go?

A. That I can remember.

Q. Where did they go?

A. Well, I cashed them.

- Q. Were the checks made payable to you? That's all.
- A. Yeah.
- Q. Where did you cash them?
- A. They were probably all cashed at Merchants.
- Q. And were they window transactions?
- A. Yes.
- Q. How many such checks would your best judgment be that you're talking about?
- A. I have no judgment.
- Q. Well, more or less than ten?
- A. I'm not sure.
- Q. What is your best judgment? I understand you're not sure.
- A. I have no judgment on it.
- Q. More or less than five?
- A. No.
- Q. More or less than one?
- A. No judgment on it.
- Q. No judgment. You don't know whether you had more than one?
- A. I can remember that one I told you about.
- Q. Well, I thought you said there were others.
- A. Right now, I don't remember.
- Q. You don't know whether you got more than that? That was a birthday present, wasn't it? I'm talking about receipts

in response to your mailing Exhibit 1. That's the question, if I understood your testimony right a moment ago.

A. Dick Fatherly might have been the only other one.

Q. Who?

A. Dick Fatherly. Now, I can't remember any other checks coming in in response to my mailing.

Q. Why did you say a moment ago that you had some in response to the mailing to Ron Hein? Why did you say that?

A. I didn't say in response. You said in response.

Q. Okay. Well, we'll stand on the record, Doctor. Did you or did you not have any contributions made to you as a result of the mailing?

A. As a result of the mailing, that's the only one I remember.

Q. That was Dick Fatherly?

A. Yes.

Q. And how much was that?

A. I don't remember. I think it was \$10.

Q. Now, that's not the \$15 birthday present we were talking about?

A. That's right.

Q. It's separate?

A. That's right.

Q. What did you do with that check, cash it at the bank?

- A. I don't remember, but I probably did. In Topeka and
- Q. And that's the only one you can remember now?
- A. Getting as a result of the mailing, yes.
- Q. Well, let's talk about those that you received after the mailing.
- A. That's what we're talking about.
- Q. Irrespective of whether it was in response to the mailing, what gifts did you receive from any other source since the mailing of Exhibit 1?
- A. I don't remember.
- Q. Well, is there any other source or are there any others?
- A. I don't remember whether there are or not.
- Q. You just don't know?
- A. I don't remember.
- Q. If there would have been, what would you have done with them?
- A. I would have cashed them.
- Q. Instead of depositing them?
- A. Probably.
- Q. Would you have cashed them at Merchants?
- A. Probably. I don't remember for sure.
- Q. You wouldn't drive out to the Silver Lake bank to cash a check, would you?
- A. You're right. I have never driven to Silver Lake to cash a check.

Q. It would have been easier to do it here in Topeka and that would be Merchants, wouldn't it?

A. It probably would be.

Q. Well, can you give me any other place where you would cash a check in Topeka?

A. No. I can't think of any others.

Q. And that is a simple answer to that, isn't it?

A. If I could remember for sure that I definitely did not cash his check anywhere--no.

Q. Did you have any other accounts at any other banks in the Topeka area other than Merchants?

A. Yes.

Q. Where? First, do you have any other accounts at Merchants that we haven't talked about?

A. Yes.

Q. Which one?

A. C-PAC '78. C-PAC '78 is a Conservative Political Action program in Kansas, 1978.

Q. Conservative Political Action in Kansas, 1978?

A. Right.

Q. Is that an organization or just a dummy account?

I don't mean that the way it sounds. I mean, is it an organization?

A. It is an organization.

Q. And who helped head up that organization?

- A. I am treasurer.
- Q. Who is chairman?
- A. Mike Martin.
- Q. Who?
- A. Mike Martin.
- Q. Now, what is the purpose of that committee?
- A. The purpose of that political action committee, that was formulated for the purpose of educating people on conservative issues in the election year.
- Q. And how many people are on the committee?
- A. Just the two.
- Q. Both of you are authorized to write checks?
- A. Yes.
- Q. Anybody else authorized?
- A. I don't believe so. I don't believe my wife is authorized on that account.
- Q. When was that committee formed?
- A. Since the first of the year. I don't remember the date.
- Q. Well, was it formed since June?
- A. No.
- Q. Before June?
- A. I'm sure it was before June.
- Q. And what was the most amount that that account had in it since it was opened?
- A. I think my biggest deposit was \$150.

Q: What was the most amount of money the account has had in it?

A: Well, that would be about--we run it at about zero.

Q: Has there been more than one deposit to that account?

A: I'm sure there has been.

Q: Anybody write any checks on that account?

A: Yes.

Q: And who has possession of the canceled checks and the deposits on that account?

A: I do.

Q: Will you bring those with you tomorrow afternoon?

No.

Why?

MR. ROST: It's irrelevant and immaterial and has nothing to do with this lawsuit.

MR. LISTROM: Are you refusing to produce them?

MR. ROST: Sure.

MR. LISTROM: Do you have in your possession and under your control the checking account for the account at the Merchants called Citizens Opposed to Tax Funded Abortions?

I think that's committee opposed to. It's committee rather than citizens.

(By Mr. Listrom) Do you have under your control and in

your possession canceled checks drawn on that account and deposits?

A. Yes.

Q. Will you bring those with you tomorrow at the completion of your deposition?

A. Sure.

Q. You will? And where are the checks you've written and the deposits you've placed in the Conservative Political Action Committee account?

MR. ROST: I may produce those for counsel. I would have to look at them. I don't know anything about them.

MR. LISTROM: I don't either. That's the reason I'm asking.

MR. ROST: It's a political committee and they are under the control of the committee, then if you want to look at the amount in the treasury, that's something else, but not all of them.

MR. LISTROM: Well, I would appreciate having them here.

MR. ROST: But not all of them.

MR. LISTROM: It doesn't make any difference. I'm asking you to produce them. You can tell me whether or not you will.

MR. ROST: I'm attempting to do that, but I will

look into it and if I don't see any reason why not, I'll throw it out and let you gander at them.

MR. LISTROM: Do you have any other accounts at Merchants National Bank?

A. I may have. I do not remember that I do have.

Q. (By Mr. Listrom) Do you have any other accounts at any other place?

A. You're asking that I write checks on?

Q. Yes, sir.

A. My wife has an account.

Q. No, no. That's not answering my question, Doctor.

You're not your wife.

MR. ROST: You asked, counselor. You're asking that he writes checks on. Let him answer the question.

MR. LISTROM: Well, go ahead.

A. Well, she has a personal account I'm sure that I co-signed.

Q. (By Mr. Listrom) It is not your account then, it's both of your account? All right. Where is that?

A. I believe that's at Highland Park.

Q. You think that's in her name or both of your names or do you know?

A. Well, only in her name on the checks. It's not a family account.

Q. You don't handle any deposits to that account or do you?

A. Well, I have.

- Q. Do you write checks on that account?
- A. I don't ever remember writing a check on it.
- Q. What other accounts?
- A. We have a personal account at the First National Bank.
- Q. In whose name?
- A. That's in both my wife's and my name.
- Q. Both your names on it? Is that what you said?
- A. I believe it does on the account. I'm sure it does on the checks.
- Q. And you are both authorized to write on it?
- A. Yes.
- Q. And I take it that some of your enterprise money goes into that account also.
- A. Right, just however often we decide to use it now.
- Q. All right. What other accounts?
- A. I have an account at Forbes Credit Union.
- Q. In whose name is that account?
- A. That would be both my wife and I.
- Q. Now, is that a savings account or a checking account?
- A. Now, I'm talking about a checking account at Forbes.
- Q. Okay. That's a personal account?

MR. ROST: That's the Forbes Credit Union.

- A. It's on the bank. It's an account.

MR. LISTROM: Is that bank at Lancaster?

- A. Yes.

Q. (By Mr. Listrom) And both you and your wife are Fifth authorized on that account? as Constitution and will not

A. Yes.

Q. All right. What others?

A. We've had others, but I believe they're closed out.

Q. Do you think you've told me all of them, at least told me all of them that you can think of?

A. I've told you all I can think of.

Q. I want you to refer to Exhibit 3, the second check from the top made payable to Carla's, \$58.63, is that correct?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Now, Doctor, that check is not written by you, is it?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Did you not sign that check as maker?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of

my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. I want to know the basis of this privilege. I'm not asking about a check you wrote.

MR. ROST: It's drawn on his account.

MR. LISTROM: It doesn't make any difference.

MR. ROST: It makes a substantial amount of difference.

MR. LISTROM: If he didn't write the check, he can identify something that somebody else has done. He can't claim any privilege because of it.

MR. ROST: He can claim the privilege because it is an attempt or could be an attempt to tie him with the investigation involved with the F.E.C., and you have in your petition--(interrupted)

MR. LISTROM: Is your wife's name Jean Lacy?
A. Her name is Wilma Jean Lacy.

Q. (By Mr. Listrom) Do you know her signature? Are you familiar with it?

A. Yes.

MR. ROST: You'll have to answer yes or no.

MR. LISTROM: You'll have to speak up. I didn't hear you.

A. Yes.

Q. (By Mr. Listrom) I'm going to refer you to a second check on Page 2 of Exhibit 3 and ask you: Is that your wife's signature on that check?

MR. BOST: You can answer that.

A. It appears to be.

MR. LISTROM: And she was an authorized signer on that account, was she not?

A. Yes.

Q. (By Mr. Listrom) Did you receive from anybody any gifts or donations to go towards the defraying of the cost of the preparation of Exhibit 1?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Did you receive any gifts or contributions to defray the cost of mailing Exhibit 1?

A. Because Senator Hein has reportedly asked the F.E.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. Were any of your funds used to either to--your personal funds or funds over which you had any control--used either

entirely or in part to defray the cost of Exhibit 1 or the mailing of Exhibit 1?

A. Because Senator Hein has reportedly asked the F.B.C. to investigate this situation, and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the United States Constitution and will not answer your question.

Q. With reference to Exhibit 1, who prepared or drew the picture of the little boy holding somebody's hand above the words "Don't forget your responsibility to him"?

MR. ROST: Answer that.

A. When you say prepare it, are you talking about who drew it?

MR. LISTROM: Yes.

A. I don't know who drew it.

Q. (By Mr. Listrom) Is that a clipping from some other publication?

A. It's a clipping from clip art.

Q. From what?

A. Clip art.

Q. What is clip art?

A. It's just something that you see and buy.

Q. Is the same thing true with regard to the lower left-hand corner of Exhibit 1?

A. Yes. It's clip art.

Q. Why did you put the picture of the little boy holding the man's hand in this brochure?

A. Primarily because we had space left over at the end of the column that needed to be filled.

Q. It's just fill-in?

A. Let me put it this way. If we had enough type, there wouldn't have been anything in either one of those slots.

Q. How old did you intend the little boy to be portrayed to the people who received this publication?

A. I didn't intend anything by it.

Q. As far as any age, you didn't have any age in mind?

A. No.

Q. Doctor, do you remember when Dr. Roy was a candidate for the United States Senate?

MR. ROST: I object to that as irrelevant and immaterial. Go ahead and answer.

A. He is now.

MR. LISTROM: Do you remember when he was before?

A. Yes.

Q. (By Mr. Listrom) Did you prepare and disseminate any literature for or against Dr. Roy in that campaign when he was running against Senator Dole?

A. Yes, I did.

Q. Do you have a copy of that brochure that you mailed out

in that campaign? A. Yes, I do.

A. Yes, I do.

Q. Would you bring it with you tomorrow at the completion of your deposition?

A. If I can find one, I will bring it.

Q. Who authored that publication?

MR. ROST: I object to that as being immaterial and irrelevant, but you can go ahead and answer.

A. Okay. I authored it.

MR. LISTROM: Did you have anybody assist you in the drafting of the literature contained in the brochure, the writings, or did you do it all yourself?

A. I did it myself.

Q. (By Mr. Listrom) You remember how many you mailed out in that campaign?

A. No, I don't.

MR. ROST: I want a continuing objection to this whole line of questioning as being irrelevant and immaterial to this lawsuit and this case.

MR. LISTROM: More than 25,000?

A. I believe so, but I do not know for a fact.

Q. (By Mr. Listrom) Was it not statewide, the dissemination?

A. I don't know what you mean by statewide.

Q. I mean the whole cotton-picking state.

A. It was statewide if that's what you mean.

MR. ROST: Counsel, we don't raise very much cotton in Kansas.

MR. LISTROM: You'd know about the cotton, wouldn't you?

A. You mean the whole state or all areas of the state?

I still don't understand what you mean by statewide.

Q. (By Mr. Listrom) All areas of the state in a general sense, all congressional districts.

A. There's a chance that I mailed into all congressional districts.

Q. There's a good chance, isn't there?

A. Oh, no.

Q. All right. Well, it was a substantial number of pieces of literature, wasn't it, well over 100,000?

A. No.

Q. What?

A. No.

Q. Less than that?

A. Oh, yes.

Q. How much less?

A. I believe my total printing order was 50,000.

Q. Okay. And you think that's about the total amount you had printed?

A. Printed, yes.

Q. You mailed some of them and hand delivered some?

A. That's right.

Q. Where were the--what funds were used to defray the cost of those brochures?

MR. ROST: I object to that as irrelevant and immaterial. Go ahead and answer.

A. I'm sorry. Would you repeat the question?

MR. LISTROM: What were the source of funds to defray the cost of the preparation and dissemination of that brochure in that campaign?

A. Because of the threats that have been made against me previously and the F.E.C. investigation on that particular mailing and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the U.S. Constitution and will not answer your question.

Q. (By Mr. Listrom) Did you pay any part of it?

A. Because of the request that has been made to the F.E.C. to investigate this situation and under the advisement of my attorney, I hereby exercise my right under the Fifth Amendment to the U.S. Constitution and will not answer your question.

Q. Did you mail any of it out?

MR. ROST: Mail any? Did he physically himself mail any of it?

MR. LISTROM: Any.

A. Yes.

MR. ROST: Go ahead and answer that one.

A. Yes.

MR. LISTROM: You did?

A. Yes.

Q. (By Mr. Listrom) Are you familiar with an organization called TRIM?

A. Yes.

Q. What is it?

A. TRIM is an educational committee designed to inform people on the voting records of their congressmen.

Q. Are you a member of have you been of that committee?

A. I am a member.

Q. Do you hold any office or is there such a thing as an office in it?

A. I don't know if there is such a thing and I don't hold an office.

Q. Is it an adjunct of the John Birch Society?

A. It's an ad hoc committee of the John Birch Society which prints all its material.

Q. John Birch furnishes all of the material for it?

A. I don't know that.

Q. You don't know that? It furnishes some material?

A. I'm not sure I know what you mean by all or some material.

Q. Well, what did you say the John Birch Society had to do with it?

A. It's an ad hoc committee of the John Birch Society.

Q. What does it do?

A. TRIM is an educational committee.

Q. What does it stand for, TRIM?

A. Tax Reform Immediately.

Q. Do you educate people or try to?

A. Uh-huh.

Q. Huh?

A. Yes, by distributing voting records of the incumbent congressmen.

Q. And how do you distribute it?

A. Personally.

Q. How does TRIM distribute it?

A. I don't know how TRIM does it except that which I participate in.

Q. And which part is that?

A. I have helped distribute to the people I know.

Q. How do you do that?

A. By mail sometimes.

Q. And how do you gather the information that goes into what you mail?

A. I just mail the TRIM bulletin.

Q. It's printed by TRIM and you mail it out to people you think are interested in it?

A. Yes.

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- Q. And where is the list of people that you mail that to?
- A. It's my creditors.
- Q. It's what?
- A. It's my creditors.
- Q. What do you mean your creditors?
- A. I just enclose it when I pay my bills.
- Q. That's the only ones you mail it to?
- A. That's the only ones I remember mailing to.
- Q. You haven't mailed it to anybody else?
- A. I don't remember mailing it to anybody else.
- Q. Do you have any costs in procuring those bulletins that you mail?
- A. Yes.
- Q. You do have?
- A. Yes.
- Q. What costs?
- A. I pay I believe--I have a standing order for 100 of them and I pay \$10 every time they issue for those 100.
- Q. How often do you reorder?
- A. I have never reordered.
- Q. Does TRIM have a board of directors?
- A. You're talking about the TRIM here in the second congressional district that I belong to?
- Q. The TRIM that you belong to.
- A. I don't believe so.

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Q. In any event, you're not a member of the board of directors?

A. I do not know that there is a board of directors.

Q. Well, you'd know if you were a member?

A. Yes.

Q. And you are not?

A. I am not a member nor is there a board of directors to my knowledge.

Q. When did you consult Dr. Fatherly before you prepared Exhibit 1?

A. Who?

Q. I said Dr. Richard Fatherly.

A. Excuse me. Before I did what?

Q. Before you prepared Exhibit 1.

A. Consulted him?

Q. Yes, sir.

MR. ROST: I object. It's been previously asked and answered.

MR. LISTROM: Well, he's having a problem answering.

MR. ROST: I don't know how you can say that.

A. Well, I'm wrestling with the word consult.

MR. LISTROM: Well then, the question hasn't been answered.

MR. ROST: Yes, it has.

MR. LISTROM: Go ahead and answer it.

A. I do not remember getting Mr. Fatherly's consultation.

Q. (By Mr. Listrom) Did you discuss it with him before you prepared it?

A. I do not remember discussing it with him.

Q. Could you have and simply don't remember?

A. That's true. I could have and simply don't remember.

Q. Could it have been his idea?

A. Hardly.

Q. Pardon?

A. Hardly.

MR. ROST: Answer yes or no.

A. No.

MR. LISTROM: He encouraged you in the preparation and dissemination of it, did he not?

A. He did not.

Q. (By Mr. Listrom) Did he discourage you?

A. He may have.

Q. Well, did he?

A. I do not recall.

Q. You don't know, don't remember?

A. I don't remember.

Q. Anybody else encourage you in the preparation and dissemination of Exhibit 1?

A. No. I didn't need any encouragement.

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Q. Did you get any advice from anybody before preparing and disseminating Exhibit 1?

A. Any advice from anybody?

Q. Yes, sir. Mills and Jerry Stephens, and later I disseminated

A. Yes. Jerry was an attorney. I can remember Jerry

Q. Who? Jerry Mills. I can remember Russell Mills and Jerry

A. You have Exhibit D there? Russell Mills and Jerry Stephens. I can remember Jerry Mills.

Q. Who are they?

A. Staff members of the Legislative Research Department at the Statehouse. That was all I found out, but that's

Q. And when did you first talk with either of them?

A. I do not remember the date.

Q. Do you have an approximate date?

A. I don't know.

Q. What was the purpose of you consulting with them?

A. To find out if I was properly interpreting the possible effects of House Bill 2313 and Senate Bill 310.

Q. What did you find out?

A. I found out I was right.

Q. And right about what?

A. That one possible effect of Senate Bill 310 would be to legalize homosexuality between consenting adults, because the present sodomy statute regarding consenting adults would have been repealed.

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Q. Did they tell you that was the effect?

A. Yes.

Q. Both of them told you that? (interrupted)

A. Russell Mills and Jerry Stephens, and later I discovered that Jerry was an attorney. I can remember Jerry confirming that. I cannot remember Russell Mills confirming that.

Q. And that confirmed your views, did it?

A. Yes.

Q. All right. What did you find out from either of them?

A. I do not know. That was not all I found out, but that's all I remember right now.

Q. Did you find out anything about House Bill 2313?

A. I've already mentioned that.

Q. Pardon?

A. I mentioned awhile ago that they confirmed my views about it.

Q. What are your views about House Bill 2313?

A. That it was designed to reduce the criminal penalty for possession of small amounts of marijuana.

Q. What amounts?

A. I don't know. I don't remember.

Q. Do you care?

A. Yes.

Q. But you don't remember what it was?

A. No.

Q. And in the preparation of Exhibit 1, you had hoped to convince the voters that Ron Hein was--(interrupted)

MR. ROST: I object to that as leading and suggestive.

MR. LISTROM: That's what cross examination is, counselor.

MR. ROST: You're not cross examining, you're direct examining.

MR. LISTROM: I most certainly am. You would hope to convince the voters in this congressional district that Ron Hein was in favor of marijuana or what?

A. I hoped to convince them that Mr. Hein had indicated legislative support for House Bill 2313, and I was counting on their moral awareness that that was not a good piece of legislation.

Q. (By Mr. Listrom) What made you think Ron Hein was in favor of House Bill 2313?

A. Primarily his seconding of the motion to report the bill favorably out of the committee hearing.

Q. Did you ever hear him speak in favor of the use of marijuana?

A. No.

Q. Or take a stand in favor of the use of marijuana?

A. No.

Q. You never talked to him about what his stand on marijuana was, did you?

A. No.

MR. ROST: I object to this as being repetitious.

MR. LISTROM: Did you attend the committee hearings at any of the committees with respect to this House Bill 2313?

A. No.

Q. (By Mr. Listrom) Did you talk to anybody that had before--(interrupted)

A. Yes.

Q. (Continuing)--before you prepared and disseminated Exhibit 1?

A. Yes.

Q. Who?

A. May I look at my committee hearings?

Q. Sure thing.

A. Dr. Nice.

Q. Doctor who?

A. Dr. Nice.

Q. Did you talk to Dr. Nice?

A. Yes. Isn't that what you just asked me?

Q. Yes. Did you talk to him?

A. Yes.

Q. About what?

A. About the marijuana issue in the State Senate committee.

Q. What did he tell you?

A. I don't remember now.

Q. You don't remember anything he told you?

A. I just remember that he was opposed. He spoke in opposition.

Q. But I said: Did you talk anybody that--(interrupted) had

MR. ROST: I'm going to object. Counselor has asked the question and the witness should be allowed to answer. He's attempting to answer.

MR. LISTROM: Are you through answering?

MR. ROST: Yes.

MR. LISTROM: Then, shut up and let me get on to the next one. My question was, did you talk to anybody about what Ron Hein had said or done in the committee that had before it House Bill 2313?

A. I believe it was sent to the committee on Federal and State Affairs March 17, '77, at which Senator Hein was present and at this time he expressed some views.

Q. My question was--(interrupted)

MR. ROST: Let him answer the question.

MR. LISTROM: My question--he doesn't understand my question. Did you talk to anybody who was at that committee meeting?

A. That's what I'm doing. I'm going through it.

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Q. (By Mr. Listrom) Okay. Answer the question. Either you did, Doctor, or you didn't.

MR. ROST: I object to the way you're harassing the witness. You've asked him three questions at the same time and he's trying to answer all three the same identical way, but you won't let him do that.

MR. LISTROM: Did you talk to anybody that had been at those committee hearings at which Senator Hein expressed his views?

A. Yes.

Q. (By Mr. Listrom) Who did you talk to?

A. I'm going through the list.

Q. Who did you talk to?

MR. ROST: He's answering it, counsel. Let him finish.

MR. LISTROM: Who did you talk to?

A. Okay. Dr. Nice.

Q. (By Mr. Listrom) All right. I asked you what Dr. Nice told you and you told me you didn't remember.

A. You're asking me exactly what words he said?

Q. About Senator Hein.

A. I don't remember the exact words he said about Senator Hein.

Q. Do you remember anything he said about Senator Hein?

A. Just an indication that Senator Hein--(interrupted)

Q. No, not an indication--(interrupted)

MR. ROST: Let him finish the answer.

MR. LISTROM: I don't want your interpretation.

I want to know what Dr. Nice said to you--(interrupted)

MR. ROST: I object--(interrupted)

MR. LISTROM: (Continuing)--about Senator Hein.

MR. ROST: (Continuing)--because counsel won't allow him to finish the answer.

MR. LISTROM: If he wants to respond to the question, I'll let him go ahead.

MR. ROST: He has responded.

MR. LISTROM: He's not answered it. I want him to answer it. What did Dr. Nice tell you about Senator Hein's stand?

A. I don't remember his exact words.

Q. (By Mr. Listrom) That's all I asked you. Who else did you talk to?

A. Dr. Voth.

Q. What did Dr. Voth tell you about Senator Hein?

A. I don't remember the exact words.

Q. Who else did you talk to?

A. Chief Howard.

Q. Of the Topeka Police Department?

A. Yes.

Q. What did he tell you?

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A. I do not remember his exact words.

Q. All right. Who else?

A. Bob Tilton.

Q. And what did he tell you?

A. I do not remember his exact words.

Who else?

Captain Ritchie.

What did he tell you?

A. I do not remember his exact words.

All right. Who else?

I believe that's all.

All right. Now, who else did you talk to?

MR. ROST: Wait a minute. I thought he said that was all. You ought to listen, counsel, you're hard of hearing.

MR. LISTROM: Oh shut up. You don't know what the hell you're doing. Go ahead.

Senator Ed Reilly.

(By Mr. Listrom) What did he tell you?

A. I do not remember his exact words.

When did you talk to Senator Reilly?

I don't remember.

What year was it?

It was this year.

Before or after June?

1. It might have been June. I don't remember.

2. Anybody else?

3. That was at the hearing?

4. Well, anybody that you talked to.

5. I do not believe so. I do not know for a fact that I
talked to anybody else that was in this hearing.

6. If you did, you don't remember it, is that correct?

7. I can confirm it in a minute. That is all.

8. Are you familiar with any arguments that Senator Hein
made or allegedly made in support of the decriminalization
of marijuana as a state senator?

9. Only his argument in support of House Bill 2313.

10. Well, that was his vote, was it not? What argument did
he make in support of the bill? Where are they? Would
you point them out to me please?

11. The first I see is on Page 19 of Exhibit K.
What about Page 7?

MR. ROST: Now, I'm going to object to that.

The witness has a right to answer the question and he said
it's 19. Let him finish his answer.

MR. LISTROM: Are you done with that answer?

Yes.

(By Mr. Listrom) You answered the question, didn't you?
Why don't you tell your lawyer to shut up and let me get
on to the next one? I refer you to Page 7. Is there

anything on there?

A. I don't see Page 7.

Q. All right. So, you're saying that Page 19 then--

(interrupted)

MR. ROST: Here's Page 7. I'm referring him to Page 7. That's Page 7.

MR. LISTROM: I tried to do that, but you wouldn't let me.

MR. ROST: That's not in his reference material there.

MR. LISTROM: Have you ever seen the comments on Page 7 that has just been handed to you by your lawyer prior to today?

A. Yes.

Q. (By Mr. Listrom) Okay. Is there anything on that page that you believe indicates an argument for or against decriminalization of marijuana?

A. No.

Q. All right. Let's go to Page 19. Is that the next page you mentioned?

A. The only page I have mentioned.

Q. Are there any others? Take your time.

A. Up to that point.

Q. Did you find any others or are you still looking?

A. I'm on 19.

79040133030

Q. Okay. Well, let's take Page 19. What is there in there that indicates to you that Mr. Hein is arguing in favor of something?

A. He's trying to make the point that the bill would do the same thing as the diversion program at Wichita and then asking somebody if they oppose the program at Wichita; that they would gather from that argument that if you don't approve of the Wichita program, why would you oppose the bill.

Q. Let me--are you done?

A. Yes.

Q. Let me ask you: Isn't everything, that is, every remark on Page 19 attributable to Senator Hein, a question being asked by Senator Hein?

A. Well, I see question marks at the end of each paragraph.

Q. Well, that's my point. Isn't everything he said on that page in the form of a question to somebody that is at that hearing? Can you answer that yes or no?

A. Well, if that last comment on Page 19 is a question, I feel like he makes a statement first and then comes back to the question that he above tried to get them to direct themselves to.

Q. Well, yes, and he says there--we're not talking about decriminalization here. We're talking about whether it should be Class B Felony and/or a penalty. So, let's just

use Class B felony. Then, his question is that if you take the position that buying that ingredient which is harmful to an individual, is that person using that ingredient, should he be subject to a fine of a Class B felony. That's the question, isn't it?

A. The last part of that paragraph is a question.

Q. In what part?

A. To answer your question about the entire Page 19, the answer is no.

Q. You don't find any argument, do you?

A. No. I'm saying no, they are not all questions.

Q. Well--all right. But where there is an argument by Senator Hein in favor of the decriminalization of marijuana on Page 19, the very point is that he's making by these two questions he asks, which is that if you are not against the Wichita decriminalization program, then why are you against this House Bill 2313. So you're saying by examination of these two questions, he advances an argument in favor of something? Is that your testimony?

A. Yes.

Q. Okay. Is there anything else in what you have before you which reflects statements or questions by Senator Hein, that the committee--that you contend constitutes an argument in favor of?

A. I do call your attention to Page 20, the next page.

19040133032

Q. Right.

A. Though, it wasn't the question, I see the basic argument of the people promoting the decriminalization of marijuana. We didn't make the same procedure applicable to tranquilizers and alcohol and cigarettes, and the point he's making is that he sees the law dealing with marijuana that doesn't deal with these other abuse drugs.

Q. It doesn't--well, it doesn't deal with alcohol, tranquilizers and cigarettes. Is that your point?

A. That he listed there.

Q. That is a fair comparison, is it not?

A. I'm not going to pass judgment. You asked me to cite examples where he--(interrupted)

Q. That was my previous question, Doctor, but it's not my current question. That is a fair comparison, is it not?

A. You're asking my opinion?

Q. Yes, is it fair?

A. No, I don't think so.

Q. You don't think there's any comparison between alcohol and cigarettes and tranquilizers that would relate in any way to marijuana?

A. Relate in any way?

Q. Uh-huh.

A. I'm not sure I agree with that.

Q. You don't agree with it then? Is that what you're saying?

A. Well, I'm not sure what you're leading to with your question.

Q. Do you agree with the question or the point that Senator Hein is making on Page 20 that the number one drug abuse problem in the country is tranquilizers, number one, and number two, probably alcohol and number three cigarettes?

A. I don't agree with the remarks that he's making.

Q. You don't agree with that statement?

A. I do not know that that statement is true. There's about an

Q. Do you know whether it is not true? ... of marijuana?

A. I don't know one way or the other. I disbelieve a part of it.

Q. What part do you believe? ... there is inconsistencies

A. About the cigarettes. ... and the law on cigarettes.

Q. You wouldn't quarrel with the fact that the number one problem is tranquilizers? ... ought to back off

A. I might.

Q. You don't agree with the fact that number two probably is alcohol? ... ought to back off? There's down

A. I might.

Q. You might what?

A. I might disagree.

Q. Well, do you or don't you?

A. I might. I don't know. I don't have the facts and figures.

- Q. But you don't know?
- A. Well, you're asking me an opinion. In favor of
- Q. All right. Let's say you're in favor of it, does he?
- A. I might put them the other way around.
- Q. Well, would you--(interrupted)
- A. I might see alcohol as the greater problem. Possibly I would have to look at the facts and figures and information.
- Q. All right. All right. But what is there here about an argument in favor of decriminalization of marijuana?
- A. The point I just made.
- Q. What?
- A. That this is the argument, that there is inconsistencies between the laws on marijuana and the law on cigarettes. For instance, it comes to mind where it shows the inconsistencies and that therefore we ought to back off on our laws on marijuana.
- Q. But that is your conclusion rather than his, isn't it, to say that we therefore ought to back off? Where does Senator Hein say that?
- A. I see that that's the point he's making.
- Q. That's your interpretation, isn't it?
- A. Yes, it is.
- Q. He doesn't say that? Does he?
- A. He doesn't need to.

Q. He doesn't need to, but he doesn't say to the public or anybody in that committee that he's in favor of decriminalization of marijuana, does he?

A. He's in favor? I do not find those words.

Q. Well, they're not there, are they--(interrupted)

A. Huh-uh, no.

Q. (Continuing)--where you can find he ever made that argument before any legislative body? Can you?

A. You mean that I have or can?

Q. Well, that you have found.

A. No. I've never found that statement.

Q. All right. In your brochure, Exhibit 1, you say that the records of the Federal and State Affairs Committee hearings on March 17 and 31, 1977, clearly show that Ron Hein's arguments and his votes were in favor of the decriminalization of marijuana, and you said that?

A. That's my interpretation of what we just went over.

Q. That's your interpretation, but you never did ask the man how he felt about it?

A. I didn't need to. It was on the record.

Q. That's on the record, isn't it?

A. Yes, it is.

Q. And he never did vote on the decriminalization of marijuana, did he?

A. He seconded a motion to.

Q. But he didn't vote on the bill, did he, on the floor of the Senate?

A. Let's look at the records again.

MR. ROST: It's probably time to quit unless you want this question answered. He could answer it tomorrow afternoon.

MR. LISTROM: As far as that goes, let's finish this question and then go.

A. All I need is the Senate journals. I need all the Senate journals.

MR. ROST: I think that answers the question.

A. On the substitute motion of Senator Hein, the committee recommended House Bill 2313 be referred to the Committee on Federal and State Affairs after Senator Angel had moved that the bill be stricken from the calendar.

MR. LISTROM: So?

A. The committee recommended the house bill, no. Okay. All this indicates is his position.

Q. (By Mr. Listrom) What was the vote that you said in the exhibit that he voted to decriminalize marijuana? What were you talking about?

A. I was talking about his vote on House Bill 2313.

Q. Did House Bill 2313 decriminalize marijuana?

A. That's what the heading is across it.

Q. Well, did it?

19040133037

A. Would it have? ... You don't even know

Q. Would it have? That's what I said. For the possession of

MR. ROST: I'll object to that as being argumentative.

MR. LISTROM: I'm just asking.

A. One of the proponents of the bill--(interrupted)

Q. (By Mr. Listrom) I'm talking about then. Ultimately, we can talk about the proponents if you want to, Doctor.

A. I believe one was Norvell.

Q. Norvell?

Q. Norvell.

Now, what are you holding up there, sir?

A heading by one proponent of the bill, decriminalization was the opening and at the end of it--(interrupted)

Read it into the record please.

House Bill 23 neither legalizes or decriminalizes marijuana.

And that is contrary to what you published, isn't it?

It says it neither legalizes nor decriminalizes?

Not in a common understanding.

What does the bill say about the penalties for possessing an ounce or less of marijuana, do you know?

I have read it.

What does it say?

I do not remember.

- Q. Well, you printed this brochure. You don't even know whether there's a criminal penalty for the possession of an ounce or less of marijuana in that bill?
- A. I read it and researched it at the time.
- Q. But you don't remember?
- A. Not right now, no.
- Q. And you're telling this Court and jury less than two months after this has been published that you don't even remember whether there is a penalty provision in that bill? Is that what you're telling us?
- A. I'm telling you I don't remember the contents of the bill.
- Q. You don't remember whether there was a penalty?
- A. I don't remember that about the bill.
- Q. And yet you accused Senator Hein of voting to decriminalize marijuana.
- A. Because I researched it and found that's what the bill meant.
- Q. I want you to refer to Section--House Bill 2313, Page 9, Section 4, Subsection No. 2. I want you to read that into the record right now. Read it out loud.
- A. Subsection 2?
- Q. Yes, sir.
- A. "Any person who violates this section--any person who violates this section when the amount of marijuana involved,"

less shall be deemed guilty of an unclassified misdemeanor punishable by a fine of not more than \$100," and the one hundred is written with a dollar sign, "except on conviction for a second or subsequent offense, such persons shall be deemed guilty of a Class A misdemeanor and a violation of any city ordinance or county resolution also would constitute a violation punishable by this paragraph, such ordinance or resolution violation would be punishable as prohibited--or, provided." I'm sorry. This paragraph?

- Q. You completed it. Does not that refresh your recollection about what House Bill 2313 was about what we were talking about with the marijuana?
- A. The public uses the term decriminalization.
- Q. I didn't ask you that. I asked you if it refreshes your recollection.

MR. ROST: Don't interrupt the witness. You asked the question. Let him answer it.

MR. LISTROM: He's going to respond to my question.

MR. ROST: He is responding to your question.

MR. LISTROM: Did that refresh your recollection as to what the provisions of the bill were?

- A. Not entirely.

19040133040

Q. (By Mr. Listrom) Well then, I want you to take all the time you need to refresh your recollection.

MR. ROST: We'll do that tomorrow.

MR. LISTROM: Notwithstanding that, Doctor, you printed and circulated among the voters of this district a brochure saying Mr. Hein voted to decriminalize marijuana, didn't you?

A. If that's what that says.

Q. (By Mr. Listrom) You wrote it, don't you know?

A. I'll need to look at it.

Q. You're not familiar without looking at it? You're not sure you accused him of that?

A. I didn't memorize it.

Q. But you're not sure that you accused him of voting--
(interrupted)

A. I did not have that memorized.

Q. I know you don't. You know what it says?

MR. ROST: Show him, counsel. Show him.

MR. LISTROM: I'm not going to show him. You can show him. If that's not a true statement--if that is the statement, it wasn't a true statement, was it?

A. That's the truth, what is in the letter.

Q. (By Mr. Listrom) That's the truth?

A. That's the truth.

Q. Well, then, I want you to read into the record--(interrupted)

MR. ROST: We were going to quit at 3:00 o'clock by your clock in the conference room, so-- (interrupted)

MR. LISTROM: I want you to read the first sentence in there where I've got my finger. Read it into the record.

MR. ROST: We agreed that we were going to stop here and we're going to stop now.

MR. LISTROM: Then, I'll ask him to read it into the record tomorrow.

(THEREUPON, at this time the evening recess is had, following which, on September 20, 1978, beginning at 1:30 o'clock P.M., the further proceedings are had, all parties present heretofore.)

MR. LISTROM: Mr. Lacy, were you given a copy of the notice to take your deposition in this case by your attorney?

A. No.

Q. You weren't?

A. No.

Q. How did you know what to bring with you?

A. I don't.

Q. Well, you brought Exhibits 1, 2 and 3. Why did you bring them?

Q. I didn't, because for the reason that it's irrelevant and

Q. You didn't? ... any of the issues

A. No.

Q. You've never seen a copy of your notice to take your deposition in this case?

A. Yes.

Q. You have seen it?

A. Yes.

Q. Do you have a copy of it?

10 A. No.

Q. But you have seen it?

A. Yes.

Q. All right. Do you have a copy of it there that you can have in front of you?

A. I don't. (Sings) Young Mr. Love, I

Q. Maybe your lawyer has got one. All right. I direct your attention to Item No. 1 on the first page. Do you see it?

A. Yes, sir.

Q. Were you requested to bring with you copies of any and all forms filed by you with the Federal Election Commission, Washington, D.C.? Do you see that?

A. Yes, sir.

Q. And have you complied with that request?

MR. ROST: I have instructed him not to comply

with the request for the reason that it's irrelevant and immaterial and has nothing to do with any of the issues in this lawsuit, as to malice, as to libel or as to slander and further--that's all right. That's fine.

MR. LISTROM: Now, you answer the question: Did you bring with you a copy of any and all forms filed by you with the Federal Election Commission in Washington, D.C.? I'm just asking if you brought them with you.

MR. ROST: Did you bring them with you?

A. No.

MR. LISTROM: Do you have any that you did not bring with you?

A. Yes.

Q. (By Mr. Listrom) Where are they?

MR. ROST: If you know.

A. I don't know.

MR. LISTROM: Pardon me?

A. I don't know.

Q. (By Mr. Listrom) Who did you give them to?

A. My attorney.

Q. When?

A. I'm not sure.

Q. Well, was it before or after the lawsuit was filed?

MR. ROST: I'll stipulate it was after.

79040133044

MR. LISTROM: Let him answer the question. I'm asking him questions, not you. Was it after the lawsuit was filed?

A. I cannot remember.

Q. (By Mr. Listrom) Was Mr. Rost your attorney prior to this lawsuit being filed?

A. Yes, sir.

Q. In other litigation?

A. No.

Q. Concerning your publication of Exhibit 1?

A. Yes, sir.

Q. You sought advice from him in conjunction with the publication? Well, tell me what advice or what you understand. I'm just asking if you did seek advice from Mr. Rost in the preparation of Exhibit 1.

MR. ROST: In other words, he's talking about this. Did you seek any advice before you published it or--(interrupted)

MR. LISTROM: I just mean in the preparation of it.

MR. ROST: Just in the preparation?

MR. LISTROM: Yeah.

A. No.

Q. (By Mr. Listrom) Did you seek advice prior to your dissemination of Exhibit 1 to the public or those people

19040133045

to whom you did disseminate it to? by the question.

A. No. I didn't disseminate it.

MR. ROST: From me you're referring to?

MR. LISTROM: Yes. Did you seek advice from anybody prior to the dissemination of Exhibit 1? the--

A. Yes, sir. I sought their advice, you asked

Q. (By Mr. Listrom) And who was that from? what was that?

A. The list I gave you yesterday.

Q. Well, who on that list advised you?

A. I sought advice from--(interrupted)

Q. Who?

A. All of those people that I listed on the list.

Q. Mr. Fatherly?

A. No, Bob Tilton, Chief Howard, Captain Ritchie, Dr. Nice, Dr. Voth. I do not remember all the names that I gave you yesterday.

Q. Did they advise you to mail or not to mail Exhibit 1?

A. No, sir.

Q. That wasn't the--well, when you say you sought their advice, you asked what went on at the committee hearing, isn't that what you're referring to?

A. You asked me if I saw anybody else.

Q. You answer my question.

MR. ROST: Now, he is.

MR. LISTROM: Answer my question. I don't want

you to tell me what I asked. Answer the question.

MR. ROST: He is answering it.

A. Ask it again.

MR. LISTROM: Read it back to him, that I had

THE REPORTER: "Question: That wasn't the--
well, when you say you sought their advice, you asked
what went on at the committee hearing, isn't that what
you're referring to?"

A. You want me to answer yes or no?

Q. (By Mr. Listrom) Uh-huh. Whichever is correct.

A. Well, neither is correct.

Q. Okay. What is correct?

A. Well, I can't ask you to clarify your question. I don't
know where we're going from here.

Q. You talked to Frank or Chief Howard, Bob Tilton. What
did you talk to them about?

A. The marijuana issue.

Q. All right. Is that what you meant when you said you got
advice from them in response to my question as to whom
you got advice from in the dissemination of Exhibit 1?
Is that what you meant?

A. Yes.

Q. All right. But you did not ask any of those people whether
or not you should or should not mail Exhibit 1, did you?

A. No.

19040133047

Q. You hesitated there. May I ask why? Federal Election

A. Yes.

Q. Why?

A. I made an effort to think of each man and what I had talked to them about so I could be accurate in answering.

Q. Any of those people you talked to that you identified yesterday, from none of them did you seek advice as to whether or not you should prepare Exhibit 1 or mail Exhibit 1 or circulate it, did you?

A. That's true.

Q. Now, did you seek advice or counsel from anybody as to whether you should or should not circulate or mail Exhibit 1 to anybody?

A. No. That was entirely my decision without consultation.

Q. I realize it was your decision, Doctor. I want to be sure that we're on the same wavelength, so listen carefully please. Did you seek or get, either one, advice from anybody or any group or any organization as to whether you should or should not, number one, prepare Exhibit 1, number two, disseminate it by mail or any other means?

A. No.

Q. All right.

A. No.

Q. Now, before we got off on that tangent, you said that you turned over some matters to your attorney which consists

19040133048

of forms that you had filed with the Federal Election Commission, is that correct?

A. I said that.

Q. And we were trying to establish when it was and you said you didn't know whether it was before or after the filing of the lawsuit, is that correct?

A. That's correct.

Q. And to your knowledge, does your attorney still have those?

A. To my knowledge, he does.

Q. We ask that you produce them at this time, Mr. Rost.

MR. ROST: I refuse to produce them because they are irrelevant and immaterial to the issues of this lawsuit and not germane in any way to the issues of libel, malice, libel, slander or any other form.

MR. LISTROM: But you do have them for the record?

MR. ROST: For the record, I do have them.

MR. LISTROM: All right. Now, Doctor, I refer you to Item No. 2 on the notice. You were requested to bring a copy of all bills, invoices, checks, check stubs, receipts or other documents indicating payment for typesetting, printing, mailing or other distribution of the publication which is the subject matter of this lawsuit. Did you read that?

9040133049

- A. Did I? Yes.
- Q. Just now as I was reading it to you?
- A. No, I did not.
- Q. Well, read it to yourself, will you please? Tell me when you're through.
- A. I'm through.
- Q. Have you complied with that request?
- A. May I explain what I've done? I gave this to my attorney and he has made copies. He brought them to the taking of the deposition.
- Q. Do Exhibit 2 and Exhibit 3 constitute all of the bills, invoices, checks, check stubs, receipts, or other documents indicating payment for typesetting, printing, mailing or other distribution of the publication which is the subject matter of this lawsuit? Look at them and see if they do.

MR. ROST: Read the question back.

THE REPORTER: "Question: Do Exhibit 2 and Exhibit 3 constitute all of the bills, invoices, checks, check stubs, receipts, or other documents indicating payment for typesetting, printing, mailing or other distribution of the publication which is the subject matter of this lawsuit? Look at them and see if they do."

A. No.

MR. LISTROM: Do you have in your possession or under your control the originals or copies of any other bills, invoices, checks, check stubs, receipts or other documents indicating payment for typesetting, printing, mailing or other distribution of the publication which is the subject matter of this lawsuit?

No.

In whose possession or control are they?

I do not know.

Describe the ones that we do not have?

I could not find what I believe to have been the first receipt for the address labels.

And to whom would payment have been made for that?

To, as I indicated on the check, the Shawnee County Election Commission.

Do Exhibits 2 and 3 contain the checks in payment of the labels that you do not have the receipts for?

Exhibit 3 does.

And would you point it out to me please?

Check No. 1603.

And the amount of \$70.24?

Yes, sir.

All right. Now, you don't have a receipt from the Shawnee County Election Commissioner's office for that payment, is that correct?

- A. That's what I said. I'm not interested in those pay
Q. Are there any others? Exhibit 1, by what
A. No, not to my knowledge.
Q. When you procured the postage for the mailing of
Exhibit 1, you purchased precanceled stamps from the
United States Post Office, did you not?

MR. ROST: I'm going to instruct him not to
answer that question based on the fact that it's
irrelevant and immaterial and is not an issue in this
case as to going to malice, slander or libel. It has
nothing germane to do with the lawsuit.

MR. LISTROM: That's not for you to make that
decision, counselor, and I might point out to--
(interrupted)

MR. ROST: You can certify it to the judge.

MR. LISTROM: One of the purposes of this line
of inquiry is to find out whether or not he has complied
with the notice to take his deposition and bring the
matters with him that we requested. He's testified--or,
this is a proper question to find out whether or not he
has done that. That's the reason I'm pursuing it.

MR. ROST: I have no objection for him to
answer a question as to the fact that did he receive any
other receipts for postage but not about postage receipts
which he has not produced or anything like that.

19040133052

MR. LISTROM: I'm not interested in those any more. How did you purchase postage for Exhibit 1, by what medium?

MR. ROST: I'll instruct him not to answer. It's irrelevant and immaterial.

MR. LISTROM: Let the record show that if we have to go over here to His Honor, Judge Bullock, to file a motion or write a brief and argue a motion to compel, we're going to ask for attorney's fees. I want the record to show that you know that at this point.

MR. ROST: I understand that, sir.

MR. THEIS: Maybe the record should also reflect at this time that our conveyance to counsel for the defendant that it is our understanding that one of the elements in a count of libel or slander is proof as to how much trouble and expense the individual went to to publish the libel or slander and therefore, it is in fact an element and proper discoverable information and that is upon the basis that we wanted it and we do believe the law will support that position and we suggest maybe counsel might want to reconsider his decision to have his client not answer and not provide the material.

MR. ROST: Not at this time.

MR. LISTROM: To your knowledge, did anybody besides you purchase the postage that was used to mail the

1904013305

copies of Exhibit 1?

MR. ROST: Wait a minute. Read the question back.

THE REPORTER: "Question: To your knowledge, did anybody besides you purchase the postage that was used to mail the copies of Exhibit 1?"

MR. ROST: Read it again.

THE REPORTER: "Question: To your knowledge, did anybody besides you purchase the postage that was used to mail the copies of Exhibit 1?"

MR. ROST: I'm going to instruct him to go ahead and answer that one. Answer that one.

A. No.

MR. LISTROM: You personally then purchased all of the postage from the United States Post Office or one of its subsidiaries in the mailing of the various copies of Exhibit 1 that were mailed?

A. Yes, sir.

Q. (By Mr. Listrom) And that is a true statement, is that right?

A. Yes, sir.

Q. And we do not have before us all of the canceled checks that were used to purchase that postage, do we, sir?

MR. ROST: I'm going to object to him answering that question, because it's irrelevant and immaterial and

19040133054

has no appropriative value to go towards the issue of malice, slander or libel.

MR. LISTROM: Did you get a receipt from the United States Post Office Department when you purchased postage for the mailing of the copies of Exhibit 1?

MR. ROST: Answer that one.

A. No.

Q. (By Mr. Listrom) You did not?

A. No.

Q. Did you in the purchase of the postage for the mailing of the copies of Exhibit 1 use the medium of cash?

MR. ROST: I instruct him not to answer. It's irrelevant and immaterial how it was paid or as to the issue whether there is any issue of malice, whether there's any issue as to slander or as to whether there's any issue of libel. Exhibit A specifically was distributed and it has been admitted that there was mailed approximately in the neighborhood of 22,000.

MR. LISTROM: How much did you spend for postage to mail Exhibit 1?

MR. ROST: Again, I'm going to instruct him not to answer that question, because it's irrelevant and immaterial and has nothing to do or does not go to the issues in this lawsuit with regard to libel, slander or malice.

5
2
3
0
3
1
0
4
0
6
7

MR. LISTROM: Were there funds used to purchase postage for the mailing of Exhibit 1 to whomever you mailed them to your funds solely or did the funds belong to some other people or organizations, or were they funds that had been contributed to you for that purpose?

MR. ROST: Again, I'll instruct him not to answer. It has nothing to do with this--this line of questions all along has had nothing to do with regard to his intent in the area of malice, libel or slander.

MR. LISTROM: In whose possession and custody are the checks entitled Dr. Sterling E. Lacy, Civic Center Counseling Clinic, Checks 1603 through to checks written as of September 18, 1978? In whose possession are those checks?

A. The canceled checks? *inc to answer that question. You*

MR. ROST: You can answer that.

A. May I consult my attorney? *question of your attorney's*

MR. LISTROM: You bet. *that have been returned*

MR. ROST: I'll object to that as irrelevant and immaterial, but tell him if you know the answer.

A. I believe I have possession of all of those. You're talking about the checks themselves? *look*

MR. LISTROM: Yes. *per 18, 1978*

A. Okay. Now, you're talking about the canceled checks?

O. (By Mr. Listrom) Yes, sir.

19040133050

- A. Through September 18? No. I guess we can account for them, but I don't have them all.
- Q. You don't actually have them all, because some of them would not have been returned to you yet, would they?
- A. Yes.
- Q. What?
- A. Yes.
- Q. But all those that have been returned to you by the bank, would they be in your possession and under your control?
- A. Possibly not.
- Q. Why not?
- A. I don't remember whether or not I got these originals back from my attorney.
- Q. Well, they are under your control, aren't they?
- A. I do not know enough law to answer that question. You can tell me.
- Q. They are either in your possession or your attorney's possession, is that correct, those that have been returned to you by the bank as paid?
- A. I believe that to be true.
- Q. All right. Do you have in your possession the checkbook that stubs would represent all checks written from Check No. 1603 through September 18, 1978?
- A. Possibly not.
- Q. Where would the checkbook be?

- A. Except for--if they are not in my possession, they are probably in my attorney's possession, one of the two.
- Q. You don't know where your checkbook is? Is that what you're telling me?
- A. No.
- Q. Now, so the record is straight, we're talking about the checkbook on Account No. 058327 at the Merchants National Bank, are we not? That's one of your accounts, isn't it?
- A. You're saying in my answering the question regarding that account?
- Q. That's the account number, isn't it? That's the account number that I'm talking about and that you've been responding to.
- A. That happens to be the account that I'm responding to.
- Q. It is?
- A. Uh-huh.
- Q. All right. We at this time request that you produce that checkbook as well as all canceled checks on that account.

MR. ROST: I'll instruct him not to do so.

Well, first of all, a preliminary statement that he doesn't have them with him. He's produced pursuant to notice those copies. With regard to the others, they are irrelevant and immaterial.

MR. LISTROM: Well, I don't want to look at the others, but I knew since you wouldn't give me the checks,

1 I wanted the check register. That's what I'm asking him
2 for, and it's covered in the notice. We asked for all
3 check stubs and checks.

4 MR. ROST: Pertaining to this suit.

5 MR. LISTROM: Yes. Well, payments of expenses
6 in connection with the mailing of it, yes.

7 MR. ROST: And you have been provided those.

8 MR. LISTROM: Have I got all of them? What

9 MR. ROST: Yes, sir.

10 MR. LISTROM: I thought you--well, that's the
11 first time I've known that.

12 MR. ROST: You've got them all.

13 MR. LISTROM: I thought you refused to answer
14 that question a moment ago, did he have all check stubs.

15 MR. ROST: You have all of the checks--the
16 check stubs of all of the checks of his accounts, any of
17 these accounts that have to do with Exhibit A.

18 MR. LISTROM: You heard the statement of your
19 lawyer, is that correct?

20 A. That's correct.

21 Q. (By Mr. Listrom) Are there others that we do not have,
22 that you have not produced here? Are there other
23 documents pertaining to this request that you've not
24 produced here?

25 A. Yes.

79040133059

Q. And is that because you cannot produce them?

A. Yes.

Q. Or because you choose not to produce them?

A. No.

Q. You can produce--you cannot produce them, is that what you're saying?

A. That's the way I answered your question.

Q. All right. I want to know. I'll ask you again: What do those other documents consist of that you cannot produce?

A. I thought we went through this already that we received from the Shawnee County Election Commission.

Q. Is that--excuse me. Go ahead.

A. No. Go ahead.

Q. Are there any others?

A. No.

Q. All right. Now, are there any other documents of any kind or nature that are known to you that are in the possession or control of somebody else that in any way relates to the expenses incurred in the printing, layout and mailing of Exhibit 1? Are there any others? That's my only question.

MR. ROST: Answer him.

A. No.

MR. LISTROM: There are none? So that

79040133060

Exhibits 2 and 3 contain the total amount that was spent for postage in the dissemination of Exhibit 1, is that correct?

MR. ROST: I'll instruct him not to answer that. It's irrelevant and immaterial and does not go to the issue as to malice, slander or libel.

MR. LISTROM: Well, I'll ask you once again. Are there any other documents in connection with the dissemination and preparing of Exhibit 1 that we do not have in front of us here?

A. No.

Q. (By Mr. Listrom) There are none?

A. That's right.

Q. There are no documents, is that what you're saying?

No receipts, no canceled checks, no check stubs or no invoices? Is that what you're saying?

A. You mean other than what you have before you?

Q. Other than what we have here.

A. That's right.

Q. But you are refusing to answer the question--you are instructing him not to answer as to whether we have all of the postage bills, is that correct?

MR. ROST: That's correct.

MR. LISTROM: Okay.

MR. ROST: But not as to--but not as to whether

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there are any receipts as to the postage. I have instructed him to answer and he has answered it.

MR. LISTROM: I understand that, but the point is you've instructed him not to answer whether or not there was any monies spent other than as evidenced by Exhibits 2 and 3 for postage.

MR. ROST: For postage or anything else.

MR. LISTROM: And you've instructed him not to answer, is that correct?

MR. ROST: That's correct.

MR. LISTROM: All right. I just want to be clear.

MR. ROST: I want the record to be clear too that he has produced--he has made a search of his records and he has produced everything that is in document form that is a receipt, a check, a check stub and invoice or any other business form or statement, whatever you want to call it. Those are all produced in Exhibits 2 and 3. He's got nothing else other than the receipt which he can't find which he has put in the report to the Election Commissioner.

MR. LISTROM: Do you have a record in your possession or under your control as to what was spent for postage in the mailing of Exhibit 1? I'm just asking if you have it.

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MR. ROST: Do you have a record?

A. No.

MR. LISTROM: Neither in your control or in your possession, is that correct?

A. I don't know what you're asking or how to answer yes or no. I know my answer, but I don't know how to answer your question. Would you reword it, please?

Q. (By Mr. Listrom) I said: You don't have in your possession or under your control any record as to what was spent for postage other than what we have in Exhibits 2 and 3 in the mailing of Exhibit 1?

A. That's right.

Q. You do not have?

A. That's right.

Q. Do you know anybody else that has such a record?

A. No.

Q. Do you know whether or not any other sums were spent for postage that are not reflected in Exhibits 2 and 3?

I just asked him now if he knows. That's all.

MR. ROST: Answer.

A. Yes.

MR. LISTROM: And what are there--or, was there not more spent than is reflected in Exhibits 2 and 3?

A. I'm confused. I thought I just answered that. Would you read back what he asked and what I answered?

1 THE REPORTER: "Question: Do you know whether
2 or not any other sums were spent for postage that are not
3 reflected in Exhibits 2 and 3? I just asked him now if
4 he knows. That's all.

5 "MR. ROST: Answer.

6 "Answer: Yes."

7 MR. LISTROM: Okay. I want to know then whether
8 or not more was spent for postage than is reflected in
9 Exhibits 2 and 3.

10 A. I don't know.

11 Q. (By Mr. Listrom) All right. I want to know what your
12 answer is or what your knowledge is.

13 MR. ROST: He just said he didn't know.

14 MR. LISTROM: He said he did not know?

15 MR. ROST: That was his answer to your
16 question.

17 MR. LISTROM: Okay. Now, was more spent?

18 MR. ROST: I'll instruct him not to answer.
19 It's irrelevant and immaterial.

20 MR. LISTROM: Was it spent by you?

21 MR. ROST: Again, I'll instruct him not to
22 answer. It's irrelevant and immaterial as to what monies
23 were spent or not spent with regard to the production
24 and mailing of Exhibit A. That has nothing to do with
25 the fact that it was produced one, and two, distributed,

and three, it has nothing to do with it going to the issues in the lawsuit which are as I understand them, malice, libel and slander.

MR. LISTROM: Well, counselor, the record is clear. If you are clear as to our purpose for this information, there would be no secret about it. There are maybe, and I strongly believe, other people who are liable for slander in the libelous publication and this is our very purpose of asking these questions so as to ascertain who these people are so that they could be joined in this lawsuit. Now, I want you to understand that that is one of the purposes of it. Secondly, I think it is a properly discoverable item in any event, but the indication from this record to this point is that we have a record of everything that he has a report of that was spent. There may be some others that spent money on this and for the reason set forth previously, we are entitled to know, and we will go before Judge Bullock and ask him to compel an answer to that question so we are clear.

MR. ROST: Correct. If he says that he has to produce them, why then, we will take it up at that time, but not now.

MR. LISTROM: Did anyone to your knowledge, Doctor, purchase any stamps or postage--(interrupted)

19040133065

MR. ROST: Again, I will instruct--(interrupted)

MR. LISTROM: Let me finish the question.

MR. ROST: I'm sorry.

MR. LISTROM: To be used in the mailing of
Exhibit 1?

MR. ROST: I'll instruct him not to answer.
Whether he purchased them or anybody else purchased them
is irrelevant and immaterial as to the issues in this
lawsuit involving malice, involving slander or
involving libel.

MR. LISTROM: And do you know whether or not
anyone besides yourself actually mailed copies of
Exhibit 1? Do you know?

MR. ROST: Answer.

A. May I consult my attorney?

MR. LISTROM: Yes. He's here.

MR. ROST: Answer the question.

MR. LISTROM: I'm glad you instructed him to
answer that.

A. I'd like to have the question again, please.

MR. ROST: While you are reading the question
back, I would object to the question as repetitious,
but I will instruct him to answer, but it is repetitious.
He's already answered it.

THE REPORTER: "Question: And do you know

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whether or not anyone besides yourself actually mailed copies of Exhibit 1? Do you know?"

A. I do not know for a fact.

MR. LISTROM: Did you understand that somebody else was to mail some copies?

A. I did not understand that somebody was to mail some copies.

Q. (By Mr. Listrom) Did you ask anybody to? stamp on

A. No.

Q. Did anybody offer to mail any copies?

A. Nobody offered to me to mail any copies, ever the first

Q. Did they offer to somebody else indirectly to mail some copies?

A. Not to my knowledge, you have in your possession or under

Q. Were any copies of Exhibit 1 mailed to your knowledge with postage stamps other than a precanceled stamp?

A. I have never seen a copy of that letter with a stamp on it other than the one that you're illustrating to me now.

Q. Other than the one that is on Exhibit 1 or one from a Topeka, Kansas, precanceled stamp, is that what you're saying?

A. That's right.

Q. Now, you never seen one. Did you understand that there were some that were mailed without precanceled stamps?

19040133067

A. I was told that someone had mailed some without precanceled stamps.

Q. All right. Who told you that?

A. I received a letter from Richard Fatherly that he had mailed some first class mail.

Q. First class mail. Did he tell you how many?

A. I believe he said he mailed 100.

Q. And they would have then had what, 15 cent stamps on them?

MR. ROST: If you know.

MR. LISTROM: It would be whatever the first class rate was.

A. I would assume you're right.

(By Mr. Listrom) Do you have in your possession or under your control a copy of that letter?

A. I don't know where.

Q. Well, have you looked for it? Have you looked for that letter?

A. No.

Q. Would you have saved it?

A. I may not have.

Q. But may have you?

A. Not with my filing system.

Q. Well, where would it be if you did have it, Doctor?

A. It wouldn't be what you're looking at there. Where would

it be?

A. I don't know where it is.

Q. Do you have any kind of a file on the preparation and dissemination of Exhibit 1 in your control or under your possession?

A. No. I don't know where that correspondence was, did you.

Q. Have you ever had?

A. No. I don't know where it was.

Q. Do you maintain any kind of a list of the names and addresses of the people to whose homes Exhibit 1 was mailed?

A. Oh, no. I don't know where that was, did you.

Q. You had only the labels that you obtained from the Election Commissioner's office?

A. You got it.

Q. Did you correspond with anybody in the preparation and dissemination of Exhibit 1?

A. I don't remember.

Q. You don't remember?

A. I do not remember corresponding with anyone in the preparation of it.

Q. You received some correspondence though, did you not?

A. Correspondence?

Q. Pertaining to either the preparation or dissemination of Exhibit 1.

A. Oh, yeah.

Q. Several people?

A. That's right.

Q. Many people?

A. Not many.

Q. You didn't throw that correspondence away, did you, Doctor?

A. No. It's piled up somewhere.

Q. You are confident you have that correspondence in your possession or under your control, are you not?

A. I will have to look.

Q. Well, you said a moment ago you didn't throw it away. So, I assume you still have it and it's a question of where it is. Is that not true?

A. It may be.

Q. And it may be in a pile of correspondence?

A. If you saw my office, you'd understand why I'm answering that question that way.

Q. In that pile of correspondence, would there be a letter from Richard Fatherly, at least one?

A. If I knew that for a fact, I could have answered your question awhile ago.

Q. Who else would there have been correspondence from?

A. I don't remember any other names.

Q. The Humbelguards?

A. I don't remember. *correspondence from anybody in the Jeffries*

Q. Mr. Garcia?

A. I doubt it.

Q. Mr. Davis? *received any correspondence from anybody in the*

A. I don't remember.

Q. Tola Ross? *that*

A. I really don't remember.

Q. Would there be any correspondence in that file of anybody, or did you receive any correspondence of any kind--
(interrupted)

A. What file? *you identify that correspondence as to subject*

Q. Just listen to the question. From the John Birch Society in connection with either the preparation or dissemination of Exhibit 1? *some letter?*

A. May I ask you to clarify your question? You've asked me about a file and I've said I haven't put together a file. Now, how can I answer your question on this?

Q. I'm not asking about a file in this particular question, Doctor. Listen to the question. My question is--you listen to Mr. Rost. He'll take care of that. My question is: Do you have in your possession or under your control any correspondence from the John Birch Society in the preparation or dissemination of Exhibit 1? *received*

A. Of course not.

Q. All right. That's a very simple question. Do you have

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any similar correspondence from anybody in the Jeffries campaign?

A. No.

Q. Had you received any correspondence from anybody in the Jeffries campaign?

A. Regarding this?

Q. Yes, sir.

A. No.

Q. Regarding anything else?

A. Yes.

Q. And would you identify that correspondence as to subject matter first?

A. Just a campaign brochure.

Q. All right. Nothing--no personal letter?

A. I don't think so.

Q. Well, do you know?

A. It would have just been a form letter.

Q. All right. That wouldn't be a personal letter then?

A. Well--(interrupted)

Q. Any other correspondence from anybody in the Jeffries campaign?

A. No. That's all.

Q. Can you think of any other correspondence that you received from anybody with reference to Exhibit 1 other than Richard Fatherly?

A. Originally I thought you were asking me about the preparation of the material.

Q. Or dissemination.

A. Okay. May I consult my attorney? There is no other.

Q. You received no other correspondence from anybody other than what you have been able to identify to us here today-- now, wait a minute--that you received regarding the preparation or dissemination of Exhibit 1?

A. None that I can remember.

Q. All right. Did you run a classified ad in the Topeka paper following the dissemination of Exhibit 1?

A. Yes.

Q. And do you know about when that was published?

A. No.

Q. Was it after you mailed out Exhibit 1 on July 25, 1978?

A. Yes.

Q. Was it before or after the election, the primary election?

A. It would have been after.

Q. And what did that ad say?

A. I don't remember the wording.

Q. Did you create the wording? Did you write it?

A. Yes, I'm sure I did.

Q. You can't remember what it said?

A. No.

Q. You remember anything it said?

A. I don't remember any of the words in there.

Q. Can you remember what the purpose of it was?

A. Yes.

Q. What?

A. As I remember the purpose, it was meant to be an acknowledgement or a card of thanks--I forget what it was--to the people who had written and called regarding Exhibit 1, a receipt to the public and thanking them for contacting me.

Q. Did you receive telephone calls in response to the mailing of Exhibit 1?

A. Yes.

Q. Did you receive any correspondence?

A. Yes.

Q. Do you have that correspondence?

A. I may have.

Q. Well, Doctor, don't you know whether you have it?

A. No, I don't.

Q. Doctor, would you read Item 4 on the notice to take your deposition on the second page?

A. "Any and all records, documents, exhibits or other tangible items in the possession or under the control of Sterling E. Lacy pertaining to the allegations of the petition filed in the above captioned matter or to any defenses thereto."

19040133074

Q. Now, have some letters you received from people who received copies of Exhibit 1 that you had mailed--or, you received some, didn't you? You received some response?

A. Yes.

Q. In the form of postcards and/or letters? do, Doctor.

A. Yes.

Q. Have you looked for those?

A. No.

Q. Will you look for them and turn them over to your attorney?

MR. ROST: I'll instruct him not to answer that.

It's irrelevant and immaterial and not germane to the issues in this case. What happened in the letters with regards to writing him concerning the publication of Exhibit 1 has nothing to do with the act of libel or the act of slander or the act of malice.

MR. LISTROM: I understand that you are refusing to produce those letters?

MR. ROST: That's correct.

MR. LISTROM: All right. Did you receive telephone calls from persons who had received the brochure identified as Exhibit 1?

A. Yes, sir.

Q. (By Mr. Listrom) And can you by name identify any of the

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persons from whom you received telephone calls? people.

A. One.

Q. And what is the name?

A. It was--his name rang a bell with me. I think he's with WIBW. It seems like his name is Frazier.

Q. Do the best you can. That's all you can do, Doctor.

A. Kent Frazier.

Q. Kent Frazier or Kent Cornish?

A. I don't think Cornish--that doesn't ring right, but I remember his name.

Q. What did he say to you, do you remember?

MR. ROST: I object to that as irrelevant and immaterial and has nothing to do with this case.

A. I don't remember what he said to me.

MR. LISTROM: You remember whether it was favorable to your cause or unfavorable?

A. It was unfavorable. Well--(interrupted)

Q. (By Mr. Listrom) Unfavorable?

A. Yeah.

Q. All right. Generally, were the calls that you got favorable or unfavorable towards your cause or your position in this matter?

MR. ROST: I object to that as irrelevant and immaterial. Go ahead and answer.

A. I don't know.

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MR. LISTROM: Well, you talked to the people. It's been less than two months or about two months, Doctor. Can't you tell us?

MR. ROST: It's irrelevant and immaterial to any issue in this case.

A. I thought I answered you. I guess we'd better have it read.

MR. LISTROM: Answer the question. Your attorney has told you to.

MR. ROST: He's going to answer it, Myron. He just wants a readback.

MR. LISTROM: You do not remember what his responses were generally? Is that what you're telling us?

A. You asked me whether the responses were generally favorable or not.

Q. (By Mr. Listrom) All right.

A. I thought I answered that question.

Q. Were they or were they not?

A. I don't know. There's a third choice.

Q. What is the third choice?

A. It seems like to me the third choice might be that neither one in my memory seemed to exceed the other.

Q. Okay. You would say the responses were about equal?

A. I really don't remember.

Q. Well, I understand that, but is that your best judgment?

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You don't have any recollection of receiving more responses in favor of your position as opposed to it, is that correct?

A. I never tallied them. I do not know the answer to the question. I have no judgment on the matter.

Q. You have no judgment one way or the other?

A. No judgment.

Q. You would agree some were favorable and some were unfavorable to your position, is that correct?

A. I would agree.

Q. Pardon?

A. I would agree.

Q. Now, when you got the labels from the Shawnee County Election Commissioner's office, that constituted your mailing list? Am I correct in that or am I not?

A. That I got them from the Shawnee County Election Commission?

Q. Did that constitute your mailing list?

A. You're correct.

Q. Do I understand that you requested and received from the Election Commissioner's office the labels, names and address labels of all registered Republicans in this county?

MR. ROST: I'm going to object to that.. It's repetitious and we've been over it impeccably.

MR. LISTROM: It's preliminary to something else, Mr. Rost.

MR. ROST: Go ahead and answer him.

A. May I consult my attorney?

MR. LISTROM: Yes.

A. The question again please?

MR. LISTROM: Well, did you request and so far as you know receive from the Shawnee County Election Commissioner's office the names and address labels for all registered Republican voters in Shawnee County?

MR. ROST: I object, but go ahead and answer.

A. I believe that's what I ordered.

MR. LISTROM: And as far as you know, that's what you got?

A. As far as I can remember.

MR. ROST: Now, to clarify one point, you indicated you did not get all of them.

A. I'm sorry.

MR. LISTROM: Do you want to revise your answer, Doctor?

A. I understood you to ask me if I got the Republican voter registration list of the names and labels from the Shawnee County Election Commissioner's office and I did.

Q. (By Mr. Listrom) Of all the registered Republicans in Shawnee County?

A. To my knowledge, I did.

Q. All right. What's the problem then?

MR. ROST: He indicated before that he had struck some so that there was not a duplication, but only one publication going out.

MR. LISTROM: Well, let me go back over this to see. It's not clear to me. What you got from the Election Commissioner's office was a list, or was it labels, names and address labels?

A. Do you want to make an objection first?

MR. ROST: I object to that as irrelevant and immaterial. Go ahead and answer. It's repetitious, but go ahead and answer.

A. I got the labels as I've already indicated.

MR. LISTROM: And did you secure or attempt to secure voter registration lists or names and address labels of all the registered Republican voters in any other county other than Shawnee County?

MR. ROST: Answer.

A. You say did I make an effort to? No, I did not make an effort to.

MR. LISTROM: Did anybody else make an effort to, to your knowledge?

A. Not to my knowledge.

Q. (By Mr. Listrom) Did you get any from any other county,

any other list from any other county? as well as females

A. I did not.

Q. Did anybody else to your knowledge?

A. Not to my knowledge.

Q. Now, when you got the list from the Shawnee County Election Commissioner's office or the labels, did they have or did you understand them to have a list of both husband and wife, male and female registered Republicans in this county?

A. I don't understand your question. I've previously told you that I ordered the list of all registered Republicans.

Q. Male or female or male and female? Is that your testimony?

A. I ordered a copy of a name and label for each registered Republican in Shawnee County. I assume they were both female and male registered Republicans.

Q. Well, you looked at them to see if they had some male names on them?

A. Not for that purpose I don't think. I guess maybe I didn't. Yeah, I suppose they were both male and females.

Q. Do you know?

A. Yes, I know.

Q. You didn't request only the females, did you?

A. As I previously stated, no.

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Q. And did you mail to male Republicans as well as females the brochure identified as Exhibit 1?

A. To my knowledge, yes.

Q. All right. You didn't just single out the females and send it to them alone? That's the point of my question, Doctor.

A. I believe I've answered on that point. Would you like for me to answer it again?

Q. You answered the question yes. I want to be clear as to what your answer is, so don't be telling me whether you have answered something or not. You are here represented by an attorney who will protect your rights. You answer my question unless he tells you otherwise. If he tells you not to answer, then don't answer. Are we clear?

A. Your questions aren't always clear.

Q. Well then, you ask if they are not clear. I don't need you to tell me whether you've already answered the question or not.

A. Yes, sir.

Q. Did you make any effort prior to the mailing of Exhibit 1 to strike any female registered Republican so there would not be a duplication?

A. I do not understand what you mean by duplication.

Q. Well, so you wouldn't send one for example to me and then

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one to my wife as being both Republican registered voters.

A. I did make an effort to strike.

Q. All right. And what did you strike?

A. I made an effort to strike all but one registered voter--one Republican registered voter in a household.

Q. And which one did you strike?

A. You mean which ones--(interrupted)

Q. Which ones did you strike?

A. (Continuing)--because sometimes, it was necessary to strike more than one person in a household.

Q. In other words, if there were three Republican registered voters in a household, you would only send it to one? Is that what you did or tried to do?

A. That's what I tried to do.

Q. All right. And what procedure did you follow in trying to do that? In other words, how would you decide which of the three or two depending on how many there were that you would strike and not mail to?

A. I had my wife help me on this, and it seemed like we had somebody else helping with us and there was some confusion. They did not all use the same procedure.

Q. What was the procedure they were to use?

A. When there was an address duplication and the voter was not in an apartment structure, they were to strike all but

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one person trying to gauge the older names so that one of the parents was left to receive the letter.

Q. How would you make that determination from a list that was furnished to you?

A. It wasn't easy.

Q. Well, how do you?

A. I would say by the name and the age.

Q. The age and the name or the name and the age?

A. Well, like the name May. There aren't very many girls today being named May. There was a Janie on there. We would assume--I mean, you want me to tell you what we did?

Q. Yes. That is exactly what the question was. How did you do it?

A. That's what I'm explaining to you.

Q. Explain it.

A. I just did.

MR. ROST: Go ahead.

A. We tried to make a judgment on that basis.

MR. LISTROM: Is that the only basis?

Did you also make an effort or was it your understanding that all males would be stricken where there were more than two registered voters at the same address?

A. It's not my understanding that that was done consistently.

Q. Well, was it done at all?

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MR. ROST: If you know.

A. Yes. I'm sure it was done.

MR. LISTROM: And what was the purpose of striking the male names and sending only to the females?

A. We figured we were reaching more people who would be going in voting on the primary for the primary election.

Q. (By Mr. Listrom) Okay. So, you were striving then to get to the female registrants where you had more than one registrant at the same address?

A. I was striving to get to the person most likely to go vote in the primary.

Q. And that was the female, wasn't it?

A. Yes.

Q. In all instances?

A. No.

Q. Well, in what instances would you choose the male?

A. I'm telling you. There was confusion as to who was doing what and we were busy, and I don't think it was done consistently this way.

Q. What was the confusion, Doctor?

A. I don't know.

Q. Well, you're the one that said there was some confusion. I want to know what it is.

A. Well, I'm telling you that it didn't get done the way it was handled.

- Q. How did you know it didn't?
- A. Somebody told me it didn't.
- Q. Who told you it didn't?
- A. People who were striking them.
- Q. Who?
- A. My wife.
- Q. Who else?
- A. Mary Davis.
- Q. Who else?
- A. That's all I know.
- Q. There were only one, two or three? You three were the only ones involved in the striking?
- A. To my knowledge.
- Q. And did you all strike about the same amount?
- A. I don't know. I didn't strike very many.
- Q. In any event, the ones you struck were males, were they not?

MR. ROST: I object. This is irrelevant and immaterial as to malice, as to whether or not there's any libel or slander in Exhibit A. Exhibit A is going to speak for itself and the record of Senator Hein is going to speak for itself. That's really the evidence in this case.

MR. LISTROM: You may answer.

MR. ROST: Go ahead and answer it.

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- A. You asked if in my procedure, the ones I struck. Primarily, I struck the males where there was duplication and one was female.

MR. LISTROM: So the record is clear, and he had a little confusion getting all that down, I think, Doctor. On the ones that you struck where there was a male and a female Republican registrant at the same address, when you struck one, you struck a male? Is that a fair statement?

- A. To the best of my memory that is what I did.

- Q. (By Mr. Listrom) And meaning thereby that the female would have been the addressee and recipient of Exhibit 1 in those instances?

- A. Yes.

- Q. That is true, is it not? That was your instructions to your wife, were they not?

- A. Yes.

- Q. And those were your instructions to Mary Davis, were they not?

- A. Yes. I thought they were.

- Q. Now, did your wife so far as you know follow the same procedure that you followed in striking that you've just described?

- A. I do not know.

- Q. You never talked to her about it?

A. I probably did. I don't remember.

Q. Did she indicate that she got confused as to how she was supposed to strike?

A. That's what I'm saying. I believe there was confusion there. I don't remember right now what it was, Myron.

Q. Was the confusion with your wife or do you remember?

A. I am saying yes, there was.

Q. With your wife?

A. There was something--I've forgotten what it was--that she wasn't doing the way I had instructed her.

Q. How did you find out about it?

A. I don't remember. You mean did she tell me or what?

Q. I asked you how did you find out.

A. I don't remember.

Q. You don't even know how you discovered that there was some confusion?

A. I said I don't remember.

Q. Well, think about it. I want you to think about it.

A. I did think about it.

Q. You thought about it all you wanted to think about it and you're telling us you don't remember, is that right?

A. That's right.

Q. Was Mary Davis confused in striking?

A. I think you're asking me was there confusion in the way she carried out the way I instructed her.

Q. Listen, Doctor, you answer my question.

A. I don't know how to answer your question.

Q. Was she confused?

MR. ROST: If you know.

A. She didn't think so.

MR. LISTROM: Do you know?

A. Yes, to you.

Q. (By Mr. Listrom). You told us Mary was confused?

A. There was confusion in what got carried out.

Q. What did you understand Mary Davis' confusion to be?

A. I don't remember right now.

Q. You remember she was confused, but you don't remember about what?

A. That's right.

Q. What did you do with the address labels that were struck?

A. I suppose I threw them away.

Q. Do you know?

A. No.

Q. Now, Doctor, are you sure you threw those away or are you just supposing that?

A. I don't know. I thought I said I don't know.

Q. Would you look?

A. Sure I'll look.

Q. Did you look prior to coming to your deposition?

A. No.

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Q. Pardon?

A. No.

Q. And will you turn those over to your attorney when you find them if you find them?

A. Sure.

Q. And will you turn them over to us?

MR. ROST: Yes.

MR. LISTROM: And may I ask how much time he would need to ascertain whether he has them or not?

MR. ROST: Twenty-four hours.

MR. LISTROM: That would be fine.

MR. ROST: Twenty-four hours then.

MR. LISTROM: Okay. If he has them, and he can give them to you, we could have them sometime tomorrow morning or Friday?

MR. ROST: We'll give them to you if he's got them.

MR. LISTROM: Okay. Now, you've testified that the purpose in striking was to try to send the brochures to the female members of the household or a female member of a household because, did I understand you to say, you thought they would be more likely to vote--or, what was that purpose again?

MR. ROST: I object to that as irrelevant and immaterial to the issues in this lawsuit. It does not go

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as to whether there is any slander or any libel or any malice contained in Exhibit A. It does not go to those issues at all. Now, answer. Go ahead and answer him.

A. Honestly, I don't remember the question.

MR. LISTROM: Okay. What was the purpose in trying at least to select female members of a household to send Exhibit 1 to as opposed to males?

A. I assumed they would be more likely to vote in the primary.

Q. (By Mr. Listrom) That was your judgment, was it not?

A. It was.

Q. It wasn't anybody else's judgment?

A. Nobody else's.

Q. Nobody else had any input in that decision?

A. Nobody I remember.

Q. And why did you assume that the females would be more likely to vote?

A. The time element.

Q. What about the time element that led you to that conclusion?

A. She would have more time to go vote.

Q. Isn't it a fact, Doctor, that the reason you selected or tried to select a female household member to send the brochure to was that they would be more subject to the emotional appeal of the brochure? Wasn't that a

consideration?

MR. ROST: Again, I'm going to object as irrelevant and immaterial and all these prior five or six or seven questions are.

MR. LISTROM: You may answer.

A. That was a consideration.

Q. (By Mr. Listrom) That was a consideration, wasn't it?

A. Uh-huh.

Q. And that was an important consideration, wasn't it, in all honesty?

A. Compared to what?

Q. Compared to any other consideration.

A. No.

Q. Were there any other considerations other than those that you've described now why the female would be more apt to go vote in the primary and you thought had more emotion or would have more impact on her? Were there any other considerations for choosing the female to whom you directed or mailed Exhibit 1?

A. I do not recall any others.

Q. Was there any reason why you obtained or sought only the voter registration, namely, those from Shawnee County as opposed to the second congressional district?

A. You're saying was there any reason?

Q. Yes, sir, as opposed to the whole second congressional

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district.

A. Yes.

Q. What was that reason?

A. Cost.

Q. Is that the only reason?

A. It ruled out all other considerations.

Q. I beg your pardon?

A. It ruled out all other considerations.

Q. Were there any others other than this one?

A. As I say, it ruled out all other considerations.

Q. There were others though? That takes a simple answer.

Is that true?

A. That's true.

Q. All right. Now, you testified yesterday that you talked to Mr. Stephens up at Legislative Research, is that correct, about Mr. Hein's voting or about the bill that he was ostensibly for?

A. I consulted with Mr. Stephens regarding the Senate Bill 310 and House Bill 2313.

Q. And can you tell us when you did that?

A. I don't remember.

Q. Beg your pardon?

A. I don't remember.

MR. ROST: We have pre-established that it was May or June.

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MR. LISTROM: Well, you see, counselor, you come up with these wild statements and the witness just said he doesn't know. Then, you said I was being repetitious. Now, see, why I'm going back over that, is because we get a different answer all the time and that's the reason. Now, he says he doesn't remember. Now, was it May or June?

A. I don't think it was May or June.

Q. (By Mr. Listrom) See? Either one. All right. Was it before or after May or June, 1978?

A. I think it was in July.

Q. All right. And where were you when you talked to Mr. Stephens?

A. I was in the Legislative Research Department in Russell Mills' office.

Q. And this was a face to face conference then, was it not?

A. Yes, sir.

Q. And who was present besides you and Mr. Jerry Stephens?

A. Russell Mills was present.

Q. All right. Now, did you have more than one face to face conversation with either Russell Mills or Jerry Stephens concerning Senate Bill 310 or House Bill 2313?

A. Yes.

Q. And how many more such conversations?

A. I believe only one.

Q. All right. And would that have been subsequent to the one you have just described?

A. The one after.

Q. Okay. Let's go back to the first one that you testified you think was in July and occurred in Mr. Mills' office. Would you tell me everything as you best recall that you said, Mr. Mills said and Mr. Stephens said? Take your time.

A. You didn't want my conversation before the face to face meeting?

Q. Well, perhaps I'd better go back and lay a little more foundation. Before going up there, had you had some face to face or telephone conversations with either Mills or Stephens?

A. I had a telephone conversation with Russell Mills.

Q. All right. About the same subject matter?

A. Yes.

Q. And would that have been what, a few days after you had been up there?

A. Yes.

Q. All right. And what was the substance of that conversation as best you recall it at the time of the telephone conversation?

A. All I recall at the time was relating to him that I had asked the question of State Senator Ed Reilly and

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Senator Reilly had referred me to Russell Mills as the guy who would best know the answer to my question.

Q. What was your question at that time?

A. You mean on the telephone?

Q. Yes, sir.

A. I don't remember asking any on the telephone of Russell Mills.

Q. Okay. But you had some questions you wanted to ask or some information you wanted to find out?

A. Right.

Q. All right. What were those questions or what information were you trying to find out at that time?

A. I'm trying to take House Bill 2313 first. I had some questions and we had some discussion. Right now, I don't remember what it was just now.

Q. Okay.

A. I cannot remember right now if I was asking for any interpretation on House Bill 2313. I don't want to rule that out.

Q. Okay. How about 310?

A. Well, may I finish with 2313?

Q. Yes.

A. I asked for additional information. All I had was a copy of the bill, and I asked to find out if the bill had become law. I asked to find out what the Senate vote may

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have been on this bill and they looked them up for me or Russell Mills did. I don't believe Jerry Stephens had been called in yet on this bill. I asked about which Senate hearings and I asked about votes in the Senate hearings. I was looking for any indication of Senator Hein's legislative stand regarding House Bill 2313.

Q. At that time?

A. At that time.

Q. Now, let me ask you why you were trying to find out his stand on House Bill 2313 at that time?

A. Well, before I said anything to the public to educate them on this issue and his voting record, I wanted to make sure that my information was correct.

Q. Why, did you have some advance information?

A. Yes.

Q. Where did you obtain that?

A. As I mentioned previously, sometime back in January or February possibly or in the first of March, there were meetings by a group of professionals and law enforcement people here in Topeka. That was the meeting where I received the copy of House Bill 2313 and a verbal indication that the primary promoter of House Bill 2313 in the Senate committee, the Federal and State Affairs Committee or the Federal and State Affairs Committee meeting, he had been the prime mover of that bill to that

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committee.

Q. Who told you that specifically?

A. I only recall a conversation between those men in which that was mentioned. It seemed like more than once.

Q. But you cannot tell us who made the statement that Senator Hein was a primary mover of that legislation?

A. No. I remember conversations, hearing conversations between these men on it, but I do not remember who made that comment.

Q. All right.

A. I assume from what I heard that all those present who had been in the Senate hearings were in agreement.

Q. Well, I don't want you to--if I want your assumption, I'll ask for it. I would ask that the last comment be stricken as not responsive.

MR. ROST: I would ask that the question remain as the basis of the background in answer to Mr. Listrom's question.

MR. LISTROM: Mr. Rost, my question was the names of whoever it was that said Senator Hein was pushing the bill or the primary mover of the bill. You cannot give me those names, is that your answer?

A. I will give you the names. You asked me the individuals who said it.

Q. (By Mr. Listrom) Yes. That was my question.

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A. Well, I don't remember the individual persons.

Q. That's a simple answer. I didn't ask you to assume had anything. Well, you say you talked to Senator Reilly before you talked with Mr. Mills?

A. Yes.

Q. And had you called or he called you?

A. I called him.

Q. And he's from Leavenworth, isn't he?

A. Yes.

Q. And this was after the Legislature had adjourned?

A. Yes.

Q. Why did you call him?

A. I called him to ask him about information about Senate Bill 310.

Q. Did you ask about House Bill 2313?

A. I must have.

Q. Well, what did he tell you about it?

A. Because he told me that in the legislative session, he had given them two opportunities to call the bill up for a vote. Now, that's my wording, okay? I don't know the technical term for it. He had given members of the committee two opportunities to call the bills up and he was surprised that Senator Hein hadn't and then when Representative Glover who I believe to be the author of House Bill 2313 approached Senator Reilly later about

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bringing the bill out, if I remember correctly Senator Reilly made the comment to me that, "You've had two chances. I'm not going to do anything to bring it out now," or something to that effect and I don't remember whether there was any other discussion about House Bill 2313 at this time.

Q. You can't remember any more discussion that you may have had about it at that time?

A. That's true. I can't remember what else we discussed about that bill.

Q. Did you have some discussion with Senator Reilly in a telephone conversation about Senate Bill 310?

A. That's what I called him about, was Senate Bill 310.

Q. Well then, you had two conversations about it, is that correct?

A. Yes.

Q. What were your conversations?

A. I related to Senator Reilly that I--you want me to go ahead?

Q. Uh-huh.

A. I related to Senator Reilly that I looked over Senate Bill 310 and that as I compared it to the statutes that were being stricken, what was left it appeared to me that the criminal penalties against homosexuality available to them was that oral and all intercourse were being struck from

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the law and therefore the last of any criminal penalties against homosexuality were being struck or repealed.

I asked him if that was his understanding of the effect of Senate Bill 310.

Q. What did he say?

A. He said that he thought--that he thought that would be the effect of the bill, but that he had come to the position where he didn't fully understand what the bill would do and he would vote against it.

Q. Did he tell you he didn't understand the bill--(interrupted)

A. No.

Q. (Continuing)--fully?

A. No.

Q. He didn't?

A. No. The reason that--that's the reason he told me about the second part. He was telling me that he didn't know all the ramifications of the bill.

Q. Okay. Then, he didn't know all of them?

A. I assumed that.

Q. Yes. He didn't say that, but you assumed it?

A. From his last comment.

Q. Why did you call Senator Reilly?

A. Because he was one of the senators listed who had voted against Senate Bill 310 and I had heard that he was a conservative senator.

Q. All right. That's very simple. So, you weren't sure of

the effects of Senate Bill 310 after talking to Senator Reilly, is that correct?

A. I don't know how to answer your question. Now, I was sure when I called him or I wouldn't have called him, but I needed some confirmation so you might interpret that to mean I'm not sure.

Q. Well, did you get the confirmation that you were looking for after you talked to him?

A. Not completely.

Q. So, you still had some questions in your mind, is that correct, about the effect of the bill?

A. I didn't really call him--I called him to confirm whether my conclusions were right.

Q. Did he confirm those?

A. That is what is confusing about your question. Yes, he did.

Q. Okay. Well then, why did you call Russell Mills?

A. Because he recommended that I call Russell Mills and said that if anybody would know in the statehouse, it would be Russell Mills in Legislative Research.

Q. Then, you were still not satisfied as to what you had found out, were you? That's why you called Mr. Mills, is that correct?

A. Primarily I called Mr. Mills because Senator Reilly recommended I do it.

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Q. Okay. Now, have you told us all of your conversation with Russell Mills on the telephone as you recall it?

A. I believe the only conversation with Russell Mills on the telephone was to call him and tell him that Senator Reilly had recommended that I call him. I may have mentioned the two bills. I do not remember whether I mentioned the two bills, but it was to ask for an appointment.

Q. Did you get one?

A. Yes.

Q. And that takes us then to the next event and were you in their office or his office?

A. Yes. His office, yes.

Q. You didn't have any other telephone conversations in between with either Mr. Mills or Mr. Stephens?

A. That's right.

Q. Okay. So, the day you were up there, I think we're at that point. Now, I want you to describe everything that you said to both of them and they said to you that you best recall. First, let me ask you: Were both of them there in the same room all the time with you or on that occasion?

A. No.

Q. All right. Who came or left?

A. Jerry Stephens came and left.

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Q. Okay. Then, you go ahead and tell us everything that you can remember in the way of conversations or questions by either yourself or Mr. Mills or Mr. Stephens and indicate who was present during those conversations.

A. It would have started with Mr. Mills. I do not remember which bill we dealt with first.

Q. Did you deal with any besides House Bill 2313 and/or Senate Bill 310?

A. I believe so.

Q. What other bill?

A. I believe there's a possibility that when they started, they alerted me to Senate Bill 309.

Q. All right. Any others?

A. But I don't remember for sure that we discussed the 309.

Q. Well, somewhere you heard of House Bill 309, haven't you?

A. Yes.

MR. ROST: I think that's confusing. I don't want to interrupt.

MR. LISTROM: Well, excuse me. Senate Bill 309-- I'm sorry, is that correct?

A. To correct my answer, yes.

Q. (By Mr. Listrom) Do you think it was at that meeting?

A. It may have been.

Q. All right. Well, what was your conversations concerning House Bill 2313 and Senate Bill 310? Let's talk about those.

A. Okay. 2313--House Bill 2313, and at first, only Russell Mills would have been present. I think he pretty well related that he had looked it up for me and he traced it for me and I remember being impressed with the availability of the information traced right through the House vote, the Senate vote and the floor of the Senate and then traced it back again. I have also related to you today that I can't remember now what interpretations of House Bill 2313 I asked him for.

Q. Did you ask him for his understanding of what House Bill 2313 did or did not do?

A. I don't remember right now whether or not we got into that discussion on House Bill 2313.

Q. Can you tell us whether on any subsequent discussions with Mr. Mills you ever talked about House Bill 2313?

A. I don't think we did.

Q. You can't remember anything that he may have told you about it if you did discuss with him other than he traced the history of it and the vote?

A. Now, when Jerry Stephens came in, we went over both bills. What I'm saying is I don't remember--(interrupted)

Q. All right.

A. (Continuing)--what we went over on those bills.

Q. Well, what--(interrupted)

A. I mean on that one bill.

Q. What were you trying to find out about House Bill 2313 at that time? What was your purpose in going up there?

A. As I stated a little while ago, primarily to get Senator Hein's legislative record on the bill to see if it conformed with what I had heard.

Q. Was that all you were after?

A. (No response)

Q. Well, let me ask you if you wanted to know the effect of House Bill 2313?

A. I think we dealt with that, but I cannot recall now for a fact that we were discussing 2313.

Q. You just don't know, is that correct?

A. Correct. I don't remember.

Q. Did you get any correspondence from either Mr. Mills or Mr. Stephens after you had been to their office?

A. Addressed to me?

Q. Yes.

A. No.

Q. Or to anybody else?

A. By either Mills or Stephens?

Q. Yes.

A. No.

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Q. You have a letter in front of you. Who is the author of it?

A. I assume---(interrupted)

MR. ROST: For record purposes, Exhibit D was a work product of me.

A. Well, he says that since the staff members--Russell Mills and Jerry Stephens did discuss Senate Bill 310. I assume that neither one of these men wrote this letter from that.

MR. LISTROM: Well, look below on the letter you're looking at.

MR. ROST: If you know from your own knowledge.

A. I do not know the man's name. I only know his position.

MR. LISTROM: That's the letter you referred to to Senator Hein dated July 24, 1978. Is that the letter you're talking about?

A. Yes.

MR. ROST: That's my exhibit.

MR. LISTROM: I don't know whether it's part of this record here or yours.

MR. ROST: That's my exhibit. I want it back.

MR. LISTROM: Will you give us copies of it?

MR. ROST: All right. Give me a copy.

(THEREUPON, at this time Lacy Deposition Exhibit No. 4 was marked for identification)

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by the reporter.)

MR. LISTROM: I hand you what has been marked as your Deposition Exhibit No. 4 and ask if you've ever seen that letter before today?

A. Yes.

Q. (By Mr. Listrom) And when did you first see it?

A. I do not remember the date.

Q. Can you give us the approximate date or tell us about how long ago?

A. Well, it would have been after July 24.

Q. I understand. You can't relate it any closer in time to that?

MR. ROST: For purposes of the record, Exhibit 4 was obtained by me after this lawsuit was filed.

MR. LISTROM: All right. That's the obvious answer then, you saw it through your attorney, is that correct?

A. Yes.

Q. (By Mr. Listrom) All right. Now, what conversations-- have you told us all the conversations that you can recall with either Mr. Mills or Mr. Stephens pertaining to House Bill 2313?

A. No.

Q. What other conversations did you have?

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- A. There was bound to have been some conversation between Russell Mills when he went to the committee files and secured the hearings from the Federal and State Affairs Committee on House Bill 2313.
- Q. You mean the minutes?
- A. Yes, the minutes and the addendums or attachments.
- Q. And did he show those to you at that time?
- A. Yes.
- Q. And did you get a copy of them at that time?
- A. Yes.
- Q. Did he produce that copy for you?
- A. Yes.
- Q. At your request?
- A. I don't recall requesting it. I must have, I seen it. Are you asking me if I initiated the request?
- Q. I just asked you if you requested it.
- A. I do not remember requesting it.
- Q. What else did he tell you about House Bill 2313 or Senator Hein?
- A. I remember him telling me that, and I believe it was true of this bill too, that at the time that it was in hearings-- see, this was in hearings in '77 during the legislative session.
- Q. Just tell me what he told you.

MR. ROST: Well, counsel, let him finish his

answer.

MR. LISTROM: I'm asking you.

MR. ROST: Don't interrupt him.

MR. LISTROM: I'm asking you to tell me what he told you. You got the question, Doctor?

A. I don't remember his exact words.

Q. (By Mr. Listrom) Well, what was the substance?

A. Would you like to have--(interrupted)

Q. What was the substance of that conversation?

A. Fine. I will continue telling you the substance, that those hearings were not from 1978. Those hearings were from 1977 and that whoever from their staff would have been sitting in on those hearings, if I remember right, was no longer in staff and so they could not relate firsthand any additional information about that committee hearing.

Q. Anything else that he told you about House Bill 2313?

A. I don't remember anything else.

Q. Did you ask him the effect of House Bill 2313?

A. I may have.

Q. And did he respond and if so, what did he say?

A. He would have if I asked him, but I do not remember directly asking him.

Q. Did he tell you that bill had the effect of decriminalizing the use of marijuana?

A. I do not remember him making that statement.

Q. Do you remember anybody making that statement to you at any time?

A. That was scattered throughout what he produced for me that day.

Q. You mean the testimony before the committee?

A. Yes.

Q. Other than that, did anybody ever tell you that House Bill 2313 had the effect of decriminalizing marijuana?

A. Everybody I talked to about it.

Q. Well, anybody in connection with the Legislature?

A. What do you mean by connection?

Q. Anybody besides those that were present at the hearings on House Bill 2313.

A. I don't remember.

Q. If anybody did, you can't recall at this time, is that correct?

A. That's correct.

Q. All right. Now, does that conclude all of your conversations with Mr. Mills or Mr. Stephens concerning House Bill 2313 on the occasion that we are now talking about?

A. Yes.

Q. All right. What conversations did you have with whom at that meeting concerning Senate Bill 310?

Q. No. I just want your conversations, Doctor.

Q. I'm still waiting for your answer to the question. Tell me the conversations you had with either Mills or Stephens concerning Senate Bill 310. Now, would you answer the question please?

Q. If you can't do that, then give us the substance.

What did you say to either of them and did they say to you

about Senate Bill 310?

A. I related to them my concern about Senate Bill 310.

Q. And what was your concern as you related it to them?

A. That Senate Bill 310 would lead to legalization of homosexuality as I remember it except in cases of aggravated sodomy and in cases where sodomy occurred with children under the age of 16 and as I remember it, they were going, especially Jerry Stephens, step by step through the statutes being struck or that would have been struck by Senate Bill 310 and the ones that were being or would have been inserted in the law and I remember we had some amount of discussion regarding--let me look at Senate Bill 310. There was some question about--yeah, I found it here. Well, I think it was K.S.A. 21-3505 that would have been repealed and we had some discussion about that section. It reads: "Sodomy is oral or anal copulation between persons not husband and wife or consenting adults, members of the opposite sex," and so on and so forth and we had some discussion about whether that would not fit whether it was both husband and wife and consenting adults and I remember we kicked it around for awhile trying to pin down what the present law was that was being struck by Senate Bill 310.

Q. What did you find out about the present law that was being struck?

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- A. That the effect of the present law was with regard to sodomy as oral or anal copulation between persons of the opposite sex who are not husband and wife.
- Q. Or consenting adults?
- A. No. That was not what we were discussing.
- Q. All right. What was your discussion about it?
- What was your concern about it? Maybe that's the way I should ask you. What were you trying to find out up there?
- A. No. This came up after--when I was discussing with them the effects of what would have been the effects of Senate Bill 310. We got into a discussion on 21-3505 about this consenting adult thing at first and one of them seemed to be interpreting it that sodomy would not be oral or anal copulation.
- Q. Under the present law or House Bill--Senate Bill 310?
- A. Under the present law, 21-3505.
- Q. All right. What did somebody say about it?
- A. All right. For a few minutes, I think they were interpreting to mean that as long as they were consenting adults, it was not sodomy even if it was not between husband and wife. In other words, they were interpreting that as long as it was consenting adults, that either one or the other factor had to be met.
- Q. What do you mean factor?

A. Well, that's what I didn't get clear. In other words, there was discussion for a while about that and I never could see what they were saying. Then, they came around in their interpretation--(interrupted)

Q. How did they interpret it?

A. (Continuing)--which is that the present law prohibits people of the same sex whether they are consenting or not, husband or wife or not from having oral or anal intercourse without criminal penalty.

Q. If these are of the same sex, the law prohibits it?

A. Yes.

Q. Did they tell you that was their interpretation of the present law?

A. I'm sure that that's what came out of it.

Q. Both of them or which one of them?

A. I don't remember. If it was just one of them, it would have been Jerry Stephens, because he was called in to help interpret it.

Q. Your recollection is that that was the decision or the conclusion he came to in your presence there that day?

A. Yes.

Q. All right. And so, that Senate Bill 310 repealed that particular statute?

A. Repealed that statute without replacing that statute in that situation.

- Q. Uh-huh. All right. Did they tell you that?
- A. Yes.
- Q. What else did they tell you about Senate Bill 310?
- A. They did the same thing for me there that they had done on the house bill, that Russell Mills had done on House Bill 2313.
- Q. I'm talking about Senate Bill 310.
- A. They did the same thing they did on the other one. They traced the legislative history for me, the committee hearings or the coming out of the committee. If I remember right, they explained to me that the bill has no author's name on it. It was put on by the committee as a whole.
- Q. It was put on by the committee as a whole? The bill was a committee bill?
- A. That's the term they used. Well, that is a committee bill. That's the way I remember the term for that as to what they were saying, and they said they didn't have an individual author's name on it.
- Q. Did they tell you anything else about Senate Bill 310, either of them?
- A. Okay. They traced the legislative history through the Senate and then they traced it into the House committee, and I don't remember what House committee it went to, but I think it's called en masse in the House committee at

19040133117

the end of the legislative session which I believe they explained to me meant that it never got voted or acted upon. It neither got reported favorably or unfavorably out of that House committee.

Q. Anything else that they told you about Senate Bill 310 on that occasion?

A. I don't recall anything else right now.

Q. All right. Did you have any subsequent conversations with either of them, either Mills or Stephens after that occasion?

A. Yes, I did with Russell Mills.

Q. And when was that, do you know, a matter of days or weeks or what?

A. It was probably a couple of three weeks.

Q. All right. Did you initiate the call?

A. I just went over.

Q. You went over there?

A. Yes.

Q. For what purpose?

A. To secure a copy of the letter from the Legislative Research to Senator Hein dated July 24, 1978.

Q. How did you find out about that?

A. From my attorney.

Q. All right. Who did you talk to?

A. First, I talked to Russell Mills.

Q. Did you have a copy of the letter at that time?

A. I believe I did.

Q. Well then, what was your purpose in going over there then if you had a copy of the letter?

A. My attorney asked me to go over there and ask for it.

Q. To get another copy? He needed two copies, did he?

A. You'll have to ask him. He didn't tell me his reason.

Q. I'm asking you why you went.

A. I went because my attorney told me to go.

Q. For what purpose?

A. I don't know. I don't know what his purpose was.

Q. Why did you go?

A. Because he told me to go.

Q. And what were you to do?

A. I was to go get a copy.

Q. Of Exhibit 4?

A. Of Exhibit 4.

Q. Which you already had a copy of?

A. Yes.

Q. Didn't that seem kind of strange to you, Doctor, that your lawyer would ask you to go get a copy of something he already had?

A. I guess it didn't.

Q. It didn't seem strange to you?

A. Well, I don't remember right now whether I felt that it was

strange or not.

Q. Well, did you get a copy?

A. No.

Q. Why not?

A. Russell Mills said he would have to go ask somebody whether or not he could give me a copy. He apologized--no, not that time. So, he left the room and came back and said no, that he couldn't make a copy of the letter. I asked him if he would give me or would write me a letter and he explained to me, you know, this is private correspondence between the Legislative Research Department and Senator Ron Hein and that he could not make me a copy. I asked him if he would write me a letter explaining these very same points that were made to Senator Hein and he said that he would have to go check again and as he got up from his desk, he was very apologetic. He said, "Normally, I decide these things myself, but I have to check with somebody on this."

Q. And did he check?

A. He left the room and he came back and he said he could not make me or write me a letter to this effect. And I said, "Who are you going to check with?" and he told me who it was and I asked who it was and he said, "The head of the department," and I have forgotten the man's name right now.

79040133120

Q. Did you show him or tell him on this occasion that you had a copy of Exhibit 4 that you received from your attorney?

A. Well, we haven't talked about the whole occasion.

Q. Well, answer this question and then we'll get back to the rest of it.

A. Okay. I think I did.

Q. Did you say you did?

A. I think I did.

1 Q. You think you showed him or told him?

2 A. Told him.

3 Q. Told him you had a copy and you said you wanted another
4 one and he said that he couldn't get it for you?

5 A. No. I had not yet told him that I had a copy.

6 Q. But you did later tell him then that you had a copy?

7 A. I believe I did.

8 Q. And what did he say?

9 A. I don't remember his responding to that at all.

Q. How did your attorney get Exhibit 4?

MR. ROST: I object to that as work product.

Go ahead and answer if you know.

A. I don't know.

MR. LISTROM: Did you ever ask him?

A. No.

(THEREUPON, at the hour of 3:50 o'clock

P.M. a recess was had until the hour of 4:05 o'clock P.M., whereupon all parties appearing as before, the further proceedings were had:)

MR. LISTROM: Okay. We're back on the record. For the record at this time, the plaintiff requests either defendant or his counsel to state where they obtained Exhibit 4.

MR. ROST: It's work product.

MR. LISTROM: It's not work product. It's in the record as an exhibit.

MR. ROST: It's an exhibit.

MR. LISTROM: I want to know where you got it.

MR. ROST: It's work product and I don't have to state where.

MR. LISTROM: And you're refusing to disclose where you got it?

MR. ROST: That's correct.

MR. LISTROM: Now, Doctor, we talked about all of the conversations--(interrupted)

MR. ROST: And it's irrelevant and immaterial where we got it and the fact it is of record.

MR. LISTROM: (Continuing)--face to face that you had with Mr. Stephens and/or Mr. Mills on the second occasion? First, have we talked about all of the

19040133122

conversations that you recall on the face to face meeting on the first occasion when you discussed House Bill 2313 and Senate Bill 310?

A. Yes, that I can recall.

Q. (By Mr. Listrom) All right. Now, when you went back up there later, I think that's where we left off before we had the recess, you went up there to get a copy of the Exhibit 4. Did you go up there for any other purpose?

A. I don't believe I did.

Q. Did you when you were there on the second occasion--do I understand that you talked to Mills or Stephens or both or neither?

A. The second occasion, Russell Mills and the head of the department whose name I can't recall.

Q. Do you recollect any other requests that you made at that time of either of them or are you satisfied you didn't?

A. Other than a copy, yes.

Q. Of Exhibit 4?

A. Yes. I asked them to write me an opinion.

Q. All right. And they declined or did they?

A. Yes. Russell Mills did have some consulting with somebody and then the head of the department did when I saw him.

Q. All right. Now, did you make any other requests at that time of Mr. Mills or anybody else up there other than

what you have narrated to us?

A. I don't remember making any other request.

Q. Are you satisfied you didn't make any others at this time?

A. I have told you about all that I know.

Q. All right. On either occasion, did Mr. Mills or Mr. Stephens indicate to you that Senate Bill 310 had the effect of legalizing homosexuality?

A. Yes.

Q. Who told you that?

A. It was in the session with--(interrupted)

Q. Did he make a copy of that?

A. It was in the session with Jerry Stephens and Russell Mills together and I'm sure it would have been Jerry Stephens, because he was brought in to help me determine the effect of the bill.

Q. And so, it is your testimony that Jerry Stephens during that meeting, that would have been the first meeting, told you that the effect of Senate Bill 310 was to legalize homosexuality?

A. Yes.

Q. Did Mr. Mills also indicate the same thing?

A. I do not remember whether or not at that time that he was definitely involved in our discussion. I don't remember both of them indicating that to me.

19040133124

Q. All right. Did you have any discussion with anybody else other than Senator Reilly, Russell Mills, Jerry Stephens or anybody else that told you in their opinion Senate Bill 310 had the effect of legalizing homosexuality?

A. Yes.

Q. Who?

A. My wife.

Q. All right. And she had read the bill?

A. Yes.

Q. Anybody else?

MR. ROST: If you can remember.

A. Okay. I don't remember.

MR. LISTROM: You remember trying to get an opinion from anybody else about it?

A. Yes.

Q. (By Mr. Listrom) Who?

A. I do remember.

Q. Who?

A. Dr. R. Don Strong.

Q. All right. And what did he indicate to you if he did?

A. I don't remember our conversation. I remember that he had some strongly held views on the subject.

Q. He had a strong position, but you don't remember what it was? Is that what you're saying?

A. No. I thought we were talking about--in other words, he

79040133125

had some views on the subject of homosexuality and that's why I went to him, because he had written his doctoral thesis on the subject and I asked him to study it with me to see if that would be the effect of the bill, if he thought that striking of that one section and the replacement of Senate Bill 310 would have the effect of legalizing homosexuality.

Q. And did he?

A. And he did.

Q. Anybody else?

A. No one else that I can remember.

Q. All right. Did either Jerry Stephens or Russell Mills indicate to you what Senate Bill 310 was designed for or what it was designed to accomplish?

A. There's where I'm a little bit fuzzy. You remember that I didn't remember and I still don't remember definitely that we discussed Senate Bill 309. 309 and 310 are companion bills. If we discussed it then yes, they would have indicated to me that 309 was designed to prohibit homosexual marriages. 310 was Senator Pomeroy's companion bill that was designed to make it legal for homosexuals to live together without the marriage certificate.

Q. Did you understand from Mr. Stephens or Mr. Mills that that was the purpose of Senate Bill 310, so that

homosexuals could live together without being married?

A. What makes it confusing is that I had read newspaper articles stating that--quoting it in an interview with Senator Pomeroy, and I don't remember how much of that was discussed with these two men.

Q. Well, do you remember learning from either of these two men what Senate Bill 310 was designed to do?

I think that's a very simple question to you.

A. That's what I'm saying is that all I could relate that to is that these two men were relating it to me or their interpretation.

Q. Okay. But anything else? Did they discuss with you any other purpose of Senate Bill 310?

A. We went over supplemental information on Senate Bill 310, and so they would have indicated to me not only that repealing this law would repeal the old section on sodomy and one effect would be the legalization of homosexuality, but they also indicated to me that an intent of the bill was to include sodomy for hire, bestiality which would be defined as a crime which--well, and the section on adultery and unlawful cohabitation as a crime would be repealed. In other words, they went over the material that was in the supplemental information of Senate Bill 310 with me.

Q. All right. Doctor, do you know what sodomy for hire is?

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- 19040133128
- A. I believe I do.
- Q. What?
- A. Sodomy for hire--you mean under the old statute?
- Q. Under the existing laws?
- A. Under the existing law would be oral or anal intercourse for which someone was paid.
- Q. Is there a law against that today?
- A. There's a law against oral or anal intercourse between two members of the same sex.
- Q. That's not correct, Doctor. Well, look at the section, if you will please, 21-3505 which defines sodomy, does it not?
- A. Yes, it does.
- Q. And you were aware of that, weren't you, when you were going through all of this, is that correct?
- A. Aware of the definition that's in the law you mean?
- Q. Were you aware of Section 21-3505 when you prepared for printing and dissemination of Exhibit 1?
- A. Yes.
- Q. All right. And sodomy for hire is not prohibited in Section 21-3505, is it, so long as it is between members of the opposite sex?

MR. ROST: Now, I'm going to object. Are you asking his opinion as to how he interprets that statute?

MR. LISTROM: Uh-huh.

MR. ROST: Okay. I withdraw the objection.

A. As I remember your question, I believe that's true.

MR. LISTROM: Well now, you want me to repeat it so we can be sure? I will. Okay. Under the present law today and as it existed in July and August of 1978, there was no law--(interrupted)

MR. ROST: Well, go ahead.

MR. LISTROM: (Continuing)--against oral or anal copulation between husband and wife or between consenting adults of the opposite sex--(interrupted)

MR. ROST: I'm going to object.

MR. LISTROM: (Continuing)--is there?

MR. ROST: I'm going to object on the basis that he's not qualified to answer that question. That's a question as to the law, but I did not object as to whether or not that was included in his interpretation as to whether it was included in 21-3505.

MR. LISTROM: You may answer the question.

MR. ROST: Go ahead and answer him.

A. Well, I don't know all the law.

MR. LISTROM: I didn't ask you that, Doctor.

A. Yes, you did.

Q. (By Mr. Listrom) No, I didn't.

MR. ROST: Yes you did, Mr. Listrom. You said any law.

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MR. LISTROM: Well, does Section 21-3505 prohibit oral or anal copulation between husband and wife or consenting members of the opposite sex?

MR. ROST: As you interpret it.

MR. LISTROM: Does it?

A. No.

Q. (By Mr. Listrom) All right. Are you in favor of anal or oral copulation for hire or sodomy for hire?

A. I am not.

Q. Are you opposed to that?

A. I am opposed to that.

Q. And you understand that it's permissible, do you not, under the law as it exists today for that kind of activity to be conducted as long as it is between consenting adults of the opposite sex, do you not?

A. No.

Q. You don't understand that?

A. No.

Q. Well, what is your understanding?

A. I understand that 21-3505 does not prohibit sodomy for hire.

Q. Do you know of any other law that prohibits it?

A. I do not know.

Q. Then, assuming there is no other law, would you agree with me that it is permissible under 21-3505? Would you

agree on that?

A. I'm sorry. I was looking at the law.

Q. Assuming there is no other statutes applicable to oral or anal copulation between consenting adults of the opposite sex, would you agree that Section 21-3505 does not prohibit such activity?

A. I agree that 21-3505 does not prohibit sodomy for hire.

Q. All right. And yet you are opposed to that kind of activity I believe you stated, did you not?

A. I did.

Q. And you would be in favor of a law that made that kind of activity a crime, wouldn't you, and punishable?

A. Do you mean a law limited to that?

Q. Just a law. You would be in favor of a law that prohibited that kind of conduct?

A. Not if that law changed other provisions that I'm opposed to.

Q. Well, how would you determine whether you were going to be in favor of it or not?

A. If it accomplished only that one thing, I would be in favor of such a law.

Q. All right. Now, Senate Bill 310 does accomplish that, does it not--(interrupted)

A. No.

Q. (Continuing)--among other things?

A. Yes.

Q. It makes sodomy for hire so to speak a Class B misdemeanor, doesn't it? Look at it, Section 2.

MR. ROST: Again, I assume, counsel, you're talking about his opinion.

MR. LISTROM: Yes. If I want a lawyer's opinion, I'll ask you.

A. Yes.

Q. (By Mr. Listrom) Doctor, what is homosexuality?

A. I would define it primarily as an affection--(interrupted)

Q. May I, before you answer, ask if you're reading from something in answering that question?

A. No, I'm not.

Q. Okay. I just wanted to know.

A. I was going to write this down.

Q. You were going to write it down?

A. Obviously, I'm going to have to live with every word of it. Homosexuality in my opinion would be an affection between members of the same sex whose affection results in the--whose affections are expressed in the manipulation of each others sex organs for pleasure.

Q. For pleasure?

A. Yes. I'm trying to think of all the ramifications.

Q. Take your time, Doctor. I don't want to rush you. When you're done, tell me.

A. Their--(interrupted)

Q. Are you continuing now?

A. Their ultimate sex act is an only means of intercourse being oral or anal intercourse.

Q. Are you through with that definition now?

A. Within the time limitations given.

Q. I don't want to rush you, Doctor. I want you to take your time.

A. And given no more resources than I have here now and without being able to think of all the ramifications or possible exceptions to the answer.

Q. You printed and disseminated Exhibit 1, correct?

A. Yes.

Q. What definition did you have in mind when you printed and disseminated that document?

A. Would you like for me to go get the definition I had in mind?

Q. It's not the one you've narrated here?

A. Word for word, no. That's what I'm saying. Within my memory or within my limitations here, I can't remember enough to give all of the definition.

Q. What definition did you use in establishing the criteria for publishing and disseminating Exhibit 1? Where did you get the definition?

A. Primarily from--primarily from the Bible.

Q. Well, what book, verse, chapter of the Bible please?

A. That's what I'm offering to get if you want me to go get my research.

Q. Did you get it from any other source?

A. Yes.

Q. Where?

A. From Dr. Strong's doctoral thesis.

Q. Well, is he an authority--(interrupted)

A. Yes.

Q. (Continuing)--on homosexuality?

A. Yes.

Q. Any other sources?

A. Yes.

Q. What?

A. Dr. Clyde Nabours (sp) book, an encyclopedia of psychological problems. I'm offering to go get that research together for you.

Q. Doctor, I don't want you to get any research. I just want to know the sources of your definition that you have for homosexuality and the definition that you had in mind when you published Exhibit 1.

A. Uh-huh.

Q. Have you answered that question completely?

A. No.

Q. Well, what others are there? I thought you said you

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didn't know.

A. I said no.

Q. What other--what other definition did you have in mind?

MR. ROST: What other sources?

MR. LISTROM: Or definitions. It's a two-fold question.

A. That was my point. I don't have them in mind right now.

Q. (By Mr. Listrom) Are there any others though that you can think of?

A. I told you that this is what I can think of now as a definition of homosexuality.

Q. You think that's all of them?

A. Oh, no. I don't think there's any way in the world that I can sit here and put all the limitations on this definition that's going to be needed under your scrutiny.

Q. You're going to cover all fronts, aren't you, Doctor? I'm going to try my best.

A. And you're going to include anybody who even drinks a glass of water before you're done?

Q. I hope so.

A. Doctor, you said a moment ago that you would have to look at the entire bill to determine whether or not you were in favor of it, did you not?

Q. Under what heading now?

- Q. Didn't you tell me a while ago that before you would decide whether or not you were in favor of a particular bill, you would have to look at the entire bill?
- A. Its entire effect.
- Q. Yes. And did you do that with respect to Senate Bill 310?
- A. I believe I did.
- Q. All right. What was the entire effect as you understood of Senate Bill 310?
- A. That it was written up in supplemental form.
- Q. Well, tell me what it was. I don't want you to refer to what was written up. What was your understanding of the effect of Senate Bill 310? What did it do?
- A. First of all, it legalizes homosexuality.
- Q. All right.
- A. Okay. Secondly, that the prostitution statute would be amended to include sodomy for hire.
- Q. All right. Which you would be in favor of? I mean, you are in favor of that section?
- A. I am--before you asked me if I was in favor of a criminal penalty on sodomy. I don't know if I am in favor of that being listed under the prostitution statute.
- Q. Do you have some question about whether you are for that or against it?
- A. If you didn't strike 21-3505.

Q. No, no. I'm not talking about that. I'm just talking about that particular section. I'm asking you: What did you understand the effect of Senate Bill 310 to be? And you said you understand it legalizes homosexuality for one and number two, you said you--you started talking about what it outlawed or made a crime for sodomy for hire. Now, have I stated that correctly so far?

A. No.

Q. Okay. Where am I wrong? I read what it said here.

A. The prostitution statute would be amended to include sodomy for hire and you said that's what I'm for and I questioned or stated that I would have to research it further before I would put sodomy for hire under the prostitution statute, because under the current law, there is a sodomy statute which under this bill would have been struck and I cannot agree with that without giving it further research that I would go along with putting sodomy for hire under the prostitution statute.

Q. Well, you are opposed to sodomy for hire? You want that to be a crime, don't you?

A. Yes.

Q. And isn't that what Section 2 of Senate Bill 310 does?

A. Yes.

Q. So, you're in favor of that particular section, are you

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not?

A. It has to be put over under the prostitution statute, because it strikes the sodomy statute.

Q. I didn't ask you that. I just asked you--(interrupted)

A. You asked me and I did agree that with this prostitution statute, that it would be amended to include sodomy for hire and I'm not sure I would agree with that, putting sodomy for hire under the prostitution statute.

Q. What would you agree with, with respect to sodomy for hire?

MR. ROST: I'm going to object. This witness is not qualified to answer that question as to how to categorize statutes--(interrupted)

MR. LISTROM: Would you answer the question?

MR. ROST: (Continuing)--of the State of Kansas. Go ahead and answer.

A. I really don't remember the point you were making at that time.

MR. LISTROM: You are against sodomy for hire and you want it to be made a crime. Is that a fair statement?

A. Yes.

Q. (By Mr. Listrom) Senate Bill 310 does that, doesn't it?

A. By putting it under the prostitution statute, I do not know if I would agree with that.

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- Q. I didn't ask you that. I asked you if it wouldn't make sodomy for hire a crime?
- A. I do not know for sure that I agree with putting it under the prostitution statute.
- Q. I didn't ask you that. I asked you if you agreed that Senate Bill 310 made sodomy for hire a misdemeanor?
- A. You asked me--(interrupted)
- Q. No. I'm asking you now. Do you agree with that?
- A. You asked me--(interrupted)
- Q. No, Doctor.
- A. You agree with my statement.
- Q. You answer my question or we will adjourn this deposition and go see the judge about that question. Do you agree that Senate Bill 310 makes sodomy for hire a crime?
- A. I have already told you yes.
- Q. And do you agree?
- A. That it does that, yes.
- Q. And you are in favor of sodomy for hire being a crime, aren't you?
- A. Yes--(interrupted)
- Q. All right. You've answered my question.
- A. (Continuing)--but not done by Senate Bill 310.
- Q. I would ask that the last part be stricken as not responsive.

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MR. ROST: I would ask that it stay.

MR. LISTROM: What is it that's objectionable about sodomy for hire as set forth in Senate Bill 310?

What is objectionable to you about it, Doctor?

It would probably be unnecessary to put it under the prostitution statute if the sodomy statute were left.

Well, Doctor, we have a sodomy statute, 21-3505, don't we?

Yes, we do.

And that does not prohibit or make criminal sodomy for hire between consenting adults of the opposite sex,

doesn't it?

But it could.

How could it?

By being amended.

Well, okay. So, Senate Bill 310 makes it a crime and that is what you are interested in, isn't it?

Not the way Senate Bill 310 does it.

Why?

Because it strikes the sodomy statute as applicable to homosexuals.

I understand. Okay. I think I understand you. What you object to is Section 4 of Senate Bill 310, isn't it,

Doctor? Look at it, would you?

I object to the--(interrupted)

Look at Section 4 of Senate Bill 310. Will you please read it into the record?

"K.S.A. 21-3501, 21-3505, 21-3507, 21-3512 and 23-118 are hereby repealed."

Now, that is the part of that that you are opposed to, isn't it, the repeal of Section 21-3505?

A part of that, yes. What I disagree with is the repeal of Section 21-3505.

Now, you understand, do you not, that at the time this bill was under consideration by the Legislature, that we had massage parlors in this county, did you not?

MR. ROST: I object to that as irrelevant and immaterial as to whether there is any malice or any libel or any slander in Exhibit A.

MR. LISTROM: You may answer the question.

MR. ROST: Answer it.

This would have been 1977?

MR. LISTROM: Yes.

I probably was aware of the fact that there were massage parlors in Shawnee County in the spring of 1977.

(By Mr. Listrom) And there were clear up until the Board of County Commissioners within the county and within the past 60 or 30 days adopted a resolution which had the practical effect of outlawing them, isn't that true?

I don't know that.

Q. Okay. Do you have any understanding of it at all?

A. You mean what has been done in the last 30 to 60 days?

Q. Yes.

A. Only that I have received some information where there were tests being given to those who would be working in massage parlors.

Q. And prior to the action by the Board of County Commissioners and certainly when Exhibit 1 was prepared and mailed, there were massage parlors operating in Shawnee County were there not?

A. You're saying that all happened in the last 30 to 60 days?

Q. I'm saying you prepared and disseminated Exhibit 1 when massage parlors were operating in Shawnee County, Kansas?

A. I do not know that for a fact.

Q. You have no knowledge of that?

A. I have no knowledge about that.

Q. Did you not have an understanding, Doctor, that the purpose of Senate Bill 310 was to make massage parlors an illegal activity?

A. No.

Q. You did not understand that? You did not, in the course of all the people that you talked to about that bill, learn that it was commonly referred to in the Legislature as the "massage parlor bill"?

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- A. No.
- Q. You didn't know that? It wouldn't have made any difference to you if you would have known that?
- A. Of course not. It wouldn't have made any difference.
- Q. Does that mean then that you are in favor of massage parlors?
- A. Of course not.
- Q. So, this Senate Bill 310--strike that. Did you in preparing Exhibit 1 and mailing it to the people to whom you mailed it make any reference to the fact that Senate Bill 310 outlawed oral and anal copulation between members of the opposite sex, would you point that out, for hire? Excuse me.
- A. I'll have to look at it.
- Q. It was in the letter that was sent?
- A. Is that what you're asking me, about Exhibit 1?
- Q. I think it's on the bottom here, Doctor. Here (indicating).
- A. Without looking through the whole letter right now, I-- (interrupted)
- Q. I want to be sure of your answer.
- A. Do you have one I can borrow?
- Q. Now, Doctor, have you finished reading Exhibit 1?
- A. Yes.
- Q. And you've had five or ten minutes here to read it.

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1 There's nothing in that bill--or, excuse me--Exhibit 1
2 that refers to the fact that Senate Bill 310 would make
3 it a crime for anybody convicted of sodomy for hire as
4 defined in the bill? There's nothing in your brochure
5 about that--(interrupted)

6 A. Yes.

7 Q. (Continuing)--is that right?

8 A. No.

9 Q. What is in your brochure about that?

10 A. About sodomy for hire?

11 Q. Yes.

12 A. In the discussion of Senate Bill 310 mentioned in the
13 paragraph emphasizing that the bill would legalize
14 homosexuality, that would pave the way to present in our
15 schools an acceptable alternative--legal alternative
16 lifestyle. I mentioned that a 16 year old could not be
17 protected by the advances of a homosexual under this
18 Senate Bill 310 unless it was done by force or for hire
19 and then he would be protected.

20 Q. But you don't say that--come right out and say that
21 Senate Bill 310 or that Senate Bill 310 expands the
22 definition of sodomy for hire, do you, because it doesn't
23 do that, does it?

24 MR. ROST: I'm going to object to the form.
25 There are two questions there.

1 MR. LISTROM: It doesn't say that, does it?

2 A. In those words, it does not say that.

3 Q. (By Mr. Listrom) And the only thing you say about
4 sodomy for hire are those three words at the end of
5 that paragraph there, isn't it, "or for hire" isn't it?

6 A. And the context of that paragraph that goes before it.

7 Q. What in the context of the paragraph before it says
8 anything about sodomy for hire?

9 A. It mentions Senate Bill 310 and it talks about the
10 effects.

11 Q. What does it say about sodomy, that it prohibits sodomy
12 for hire?

13 A. That's what the paragraph is saying. When you look at
14 what Senate Bill 310 does leave in and the things it
15 does not leave in the law, and I mentioned what it leaves
16 in the law, sodomy by force or for hire.

17 Q. But it wasn't in the old law? It doesn't leave it in,
18 does it? It makes it a crime, does it not?

19 A. All right.

20 Q. Is that not right?

21 A. Well, on the last two words for hire, yes, it does.

22 Q. It does what?

23 A. What you said.

24 Q. What does it do?

25 A. Senate Bill 310 in relation to sodomy for hire.

1 Q. No, no. What does your brochure say? It doesn't say
2 anything about sodomy for hire except those three words
3 I read to you a minute ago, does it?

4 A. I meant that it doesn't--(interrupted)

5 Q. I don't want to know what it meant. I asked you what it
6 said. It doesn't say anything else, does it?

7 MR. ROST: I object. The witness has answered
8 counsel's question and counsel is now arguing semantics
9 with the witness.

10 MR. LISTROM: It doesn't say anything about it,
11 does it?

12 A. You're right, it doesn't say anything else about what I
13 have mentioned.

14 Q. (By Mr. Listrom) It doesn't print the whole truth and
15 effect of Senate Bill 310, does it?

16 A. You mean because it leaves out bestiality?

17 Q. Just answer my question.

18 A. Of course not.

19 Q. Pardon?

20 A. Of course not.

21 Q. And so therefore, you have published something against
22 Senator Hein that does not contain the whole truth,
23 haven't you?

24 A. How could I put the whole truth in one letter?

25 Q. Couldn't you have said in the exhibit, Doctor, that

1 Q. Answer the question, Doctor.

2 A. I answered it.

3 Q. How many?

4 A. I answered your question already.

5 Q. How many lines, Doctor?

6 MR. ROST: Don't answer that. I'm going to
7 instruct him not to answer anything further until
8 counsel sits down in his chair and quits standing over
9 the witness.

10 MR. LISTROM: I hand you, Doctor--(interrupted)

11 MR. ROST: When counsel sits in his chair,
12 then I'll instruct him to answer.

13 MR. LISTROM: How many lines does the bill
14 contain?

15 MR. ROST: I'll instruct him not to answer
16 until counsel goes back to his chair and sits down.

17 MR. LISTROM: There's no rule in a deposition
18 that I have to remain seated. Answer the question.

19 MR. ROST: No.

20 MR. LISTROM: Are you refusing to answer the
21 question?

22 MR. ROST: I instruct him not to answer the
23 question until you sit down in your chair and either
24 pass him the document or stand at the other end of the
25 table and not over the witness.

1 MR. LISTROM: Doctor, do you have a copy of
2 Senate Bill 310?

3 MR. ROST: Go ahead.

4 A. Yes.

5 MR. LISTROM: How many lines does it contain?

6 A. Do I count the one at the top?

7 Q. (By Mr. Listrom) Yes, all numbered lines including the
8 opening paragraph.

9 A. What about the lines that are struck? How about those
10 lines that are struck?

11 Q. Every line that has typing on it, Doctor.

12 A. I count 28.

13 Q. All right. Twenty-eight lines, is that correct?

14 A. Well, I heard you say 27.

15 Q. I asked you if it isn't 28, is that correct?

16 A. We better count them again.

17 Q. Well, suit yourself. It's 27 or 28, would you agree?

18 A. I count 28.

19 Q. Okay. Are you satisfied it's 28?

20 A. Yeah.

21 Q. All right. And you testified yesterday that in the
22 preparation and dissemination of Exhibit 1, you drew the
23 pictures in there because you needed a filler, didn't you?

24 A. That's right.

25 Q. And now, you've testified to that today, didn't you?

1 A. That's not technically right by the way.

2 Q. I'm asking you if you testified to that yesterday.

3 A. Okay. I did not.

4 Q. What did you testify to yesterday?

5 A. I did not testify that I drew those pictures on there.

6 Q. What did you testify?

7 A. I testified I used clip art and had those pictures
8 pasted in there.

9 Q. Because you needed to fill spaces?

10 A. Yes.

11 Q. That's true, isn't it, Doctor?

12 A. Yes.

13 Q. And you had plenty of space to have a short paragraph
14 about some of the good things that Senate Bill 310 did,
15 didn't you?

16 A. Not to present the whole truth.

17 Q. I didn't say the whole truth, but you could have printed
18 a short sentence to the effect that Senate Bill 310
19 outlaws sodomy for hire? You had room for that, didn't
20 you?

21 A. The subject of the letter was not Senate Bill 310.

22 Q. What was the subject matter of the exhibit?

23 A. The subject matter was the effect of 310 with regard to
24 homosexuality.

25 Q. All right. So, it was 310, wasn't it?

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A. That was not the subject matter of the letter.

2 Q. The subject matter of Exhibit 1 or the subject matter in
3 Exhibit 1, one of the purposes was to report on Senate
4 Bill 310, wasn't it?

S	A.	No.
---	----	-----

6 Q. It wasn't?

7	A.	No.
---	----	-----

8 Q. What was it then?

9 A. I was addressing myself to the substance of homosexuality
10 and the effect of Senate Bill 310 on that subject.

11 Q. All right.

12 A. I was not addressing myself to describe Senate Bill 310
13 to the public.

14 Q. Senate Bill 310 was a subject of Exhibit 1, wasn't it?

15 A subject.

16 A. It was mentioned. I don't know if I would call it a
17 subject.

18 Q. All right. It was mentioned and in the context of
19 mentioning it, you only talked about the effect it had on
20 the legalization of homosexuality--(interrupted)

21 A. Of course.

22 Q. (Continuing)--is that true?

23 A. Of course it's true.

24 Q. You did not mention the other effects of that bill,
25 did you?

1 A. Of course not.

2 Q. Okay. I think we've gone as far as we can go today.

3 MR. ROST: No, no. Let's go on and finish this
4 thing off.

5 MR. LISTROM: We're not going to finish it
6 today. We've got to go over and go before the judge.

7 MR. ROST: Well, let's go as far as you can go,
8 however far that is.

9 MR. LISTROM: Are you opposed to Senate Bill
10 310?

11 A. Do I oppose it?

12 Q. (By Mr. Listrom) Yes.

13 A. Yes.

14 Q. Doctor, supposing Senator Hein would call a press
15 conference today and announce publicly that Dr. Sterling
16 E. Lacy was in favor of massage parlors because he was
17 opposed to Senate Bill 310, one of the effects of which
18 would have been to outlaw massage parlors. Do you think
19 that would be a fair comment on your position?

20 A. If what now?

21 Q. Did you hear the question, Doctor?

22 A. Not in its entirety.

23 Q. If Senator Hein were to call a press conference today
24 and announce publicly that Dr. Sterling E. Lacy was in
25 favor of massage parlors because he opposed Senate Bill

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1 310, the effect of which would be to outlaw massage
2 parlors by outlawing sodomy for hire between persons of
3 the opposite sex, would that be a true statement?

4 A. That I am for it?

5 Q. That you are opposed to Senate Bill 310 and because you
6 are opposed to it, you are in favor of massage parlors
7 and sodomy for hire. Would that be a true statement?

8 A. No.

9 Q. It would not? It would be a false statement, wouldn't
10 it?

11 A. Not entirely.

12 Q. But it would not be a true statement either, would it?

13 A. Partially.

14 Q. But it would be a completely true statement?

15 A. One partially true and one partially false.

16 Q. It would be a half truth then, wouldn't it?

17 A. I'm not sure I could call it a half truth.

18 Q. Okay. By the same token, Exhibit 1 is a half truth, isn't
19 it, Doctor, partially true and partially not true?

20 MR. ROST: You can answer that.

21 MR. LISTROM: Let the record show that he's
22 been waiting and waiting to answer the question and I'm
23 still waiting.

24 MR. ROST: That's not been the case at all.

25 MR. LISTROM: May we have your answer?

1 A. Okay. Would you give me the question again?

2 MR. LISTROM: No, I'm not.

3 MR. ROST: I would request that the court
4 reporter read it back.

5 MR. LISTROM: All right. Read it back to him.

6 THE REPORTER: "Question: Okay. By the same
7 token, Exhibit 1 is a half truth, isn't it, Doctor,
8 partially true and partially not true?"

9 A. They are not exact parallels.

10 MR. LISTROM: You haven't answered the
11 question, Doctor.

12 A. The answer to the question is no.

13 Q. (By Mr. Listrom) Is it the whole truth?

14 A. I'm sorry?

15 Q. Was the whole truth there in Exhibit 1?

16 A. The whole truth about what I addressed it to.

17 Q. Does Exhibit 1 contain the whole truth about Senate Bill
18 310?

19 A. It can't.

20 Q. I say: Does it?

21 A. No.

22 MR. LISTROM: That's all for right now. I'm
23 not through.

24 MR. ROST: Well, do you want to certify these
25 up that you're talking about?

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1 MR. LISTROM: I think we're going to have to
2 wait. I don't know yet how many of our initial
3 questions there are.

4 MR. ROST: Before we certify it up, or if you
5 want to certify it up first, it's all right with me.
6 I don't care which way we go.

7 MR. LISTROM: Maybe we ought to get a
8 determination so the next time we come here, we can do it
9 in one shot.

10 MR. ROST: Fine. Let's certify the questions
11 up.

12 * * * *

13
14
15 STERLING E. LACY

16 STATE OF KANSAS)
17) ss.
18 COUNTY OF SHAWNEE)

19 Subscribed and sworn to before me this _____ day of
20 _____, 1978.

21 Notary Public

22 My Commission Expires:
23 _____
24
25

* * * *

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C E R T I F I C A T E

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

I, Darwin W. Lehning, a Certified Shorthand Reporter commissioned as such by the Supreme Court of the State of Kansas and authorized to take depositions within said state pursuant to K.S.A. 60-228 and authorized to administer oaths to witnesses pursuant to K.S.A. 20-913, certify that there came before me in the offices of Sloan, Listrom, Eisenbarth, Sloan and Glassman, Attorneys at Law, 714 Capitol Federal Building, Topeka, Kansas, on the 19th day of September, 1978, beginning at 9:15 o'clock A.M., STERLING E. LACY, who was by me first duly sworn to testify to the truth, the whole truth, and nothing but the truth concerning his knowledge of the matters in controversy in this cause, and that the deposition given by him, as herein set forth, was taken by me in machine shorthand in the presence of said witness, and afterwards reduced to typewriting under my supervision; that I am not a relative or attorney of either party, or clerk or stenographer of either party or otherwise interested in the events of the action or proceeding.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Official Seal this _____ day of _____, 1978.

DARWIN W. LEHNING
Certified Shorthand Reporter

"CLEAN" POLITICS VS. "DIRTY" POLITICS

I met a politician recently who believes that "clean" politics is when candidates run on their own personalities and "dirty" politics is when someone dares to drag issues into a campaign.

Has it become wrong to tell the truth? I ask, in the words of the apostle Paul, "Am I become your enemy because I tell you the truth?" No! Here in America, we still want the truth, no matter how bitter it is at times.

**PLEASE DON'T SEND
RON HEIN'S VIEWS TO WASHINGTON**

We are being asked to send Ron Hein an his views to Washington as being representative of us and our views. In my opinion, Ron Hein's views do not represent the views of most Republicans. If you agree with me, then please don't help send him on to Washington by voting for him next Tuesday.

Sen. Hein still has two years to serve in the Kansas Senate. Let's let him complete his term as state senator and watch his voting record more closely in the future.

While Ron Hein would undoubtedly make a good next-door neighbor, the U.S. House of Representatives is a too critically important segment of our national government to entrust to someone with his present views.

THEY JUST DIDN'T KNOW

I'm confident that Ron Hein's supporters were unaware of his position on the legalization of homosexuality and the decriminalization of marijuana when they contributed to his campaign. . . or when they put that bumper sticker on their car. . . or when they okayed that sign to be placed in their yard. Please, don't assume that Ron Hein's supporters were for the legalization of homosexuality or for the decriminalization of marijuana. They just didn't know!

Now that you do know, how about quickly cutting off the support. . . quietly peeling off the bumper sticker . . . and calmly taking down your yard sign? And, in the secrecy of the voting booth next Tuesday, refuse to lend your support to the legalization of homosexuality and the decriminalization of marijuana by refraining from voting for Ron Hein.

Sincerely,

Dr. Sterling E. Lacy
Sterling E. Lacy, Ph.D.

P.S. Write me today if you would like to see a committee formed to stop the legalization of homosexuality and decriminalization of marijuana.



DON'T FORGET YOUR RESPONSIBILITY TO HIM

TWO MAJOR MORAL ISSUES FACING AMERICA'S YOUTH TODAY**HOMOSEXUALITY**

The sin of Sodom and Gomorrah came close to being legalized in the State of Kansas.

Most people remember the Bible story of the destruction of Sodom and Gomorrah, but few remember that the sin of those two wicked cities was homosexuality.

Let's review the story: Abraham pleaded with God to save the city of Sodom if as few as ten righteous men could be found. God sent two messengers, angels who were dressed as men, to destroy the city. The two men spent the night in Sodom with Abraham's nephew, Lot. When the inhabitants of the city heard that Lot had the two visitors in his home, they surrounded the house and demanded: "Where are the men who came to visit you tonight? Bring them out to us that we may rape them." (Genesis 19:5, Moffatt)

In the process of caring about the homosexual and helping him out of his perverted lifestyle, we must not accept that lifestyle as a legal, operational part of our schools, churches, business and government programs. We must legally reject this immoral behavior or lose God's blessing on our nation and incur the wrath of God. Let's send the message to those state senators who voted to legalize homosexuality.

**MARIJUANA****A Case History by a Marijuana User:**

"I started smoking hashish and marijuana on a very casual basis (you go to a friend's house and a joint is passed around), but after short while use became more frequent and weekend experience extended well into the week.

"The dreamlike state of drugs is too powerful, too convincing, too subtle to permit insight. Before long the drugs themselves multiply and eventually suppress all conflicts about their use.

"Another joint, and all anxiety miraculously vanished.

"An individual can carry on virtually any task even while drugged, at least initially, effects can be so misleading. These don't reveal the inner anguish, the subconscious gropings, the elaborate network of delusions, the insidious deterioration in intellectual functioning, the collapse of self-discipline.

"I even managed to get myself another degree; of course I had to have a few joints to cope with the slightest pressure, the slightest demands. The cost was enormous. After five years of using soft drugs (with supposedly no dependence), its evils finally emerged. Divorce, chronic unemployment, two psychotic breakdowns and the suicide of a friend as I stood by helpless because of my own tameness.

"Recovery hasn't been easy. I have had to cope with terrible visual and auditory hallucinations, frequent and long meltdowns, frightening flashbacks, the inability to focus my attention on a lingering world of dreams and fantasies so convoluted as almost defy description. And far worse for me was the painful realization that five years in the prime of my life were utterly lost.

"A large part of the problem with 'soft' drugs is that they have received, and still receive, so much sanction from respectable and well-meaning people."

**Marijuana Reappraised*. Two Personal Accounts by Martin Groes & Ann McNicol. (The Myrna Institute for Adult Education, 521 Park Ave., New York, N.Y. 10021)

Lacy Deposits #1

7 9 0 4 0 1 3 3 1 5 8

AN OPEN LETTER FROM: A FAMILY THERAPIST
TO: SECOND CONGRESSIONAL DISTRICT REPUBLICANS
RE: SEN. RON HEIN'S LEGISLATIVE STAND ON DECRIMINALIZATION
OF MARIJUANA AND LEGALIZATION OF HOMOSEXUALITY

DEAR REPUBLICAN VOTER,

I counsel teenagers. I counsel teenagers and their families. I am on the firing line regularly with families being torn apart by marijuana or homosexuality. The battleground is the minds of our youth. The ammunition is ideas expressed in words. Whoever is the most persuasive wins the war.

My task of trying to salvage any future happiness for these young people is made extremely more difficult by personable political leaders like Ron Hein who try to make homosexuality respectable by voting to legalize it and marijuana more acceptable by personal efforts to decriminalize it.

RON HEIN AND THE
DECRIMINALIZATION OF MARIJUANA

The records of the Federal and State Affairs Committee hearings on March 17 & 31, 1977, clearly show that both Ron Hein's arguments and his votes were in favor of the decriminalization of marijuana. Can't Senator Hein and those who are lax about marijuana see that their arguments have the effect of encouraging marijuana use?

In order to promote the decriminalization of marijuana they argue that marijuana isn't harmful, doesn't slow thinking or reactions, in no way causes a dependency by the user, doesn't lead to so-called "hard" drugs, etc. And yet, my personal observations of those who use marijuana regularly shows the opposite—how about you?

I WAS SHOCKED TO FIND
THAT SENATOR HEIN HAD
VOTED TO LEGALIZE HOMOSEXUALITY

When a friend told me that the Kansas Senate had passed a bill (S.B. 310) this last legislative session that removed homosexuality as an "unlawful sexual act" (except in cases of aggravated sodomy), I just couldn't believe it! A bill to legalize homosexuality would pave the way for it to be presented in our schools as an "acceptable," "legal" alternate life style. Sixteen-year-olds could not be protected by law from the advances of a homosexual unless it was done by force or for hire.

I couldn't believe this was happening in Kansas. It sounded more like San Francisco. I told my friend I didn't believe it. However, I called a state senator who voted against S.B. 310 and he confirmed what my friend had said. He sent me to Legislative Research and they confirmed that S.B. 310 (which died in a House committee) was indeed designed to legalize homosexuality and that a majority of our State Senators had voted for it—including state senator Ron Hein! While homosexuals certainly need our concern and help, I can't for the life of me, understand the vote of Ron Hein and 21 of his colleagues.

AN OPEN LETTER (concluded inside)

"The hottest places in hell are
reserved for those who, in a
period of moral crisis maintain
their neutrality."
Dante

I am only one person, but I
shall no longer refuse "to get
involved." I have had enough.
What about you? How much
longer will you stand aside?

Dr. Sterling E. Lacy
Marriage and Family Counselor
609 Quincy—Suite 204
Topeka, Kansas 66603

Pot
"Gays" &
the coming
election. . .

A Second look
at the personable
RON HEIN

MCCULLOUGH VIVIAN A
4336 SE 26TH
TOPEKA KS 66605

Please read this letter before you vote this Tuesday—Aug. 1st

RC publications

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Dr. Sterling E. Lacy



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LEGISLATIVE INQUIRY

THE LEGISLATIVE RESEARCH DEPARTMENT

ROOM 545-N, STATEHOUSE
PHONE: (913) 296-3181
TOPEKA, KANSAS 66612

July 24, 1978

Senator Ron Hein
714 Capitol Federal Building
Topeka, Kansas 66603

Dear Senator Hein:

This letter is in response to your inquiry of July 21.

Approximately one week ago Dr. Sterling E. Lacy, a Topeka clinical therapist, visited the Research Department to discuss S.B. 310. Dr. Lacy stated that Senator Reilly had suggested that staff of the Department would be able to explain the bill to him.

However, since the staff member who worked on the bill when it was introduced in 1977 is no longer with the Department, no one with prior knowledge of the bill's intent and possible effects was available to talk with Dr. Lacy. Russell Mills and Jerry Stephens did discuss S.B. 310 with Dr. Lacy, although neither of these staff members had worked on the bill nor did they have knowledge of the author's intent.

No statements were made by either of these staff members regarding the intent of S.B. 310 since neither person had any prior knowledge of the author's intent. The discussion largely centered on the possible effects of the bill. Neither of the staff members recalls making the statement that one possible effect of the bill would be to legalize homosexuality between consenting adults, although this could be one effect because the present sodomy statute re consenting adults would have been repealed.

Senate Bill No. 310 would have had the following effect on existing sex offense provisions in the Criminal Code: redefining prostitution to include sodomy for hire and defining bestiality as coitus with an animal. In addition, S.B. 310 would have repealed the sections establishing sodomy between consenting adults, adultery, and unlawful cohabitation as crimes.

I understand that you have discussed S.B. 310 with Senator Pomeroy. He is in a much better position than we are to evaluate intent of the bill. He also could comment on the relationship of S.B. 310 to S.B. 309, a companion bill which would have

copy to Rep Ext #4

79040133164

SLOAN, LISTROM, EISENBARTH, SLOAN & GLASSMAN
LAWYERS
714 CAPITAL FEDERAL BUILDING
100 HANSEN AVENUE
TOPEKA, KANSAS
66603

FEDERAL ELECTION
COMMISSION

278 OCT 26 PM 2:14

1731-1782
NO. 78-CV-746

807308



Mr. Gary Lipkin
Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 20, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas Odell Rost, Esquire
Rost & Rost
Civic Center Office Building
629 Quincy Street
Topeka, Kansas 66603

Re: MUR 700(78)

Dear Mr. Rost:

This is in response to your letter of October 5, 1978, in which you requested an extension of 30 days within which to respond to the questions posed to your client, Dr. Sterling E. Lacy in our letter to him of September 29, 1978.

Under 2 U.S.C. §437g(a)(3)(A), the Commission is required to conduct investigations "expeditiously" and we are under a mandate to insure that this provision is adhered to. The granting of your request would delay the completion of this investigation for an inordinate amount of time and we have therefore determined that your request should be denied.

We should also advise you that in the absence of a prompt response to the questions posed to your client, we will have to proceed with our recommendations to the Commission based on information available to us from other sources.

79040133166

L.P.L. MUR 700

torney

1-100

RETURN RECEIPT REQUESTED AND CERTIFIED MAIL

1. ADDRESSEE: Thomas Odell Rost, Esq.
629 Quincy Street
Topeka, KA 66603

2. POSTAGE: \$1.01

3. DATE OF DELIVERY: OCT 24 1978

4. POSTMARK: [illegible]

5. UNABLE TO DELIVER BECAUSE: [illegible]

6. CLIENT'S INITIALS: [illegible]

7. RETURN TO: [illegible]

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LAW OFFICES
Rost & Rost
CIVIC CENTER OFFICE BUILDING
629 QUINCY STREET
TOPEKA, KANSAS 66603

F. J. ROST
THOMAS ODELL ROST

RECEIVED
FEDERAL ELECTION COMMISSION
#5110
18 OCT 10 AM 11:54

(913) 234-5609

806762

October 5, 1978

Mr. William C. Oldaker
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MUR 700 (78)

Dear Mr. Oldaker:

You are advised that I represent Dr. Sterling E. Lacy in the above captioned matter.

I will be in Southern Missouri and in trial for the next fifteen days, therefore I request an extension of thirty days to respond to your letter of September 29, 1978 and the attached questions.

I do have the documents assembled and will be able to answer the questions asked Dr. Lacy, and the responses will be notarized under oath pursuant to your instructions.

Sincerely yours,

Thomas Odell Rost

Thomas Odell Rost

TOR:gt

cc: Susan Seyfarth

79040133167

LAW OFFICES
Rost & Rost

CIVIC CENTER OFFICE BUILDING

629 QUINCY STREET

TOPEKA, KANSAS 66603



Mr. William C. Oldaker
Federal Election Commission
1325 K Street N.W.
Washington, D. C. 20463

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RECEIVED
FEDERAL ELECTION
COMMISSION
JCC#5707

LAW OFFICES
ROST & ROST
CIVIC CENTER OFFICE BUILDING
620 QUINCY STREET
TOPEKA, KANSAS 66603

78 OCT 10 AM: 53

F. J. ROST
THOMAS ODELL ROST

(812) 234-8609

October 5, 1978

806768

Mr. William C. Oldaker
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

In re: MUR 700 (78)

Dear Mr. Oldaker:

You are advised that I represent Dr. Sterling E. Lacy in the above captioned matter.

I will be in Southern Missouri and in trial for the next fifteen days, therefore I request an extension of thirty days to respond to your letter of September 29, 1978 and the attached questions.

I do have the documents assembled and will be able to answer the questions asked Dr. Lacy, and the responses will be notarized under oath pursuant to your instructions.

Sincerely yours,

Thomas Odell Rost

Thomas Odell Rost

TOR:gt

cc: Susan Seyfarth

79040133169

LAW OFFICES
Rost & Rost

CIVIC CENTER OFFICE BUILDING

629 QUINCY STREET

TOPEKA, KANSAS 66603



Ms. Susan Seyfarth
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

September 29, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

Re: MUR 700(78)

Dear Dr. Lacy:

The Federal Election Commission has received a complaint which alleges you committed certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 700(78).

The Commission has reason to believe that the matters alleged in the complaint state a violation of Sections 441d and 434(e) of the Act. Specifically, it appears that the brochure you published expressly advocated the defeat of Ronald R. Hein in his campaign for the U.S. Congress and failed to contain the statement required by §441d of the Act. It also appears that you failed to report your expenses in preparing this brochure, which may have amounted to more than \$100, in violation of §434(e) of the Act.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally, please submit answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

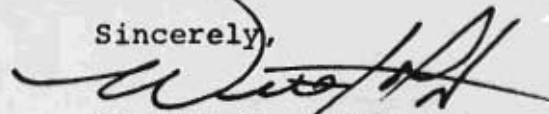
The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Susan Seyfarth, the staff member assigned to this matter, at 202-523-4175.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,


William C. Oldaker
General Counsel

Enclosure

Complaint
Questions

PS Form 3811, Apr 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

SENFARTH MUR-200

SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
☐ Show to whom and date delivered.
☒ Show to whom, date, and address of delivery.
☐ RESTRICTED DELIVERY
Show to whom and date delivered.
☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

3. ARTICLE DESCRIPTION:
REGISTERED NO. CERTIFIED NO. INSURED NO.
913445

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Dr. S.E. Lacy

DATE OF DELIVERY OCT 4 1977

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

2010-1977-0-240-000

BEFORE THE FEDERAL ELECTION COMMISSION

TO: Dr. Sterling E. Lacy

MUR 700(78)

QUESTIONS

1. In the complaint filed by Mr. Hein, (See Attachment I), he states that you acknowledged in a public press conference that you authored and disseminated a brochure advocating the defeat of Hein's election to the U.S. House of Representatives. Is this correct? If so,
 - (a) How many of these brochures did you publish and distribute?
 - (b) On what date(s) did you distribute the brochures?
 - (c) Aside from the brochure attached, did you publish any other literature concerning Mr. Hein's or Mr. Jeffries' candidacy for the U.S. House of Representatives? If so, include copies of such publications and state how many were published and distributed, and the cost of the publications.
2. The address label on the brochure (see Attachment II), appears to be a label from a pre-printed list. Where did you obtain the mailing list used in distributing the brochures?
 - (a) Did you have to purchase the mailing list?
 - (b) If so, from whom or what organization did you purchase the list?
 - (c) How much did you pay for the list?
3. Mr. Hein's complaint also alleges that you acknowledged informing the staff and office of Jim Jeffries' campaign that 1) you wanted to help their campaign, 2) you were not going to contribute directly to the campaign, but 3) you were going to distribute the document against Hein. Is this correct? If so,

79040133173

(a) Did you ever discuss the production and distribution of the brochure with Mr. Jeffries or any member of his campaign committee staff?

(b) If so [i] did this discussion occur before or after you produced and mailed the brochures?

[ii] What was the name and position of the person(s) at the Jeffries campaign with whom you discussed this?

[iii] What was said to you by this person(s)?

4. Mr. Hein's complaint further alleges that you publicly admitted accepting some contributions for the publication and dissemination of the brochure. Is this correct? If so,

(a) Who made contributions to you for this purpose?

(b) How much did you receive in contributions for this purpose?

(c) How much was the total cost of producing and distributing the brochure?

5. In a postscript at the end of the "open letter" part of the brochure, you invite all those interested in seeing "a committee formed to stop the legalization of homosexuality and the decriminalization of marijuana" to write you.

(a) Has such a committee been formed?

(b) If so, when was it formed?

(c) Has/does the committee contribute(d) to any candidates running for Federal office?

(d) If so, how much was given and to whom?

79040133174



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: Elissa Garr
FROM: Peggy Chaney
DATE: September 29, 1978
SUBJECT: Comments from Commissioner Staebler
Regarding MUR 700

Attached is a copy of Commissioner Staebler's vote
sheet with comments.

ATTACHMENT:
Copy of Vote Sheet

79040133175

48 HOUR TALLY SHEET



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

78 SEP 29 PI2: 36

Date and Time Transmitted: Sept. 26, 1978 - 4:00

Commissioner

Steeble

RETURN TO OFFICE OF COMMISSION SECRETARY BY: September 28, 1978 - 4:00

MUR No. 700 First General Counsel's Report, dated 9-26-78

- ☒ I approve the recommendation
☐ I object to the recommendation

COMMENTS:

LETTER TO WACY - LINE 8 OF 2ND PARAGRAPH
SHOULD SAY PREPARING AND DISTRIBUTING THIS BROCHURE.

Date:

9/28/78

Signature:

[Signature]

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 700 (78)
Dr. Sterling E. Lacy)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission do hereby certify that on September 28, 1978, the Commission determined by a vote of 4-0 to adopt the following recommendations of the General Counsel regarding the above-captioned matter as set forth in the First General Counsel's Report dated September 26, 1978:

1. Found reason to believe that Dr. Sterling E. Lacy violated 2 U.S.C. §434(e) and 44ld.
2. Send the letter and questions attached to the above-named Report.

Voting for this determination were Commissioners Springer, Tiernan, Thomson, and Harris.

Attest:

9/25/78
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 9-26-78, 10:19
Circulated on 48 hour vote basis: 9-26-78, 4:00

79040133177

September 26, 1978

MEMORANDUM TO: Marge Emmons
FROM: Eliasa T. Carr
SUBJECT: MUR 700

Please have the attached First General Counsel's
Report on MUR 700 distributed to the Commission on a 48
hour tally basis.

Thank you.

79040133178

FEDERAL ELECTION COMMISSION
RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT
78 SEP 26 10:19

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION

SEP 26 1978

MUR NO. 700
DATE COMPLAINT RECEIVED
BY OGC
STAFF
MEMBER Seyfarth

COMPLAINANT'S NAME: The Honorable Ronald R. Hein, Kansas

RESPONDENT'S NAME: Dr. Sterling E. Lacy

RELEVANT STATUTE: 2 U.S.C. §441d, §434(e), §441a(a)(7)(B)

INTERNAL REPORTS CHECKED: yes

FEDERAL AGENCIES CHECKED: no

SUMMARY OF ALLEGATIONS

On September 6, 1978, the Office of General Counsel received a notarized complaint from Ronald R. Hein, Kansas State Senator, alleging that Dr. Sterling E. Lacy authored and distributed a brochure advocating the defeat of Hein's election to the U.S. House of Representatives. Specifically, Mr. Hein alleges that in producing the brochure, Lacy failed to comply with various requirements set forth in the Regulations pertaining to the formation, registration and reporting of committees and the making of independent expenditures. (See attachment I). In a July 27, 1978 unnotarized letter, (See attachment II), which Mr. Hein adopted by reference in his notarized complaint, Mr. Hein additionally alleges that the brochure did not contain a notice of authorization/non-authorization.

EVIDENCE

The brochure in question is four pages long and was distributed by mail before the August 1st primary. 1/ Although the brochure does not directly endorse Jeffries, there is language which expressly advocates the defeat of Mr. Hein on the basis of his beliefs that marijuana should be decriminalized and homosexuality should be legalized. Such language appears on the front of the brochure envelope and in almost all thirteen paragraphs styled by Dr. Lacy as "an open letter". In a postscript,

1/ Hein was defeated by Jeffries in the primary.

Dr. Lacy invites all those interested in forming a committee to stop the legalization of homosexuality and the decriminalization of marijuana to contact him.

The complainant also alleges that in a press conference, Dr. Lacy acknowledged that he did "in fact author and disseminate" the brochure, and also admitted informing the staff of Jim Jeffries' campaign that he wanted to help, that he was not going to contribute directly to the Jeffries campaign, but that he would distribute the brochure against Hein. A review of our records indicates that no direct contributions were received from Lacy by the Jeffries campaign; nor has Lacy registered with the Commission as one making independent expenditures. Although we have no evidence indicating the exact cost of Lacy's brochure, the earlier unnotarized complaint from Hein alleges that "thousands" of brochures were sent through the United States mail.

ANALYSIS

Section 441d of the Act requires that "whenever any person makes an expenditure for the purpose of financing communications expressly advocating the ... defeat of a clearly identified candidate through any ... direct mailing, or any other type of general public political advertising, such communication ..." shall indicate whether or not it has been authorized by the candidate and, if not, shall state the name of the person or political committee who financed it. The Lacy brochure expressly advocated Mr. Hein's defeat and failed to contain such notice in violation of §441d.

The next question is a threshold one: If Lacy expended more than \$100 on the brochure, then the Act would impose a reporting requirement on him and on the Jeffries Committee, depending on whether the expenditures were made independently or not. (See §431(p) of the Act for the distinction between independent and non-independent expenditures). As stated previously, Lacy has not reported his expenditures and the Jeffries Committee reports show no itemization of such expenditures as a contribution to it.

Section 434(e) requires that "every person ... who makes contributions or independent expenditures expressly advocating ... the defeat of a clearly identified candidate ... in an aggregate amount in excess of \$100 ... shall file with the Commission, on a form prepared by the Commission ..." Considering the number of brochures Lacy allegedly sent, it is possible that Lacy spent over \$100 and failed to report this expenditure in violation of §434(e).

On the other hand, Section 441a(a)(7)(B) requires that "expenditures made by any person in cooperation, consultation or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate ..." If, in fact, as Hein alleges, Lacy did inform the Jeffries campaign staff that he wanted to help, then Lacy's expenditures in producing his brochure may fall within the §441a(a)(7)(B) definition of a contribution. As such, and if the expenditure was greater than \$100, it would have to have been itemized as well by the Jeffries Committee as a contribution received.

Section 433(a) requires each political committee which "anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000" to file a statement of organization with the Commission. While complainant alleges that Lacy failed to meet the reporting requirement for a committee, at this point there is insufficient evidence to indicate that Dr. Lacy had even formed a committee to support the election of Jeffries. Lacy's brochure was aimed at opposing Hein on two specific issues and never mentioned Jeffries. The last paragraph of the "Open Letter" portion of the brochure did invite people to write Lacy if they wanted to see a committee formed, but the committee was to be for the two specific issues.

Given the allegations and evidence at this point, we think there is reason to believe that Dr. Lacy violated §434(e) and §441d. However, in the context of our notice letter to him, we also think it is appropriate to ask Dr. Lacy questions about the independent or non-independent nature of these expenditures and whether he formed a committee and/or accepted contributions.

RECOMMENDATION

We recommend the Commission find reason to believe that Dr. Sterling E. Lacy violated 2 U.S.C. §434(e) and §441d, send the attached letter and questions.

Attachments:

Attachment I - Complaint
Attachment II- Improper Complaint
Letter to Respondent
Questions to Respondent
Certification

RONALD R. HEIN
SENATOR, 20TH DISTRICT
SHAWNEE COUNTY
2824 SEABROOK
(913) 272-1992
TOPEKA, KANSAS 66614

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

September 1, 1978

78 SEP 3 PM 2:23

COMMITTEE ASSIGNMENTS
CHAIRMAN: SPECIAL CLAIMS
MEMBER: JUDICIARY
FEDERAL AND STATE AFFAIRS
TRANSPORTATION AND UTILITIES
GOVERNMENTAL ORGANIZATION

MUR 700

805961

ATTACHMENT I

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Oldaker:

On July 27, 1978, we wrote you a letter lodging a formal complaint against Mr. Sterling E. Lacy, a copy of which is attached hereto. On August 4, 1978, you wrote us a letter indicating that this letter was insufficient and needed to be signed, sworn and notarized by the complainant.

I do now submit this letter as a formal complaint against Mr. Sterling E. Lacy, 629 Quincy, Suite 204, Topeka, Kansas 66603. On or about July 25, 1978, a letter was mailed to numerous voters in the Second District of Kansas allegedly signed by Mr. Lacy. A copy of that letter is attached hereto as Exhibit "A". Subsequently, Mr. Lacy has acknowledged at a public press conference that he did in fact author and disseminate this particular document, and has also acknowledged informing the staff and office of my primary opponent, Mr. Jim Jeffries, of Atchison, Kansas, that he wanted to help their campaign, that he was not going to contribute directly to their campaign, but that he was going to distribute this type of document against me. It is my understanding from sources at the press conference and elsewhere that those statements are correct.

Upon a cursory review of the Federal Election Law and Regulations, I would suggest that there has been possible noncompliance with the following regulations: Section 102.1, Section 102.2, Section 102.7, Section 102.13, Section 102.15, Section 103.1, Section 103.3, Section 104.1, Section 104.4, Section 104.5, Section 104.6, Section 104.10, Section 104.12, Section 108.1, Section 109.1, Section 109.2, Section 109.3, Section 109.4, and Section 109.5. There may be other sections which have been violated, which an investigation would discover, and this complainant reserves the right to submit additional recommendations as needed.

79040133182

Mr. William C. Oldaker
September 1, 1978
Page Two

It is also my understanding that Mr. Lacy has publicly admitted accepting some contributions for publication and dissemination of this document.

If I can be of any further assistance, or if additional information is needed in order to begin processing of this complaint, please feel free to contact me at 714 Capitol Federal Building, Topeka, Kansas, 66603, phone, area code 913, 357-6311.

Sincerely,

Ronald R. Hein

Ronald R. Hein

Ronald R. Hein, of lawful age, and being first duly sworn on his oath states that he has read the above and foregoing Letter to Mr. William C. Oldaker and that the same is true and correct to the best of his knowledge and belief.

Ronald R. Hein
Ronald R. Hein

Subscribed and sworn to before me this 1st day of September, 1978.

William M. Rodgers
Notary Public

My Commission Expires:
November 25, 1978

79040133184

Dr. Sterling E. Lacy
Marriage and Family Counselor
629 Quincy—Suite 204
Topeka, Kansas 66603



Pot
"Gays" & the coming
election. . . A Second look
at the personable
RON HEIN

JOSSE RAND CYNTHIA ANN
1215 POLK
TOPEKA KS 66612

Please read this letter before you vote this Tuesday—Aug. 1st

Exhibit A

AN OPEN LETTER FROM: A FAMILY THERAPIST
TO: SECOND CONGRESSIONAL DISTRICT REPUBLICANS
RE: SEN. RON HEIN'S LEGISLATIVE STAND ON DECRIMINALIZATION
OF MARIJUANA AND LEGALIZATION OF HOMOSEXUALITY

DEAR REPUBLICAN VOTER,

I counsel teenagers. I counsel teenagers and their families. I am on the firing line regularly with families being torn apart by marijuana or homosexuality. The battleground is the minds of our youth. The ammunition is ideas expressed in words. Whoever is the most persuasive wins the war.

My task of trying to salvage any future happiness for these young people is made extremely more difficult by personable political leaders like Ron Hein who try to make homosexuality respectable by voting to legalize it and marijuana more acceptable by personal efforts to decriminalize it.

RON HEIN AND THE
DECRIMINALIZATION OF MARIJUANA

The records of the Federal and State Affairs Committee hearings on March 17 & 31, 1977, clearly show that both Ron Hein's arguments and his votes were in favor of the decriminalization of marijuana. Can't Senator Hein and those who are lax about marijuana see that their arguments have the effect of encouraging marijuana use?

In order to promote the decriminalization of marijuana they argue that marijuana isn't harmful, doesn't slow thinking or reactions, in no way causes a dependency by the user, doesn't lead to so-called "hard" drugs, etc. And yet, my personal observations of those who use marijuana regularly shows the opposite—how about you?

I WAS SHOCKED TO FIND
THAT SENATOR HEIN HAD
VOTED TO LEGALIZE HOMOSEXUALITY

When a friend told me that the Kansas Senate had passed a bill (S.B. 310) this last legislative session that removed homosexuality as an "unlawful sexual act" (except in cases of aggravated sodomy), I just couldn't believe it! A bill to legalize homosexuality would pave the way for it to be presented in our schools as an "acceptable," "legal" alternate life style. Sixteen-year-olds could not be protected by law from the advances of a homosexual unless it was done by force or for hire.

I couldn't believe this was happening in Kansas. It sounded more like San Francisco. I told my friend I didn't believe it. However, I called a state senator who voted against S.B. 310 and he confirmed what my friend had said. He sent me to Legislative Research and they confirmed that S.B. 310 (which died in a House committee) was indeed designed to legalize homosexuality and that a majority of our State Senators had voted for it—including state senator Ron Hein! While homosexuals certainly need our concern and help, I can't for the life of me, understand the vote of Ron Hein and 21 of his colleagues.

AN OPEN LETTER (concluded inside)

AN OPEN LETTER (continued)

3 "CLEAN" POLITICS VS. "DIRTY" POLITICS

1 I met a politician recently who believes that "clean" politics is when candidates run on their own personalities and "dirty" politics is when someone dares to drag issues into a campaign.

2 Has it become wrong to tell the truth? I ask, in the words of the apostle Paul, "Am I become your enemy because I tell you the truth?" No! Here in America, we still want the truth, no matter how bitter it is at times.

9 0 4 0 PLEASE DON'T SEND 0 RON HEIN'S VIEWS TO WASHINGTON

7 We are being asked to send Ron Hein an his views to Washington as being representative of us and our views. In my opinion, Ron Hein's views do not represent the views of most Republicans. If you agree with me, then please don't help send him on to Washington by voting for him next Tuesday.

Sen. Hein still has two years to serve in the Kansas Senate. Let's let him complete his term as state senator and watch his voting record more closely in the future.

While Ron Hein would undoubtedly make a good next-door neighbor, the U.S. House of Representatives is a too critically important segment of our national government to entrust to someone with his present views.

THEY JUST DIDN'T KNOW

I'm confident that Ron Hein's supporters were unaware of his position on the legalization of homosexuality and the decriminalization of marijuana when they contributed to his campaign... or when they put that bumper sticker on their car... or when they okayed that sign to be placed in their yard. Please, don't assume that Ron Hein's supporters were for the legalization of homosexuality or for the decriminalization of marijuana. They just didn't know!

Now that you do know, how about quickly cutting off the support... quietly peeling off the bumper sticker... and calmly taking down your yard sign? And, in the secrecy of the voting booth next Tuesday, refuse to lend your support to the legalization of homosexuality and the decriminalization of marijuana by refraining from voting for Ron Hein.

Sincerely,

Dr. Sterling E. Lacy
Sterling E. Lacy, Ph.D.

P.S. Write me today if you would like to see a committee formed to stop the legalization of homosexuality and decriminalization of marijuana.



DON'T FORGET YOUR RESPONSIBILITY TO HIM

TWO MAJOR MORAL ISSUES FACING AMERICA'S YOUTH TODAY

HOMOSEXUALITY

The sin of Sodom and Gomorrah came close to being legalized in the State of Kansas

Most people remember the Bible story of the destruction of Sodom and Gomorrah, but few remember that the sin of those two wicked cities was homosexuality.

Let's review the story: Abraham pleaded with God to save the city of Sodom if as few as ten righteous men could be found. God sent two messengers, angels who were dressed as men, to destroy the city. The two men spent the night in Sodom with Abraham's nephew, Lot. When the inhabitants of the city heard that Lot had the two visitors in his home, they surrounded the house and demanded: "Where are the men who came to visit you tonight? Bring them out to us that we may rape them." (Genesis 19:5, Moffatt)

In the process of caring about the homosexual and helping him out of his perverted lifestyle, we must not accept that lifestyle as a legal, operational part of our schools, churches, business and government programs. We must legally reject this immoral behavior or lose God's blessing on our nation and incur the wrath of God. Let's send the message to those state senators who voted to legalize homosexuality.



MARIJUANA

A Case History by a Marijuana User:

"I started smoking hashish and marijuana on a very casual basis (you go to a friend's house and a joint is passed around), but after a short while use became more frequent and weekend experiences extended well into the week.

"The dreamlike state of drugs is too powerful, too convincing, too subtle to permit insight. Before long the drugs themselves mollify and eventually suppress all conflicts about their use.

"Another joint, and all anxiety miraculously vanished.

"An individual can carry on virtually any task even while drugged; at least initially, effects can be so misleading. These don't reveal the inner anguish, the subconscious gropings, the elaborate network of delusions, the insidious deterioration in intellectual functioning, or the collapse of self-discipline.

"I even managed to get myself another degree; of course I had to have a few joints to cope with the slightest pressure, the slightest demands. The cost was enormous. After five years of using 'soft' drugs (with supposedly no dependence), its evils finally emerged. Divorce, chronic unemployment, two psychotic breakdowns and the suicide of a friend as I stood by helpless because of my own turmoil.

"Recovery hasn't been easy. I have had to cope with tenacious visual and auditory hallucinations, frequent and long memory lapses, frightening flashbacks, the inability to focus my attention and a lingering world of dreams and fantasies so convoluted as almost to defy description. And far worse for me was the painful realization that five years in the prime of my life were utterly lost.

"A large part of the problem with 'soft' drugs is that they have received, and still receive, so much sanction from respectable and well-meaning people."

"Marijuana Reappraised": Two Personal Accounts by Martin Croes & Andre McNeil. (The Myrin Institute for Adult Education, 521 Park Ave., New York, N.Y. 10021)

I am only one person, but I shall no longer refuse "to get involved." I have had enough. What about you? How much longer will you stand aside?

"The hottest places in hell are reserved for those who, in a period of moral crisis maintain their neutrality."

Dante

79040133183

72

P



4214
FEDERAL ELECTION
COMMISSION

July 27, 1978 '78 JUL 31 PM 1:47

004941

ATTACHMENT II

Federal Election Commission
1325 K St. N. W.
Washington, D. C.

Dear Sirs:

I am writing to officially lodge a formal complaint against Dr. Sterling E. Lacy, 629 Quincy--Suite 204, Topeka, Kansas.

Mr. Lacy has caused to be printed and sent through the United States mails thousands of the attached brochures. We estimate that he has spent well over a thousand dollars to date.

There are several Federal Election Law violations which we feel need to be investigated. First, there is no disclaimer on the brochure, which is in violation of the law. Secondly, Mr. Lacy has neither personally filed a financial election report, nor has any committee, to the best of our knowledge been organized and filed for this purpose. Aside from this being illegal, this does not allow the public to see who is paying for these activities which should by law be public information.

Since the Republican primary is August 1st, I would ask that the Federal Election Committee immediately investigate this matter and insure that Mr. Lacy fully complies with federal election laws.

Sincerely,

Ron Hein

RH/do
encl.

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611
Phone 913-267-4620

Paid for by: Ron Hein for Congress Committee, Ron Stewart, Treasurer

A copy of Our Report is Filed with the Federal Election Commission and is available for Purchase from the Federal Election Commission, Washington, D.C. 20463





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Sterling E. Lacy
629 Quincy - Suite 204
Topeka, Kansas 66603

Re: MUR 700(78)

Dear Dr. Lacy:

The Federal Election Commission has received a complaint which alleges you committed certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 700(78).

The Commission has reason to believe that the matters alleged in the complaint state a violation of Sections 441d and 434(e) of the Act. Specifically, it appears that the brochure you published expressly advocated the defeat of Ronald R. Hein in his campaign for the U.S. Congress and failed to contain the statement required by §441d of the Act. It also appears that you failed to report your expenses in preparing this brochure, which may have amounted to more than \$100, in violation of §434(e) of the Act.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally, please submit answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

- 2 -

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Susan Seyfarth, the staff member assigned to this matter, at 202-523-4175.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

Complaint
Questions

SLOAN, LISTROM, EISENBARTH, SLOAN & GLASSMAN
LAWYERS

714 CAPITOL FEDERAL BUILDING
700 KANSAS AVENUE

TOPEKA, KANSAS

66603

October 6, 1978

MYRON L. LISTROM
LOUIS F. EISENBARTH
JAMES W. SLOAN
ARTHUR A. GLASSMAN
GARY E. LAUGHLIN
THOMAS A. VALENTINE
J. GREGORY SWANSON
THOMAS L. THEIS

RONALD R. HEIN
JODY R. OLBERDING
JAMES R. MCENTIRE

78 OCT 10 AM 11:52

AREA CODE 913
TELEPHONE 397-6311

OF COUNSEL:
ELDON SLOAN

806774

Mr. Lester N. Scall
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Scall:

In regards to my complaint against Mr. Sterling E. Lacy, I want to put you on notice that I also have pending against Mr. Lacy a suit for libel, and we recently conducted two days of depositions of Mr. Lacy. At that time, he pled the Fifth Amendment to numerous questions relating to the subject matter of my complaint with the F.E.C., and we have certified those questions to the District Court for determination as to requirements that he answer them. However, during the course of the deposition, he did make several admissions and statements, including the fact that he did publish the document which was filed as an exhibit with our initial complaint, and that he did mail approximately 22,000 of these documents to registered Republicans in the Second Congressional District in Kansas.

He also turned over copies of check stubs which he had in his possession, a copy of which exhibits are attached hereto, but would not answer questions regarding who purchased approximately 22,000 stamps at a price of 7.7¢ apiece.

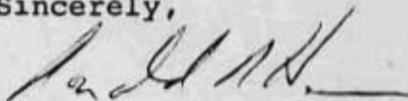
I also have attached a copy of that article which appeared in the August 11, 1978, Topeka State Journal relating a press conference in which Mr. Lacy apparently conceded that the costs of the letter was approximately \$2,500 and which was funded either by his own funds or small contributions which he received therefore.

When the deposition is completely transcribed, should the Commission or yourself desire to review it, it will be made available to you at your convenience.

Mr. Lester N. Scall
October 6, 1978
Page 2

Thank you very much for your consideration of this matter, and if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,



RONALD R. HEIN

RRH:dd

79040133193

1603 7-17-78 1977
9040 33194

TO <i>Shannon Co Election</i>		DEPOSITS	
Commission			
FOR			
TOTAL			
AMOUNT THIS CHECK			<i>72.24</i>

1604			
<i>7-19-</i> 1978			
TO <i>Carla's Topp</i>		DEPOSITS	
FOR			
TOTAL			
AMOUNT THIS CHECK			<i>58.63</i>

1607			
<i>7-19</i> 1978			
TO <i>Shannon Co. Election</i>		DEPOSITS	
Commission			
FOR <i>P. Abbott</i>			
TOTAL			
AMOUNT THIS CHECK			<i>72.24</i> 66.00

1644			
<i>7-24</i> 1978			
TO <i>Rory Cunningham</i>		DEPOSITS	
FOR <i>Print</i>			
TOTAL			
AMOUNT THIS CHECK			<i>51.67</i>

1645			
<i>7-25</i> 1978			
TO <i>US Post Office</i>		DEPOSITS	
FOR			
TOTAL			
AMOUNT THIS CHECK			<i>135.86</i>

1646			
<i>7-25</i> 1978			
TO <i>MS. R. O. O'Neil</i>		DEPOSITS	
FOR <i>Post</i>			
TOTAL			
AMOUNT THIS CHECK			<i>17.71</i>

DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66605

1603

PAY TO THE ORDER OF Shannon County Election Commission 7-18 1978 \$70.²⁴
Security & 24 DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

FOR Dr. Sterling E. Lacy
⑆1011⑆0016⑆ ⑆058 327⑆ ⑆0000007024⑆

DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66605

1604

PAY TO THE ORDER OF Carl's Type July 22 1978 \$58.⁶³
Fifty eight and 63/100 DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

FOR Refunding & phototyping Jean Lacy
⑆1011⑆0016⑆ ⑆058 327⑆ ⑆0000005863⑆

DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66605

1607

PAY TO THE ORDER OF Shannon County Election Commission 7-21, 1978 \$70.²⁴
Security & 24 DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

FOR Mail Labels Dr. Sterling E. Lacy
⑆1011⑆0016⑆ ⑆058 327⑆ ⑆0000007024⑆

INSUFFICIENT FUNDS
DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66605

AUG 9 7 1978



PAY TO THE ORDER OF Ray Counseling 7-22 1978 \$51.⁶⁷
Fifty one and 67/100 DOLLARS



MERCHANTS
NATIONAL BANK
TOPEKA, KANSAS

FOR Print Dr. Sterling E. Lacy
⑆1011⑆0016⑆ ⑆058 327⑆ ⑆0000005167⑆

DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66603

1645

7-25 1978 44-16
1011

PAY
TO THE
ORDER OF

Postmaster, Topeka, Ks

\$135.80

One Hundred Thirty-five and 80/100

DOLLARS



**MERCHANTS
NATIONAL BANK**
TOPEKA, KANSAS

FOR \$.007 additional postage on 3rd class
with mail

⑆1011⑈0016⑆

⑈058 327⑈

⑈0000013580⑈

Dr. Sterling E. Lacy

DR. STERLING E. LACY
CIVIC CENTER COUNSELING CLINIC
629 QUINCY, SUITE 204
TOPEKA, KANSAS 66603

1646

7-25 1978 44-16
1011

PAY
TO THE
ORDER OF

Postmaster, Topeka, Ks.

\$17.71

Seventeen and 71/100

DOLLARS



**MERCHANTS
NATIONAL BANK**
TOPEKA, KANSAS

FOR \$.007 additional postage on 3rd class
with mail

⑆1011⑈0016⑆

⑈058 327⑈

⑈0000001771⑈

Dr. Sterling E. Lacy

Libel suit *filed in journal* leaves Lacy undaunted

By LESLIE CHAMPLIN
Staff Writer

A libel suit filed by unsuccessful Republican Congressional candidate Ron Hein will not stop Sterling Lacy from continuing his political interest, the family and marriage counselor said during a press conference this morning.

Lacy, a doctor of philosophy in Christian psychology who has been a marriage and family counselor since he came to Topeka three years ago, said he would continue his political activism and hopes to spearhead a watchdog committee to report on moral legislation.

He currently is defending himself against a libel suit filed by Hein July 31 in Shawnee County District Court. Hein alleged that an "open letter" that Lacy published and mailed to about 22,000 voters the week before primary elections was done "with malicious intent to defame . . . with reckless and willful disregard for their actual truth and accuracy for the purpose to do injury." Lacy denied Hein's charges in an answer filed Thursday.

The case has not daunted Lacy. Asked if he would continue publishing brochures outlining legislators' voting records, Lacy said, "If I had the funds, I would. This is why I'm interested in setting up a watchdog committee . . . to show the legislators that Kansans are not ready for this kind of legislation."

Though he has no specific plans for the committee organization yet, Lacy said he would call it CLAMP, an acronym for Citizens for Legislative Action on Moral Principles.

"While the state cannot legislate morals, its legislation must be based on moral laws," he said.

(Continued on Page 2, Col. 4)

Suit won't stop Lacy

(Continued from Page 1)

Lacy's letter focused on Hein's voting record on Senate Bill 310 and House Bill 2313.

Senate Bill 310 repealed a section of the law that forbids sodomy between persons of the same sex and added a section that made bestiality illegal. House Bill 2313 reduced the penalty for first conviction of possession of one ounce or less of marijuana. Both bills were killed.

Lacy said he chose to discuss Hein's record on the bills because "he was the

only senator that covered Shawnee County that could have the effect of showing the legislators that Kansans are not ready for this kind of legislation. In my opinion, these two issues are dead in the next legislative session."

He added that he had no plans to become involved in the general elections this November. Though he has copies of a 1974 brochure about Bill Roy, then Democratic nominee for Senate against Sen. Bob Dole, Lacy said he did not plan to re-release it. Materials in that publication, mailed immediate-

ly before the election, have been cited by some as contributory to Roy's defeat.

Hein's loss at the polls was not the result of the open letter, Lacy contended, adding: it was sent early enough for Hein to respond. "I got it out as quickly as I could. I tried to give Hein time to respond," he said, explaining the brochure was mailed late in the campaign "mainly because I don't have the time to organize."

"I sometimes think Jeffries would have won the race if I never sent the letter," he said.

Though Lacy did not check with an attorney to determine the possibility of libel, the brochure was based on public record, Lacy said.

"And an attorney in the legislative research department was involved in verifying that what I said was true," Hein said. He referred to a letter sent to Hein by the department which said, in part, "Neither of the staff members (to whom Lacy talked before publishing the brochure) recalls making the statement that one possible effect of the bill would be to legalize homosexuality between consenting adults, although this could be one effect because the present sodomy statute ... would have been repealed."

Lacy maintained that the legislative research letter to Hein documented the contents of the brochure.

"That's why this suit is so foolish," he said.

Lacy concurred with the Jeffries campaign headquarters' earlier statement that Jim Jeffries, who defeated Hein in the primaries, was not connected to the open letter. However, Lacy said, the Jeffries people had contacted him and requested his support last spring.

Lacy said he refused to offer support because he was planning to publish the open letter and because "anything I did would become in-kind contributions" in the eyes of the Federal Election Commission.

Glyndon Hanson, Jeffries press secretary, said later this morning that he was unsure about what correspondence Lacy referred to during the press conference.

"I don't know specifically what he was referring to," Hanson said. "It's possible, I suppose, because we contacted a lot of people with direct mailing and volunteer cards. If it's something like that (to which Lacy referred,) it's possible. We sent out 50,000 letters."

Lacy's letter, which cost about \$2,000 to publish, was funded entirely by his personal funds and small contributions. Lacy admitted that Richard Ward Fatherly, an unsuccessful Republican hopeful for 2nd Congressional District in 1978 and currently a member of the American Party, had sent a small monetary contribution and possibly had personally mailed some of the brochures.

Lacy said he had ordered 25,000 of the letters and mailed 22,000 himself. He currently has about 400 or 500 copies of the letters left over.

"That leaves a gap of about 3,000 flyers" that could have been mailed by Lacy's supporters, he said.

No meeting between Hein's and Lacy's attorneys has been organized, Lacy said, adding he would not negotiate an out-of-court settlement.

"I want to see it come to court," he said. "I've got all the evidence backing up my statement."

He has not decided whether he will file a counterclaim against Hein.

"Right now I'm thinking about winning this one," he said. "I don't know where to go from this one."

790401319
790401319
OCT 10 AM 11:53
SLOAN, LISTROM, EISENBARTH, SLOAN & CLASSMAN

LAWYERS

CAPITOL FEDERAL BUILDING
700 KANSAS AVENUE
TOPEKA, KANSAS
66603

Mr. Lester N. Scall
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



4314



FEDERAL ELECTION COMMISSION

July 27, 1978 '78 JUL 31 PM 1:47

004941

Federal Election Commission
1325 K St. N. W.
Washington, D. C.

Dear Sirs:

I am writing to officially lodge a formal complaint against Dr. Sterling E. Lacy, 629 Quincy--Suite 204, Topeka, Kansas.

Mr. Lacy has caused to be printed and sent through the United States mails thousands of the attached brochures. We estimate that he has spent well over a thousand dollars to date.

There are several Federal Election Law violations which we feel need to be investigated. First, there is no disclaimer on the brochure, which is in violation of the law. Secondly, Mr. Lacy has neither personally filed a financial election report, nor has any committee, to the best of our knowledge been organized and filed for this purpose. Aside from this being illegal, this does not allow the public to see who is paying for these activities which should by law be public information.

Since the Republican primary is August 1st, I would ask that the Federal Election Committee immediately investigate this matter and insure that Mr. Lacy fully complies with federal election laws.

Sincerely,

Ron Hein

RH/do
encl.

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611
Phone 913-267-4620

Paid for by Ron Hein for Congress Committee, Ron Stewart, Treasurer
A copy of Our Report is Filed with the Federal Election Commission and is available for Purchase from the Federal Election Commission, Washington, D.C. 20463



790401332000



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

September 7, 1978

The Honorable Ronald R. Hein
2824 Seabrook
Topeka, Kansas 66614

Dear Senator Hein:

This is to acknowledge receipt of your complaint of September 1, 1978, alleging violations of the Federal Election Campaign Laws. A staff member has been assigned to analyze your allegations and a recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for the handling of complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lester N. Scall".

Lester N. Scall
Assistant General Counsel

Enclosure

133201

STATE OF KANSAS

178 SEP 5 PM 2:23

COMMITTEE ASSIGNMENTS
CHAIRMAN: SPECIAL CLAIMS
MEMBER: JUDICIARY
FEDERAL AND STATE AFFAIRS
TRANSPORTATION AND UTILITIES
GOVERNMENTAL ORGANIZATION

MLR 700

805961

RONALD R. HEIN
SENATOR, 20TH DISTRICT
SHAWNEE COUNTY
2824 SEABROOK
(913) 272-1592
TOPEKA, KANSAS 66614

TOPEKA

SENATE CHAMBER

September 1, 1978

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Oldaker:

On July 27, 1978, we wrote you a letter lodging a formal complaint against Mr. Sterling E. Lacy, a copy of which is attached hereto. On August 4, 1978, you wrote us a letter indicating that this letter was insufficient and needed to be signed, sworn and notarized by the complainant.

I do now submit this letter as a formal complaint against Mr. Sterling E. Lacy, 629 Quincy, Suite 204, Topeka, Kansas 66603. On or about July 25, 1978, a letter was mailed to numerous voters in the Second District of Kansas allegedly signed by Mr. Lacy. A copy of that letter is attached hereto as Exhibit "A". Subsequently, Mr. Lacy has acknowledged at a public press conference that he did in fact author and disseminate this particular document, and has also acknowledged informing the staff and office of my primary opponent, Mr. Jim Jeffries, of Atchison, Kansas, that he wanted to help their campaign, that he was not going to contribute directly to their campaign, but that he was going to distribute this type of document against me. It is my understanding from sources at the press conference and elsewhere that those statements are correct.


Upon a cursory review of the Federal Election Law and Regulations, I would suggest that there has been possible noncompliance with the following regulations: Section 102.1, Section 102.2, Section 102.7, Section 102.13, Section 102.15, Section 103.1, Section 103.3, Section 104.1, Section 104.4, Section 104.5, Section 104.6, Section 104.10, Section 104.12, Section 108.1, Section 109.1, Section 109.2, Section 109.3, Section 109.4, and Section 109.5. There may be other sections which have been violated, which an investigation would discover, and this complainant reserves the right to submit additional recommendations as needed.

Mr. William C. Oldaker
September 1, 1978
Page Two

It is also my understanding that Mr. Lacy has publicly admitted accepting some contributions for publication and dissemination of this document.

If I can be of any further assistance, or if additional information is needed in order to begin processing of this complaint, please feel free to contact me at 714 Capitol Federal Building, Topeka, Kansas, 66603, phone, area code 913, 357-6311.

Sincerely,



Ronald R. Hein

Ronald R. Hein, of lawful age, and being first duly sworn on his oath states that he has read the above and foregoing Letter to Mr. William C. Oldaker and that the same is true and correct to the best of his knowledge and belief.



Ronald R. Hein

Subscribed and sworn to before me this 1st day of September, 1978.


Notary Public

My Commission Expires:
November 25, 1978

600-4314



FILED
FEDERAL ELECTION
COMMISSION

July 27, 1978 '78 JUL 31 PM 1:47

004941

Federal Election Commission
1325 K St. N. W.
Washington, D. C.

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personally filed a financial election report, nor has any committee,
to the best of our knowledge been organized and filed for this purpose.
Aside from this being illegal, this does not allow the public to
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information.

Since the Republican primary is August 1st, I would ask that
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and insure that Mr. Lacy fully complies with federal election laws.

Sincerely,

Ron Hein

RH/go
encl.

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611
Phone 913-267-4620

Paid for by: Ron Hein for Congress Committee, Ron Stewart, Treasurer
A copy of Our Report is Filed with the Federal Election Commission and is available for Purchase from the Federal Election Commission, Washington, D.C. 20463



79040133204

STATE OF KANSAS



SENATE CHAMBER

RONALD R. HEIN

SENATOR TWENTIETH DISTRICT

SHAWNEE COUNTY

2824 SEABROOK

TOPEKA, KANSAS 66614

CERTIFIED

No. 770111

MAIL

RETURN RECEIPT REQUESTED

FRANKS
PICKENS
AND
WATSON
U.S. SENATORS



LUCY STONE



PLAYWRIGHT

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 4, 1978

Ron Hein
3031 Armco Drive
Topeka, Kansas 66611

Dear Mr. Hein:

We have received your letter of August 1, 1978, inquiring into the possibility of a violation of the Federal Election Campaign Act of 1971, as amended.

As set forth in 2 U.S.C. section 437g(a)(1), the Commission is not empowered to take action unless complaints are signed, sworn and notarized by the complainant.

In the interests of complying with 2 U.S.C. 437g(a)(1) of the Federal Election Campaign Act of 1971, as amended, please have your complaint notarized. A copy of the Commission's regulations are enclosed with this letter. I hope that an examination of these materials will answer most of your questions and will enable you to be specific in any assertions or allegations you might make, in the event you wish to file a complaint with the Commission.

Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "William C. Oldaker", is written over a large, faint circular stamp.

William C. Oldaker
General Counsel



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

Ron Hein
3031 Armco Drive
Topeka, Kansas 66611

Dear Mr. Hein:

We have received your letter of August 1, 1978, inquiring into the possibility of a violation of the Federal Election Campaign Act of 1971, as amended.

As set forth in 2 U.S.C. section 437g(a)(1), the Commission is not empowered to take action unless complaints are signed, sworn and notarized by the complainant. ~~Under Section 111.2 of the Commission's regulations, it is also required that a complaint contain: (1) The full name, address and telephone number of the complainant; (2) a clear and concise statement of the acts which are alleged to constitute a violation of the Federal Election Campaign Act of 1971; (3) any documentation of allegations of the complaint available to the complainant; and (4) an assertion that the person complaining, if not a candidate, is not filing the complaint on behalf of or at the request of a candidate, unless such is the fact, in which case it shall be set forth.~~

In the interests of complying with the above procedures, ~~a copy~~ ^{2 USC 437g(a)(1)} of the Federal Election Campaign Act of 1971, as amended, ~~and~~ ^a copy of the Commission's regulations are enclosed with this letter. I hope that an examination of these materials will answer most of your questions and will enable you to be specific in any assertions or allegations you might make, in the event you wish to file a complaint with the Commission.

Please feel free to contact me if you have any further questions.

Sincerely,

William C. Oldaker
General Counsel

Please have your complaint notarized.

79040133207

**Ron
Hein
Congress**

RECEIVED
FEDERAL ELECTION
COMMISSION

July 27, 1978 '78 JUL 31 PM 1:47

004941

Federal Election Commission
1325 K St. N. W.
Washington, D. C.

Dear Sirs:

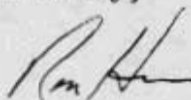
I am writing to officially lodge a formal complaint against
Dr. Sterling E. Lacy, 629 Quincy—Suite 204, Topeka, Kansas.

Mr. Lacy has caused to be printed and sent through the United
States mails thousands of the attached brochures. We estimate that
he has spent well over a thousand dollars to date.

There are several Federal Election Law violations which we feel
need to be investigated. First, there is no disclaimer on the brochure,
which is in violation of the law. Secondly, Mr. Lacy has neither
personally filed a financial election report, nor has any committee,
to the best of our knowledge been organized and filed for this purpose.
Aside from this being illegal, this does not allow the public to
see who is paying for these activities which should by law be public
information.

Since the Republican primary is August 1st, I would ask that
the Federal Election Committee immediately investigate this matter
and insure that Mr. Lacy fully complies with federal election laws.

Sincerely,



Ron Hein

RH/do
encl.

Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611
Phone 913-267-4620

Paid for by: Ron Hein for Congress Committee, Ron Stewart, Treasurer

A copy of Our Report is Filed with the Federal Election Commission and is available for Purchase from the Federal Election Commission, Washington, D.C. 20463



79040133208

**Ron
Hein**
Congress

79.040133

13 JUN 31 PM 1:57

Federal Election Commission
1325 K St. N.W.
Washington, D.C. 20463



Ron Hein for Congress • Holliday Square • 3031 Armco Drive • Topeka, Kansas 66611

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AN OPEN LETTER FROM: A FAMILY THERAPIST

TO: SECOND CONGRESSIONAL DISTRICT REPUBLICANS

RE: SEN. RON HEIN'S LEGISLATIVE STAND ON DECRIMINALIZATION OF MARIJUANA AND LEGALIZATION OF HOMOSEXUALITY

DEAR REPUBLICAN VOTER,

I counsel teenagers. I counsel teenagers and their families. I am on the firing line regularly with families being torn apart by marijuana or homosexuality. The battleground is the minds of our youth. The ammunition is ideas expressed in words. Whoever is the most persuasive wins the war.

My task of trying to salvage any future happiness for these young people is made extremely more difficult by personable political leaders like Ron Hein who try to make homosexuality respectable by voting to legalize it and marijuana more acceptable by personal efforts to decriminalize it.

RON HEIN AND THE DECRIMINALIZATION OF MARIJUANA

The records of the Federal and State Affairs Committee hearings on March 17 & 31, 1977, clearly show that both Ron Hein's arguments and his votes were in favor of the decriminalization of marijuana. Can't Senator Hein and those who are lax about marijuana see that their arguments have the effect of encouraging marijuana use?

In order to promote the decriminalization of marijuana they argue that marijuana isn't harmful, doesn't slow thinking or reactions, in no way causes a dependency by the user, doesn't lead to so-called "hard" drugs, etc. And yet, my personal observations of those who use marijuana regularly shows the opposite—how about you?

I WAS SHOCKED TO FIND THAT SENATOR HEIN HAD VOTED TO LEGALIZE HOMOSEXUALITY

When a friend told me that the Kansas Senate had passed a bill (S.B. 310) this last legislative session that removed homosexuality as an "unlawful sexual act" (except in cases of aggravated sodomy), I just couldn't believe it! A bill to legalize homosexuality would pave the way for it to be presented in our schools as an "acceptable," "legal" alternate life style. Sixteen-year-olds could not be protected by law from the advances of a homosexual unless it was done by force or for hire.

I couldn't believe this was happening in Kansas. It sounded more like San Francisco. I told my friend I didn't believe it. However, I called a state senator who voted against S.B. 310 and he confirmed what my friend had said. He sent me to Legislative Research and they confirmed that S.B. 310 (which died in a House committee) was indeed designed to legalize homosexuality and that a majority of our State Senators had voted for it—including state senator Ron Hein! While homosexuals certainly need our concern and help, I can't for the life of me, understand the vote of Ron Hein and 21 of his colleagues.

AN OPEN LETTER (concluded inside)

Dante

"The hottest places in hell are reserved for those who, in a period of moral crisis maintain their neutrality."

I am only one person, but I shall no longer refuse "to get involved." I have had enough. What about you? How much longer will you stand aside?

Dr. Sterling E. Lacy
Marriage and Family Counselor
629 Quincy—Suite 204
Topeka, Kansas 66603

Pot
"Gays" &
the coming
election. . .

A Second look
at the personable
RON HEIN

MCCULLOUGH VIVIAN A
4336 SE 26TH
TOPEKA KS 66605

Please read this letter before you vote this Tuesday—Aug. 1st

AN OPEN LETTER (continued)

"CLEAN" POLITICS VS. "DIRTY" POLITICS

I met a politician recently who believes that "clean" politics is when candidates run on their own personalities and "dirty" politics is when someone dares to drag issues into a campaign.

Has it become wrong to tell the truth? I ask, in the words of the apostle Paul, "Am I become your enemy because I tell you the truth?" No! Here in America, we still want the truth, no matter how bitter it is at times.

PLEASE DON'T SEND RON HEIN'S VIEWS TO WASHINGTON

We are being asked to send Ron Hein's views to Washington as being representative of us and our views. In my opinion, Ron Hein's views do not represent the views of most Republicans. If you agree with me, then please don't help send him on to Washington by voting for him next Tuesday.

Sen. Hein still has two years to serve in the Kansas Senate. Let's let him complete his term as state senator and watch his voting record more closely in the future.

While Ron Hein would undoubtedly make a good next-door neighbor, the U.S. House of Representatives is a too critically important segment of our national government to entrust to someone with his present views.

THEY JUST DIDN'T KNOW

I'm confident that Ron Hein's supporters were unaware of his position on the legalization of homosexuality and the decriminalization of marijuana when they contributed to his campaign. . . or when they put that bumper sticker on their car. . . or when they okayed that sign to be placed in their yard. Please, don't assume that Ron Hein's supporters were for the legalization of homosexuality or for the decriminalization of marijuana. **They just didn't know!**

Now that you do know, how about quickly cutting off the support. . . quietly peeling off the bumper sticker . . . and calmly taking down your yard sign? And, in the secrecy of the voting booth next Tuesday, refuse to lend your support to the legalization of homosexuality and the decriminalization of marijuana by refraining from voting for Ron Hein.

Sincerely,

Dr. Sterling E. Lacy
Sterling E. Lacy, Ph.D.

P.S. Write me today if you would like to see a committee formed to stop the legalization of homosexuality and decriminalization of marijuana.



DON'T FORGET YOUR RESPONSIBILITY TO HIM

TWO MAJOR MORAL ISSUES FACING AMERICA'S YOUTH TODAY

HOMOSEXUALITY

The sin of Sodom and Gomorrah came close to being legalized in the State of Kansas

Most people remember the Bible story of the destruction of Sodom and Gomorrah, but few remember that the sin of those two wicked cities was homosexuality.

Let's review the story: Abraham pleaded with God to save the city of Sodom if as few as ten righteous men could be found. God sent two messengers, angels who were dressed as men, to destroy the city. The two men spent the night in Sodom with Abraham's nephew, Lot. When the inhabitants of the city heard that Lot had the two visitors in his home, they surrounded the house and demanded: "Where are the men who came to visit you tonight? Bring them out to us that we may rape them." (Genesis 19:5, Moffatt)

In the process of caring about the homosexual and helping him out of his perverted lifestyle, we must not accept that lifestyle as a legal, operational part of our schools, churches, business and government programs. We must legally reject this immoral behavior or lose God's blessing on our nation and incur the wrath of God. Let's send the message to those state senators who voted to legalize homosexuality.



MARIJUANA

A Case History by a Marijuana User:

"I started smoking hashish and marijuana on a very casual basis (you go to a friend's house and a joint is passed around), but after a short while use became more frequent and weekend experiences extended well into the week.

"The dreamlike state of drugs is too powerful, too convincing, too subtle to permit insight. Before long the drugs themselves mollify and eventually suppress all conflicts about their use.

"Another joint, and all anxiety miraculously vanished.

"An individual can carry out virtually any task even while drugged, at least initially, effects can be so misleading. These don't reveal the inner anguish, the subconscious gropings, the elaborate network of delusions, the insidious deterioration in intellectual functioning, or the collapse of self-discipline.

"I even managed to get myself another degree; of course I had to have a few joints to cope with the slightest pressure, the slightest demands. The cost was enormous. After five years of using 'soft' drugs (with supposedly no dependence), its evils finally emerged: Divorce, chronic unemployment, two psychotic breakdowns and the suicide of a friend as I stood by helpless because of my own turmoil.

"Recovery hasn't been easy. I have had to cope with tenacious visual and auditory hallucinations, frequent and long memory lapses, frightening flashbacks, the inability to focus my attention and a lingering world of dreams and fantasies so convoluted as almost to defy description. And far worse for me was the painful realization that five years in the prime of my life were utterly lost.

"A large part of the problem with 'soft' drugs is that they have received, and still receive, so much sanction from respectable and well-meaning people."

**Marijuana Reappraised*: Two Personal Accounts by Martin Croes & Andre McNicoll. (The Myrin Institute for Adult Education, 521 Park Ave., New York, N.Y. 10021)



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 700

Date Filmed 6/14/79 Camera No. --- 2

Cameraman BPC

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