

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of the Democratic Party

Ballot Access Litigation Against

the Nader-Camejo 2004 Presidential Campaign

COMPLAINT

Ralph Nader, 2004 independent candidate for President of the United States (the “Complainant”), files this Complaint concerning the conduct of the following named and unnamed persons and entities: the Democratic National Committee (DNC); Terry McAuliffe, former Chair of the DNC; John Kerry, 2004 Democratic Party candidate for President; John Edwards, 2004 Democratic Party candidate for Vice President; Kerry for President 2004, Inc., the principal campaign committee of the Kerry-Edwards Campaign; the Democratic Party of Arizona; the Democratic Party of Arkansas; the Democratic Party of Colorado; the Democratic Party of Florida; the Democratic Party of Illinois; the Democratic Party of Iowa; the Democratic Party of Maine; the Democratic Party of Michigan; the Democratic Party of Mississippi; the Democratic Party of Nevada; the Democratic Party of New Hampshire; the Democratic Party of New Mexico; the Democratic Party of Ohio; the Democratic Party of Oregon; the Democratic Party of Pennsylvania; the Democratic Party of Washington; the Democratic Party of West Virginia (Kanawha County); the Democratic Party of Wisconsin; the Section 527 organizations Uniting People for Victory/United Progressives for Victory, the National Progress Fund, The Ballot Project, Americans for Jobs, America Coming Together, and

their affiliates named herein; and any other group or individual who unlawfully contributed to the Democratic Party's effort to deny Ralph Nader and Peter Miguel Camejo ballot access in any state as candidates for President and Vice President of the United States in the 2004 General Election, including all John Doe and Jane Doe DNC or Democratic Party employees who contributed to that effort, and all law firms and individual lawyers who unlawfully contributed legal services or resources in proceedings to challenge Nader-Camejo nomination papers in any state (collectively the "Respondents").

INTRODUCTION

I. Respondents Violated Federal Election Law During The 2004 General Election While Engaging In A Coordinated Nationwide Effort To Deny Ballot Access To The Nader-Camejo Campaign For The Purpose Of Benefiting The Kerry-Edwards Campaign.

Respondents are members, allied entities and/or affiliates of the Democratic Party who conspired to prevent Ralph Nader and Peter Miguel Camejo ("Nader-Camejo") from running as independent candidates for President and Vice President of the United States, respectively, during the 2004 General Election. Respondents' purpose was to help Democratic candidates John Kerry and John Edwards win the election by denying voters the choice of voting for a competing candidacy. To achieve this purpose, Respondents filed 24 complaints and/or intervened in legal or administrative proceedings to challenge Nader-Camejo's nomination papers in 18 states, including Arizona, Arkansas, Colorado, Florida, Illinois, Iowa, Maine, Michigan, Mississippi, Nevada, New Hampshire, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin.

Respondents initiated these legal proceedings with the knowledge and consent of Terry McAuliffe and John Kerry, and coordinated their efforts with the DNC, the Kerry-

Edwards Campaign and at least 18 state or local Democratic Parties. Respondents repeatedly confirmed that the purpose of their litigation was to benefit the Kerry-Edwards Campaign by draining the Nader-Camejo Campaign of resources and forcing Nader-Camejo from the race, thereby denying voters the choice of voting for them. In the course of these actions, Respondents violated numerous limitations and prohibitions on campaign expenditures and contributions under the Federal Election Campaign Act of 1971 (“FECA” or the “Act”).

FECA defines a campaign contribution to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 2 U.S.C. 431(8)(A)(i). Applying this provision to ballot access challenges, the FEC has determined that an attempt to deny a candidate ballot access for the benefit of a competing candidate is an effort to influence an election. In Advisory Opinion 1980-57, the FEC held:

[A] candidate’s attempt to force an election opponent off the ballot so that the electorate does not have an opportunity to vote for that opponent is as much an effort to influence an election as is a campaign advertisement derogating that opponent. FEC Advisory Opinion 1980-57.

Respondents’ concerted effort to deny Nader-Camejo ballot access for the benefit of the Kerry-Edwards Campaign thus constitutes an effort to influence the 2004 presidential election. Respondents’ contributions and expenditures in connection with that effort, including the value of the legal services rendered by their law firms in the 18 states where Respondents challenged Nader-Camejo’s nomination papers, are therefore subject to the Act’s reporting requirements and limitations and prohibitions. 2 U.S.C. §§ 434; 441a; 441b; *see* FEC AO 1980-57 (funds solicited by Democratic Party to finance candidate’s litigation challenging opponent’s ballot access are campaign contributions); FEC AO

1983-37 (funds are campaign contributions if used “to initiate legal action to remove an identified candidate from the ballot”); AO 2006-22 (the value of legal services law firm provides on behalf of a campaign committee in a court case addressing the ballot eligibility of another candidate is an in kind contribution); *see also* FEC MUR 5509, Gen. Cnsl. Rep. 4-6 (Feb. 24, 2005) (expenditures in connection with challenges to Nader-Camejo nomination papers are “qualified campaign expenses” on behalf of the Kerry-Edwards 2004 campaign committee).

Respondents reportedly claim that their law firms provided legal services free of charge, and that the value of such services falls under the Act’s “volunteer” exception.¹ *See* 2 U.S.C. 431(8)(B)(i) (the term “contribution” does not include the value of services provided without compensation by a volunteer). FEC reports cited herein confirm, however, that the DNC and its state party affiliates paid at least \$527,508 to retain firms that sued Nader-Camejo in Maine, Florida, Mississippi, Ohio, Oregon and Pennsylvania. Furthermore, Maine Democratic Party Chair and DNC official Dorothy Melanson testified under oath in a legal proceeding that DNC officials directed her to sue Nader-Camejo in Maine and paid the costs of her lawsuit, including attorneys’ fees.² To help fund and coordinate their litigation, Respondents also established a Section 527 organization called The Ballot Project. The organization’s president, former Democratic congressman Toby Moffett, said in August 2004, “We’re doing everything we can to

¹ In MUR 5509, DNC Chairman Terry McAuliffe reportedly denied that his organization was funding the ballot challenges against the Nader-Camejo Campaign. Lacking evidence to the contrary, the FEC concluded that the legal services in connection with those challenges “could have been volunteered.” MUR 5509, Gen. Cnsl. Rep. 4-6 (Feb. 24, 2005). Contrary to Mr. McAuliffe’s reported statement, however, and as this Complaint demonstrates *infra*, the DNC retained several law firms that sued Nader-Camejo, as did other named Respondents.

² *See* Exhibit 1, Testimony of Dorothy Melanson, Public Hearing Before the Maine Bureau of Corporations, Elections and Commissions, August 30-31, 2004.

facilitate lawyers in over 20 states.”³ IRS records confirm that The Ballot Project spent an additional \$331,398 on such lawyers, expert witnesses and others, mainly in connection with Respondents’ Florida lawsuit.⁴ Because these expenditures by the DNC, its state party affiliates and The Ballot Project were all made for the purpose of influencing a federal election, they are subject to the Act’s reporting requirements and limitations and prohibitions. 2 U.S.C. §§ 434; 441a; 441b.

The value of legal services that law firms provided free of charge in connection with Respondents’ effort to deny Nader-Camejo ballot access is also subject to FECA’s reporting requirements and limitations and prohibitions. *Id.* Such services fall under the Act’s volunteer exception only if the attorneys employed by the law firms received no compensation for the services rendered. 2 U.S.C. 431(8)(B)(i). Attorneys who receive the usual compensation from their employer law firms while providing such services are not volunteers, however, but paid employees, and the value of their services constitutes an in kind contribution by the law firms to the Kerry-Edwards Campaign. 2 U.S.C. 431(8)(A)(ii) (the term ‘contribution’ includes “the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose”); *see* AO 2006-22 (law firm’s payment of compensation to firm employees for legal services rendered to political committee free of charge is a contribution). Furthermore, the attorneys’ use of firm resources, including office space, support staff, computers, equipment, supplies and related materials also constitutes a campaign contribution that is subject to the Act’s reporting requirements and limitations and prohibitions. *Id.* Finally, all such contributions and expenditures from any

³ *See* Exhibit 2, “Democrats’ Legal Challenges Impede Nader,” by Katharine Q. Seelye, *The New York Times*, August 19, 2004.

incorporated law firm are impermissible, because they violate the Act's prohibition on corporate contributions and expenditures. 2 U.S.C. 441b(a); *see* AO 2006-22.

At least 53 law firms and 95 lawyers nationwide provided legal services in connection with Respondents' litigation against Nader-Camejo. The vast majority of these law firms are incorporated, and thus the value of the legal services that they provided without compensation to benefit the Kerry-Edwards campaign constitutes a prohibited corporate in kind contribution. *Id.* In August 2004, with Respondents' litigation still ongoing in all 18 states, Mr. Moffett placed the value of these unpaid legal services at \$2 million.⁵ By Respondents' own estimation, therefore, the total value of the legal services that their law firms unlawfully contributed to the Kerry-Edwards Campaign greatly exceeds \$2 million. None of these prohibited corporate contributions appear to have been reported.

Respondents may deny that they intended to benefit the Kerry-Edwards Campaign by suing the Nader-Camejo Campaign, or that they coordinated their efforts with the Democratic Party, but this contradicts the plain facts and Respondents' own prior public statements set forth herein. The Democratic Party itself sued Nader-Camejo in 11 states. DNC officials initiated six of those lawsuits in their own names and assisted in four others. The DNC retained several Respondent law firms, and coordinated with The Ballot Project to recruit dozens more. Moreover, during the course of their litigation, Respondents left no doubt as to their intention to benefit the Kerry-Edwards Campaign by forcing Nader-Camejo from the race. In August 2004, for example, Democrat Minority Leader of the Pennsylvania House H. William "Bill" DeWeese said, "We are

⁴ *See* Exhibit 3, The Ballot Project, Inc. IRS statements.

being completely open about our intentions. Our goal is to help elect John Kerry the next president of the United States.”⁶ After the election, Mr. Moffett admitted, “We had a role in the ballot challenges. We distracted [Mr. Nader] and drained him of resources. I’d be less than honest if I said it was all about the law. It was about stopping Bush from getting elected.”⁷ In short, as the evidence submitted herewith demonstrates, Respondents’ intention to benefit the Kerry-Edwards Campaign by denying Nader-Camejo ballot access is a matter of public record. Respondents were therefore required to report their contributions and expenditures in connection with that effort, and to comply with the Act’s limitations and prohibitions. 2 U.S.C. §§ 431 *et seq.*

This Complaint also includes two pieces of evidence that prove beyond any doubt that the DNC and the Kerry-Edwards Campaign coordinated their efforts and engaged in joint action with Respondents. First is an email DNC and Kerry-Edwards Campaign employee Caroline Adler sent to DNC employees who helped prepare Respondents’ challenges to Nader-Camejo’s nomination papers.⁸ The email includes an attachment entitled “Script for Nader Petition Signers,” which DNC employees used as a guideline when calling to investigate people who signed Nader-Camejo’s petitions. The attached document’s electronic properties indicate that it was authored by Jack Corrigan, an attorney who served as a consultant to the DNC in 2004 and as John Kerry’s liaison to the 2004 Democratic National Convention.⁹ Second is an email from Judy Reardon, the Kerry-Edwards Campaign’s deputy national director for northern New England. This

⁵ See Exhibit 4, Jonathan Finan and Brian Falter, “Nader Still Unsure of Ballot Spot in Many States,” *Washington Post* (Aug. 24, 2004).

⁶ See Exhibit 5, Associated Press, “Lawyers, Aided by Democratic Leaders, Challenge Nader Petitions,” (Aug. 10, 2004).

⁷ See Exhibit 6, Julian Borger, “Fasten Your Seatbelts,” *The Guardian UK*, (Dec. 7, 2004).

⁸ See Exhibit 7, Caroline Adler Email and Bio; Jack Corrigan DNC Phone Script.

⁹ See Exhibit 8, Jack Corrigan Bio.

email indicates that Ms. Reardon herself drafted one of Respondents' complaints against Nader-Camejo and coordinated with the state Democratic Party officials and attorneys who filed it. In fact, attorney Martha Van Oot replies, "Great job, Judy," with her own hand-written revisions attached.¹⁰ New Hampshire Democratic Party Chair and DNC official Kathleen Sullivan, who eventually filed the complaint, was copied on this exchange, along with several other attorneys.

In summary, this Complaint proves that Respondents conspired on behalf of the Democratic Party and the Kerry-Edwards Campaign to prevent Nader-Camejo from running as candidates for President and Vice President of the United States during the 2004 General Election. Respondents' own statements, combined with FEC records, IRS records, court records, media reports and other evidence included herewith establish this fact conclusively. Accordingly, Respondents' expenditures and services rendered in connection with the legal or administrative proceedings they initiated to challenge Nader-Camejo's nomination papers in 18 states, and anything else of value they contributed to their coordinated nationwide effort to deny Nader-Camejo ballot access, are subject to the Act's limitations and prohibitions. Respondents' failure to report their expenditures and contributions, including those that were unlawful, and their failure to observe these limitations and prohibitions, thus constitute violations of the Act. 2 U.S.C. §§ 431 *et. seq.*

II. Respondents Violated Federal Election Law During The 2004 Presidential Election By Failing To Register Four Section 527 Organizations That They Operated As Political Committees.

In addition to filing 24 state court complaints to challenge Nader-Camejo's nomination papers, Respondents launched a nationwide communications campaign intended to convince Nader-Camejo supporters to vote for Kerry-Edwards. Respondents

¹⁰ See Exhibit 9, Email from Kerry-Edwards Campaign Deputy National Director Judy Reardon.

hired political consultants and pollsters, produced advertisements and press materials, and paid to broadcast these advertisements on television, radio and other media outlets throughout the country. Respondents also established two websites to publicize their efforts, www.thenaderfactor.com and www.upforvictory.com.

Respondents funded and coordinated their communications campaign through two Section 527 organizations called the National Progress Fund and Uniting People for Victory (and its affiliated political committee United Progressives for Victory). Both of these organizations received contributions and made expenditures in excess of \$1000, and engaged primarily in activity intended to help elect John Kerry as a candidate in the 2004 General Election. Both organizations therefore meet the Act's definition of "political committee," as well as the "major purpose" test established by the Supreme Court. 2 U.S.C. 431; *see Buckley v. Valeo*, 424 U.S. 1, 79 (1976) (an organization is a political committee under FECA if its major purpose is to influence the election of federal candidates). However, neither the National Progress Fund nor Uniting People for Victory registered with the FEC, in violation of the Act's provisions governing political committees. 2 U.S.C. § 431 *et. seq.*; *see FEC v. Club for Growth, Inc.*, No. CV 05-01851 (RMU) (D.D.C. Sept. 6, 2007) (consent judgment settling litigation initiated by FEC alleging that Section 527 organization failed to register as political committee).

Respondents could have engaged in legitimate advocacy against Nader-Camejo's candidacy without violating FECA. The Progressive Unity Voter Fund, for example, was founded in 2004 "to counter the threat posed by Ralph Nader's divisive candidacy," and "to deliver Kerry the presidency."¹¹ The group published the websites www.ralphdontrun.net and www.dontvoteralph.net and made other expenditures to

accomplish its goal. Unlike Respondents' organizations, however, the Progressive Unity Voter Fund registered with the FEC, reported its expenditures and complied with the Act's limitations and prohibitions on contributions.¹² UP for Victory and the National Progress Fund engaged in the same activity for the same purpose, yet neither group registered its 527 with the FEC or reported any expenditures, and neither group complied with the Act's limitations and prohibitions on contributions.¹³ These groups, like The Ballot Project and Respondents' fourth 527 group, Americans for Jobs, therefore violated FECA's provisions governing political committees. 2 U.S.C. §§ 431 *et seq.*

The National Progress Fund

The National Progress Fund produced the Nader Factor website. David W. Jones, a longtime advisor to former Democratic congressman and presidential candidate Richard Gephardt, established the National Progress Fund with a donation of \$225,000 from another Section 527 organization he controlled called Americans for Jobs.¹⁴ Americans for Jobs was founded in 2003 and received \$1 million in contributions from 28 major donors to the Democratic Party, \$200,000 of which came from labor unions.¹⁵

The National Progress Fund made expenditures of \$516,334 to influence the 2004 presidential election.¹⁶ "Our mission," the group stated on its Nader Factor website, is to

¹¹ See Exhibit 10, Progressive Unity Voter Fund "About Us" and FEC Filing.

¹² *Id.*

¹³ In fact, UP for Victory formally collaborated with the Progressive Unity Voter Fund, and announced this partnership in a press release posted on its website. "UPV has united with Progressive Majority and Don't Vote Ralph, in order to bring progressive messages regarding Nader's impact on elections to broader audiences," the July 26, 2004 press release stated. See Exhibit 26, United Progressives for Victory Press and Media Page 2.

¹⁴ See Exhibit 11, The National Progress Fund IRS statements.

¹⁵ See Exhibit 12, Americans for Jobs IRS statements; Exhibit 25, Charles Lewis, "Political Mugging in America, Anatomy of an "Independent" Smear Campaign," *Center for Public Integrity* (March 4, 2004).

¹⁶ See Exhibit 11, The National Progress Fund IRS statements.

create “a new wing of the Democratic Party – Nader Democrats.”¹⁷ Elsewhere the website stated that its function was “to raise funds for TV and Radio ads in targeted states and...to unite the opposition to George Bush’s right wing agenda.”¹⁸ The clear purpose of these advertisements, however, was to “unite the opposition” behind Democratic candidate John Kerry. The Nader Factor’s “About Us” section concludes, “The simple fact is this: if Democrats and Nader progressives are divided...the issues we mutually care about will suffer.”¹⁹

In June 2004, the National Progress Fund paid Democratic consultant Stanley Greenberg \$25,000 to conduct polling and research groups to determine how best to convince Nader-Camejo supporters to vote for Kerry-Edwards.²⁰ Mr. Greenberg’s research revealed that the message “[Nader] is in bed with Republicans” resonated most with Nader-Camejo supporters.²¹ As this Complaint details below, Respondents met in July 2004 during the Democratic National Convention in Boston to discuss Mr. Greenberg’s research and to coordinate their plans. Mr. Greenberg’s message linking Nader-Camejo with the Republican Party became the predominant theme of Respondents’ communications campaign.

The National Progress Fund produced and broadcast at least eight different radio and television advertisements. These advertisements included statements such as: “Ralph Nader’s candidacy in 2000...helped put George Bush in office”; “by supporting Ralph

¹⁷ See Exhibit 13, The Nader Factor About Us/Mission Statement.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Exhibit 11, The National Progress Fund IRS statements. The Ballot Project also paid Greenberg \$10,000 on July 14, 2004. See Exhibit 3, The Ballot Project, Inc. IRS statements. See also Exhibit 14, Katharine Q. Seelye, “Convictions Intact, Nader Soldiers On,” *The New York Times* (Aug. 2, 2004); Exhibit 15, Janice D’Arcy, “Anti-Nader Forces Coordinate Strategy,” *Hartford Courant* (July 27, 2004).

²¹ See Exhibit 16, David Postman, “Nader Foes Seek Funding from Democratic Donors,” *The Seattle Times* (July 28, 2004).

Nader, I actually helped George Bush”; “I made a mistake supporting Ralph Nader, because it helped George Bush”; and “After all the good he has done, Ralph Nader’s legacy could be reduced to four more years of George Bush.”²² The unambiguous meaning of this language – and the message of the advertisements themselves – was that progressive voters should not vote for Ralph Nader. The Nader Factor advertisements thus constitute express advocacy against Nader-Camejo’s candidacy. In fact, after the election, the Nader Factor website posted a statement thanking “the 2.4 million Americans who voted for Nader in 2000” but did not in 2004.²³

As late as October 27, 2004, the Nader Factor was soliciting funds to broadcast its advertisements, and explicitly tying that solicitation to the group’s opposition to Nader-Camejo. “State after state continue to show Bush & Kerry in a virtual tie with Ralph Nader making up the difference,” the website stated. “We must raise an additional \$20,000 to put our new ad targeted at Nader supporters up on television in important swing states.”²⁴ This solicitation clearly sought funding for advertisements that expressly advocated against Mr. Nader as a candidate for President. In fact, the “new ad” to which the aforementioned solicitation referred concluded with the plea, “Help us stop Nader and Bush before it’s too late.” Yet the National Progress Fund never registered or reported any contributions or expenditures to the FEC, in violation of the Act’s provisions governing political committees. 2 U.S.C. §§ 431, 433, 434, 441a, 441b.

Instead, to avoid triggering the \$1,000 threshold for registration of political committees, the National Progress Fund reported its express advocacy to the FEC as electioneering communications. The Supreme Court has made clear, however, that

²² See Exhibit 17, The Nader Factor Television Advertisements.

²³ See Exhibit 18, The Nader Factor Post-Election Thank You.

organizations such as the National Progress Fund may not avoid FECA's limitations and prohibitions in this manner:

[A communication] cannot be regarded as a mere discussion of public issues that by their nature raise the names of certain politicians [if] it provides in effect an explicit directive: vote for these (named) candidates. The fact that this message is marginally less direct than "Vote for Smith" does not change its essential nature. The [communication] goes beyond issue discussion to express electoral advocacy. The disclaimer of endorsement cannot negate this fact. *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 249-250 (1986).

The National Progress Fund's advertisements likewise contained an explicit directive. Although the language was marginally less direct than "Don't vote for Nader," that was the clear message. The National Progress Fund nevertheless reported expenditures for this express advocacy as electioneering communications, in an apparent attempt to circumvent FECA's limitations and prohibitions. As the Supreme Court stated in *Massachusetts Citizens for Life*, however, if an organization's "independent spending become[s] so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee." *Id.* at 262. By failing to register as a political committee, therefore, and by failing to report its contributions and its expenditures on behalf of the Kerry-Edwards Campaign, the National Progress Fund violated §434's reporting requirements. The National Progress Fund also accepted numerous contributions that violated the Act's limitations and prohibitions, including §441a's \$5,000 limitation on contributions from individuals and §441b's prohibition on contributions from labor unions.²⁵

The following donations to the National Progress Fund violated §441a's \$5,000 limitation on contributions from individuals:

²⁴ *Id.*

²⁵ See Exhibit 11, National Progress Fund IRS Statements.

- John Koza (June 10, 2004): \$25,000;
- Robert Savoie (June 23, 2004): \$25,000;
- John Koza (September 27, 2004): \$75,000;
- Lawrence Kasden (September 27, 2004): \$10,000;
- S. Daniel Abraham (October 8, 2004): \$10,000;
- James Nance (October 8, 2004): \$10,000.²⁶

The following donations to the National Progress Fund violated §441b's prohibition on donations from labor unions:

- Painters & Allied Trades Union (July 23, 2004): \$25,000;
- Sheet Metal Workers (July 23, 2004): \$15,000;
- Sheet Metal Workers (October 8, 2004): \$10,000.²⁷

In addition, Americans for Jobs' \$225,000 founding contribution to the National Progress Fund likely violated both §441a and §441b.²⁸

United Progressives/Uniting People for Victory

United Progressives for Victory identified itself on its website as “a group of Americans who believe that the reelection of George Bush in 2004 would be a disaster....We are progressives concerned that Ralph Nader's candidacy has the potential to undo his legacy and help re-elect George Bush by dividing the progressive vote. We believe that a united progressive vote for Kerry will empower the progressive agenda...The best way to support Nader's agenda this year is to oppose his candidacy for President.”²⁹ In fact, the same people who founded The Ballot Project also founded United Progressives for Victory. Prominent Democratic Party attorney William C.

²⁶ See Exhibit 11, The National Progress Fund IRS Statements.

²⁷ *Id.*

²⁸ *Id.* See Exhibit 12, Americans for Jobs IRS Statements.

²⁹ See Exhibit 19, United Progressives for Victory About Us.

Oldaker established both organizations, and both organizations operated from the offices of DNC consultants Robert Brandon and Associates.³⁰

UP for Victory, as the group called itself, made expenditures of approximately \$235,000 to influence the 2004 presidential election.³¹ The group's primary activity consisted of publishing advertisements in the form of "open letters" to those considering voting for Nader-Camejo, and developing anti-Nader/pro-Kerry talking points, fact sheets, flyers, letters to the editor and related materials. These advertisements and materials included statements such as, "Voting for John Kerry and John Edwards is the only choice for those of us who want to safeguard progressive values," and "Citizens who believe in a progressive agenda should vote for John Kerry. A vote for Nader could result in four more years of George Bush."³²

Like the National Progress Fund, UP for Victory apparently attempted to circumvent the Act by operating a political committee without registering with the FEC. United Progressives for Victory did register with the FEC in June 2004. But then, on July 21, 2004, the group established a 527 called "Uniting People for Victory," which the group did not register. The 527's IRS registration form states that its purpose was "to inform and educate the electorate about issues of importance in upcoming elections." The only issue the 527 appears to have addressed, however, was Ralph Nader's candidacy and why voters should not support it. This was the 527's major purpose, and the group raised

³⁰ See Exhibit 3, The Ballot Project, Inc. IRS Statements; Exhibit 20, Uniting People for Victory IRS Statements.

³¹ This total includes expenditures by the registered political committee United Progressives for Victory and by its 527 Uniting People for Victory. The political committee accounted for approximately \$64,000 of the total; the 527 accounted for the other \$171,000. See Exhibit 23, United Progressives for Victory FEC Statements; Exhibit 20, Uniting People for Victory IRS Statements.

³² See Exhibit 21, United Progressives for Victory Press and Media.

and spent far in excess of \$1,000 for that purpose.³³ The 527 was therefore obligated to register as a political committee. 2 U.S.C. § 431; *see Massachusetts Citizens for Life*, 479 U.S. at 262; *Buckley*, 424 U.S. at 79.

UP for Victory not only failed to register its 527 as a political committee, but the group also apparently failed to respond to a letter from FEC Campaign Finance Analyst Jennifer Thangavelu, which requested that UP for Victory identify “any affiliated or connected organization” – information that the letter states is “essential to full public disclosure of your federal election campaign finances.”³⁴ The letter, sent on June 23, 2004, states that UP for Victory’s reply is due on July 23, 2004 and “will be placed on the public record.” No such reply is on record. UP for Victory’s apparent failure to reply to Ms. Thangavelu’s letter enabled the group to operate its 527 as a political committee while avoiding FECA’s limitations and prohibitions, in violation of FEC regulations governing affiliated committees. 11 C.F.R. 102.2 (committees established, financed, maintained or controlled by the same group of persons must be reported as affiliated); 11 C.F.R. 110.3 (affiliated committees are considered to be one committee for purposes of FECA’s contribution limitations).

The only difference between UP for Victory’s political committee and its 527 is that the former (operating independent of the latter) appears to have complied with FECA’s contribution limitations and prohibitions, while the latter clearly did not.³⁵ UP for Victory’s political committee reported to the FEC approximately \$32,000 in contributions from individuals and another \$32,000 from labor union PACs. None of

³³ *See* Exhibit 20, Uniting People for Victory IRS Statements.

³⁴ *See* Exhibit 22, FEC Thangavelu Letter.

³⁵ *Compare* Exhibit 23, United Progressives for Victory FEC Statement, *with* Exhibit 20, Uniting People for Victory IRS Statements.

these donations exceeded \$5,000. UP for Victory's 527, by contrast, accepted numerous donations that violated FECA's limitations and prohibitions, including §441a's \$5,000 limitation on contributions from individuals and §441b's prohibition on donations from corporations and labor unions. Furthermore, by failing to report such contributions, and by failing to report any expenditures on behalf of the Kerry-Edwards Campaign, UP for Victory violated §434's reporting requirements.³⁶

The following donations to UP for Victory's 527 violated §441a's \$5,000 limitation on contributions from individuals:

- Richard and Shari Foos (September 11, 2004): \$25,000;
- Miles Rubin (August 10, 2004): \$25,000;
- Hani Masri (October 8, 2004): \$10,000;
- Patrick Theros (October 8, 2004): \$10,000;
- Jeanne Levy-Hinte (October 29, 2004): \$10,000.

The following donations to UP for Victory's 527 violated §441b's prohibition on donations from corporations and labor unions:

- Palisades Pictures Entertainment (October 7, 2004): \$20,000;
- Palisades Pictures Entertainment (October 29, 2004): \$5,278;
- AFSCME (January 13, 2005): \$2,500.³⁷

Finally, the 8872 forms UP for Victory filed with the IRS indicate that its 527 spent \$170,863, but raised only \$109,278.³⁸ This discrepancy provides the FEC with yet another reason to investigate UP for Victory: to determine how the group's 527 spent \$61,585 more than it reportedly raised.

³⁶ See Exhibit 20, Uniting People for Victory IRS Statements.

³⁷ *Id.*

³⁸ *Id.*

The Ballot Project

The Ballot Project also violated FECA by failing to register as a political committee. 2 U.S.C. §§ 431 *et. seq.* The Ballot Project's IRS registration form states that its purpose is "to assess and prepare legal challenges to the ballot qualification of candidates seeking public office as well as measures, referenda, initiatives and ballot questions posed for public vote."³⁹ According to The Ballot Project's president Toby Moffett, however, the organization prepared legal challenges against Mr. Nader exclusively, in order "to drain him of resources and force him to spend his time and money."⁴⁰ The Ballot Project focused exclusively on Mr. Nader, Mr. Moffett said, because other candidates (such as the Green Party's David Cobb) did not appear to threaten the Kerry-Edwards Campaign.⁴¹ Accordingly, because The Ballot Project's major purpose was to influence a federal election, and because the organization raised and spent \$331,398 and solicited more than \$2 million in in kind contributions for this purpose, the organization was required to register as a political committee.⁴² The Ballot Project not only failed to register, but also accepted numerous contributions in violation of FECA's limitations and prohibitions, including §441a's \$5,000 limitation on contributions from individuals and §441b's prohibition on donations from corporations and labor unions. Furthermore, by failing to report such contributions, and by failing to report any expenditures on behalf of the Kerry-Edwards Campaign, The Ballot Project violated §434's reporting requirements.⁴³

³⁹ See Exhibit 3, The Ballot Project IRS statements.

⁴⁰ See Exhibit 14, Katharine Q. Seelye, "Convictions Intact, Nader Soldiers On," *The New York Times* (Aug. 2, 2004).

⁴¹ See Exhibit 24, Brian Faler, "Nader to Be Absent from Florida Ballot," *Washington Post* (Sep. 11, 2004).

⁴² See Exhibit 3, The Ballot Project IRS statements.

⁴³ *Id.*

The following donations to The Ballot Project violated §441a's \$5,000 limitation on contributions from individuals:

- Robert Shapiro (June 20, 2004): \$10,000;
- Max Palevsky (June 24, 2004): \$25,000;
- Bernard Schwartz (July 13, 2004): \$10,000;
- John Haas (July 13, 2004): \$12,500.

The following donations to The Ballot Project violated §441b's prohibition on donations from corporations and labor unions:

- Jacobs & Goodman, P.A. (September 22, 2004): \$10,000;
- UFCW, AFL-CIO (September 8, 2004): \$25,000.⁴⁴

Finally, like its affiliate UP for Victory, The Ballot Project appears to have spent more money than it raised. According to the 8872 forms the group filed with the IRS, The Ballot Project spent \$331,398, but raised only \$166,310.⁴⁵ The FEC therefore has yet another reason to investigate: to determine the source of \$165,088 in unreported contributions The Ballot Project spent to influence a federal election.

Americans for Jobs

Americans for Jobs also violated FECA by failing to register as a political committee. 2 U.S.C. §§ 431 *et. seq.* Americans for Jobs' original form 990 tax return (for 2003) states that its purpose was "to accept contributions and make expenditures to influence the election of federal candidates."⁴⁶ In subsequent filings, the group stated that its purpose was "to engage in election-related activity for the purpose of supporting jobs and healthcare issues." In fact, this 527's major purpose was to run advertisements

⁴⁴ See Exhibit 3, The Ballot Project IRS statements.

⁴⁵ *Id.*

⁴⁶ See Exhibit 12, Americans for Jobs IRS statements. This language is substantially the same as Club for Growth's statement to the IRS that the group was "primarily dedicated to helping elect pro-growth, pro-freedom candidates through political contributions and issue advocacy campaigns," which provided the

attacking Howard Dean during the 2004 Democratic primaries.⁴⁷ In December 2003 alone, Americans for Jobs spent approximately \$500,000 for this purpose. All told, the 527 raised and spent \$1 million in approximately six months, from November 2003 to June 2004. Most donations to Americans for Jobs violated either §441a's \$5,000 limitation on contributions from individuals or §441b's prohibition on donations from corporations and labor unions.⁴⁸ Americans for Jobs never registered or reported any contributions or expenditures to the FEC, in violation of the Act's provisions governing political committees. 2 U.S.C. §§ 431, 433, 434, 441a, 441b.

THE PARTIES

1. Complainant Ralph Nader is a consumer advocate and 2004 independent candidate for President of the United States. Mr. Nader's address is P.O. Box 19312, Washington, D.C., 20036.

2. The DNC is the national head of the Democratic Party, and works with national, state and local Democratic Party organizations to elect Democratic candidates. The DNC's address is 430 S. Capitol Street, SE, Washington, D.C., 20003.

3. Terry McAuliffe is former Chairman of the DNC. Mr. McAuliffe's address is 7527 Old Dominion Drive, McLean, Virginia, 22102.

4. John Kerry is a United States Senator from Massachusetts and the 2004 Democratic Party candidate for President. Mr. Kerry's address is 304 Russell Senate Office Building, Third Floor, Washington, D.C., 20510.

basis for the FEC's first cause of action against Club for Growth, for failure to register as a political committee. *See FEC v. Club for Growth* (complaint filed Sep. 19, 2005).

⁴⁷ One of these advertisements had the words "It's time for Democrats to think about Dean's inexperience" superimposed over a close-up of Osama bin Laden's face. *See* Exhibit 25, Charles Lewis, "Political Mugging in America, Anatomy of an "Independent" Smear Campaign," *Center for Public Integrity* (March 4, 2004).

⁴⁸ *See* Exhibit 11, Americans for Jobs IRS Statements.

5. John Edwards is the 2004 Democratic Party candidate for Vice President. Mr. Edwards' last known address is 1001 G Street NW, Suite 400 West-B, Washington, D.C., 20001, or 410 Market Street, Suite 400, Chapel Hill, N.C. 27516-4061.

6. Kerry-Edwards 2004 Inc. is the principal campaign committee of the Kerry-Edwards Campaign. The committee's address is 10 G Street NE, Suite 710, Washington, D.C., 20002.

7. The Arizona Democratic Party is the Arizona state affiliate of the national Democratic Party. The Party's address is 2910 North Central Avenue, Phoenix, Arizona, 85012.

8. The Arkansas Democratic Party is the Arkansas state affiliate of the national Democratic Party. The Party's address is 1300 West Capitol Avenue, Little Rock, Arkansas, 72201.

9. The Colorado Democratic Party is the Colorado state affiliate of the national Democratic Party. The Party's address is 777 Santa Fe Drive, Denver, Colorado, 80204.

10. The Iowa Democratic Party is the Iowa state affiliate of the national Democratic Party. The Party's address is 5661 Fleur Drive, Des Moines, Iowa, 50321.

11. The Florida Democratic Party is the Florida state affiliate of the national Democratic Party. The Party's address is 214 South Bronough Street, Tallahassee, Florida, 32301.

12. The Maine Democratic Party is the Maine state affiliate of the national Democratic Party. The Party's address is 16 Winthrop Street, Augusta, Maine, 04332.

13. The Mississippi Democratic Party is the Mississippi state affiliate of the national Democratic Party. The Party's address is 832 North Congress Street, Jackson, Mississippi, 39202.

14. The Nevada Democratic Party is the Nevada state affiliate of the national Democratic Party. The Party's address is 1325 E. Vegas Valley Drive, Suite C, Las Vegas, Nevada, 89109.

15. The New Hampshire Democratic Party is the New Hampshire state affiliate of the national Democratic Party. The Party's address is 2-1/2 Beacon Street, Concord, New Hampshire, 03301.

16. The New Mexico Democratic Party is the New Mexico state affiliate of the National Democratic Party. The Party's address is 1301 San Pedro NE, Albuquerque, New Mexico, 87110.

17. The Ohio Democratic Party is the Ohio state affiliate of the national Democratic Party. The Party's address is 271 East State Street, Columbus, Ohio, 43215.

18. The Oregon Democratic Party is the Oregon state affiliate of the national Democratic Party. The Party's address is 232 NE 9th Avenue, Portland, Oregon, 97232.

19. The Pennsylvania Democratic Party is the Pennsylvania state affiliate of the national Democratic Party. The Party's address is 510 North Third Street, Harrisburg, Pennsylvania, 17101.

20. The Washington State Democratic Party is the Washington state affiliate of the national Democratic Party. The Party's address is 616 First Avenue, Suite 300, Seattle, Washington, 98194.

21. The West Virginia Democratic Party (Kanawha County) is the West Virginia affiliate of the national Democratic Party. The Party's address 717 Lee Street, Suite 214, Charleston, West Virginia, 25301.

22. The Wisconsin Democratic Party is the Wisconsin state affiliate of the national Democratic Party. The Party's address is 222 West Washington Avenue, Suite 150, Madison, Wisconsin, 53703.

23. John Doe and Jane Doe Democratic Party and DNC employees are all Democratic Party or DNC employees not known to the Complainant who assisted in the effort to deny Nader-Camejo ballot access, or who participated in administrative or legal proceedings pursuant to that effort.

24. Jack Corrigan is an attorney who worked with the DNC to plan and execute the Democratic Party's effort to deny Nader-Camejo ballot access. Mr. Corrigan also served as John Kerry's liaison to the 2004 Democratic National Convention. Mr. Corrigan's address is 896 Beacon Street, Boston, Massachusetts, 02215.

25. Coppersmith, Gordon, Schermer, Owens and Nelson, LLP is an Arizona law firm that represented parties attempting to deny Nader-Camejo ballot access in Arizona. The law firm's address is 2800 North Central Avenue, Suite 100, Phoenix, Arizona, 85004.

26. Shughart, Thompson, and Kilroy, PC is an Arizona law firm that represented parties attempting to deny Nader-Camejo ballot access in Arizona. The law firm's address is 3636 North Central Avenue, Suite 1200, Phoenix, Arizona, 85012.

27. Irvine Law Firm, P.A., is an Arizona law firm that represented parties attempting to deny Nader-Camejo ballot access in Arizona. The law firm's address is 1419 North Third Street, Suite 100, Phoenix, Arizona, 85004.

28. Andrew S. Gordon is an attorney with the firm Coppersmith Gordon who represented parties attempting to deny Nader-Camejo ballot access in Arizona.

29. Marty Harper and Kelly J. Flood are attorneys with the firm Shughart Thompson who represented parties attempting to deny Nader-Camejo ballot access in Arizona.

30. Thomas K. Irvine and Larry J. Wulkan are attorneys with Irvine Law Firm, P.A. who represented parties attempting to deny Nader-Camejo ballot access in Arizona.

31. Vickery and Carroll, P.A. is an Arkansas law firm that represented parties attempting to deny Nader-Camejo ballot access in Arkansas. The law firm's address is 200 North Jefferson, El Dorado, Arkansas, 71730.

32. Robin J. Carroll is an attorney with the firm Vickery and Carroll who represented parties attempting to deny Nader-Camejo ballot access in Arkansas.

33. Brian D. Greer is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Arkansas. Mr. Greer's address in 2004 was 523 West 3rd Street, Little Rock, Arkansas, 72201. On information and belief, Mr. Greer currently practices at Arnold and Porter, LLP, 555 Twelfth Street, NW, Washington, D.C., 20004.

34. Kelly, Haglund, Garnsey and Kahn, LLC, is a Colorado law firm that represented parties attempting to deny Nader-Camejo ballot access in Colorado. The law firm's address is 1441 Eighteenth Street, Suite 300, Denver, Colorado, 80202.

35. Berenbaum, Weinshienk and Eason, P.C. is a Colorado law firm that represented parties attempting to deny Nader-Camejo ballot access in Colorado. The law firm's address is 370 17th Street, Suite 4800, Denver, Colorado, 80202.

36. Isaacson, Rosenbaum, Woods and Levy, P.C. is a Colorado law firm that represented parties attempting to deny Nader-Camejo ballot access in Colorado. The law firm's address is 633 17th Street, Suite 2200, Denver, Colorado, 80202.

37. David R. Fine and Michael Belo are attorneys with the firm Kelly, Haglund, Garnsey and Kahn, LLC, who represented parties attempting to deny Nader-Camejo ballot access in Colorado.

38. Mark Grueskin is an attorney with the firm Isaacson, Rosenbaum, Woods and Levy, P.C., who represented parties attempting to deny Nader-Camejo ballot access in Colorado.

39. Julie DeWoody is the Executive Director of the Colorado Democratic Party who initiated proceedings on behalf of the Party in an effort to deny Nader-Camejo ballot access in Colorado. Ms. DeWoody's address is 777 Santa Fe Drive, Denver, Colorado, 80204.

40. Scott Maddox is the Florida Democratic Party Chair and DNC official who initiated proceedings on behalf of the Party in an effort to deny Nader-Camejo ballot access in Florida.⁴⁹ Mr. Maddox's address is 214 South Bronough Street, Tallahassee, Florida, 32301.

41. Edward Stafman of Stafman Law Offices is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Florida. Mr. Stafman's address is 6950 Bradfordville Road, Tallahassee, Florida, 32308.

42. Richard B. Rosenthal of Law Offices of Richard B. Rosenthal is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Florida. Mr. Rosenthal's address is Alfred I. Dupont Building, 169 East Flagler Street, Suite 1422, Miami, Florida, 33131.

43. Joel S. Perwin of the Law Office of Joel S. Perwin is a Florida attorney who represented parties attempting to deny Nader-Camejo ballot access in Florida. Mr. Perwin's address is Alfred I. Dupont Building, 169 East Flagler Street, Suite 1422, Miami, Florida, 33131.

44. Broad and Cassel is a Florida law firm that represented parties attempting to deny Nader-Camejo ballot access in Florida. The firm's address is 215 South Monroe Street, Suite 400, Tallahassee, Florida, 32301.

45. Messer, Caparello and Self, P.A. is a Florida law firm that represented parties attempting to deny Nader-Camejo ballot access in Florida. The firm's address is 215 South Monroe Street, Suite 701, Tallahassee, Florida, 32301.

46. Podhurst Orseck, P.A. is a Florida law firm that represented parties attempting to deny Nader-Camejo ballot access in Florida. The firm's address is 25 West Flagler Street, Suite 800, Miami, Florida, 33130.

47. Friedman, Kaplan, Seiler, and Adelman, LLP is a New York law firm that represented parties attempting to deny Nader-Camejo ballot access in Florida. The firm's address is 1633 Broadway, New York, New York, 10019.

48. Kelly Overstreet Johnson, Brooke Lewis, David Miller and M. Stephen Turner are attorneys with the firm Broad and Cassel who represented parties attempting

⁴⁹ See Exhibit 27, DNC Membership Roster, 2004-2008.

to deny Nader-Camejo ballot access in Florida. Mr. Turner formerly represented Democrat Al Gore in the 2000 presidential election.

49. Thomas Findley and Mark Herron are attorneys with the firm Messer, Caparello and Self, P.A., who represented parties attempting to deny Nader-Camejo ballot access in Florida.

50. Michael Olin, Stephen Rosenthal and Maria Kayanan are attorneys with the firm Podhurst Orseck, P.A., who represented parties attempting to deny Nader-Camejo ballot access in Florida.

51. Eric Seiler, Amy Brown and Katherine Pringle are attorneys with the firm Friedman, Kapler, Seiler and Adelman, LLP, who represented parties attempting to deny Nader-Camejo ballot access in Florida. Ms. Pringle's bio states that she "served as co-counsel to the Kerry for President Campaign in litigation concerning the 2004 Florida election ballot."⁵⁰

52. Hinshaw and Culbertson is an Illinois law firm that represented parties attempting to deny Nader-Camejo ballot access in Illinois. The law firm's address is 222 North LaSalle Street, Suite 300, Chicago, Illinois, 60601.

53. Fletcher, Topol, O'Brien and Kasper is an Illinois law firm that represented parties attempting to deny Nader-Camejo ballot access in Illinois. The law firm's address is 222 North LaSalle Street, Suite 300, Chicago, Illinois, 60601.

54. Michael Kasper is General Counsel and Treasurer of the Illinois Democratic Party, partner at Fletcher Topol, and of counsel at Hinshaw and Culbertson. Mr. Kasper represented parties attempting to deny Nader-Camejo ballot access in Illinois.

⁵⁰ See Exhibit 28, Katherine Pringle Bio.

55. Michael Kreloff is the Cook County, Illinois Democratic Party Committeeman and an attorney who represented parties attempting to deny Nader-Camejo ballot access in Illinois.

56. Michael J. Madigan is the Illinois Democratic Party Chair, a DNC official and Speaker of the Illinois House who, on information and belief, directly or indirectly through staff organized state house employees and/or interns and other Democratic Party agents to assist the challenge to Nader-Camejo's Illinois nomination papers.⁵¹

57. Wandro, Baer and Casper, P.C. is an Iowa law firm that represented parties attempting to deny Nader-Camejo ballot access in Iowa. The law firm's address is 2501 Grand Avenue, Suite B, Des Moines, Iowa, 50312.

58. Hawkins and Norris is an Iowa law firm that represented parties attempting to deny Nader-Camejo ballot access in Iowa. The law firm's address is 2501 Grand Avenue, Suite C, Des Moines, Iowa, 50312.

59. Steven P. Wandro is an attorney with the firm Wandro Baer who represented parties attempting to deny Nader-Camejo ballot access in Iowa.

60. Glenn L. Norris is an attorney with the firm Hawkins and Norris who represented parties attempting to deny Nader-Camejo ballot access in Iowa.

61. Preti, Flaherty, Beliveau, Pachois and Haley, LLP is a Maine law firm that represented parties attempting to deny Nader-Camejo ballot access in Maine. The law firm's address is One City Center, Portland, Maine, 04101.

62. Verrill, Dana, LLP is a Maine law firm that represented parties attempting to deny Nader-Camejo ballot access in Maine. The law firm's address is One Portland Square, Portland, Maine, 04112.

63. Michael K. Mahoney is General Counsel of the Maine Democratic Party and an attorney with the law firm Preti, Flaherty who represented parties attempting to deny Nader-Camejo ballot access in Maine.

64. Jonathan S. Piper is an attorney with the law firm Preti, Flaherty who represented parties attempting to deny Nader-Camejo ballot access in Maine.

65. James T. Kilbreth is an attorney with the law firm Verrill, Dana who represented parties attempting to deny Nader-Camejo ballot access in Maine.

66. Dorothy Melanson is the Maine Democratic Party Chair and DNC official who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in Maine.⁵²

67. Sachs Waldman is a Michigan law firm that represented parties attempting to deny Nader-Camejo ballot access in Michigan. The law firm's address is 1000 Farmer, Detroit, Michigan, 48226.

68. Mary Ellen Gurewitz and Andrew Nickelhoff are attorneys at Sachs Waldman who represented parties attempting to deny Nader-Camejo ballot access in Michigan. Ms. Gurewitz and Mr. Nickelhoff represent the Michigan Democratic Party.⁵³

69. Mark Brewer is the Michigan Democratic Party Chair and DNC Vice Chair who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in Michigan.⁵⁴

⁵¹ See Exhibit 27, DNC Membership Roster, 2004-2008.

⁵² *Id.*

⁵³ See Exhibit 29, Mary Ellen Gurewitz and Andrew Nickelhoff Bios.

⁵⁴ See Exhibit 27, DNC Membership Roster, 2004-2008.

70. The Begley Law Firm, PLLC is a Mississippi law firm that represented parties attempting to deny Nader-Camejo ballot access in Mississippi. The law firm's address is 123 North State Street, Jackson, Mississippi, 39201.

71. Pigott, Reeves, Johnson and Minor, P.A. is a Mississippi law firm that represented parties attempting to deny Nader-Camejo ballot access in Mississippi. The law firm's address is 75 North Congress Street, Jackson, Mississippi, 39202.

72. Samuel L. Begley is an attorney with the Begley Law Firm who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

73. Brad Pigott is an attorney with Pigott, Reeves, Johnson and Minor, P.A. who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

74. Wayne Dowdy is the Mississippi Democratic Party Chair and DNC official who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in Mississippi.⁵⁵

75. Richard Davidson is a Democratic Party representative or attorney who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

76. Lionel, Sawyer and Collins is a Nevada law firm that represented parties attempting to deny Nader-Camejo ballot access in Nevada. The law firm's address is 1700 Bank of America Plaza, 300 South Fourth Street, Las Vegas, Nevada, 89101.

77. Paul E. Larsen and Allen J. Wilt are attorneys with Lionel, Sawyer who represented parties attempting to deny Nader-Camejo ballot access in Nevada.

78. Ian Glinka is the Nevada State Democratic Party's Director of Information and Technology, who assisted in the attempt to deny Nader-Camejo ballot access in Nevada.

79. Orr and Reno is a New Hampshire law firm that represented parties attempting to deny Nader-Camejo ballot access in New Hampshire. The law firm's address is One Eagle Square, Concord, New Hampshire, 03302.

80. Welts, White and Fontain is a New Hampshire law firm that represented parties attempting to deny Nader-Camejo ballot access in New Hampshire. The law firm's address is 29 Factory Street, Nashua, New Hampshire, 03061.

81. Petrucelly and Nadler, P.C. is a Massachusetts law firm that represented parties attempting to deny Nader-Camejo ballot access in New Hampshire. The law firm's address is One State Street, Suite 900, Boston, Massachusetts, 02109.

82. Sulloway and Hollis, P.L.L.C. is a New Hampshire law firm that represented parties attempting to deny Nader-Camejo ballot access in New Hampshire. The law firm's address is 9 Capitol Street, Concord, New Hampshire, 03301.

83. Martha Van Oot and Emily Gray Rice are attorneys with the firm Orr and Reno who represented parties attempting to deny Nader-Camejo ballot access in New Hampshire.

84. Mark Atkins is an attorney with the firm Welts, White and Fontain who represented parties attempting to deny Nader-Camejo ballot access in New Hampshire.

85. Burt Nadler is an attorney with the firm Petrucelly and Nadler who represented parties attempting to deny Nader-Camejo ballot access in New Hampshire.

86. Martin Honigberg is an attorney with the firm Sulloway and Hollis who represented parties attempting to deny Nader-Camejo ballot access in New Hampshire.

⁵⁵ *Id.*

87. Kathleen Sullivan is the New Hampshire Democratic Party Chair and DNC official who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in New Hampshire.⁵⁶

88. Jeffries, Rugge and Rosales, P.C. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 901 Rio Grande Boulevard, NW, Suite G-250, Albuquerque, New Mexico, 87104.

89. Rodey, Dickason, Sloan, Akin, and Robb, P.A. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 201 Third Street NW, Suite 2200, Albuquerque, New Mexico, 87103.

90. Jones, Snead, Wertheim and Wentworth, P.A. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 215 Lincoln Avenue, Santa Fe, New Mexico, 87504.

91. Eric Sedillo Jeffries is an attorney with the law firm Jeffries, Rugge who represented parties attempting to deny Nader-Camejo ballot access in New Mexico. Mr. Jeffries was the New Mexico contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁵⁷

92. Andrew G. Schultz is an attorney with the law firm Rodey, Dickason who represented parties attempting to deny Nader-Camejo ballot access in New Mexico.

93. Jerry Todd Wertheim is an attorney with the law firm Jones, Snead who represented parties attempting to deny Nader-Camejo ballot access in New Mexico.

⁵⁶ See Exhibit 27, DNC Membership Roster, 2004-2008.

⁵⁷ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

94. Vanessa M. Alarid is the New Mexico Democratic Party Executive Director who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in New Mexico.

95. John Wertheim is New Mexico Democratic Party Chair, Executive Committee Member of the DNC and a Partner at Jones, Snead. Wertheim assisted the effort to deny Nader-Camejo ballot access in New Mexico.⁵⁸

96. Gideon Elliot is New Mexico Democratic Party Deputy Executive Director. Mr. Elliot assisted the effort to deny Nader-Camejo ballot access in New Mexico.

97. Schottenstein, Zox and Dunn, LPA is an Ohio law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is 250 West Street, Columbus, Ohio, 43216.

98. Kirkland and Ellis is a Washington, D.C. law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is 655 Fifteenth Street, NW, Washington, D.C., 20005.

99. Beckman, Weil, Shepardson and Faller, LLC is an Ohio law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is 1200 Mercantile Center, 120 East 4th Street, Cincinnati, Ohio, 45202.

100. Sebaly, Shillito and Dyer L.P.A. is an Ohio law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is 1900 Kettering Tower, Dayton, Ohio, 45423.

⁵⁸ See Exhibit 27, DNC Membership Roster, 2004-2008.

101. Eastman and Smith, Ltd. is an Ohio law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is One Seagate, 24th Floor, Toledo, Ohio, 43604.

102. Donald J. McTigue of the Law Offices of Donald J. McTigue is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Ohio. Attorney McTigue represented the Ohio Democratic Party during the 2004 election and John Kerry during the 2004 election Ohio recount.⁵⁹ Mr. McTigue's address is 3886 North High Street, Columbus, Ohio, 43214.

103. John P. Gilligan, Russell J. Kuttell and Steven D. Forry are attorneys with Schottenstein, Zox who represented parties attempting to deny Nader-Camejo ballot access in Ohio. John Gilligan was an Ohio contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁶⁰

104. Andrew B. Clubock, Jennifer Levy and Gregory F. Corbett are attorneys with Kirkland and Ellis who represented parties attempting to deny Nader-Camejo ballot access in Ohio. Mr. Corbett was the Washington, D.C. contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁶¹

105. Lindsay, Hart, Neil and Weigler, LLP is an Oregon law firm that represented parties attempting to deny Nader-Camejo ballot access in Oregon. The firm's address is 1300 SW Fifth Avenue, Suite 3400, Portland, Oregon, 97201.

⁵⁹ See Exhibit 31, Donald McTigue Email and Letter.

⁶⁰ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

⁶¹ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

106. Smith, Diamond and Olney is an Oregon law firm that represented parties attempting to deny Nader-Camejo ballot access in Oregon. The firm's address is 1500 NE Irving, Suite 370, Portland, Oregon, 97232.

107. Roy Pulvers is an attorney formerly with the firm Lindsey, Hart, Neil and Weigler, LLP who initiated proceedings in an effort to deny Nader-Camejo ballot access in Oregon. Mr. Pulvers is currently a partner at Hinshaw and Culbertson, LLP. Mr. Pulvers' address is 1000 SW Broadway, Suite 1250, Portland, Oregon, 97205.

108. Margaret Olney is an attorney with the firm Smith, Diamond and Olney who represented parties attempting to deny Nader-Camejo ballot access in Oregon.

109. Service Employees International Union (SEIU) is a labor union that organized an effort to deny Nader-Camejo ballot access in Oregon. SEIU intervened in state court proceedings for that purpose. SEIU Secretary-Treasurer Anna Burger is a DNC official who oversees SEIU's national political operations. SEIU's address is 1313 L Street NW, Washington, D.C., 20005.

110. America Coming Together (ACT) is a Democratic Section 527 organization funded in part by SEIU that organized a campaign of harassment and sabotage in an effort to deny Nader-Camejo ballot access in Oregon. ACT's address is 888 16th Street NW, Suite 450, Washington, D.C., 20006.

111. John Neel Pender is Executive Director and James Edmundson is Chair of the Oregon Democratic Party, both of whom joined proceedings in an effort to deny Nader-Camejo ballot access in Oregon. Mr. Pender's and Mr. Edmundson's address is 232 NE 9th Avenue, Portland, Oregon, 97232.

112. Reed Smith LLP is a Pennsylvania law firm that represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania. The firm's address is 435 Sixth Avenue, Pittsburgh, Pennsylvania, 15219.

113. Montgomery, McCracken, Walker and Rhoads, LLP is a Pennsylvania law firm that represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania. The firm's address is 123 South Broad Street, Avenue of the Arts, Philadelphia, Pennsylvania, 19109.

114. Brian A. Gordon of the Law Offices of Brian A. Gordon is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania. Mr. Gordon's address is Eight Penn Center, Suite 1850, 1628 JFK Boulevard, Philadelphia, Pennsylvania, 19103.

115. Sheller, Ludwig and Badey is a Pennsylvania law firm that represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania. The firm's address is 1528 Walnut Street, 3rd Floor, Philadelphia, Pennsylvania, 19102.

116. Gregory M. Harvey is Co-Chair of Philadelphia's 8th Ward Democratic Executive Committee and a Partner at Montgomery, McCracken who represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania.⁶²

117. Efrem Grail, Ira Lefton, Christopher K. Walters, Milind Shah, Daniel Booker, Jeremy Feinstein, Cynthia Kernick, Mark Tamburri, John M. McIntyre, James Doerfler, Barbara (Kiely) Hager, Lisa Campoli, Andrea (Simonson) Weingarten, Jeffrey Bresch, Kim Watterson, Melissa Oretsky, James Williamson and Michael H. Sampson are attorneys with Reed Smith who represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania.

118. William S. Gordon is an attorney formerly with Sheller, Ludwig and Badey who represented parties attempting to deny Nader-Camejo ballot access in Pennsylvania. Mr. Gordon was also a member of Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign “to monitor elections and enforce the law.”⁶³ Mr. Gordon’s current address is 613 South Clifton Street, Philadelphia, Pennsylvania, 19147.

119. Louis Agre is a Philadelphia Democratic Party Ward Leader and an attorney who, with attorney Thomas Martin, filed a class action lawsuit against the Nader-Camejo Campaign on behalf of petitioners who claimed that the campaign owed them money for invalid signatures they collected. Mr. Agre’s address is 1500 Walnut Street, Suite 825, Philadelphia, Pennsylvania, 19102. Mr. Martin’s address is unknown.

120. H. William “Bill” DeWeese is the Democratic Leader of the Pennsylvania State House who organized an estimated 170 Democratic Party operatives to review Nader-Camejo’s nomination papers in an attempt to deny Nader-Camejo ballot access in Pennsylvania. Mr. DeWeese’s address is 423 Main Capitol Building, Harrisburg, Pennsylvania, 17120.

121. Mike Veon is the former Democratic Whip of the Pennsylvania State House who organized an estimated 170 Democratic Party operatives to review Nader-Camejo’s nomination papers in an attempt to deny Nader-Camejo ballot access in Pennsylvania. Mr. Veon’s address is 600 North Second Street, Harrisburg, Pennsylvania, 17108.

⁶² See Exhibit 32, Gregory Harvey Bio.

⁶³ See Exhibit 33, William S. Gordon Bio; Exhibit 30, Lawyers for Kerry Contact List and Sign-Up Form.

122. Susman Godfrey, LLP is a Washington law firm that represented parties attempting to deny Nader-Camejo ballot access in Washington. The firm's address is 1201 Third Avenue, Suite 3100, Seattle, Washington, 98101.

123. Valz, Houser, Kogut, and Barnes, P.S. is a Washington law firm that represented parties attempting to deny Nader-Camejo ballot access in Washington. The firm's address is 1800 Cooper Point Road SW, Suite 15, Olympia, Washington, 98502.

124. Parker C. Folse, Drew D. Hansen and Rachel Black are attorneys with the firm Susman Godfrey who represented parties attempting to deny Nader-Camejo ballot access in Washington.

125. James P. Foley and Ken Valz are attorneys with the firm Valz, Houser, Kogut and Barnes, P.S. who represented parties attempting to deny Nader-Camejo ballot access in Washington.

126. Paul Berendt is the Washington State Democratic Party Chairman and DNC official who coordinated the effort to deny Nader-Camejo ballot access in Washington.⁶⁴ Mr. Berendt's address is 616 First Avenue, Suite 300, Seattle, Washington, 98194.

127. Forman and Huber, L.C. is a West Virginia Law firm that represented parties attempting to deny Nader-Camejo ballot access in West Virginia. The firm's address is 100 Capitol Street, Suite 400, Charleston, West Virginia, 25301.

128. Jason Huber is an attorney with the firm Forman and Huber who represented parties attempting to deny Nader-Camejo ballot access in West Virginia.

129. Jeralyn B. Wendelberger of the Law Office of Jeralyn B. Wendelberger is an attorney who represented parties attempting to deny Nader-Camejo ballot access in

Wisconsin. Ms. Wendelberger's address is 1223 N. Prospect Avenue, Milwaukee, Wisconsin, 53202.

130. Cullen, Weston, Pines and Bach LLP is a Wisconsin law firm that represented parties attempting to deny Nader-Camejo ballot access in Wisconsin. The firm's address is 122 W. Washington Avenue, Suite 900, Madison, Wisconsin, 53703.

131. Michael Best and Friedrich LLP is a Wisconsin law firm that represented parties attempting to deny Nader-Camejo ballot access in Wisconsin. The firm's address is One South Pinckney Street, Suite 700, Madison, Wisconsin, 53703.

132. Tricia L. Knight of Knight and Associates SC is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Wisconsin. Ms. Knight's address is 11414 West Park Place, Suite 106, Milwaukee, Wisconsin, 53224.

133. Lester A. Pines and Tamara Packard are attorneys with the firm Cullen, Weston, Pines and Bach LLP who represented parties attempting to deny Nader-Camejo ballot access in Wisconsin.

134. James Troupis is an attorney with the firm Michael Best and Friedrich LLP who represented parties attempting to deny Nader-Camejo ballot access in Wisconsin.

135. Eric M. McLeod, John Scheller and Brian J. Rybarik are attorneys with the firm Michael Best and Friedrich LLP who represented parties attempting to deny Nader-Camejo ballot access in Wisconsin.

136. Brenda Lewison is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Wisconsin. Lewison's address is 135 West Wells Street, Suite 340, Milwaukee, Wisconsin, 53203.

⁶⁴ See Exhibit 27, DNC Membership Roster, 2004-2008.

137. Americans for Jobs is a Section 527 organization established by Timothy Raftis and David W. Jones in 2003 “to accept contributions and make expenditures to influence the election of federal candidates.” Americans for Jobs’ address is listed as 2000 M Street NW, Suite 800, Washington, D.C., 20036. The actual occupant of this address is Corporate Visions, a printing and design company. A co-owner of Corporate Visions told the Center for Public Integrity, “I sublease space to Americans for Jobs.”⁶⁵

138. The National Progress Fund is a Section 527 organization established by David W. Jones on May 4, 2004 “to engage in election-related activity for the purpose of supporting progressive issues.” Tricia Enright and David W. Jones were the corporation’s original officers. The corporation was inactive after December 2004, and was officially terminated on December 31, 2005. The National Progress Fund’s address was P.O. Box 57154, Washington, D.C., 20037.

139. The Ballot Project is a Section 527 organization established by William C. Oldaker on June 2, 2004 “to assess and prepare legal challenges to the ballot qualification of candidates seeking public office as well as measures, referenda, initiatives and ballot questions posed for public vote and engage in other non-federal activity lawful under section 527.” The organization was inactive after December 2004, but does not appear to have been officially terminated. The organization’s address is that of DNC consultants Robert Brandon and Associates, at 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

140. United Progressives for Victory is a political committee registered by William C. Oldaker on June 16, 2004 and terminated on September 21, 2005. The

⁶⁵ See Exhibit 25, “Political Mugging in America, Anatomy of an “Independent” Smear Campaign,” by Charles Lewis, *Center for Public Integrity*, March 4, 2004.

organization's address is that of DNC consultants Robert Brandon and Associates, at 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C. 20036.

141. Uniting People for Victory is a Section 527 organization founded by United Progressives for Victory and registered with the IRS by William C. Oldaker on July 21, 2004. The 527's stated purpose was "to inform and educate the electorate about issues of importance in upcoming elections and to engage in other political activity that is lawful and consistent with the purposes of a political organization under Section 527 of the IRC." The organization's address is that of DNC consultants Robert Brandon and Associates, at 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C. 20036.

142. David W. Jones was Director of Americans for Jobs, Treasurer of the National Progress Fund, and a co-founder of the Nader Factor website. Mr. Jones has been a fundraiser for the DNC, Bill Clinton, Al Gore, Dick Gephardt, and other Democrats. Mr. Jones' address is 127 4th Street SE, Washington, D.C., 20003.

143. Tricia Enright is President of the National Progress Fund. Ms. Enright was Communications Director for Howard Dean's 2004 and Al Gore's 2000 presidential campaigns. Ms. Enright's address is 1701 16th Street NW, Washington, D.C., 20009.

144. Chris Kofinis is a co-founder of the Nader Factor website and a paid consultant of the National Progress Fund. Mr. Kofinis is a former policy advisor to General Wesley Clark's 2004 presidential campaign. Mr. Kofinis' address is 2110 Paul Edwin Terrace, Falls Church, Virginia, 22043.

145. Karl Frisch is a co-founder of the Nader Factor website and a paid consultant to the National Progress Fund. Mr. Frisch is former Multimedia

Communications Director for Howard Dean's 2004 presidential campaign. Mr. Frisch's address is 1701 16th Street NW, Washington, D.C., 20009.

146. Toby Moffett is President and Director of The Ballot Project. A former Democratic congressman, Mr. Moffett is currently a lobbyist with the Livingston Group. Mr. Moffet's address is 499 South Capitol Street SW, Suite 600, Washington, D.C., 20003.

147. Elizabeth Holtzman is Director of The Ballot Project, a former Democratic congresswoman, and an attorney. Ms. Holtzman's address is 2 Park Avenue, New York, New York, 10016.

148. Steven Raikin is Director, Treasurer and Secretary of The Ballot Project and an attorney. Mr. Raikin's address is 6368 English Ivy Way, Springfield, Virginia, 22152.

149. Ginny Hunt is a founding Director of The Ballot Project and former outreach coordinator for Howard Dean's presidential campaign. Ms. Hunt's address is 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

150. Robert Brandon and his firm Robert Brandon and Associates are paid consultants to United Progressives for Victory, The Ballot Project, and the DNC.⁶⁶ Mr. Brandon's firm housed both The Ballot Project and the National Progress Fund in its offices. Mr. Brandon's address is 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

151. John Hlinko is a co-founder of the Nader Factor website and a former aide to Wesley Clark's 2004 presidential campaign. Mr. Hlinko's address is 1101 17th Street NW, Washington, D.C., 20036.

152. Katie Aulwes is President and Director of Uniting People for Victory. Ms. Aulwes' address is 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

153. Karen Mulhauser is a paid consultant of Uniting People for Victory. Ms. Mulhauser's address is 1730 Rhode Island Avenue NW, Suite 712, Washington, D.C., 20036.

154. Helen Hunt is an affiliate of Uniting People for Victory. Ms. Hunt's address is 1721 Highway 130 E, Shelbyville, Tennessee, 37160.

FACTUAL ALLEGATIONS

I. Respondents Engaged In A Coordinated Nationwide Effort To Deny Nader-Camejo Ballot Access For The Purpose Of Benefiting The Kerry-Edwards Campaign.

155. After the Democrats' defeat in the 2000 election, Respondents decided to try to prevent Mr. Nader from running for President if he announced his candidacy in 2004. Respondents had already settled on a strategy to accomplish this goal when Mr. Nader made his announcement on February 22, 2004. "Our intent was to drain and distract him," The Ballot Project president Toby Moffett stated.⁶⁷ Respondents thus agreed to launch a nationwide legal assault on Mr. Nader's campaign, which would drain the campaign of money, time and other resources, in a deliberate attempt to use the sheer burden of litigation itself as a means to prevent Mr. Nader from running for public office. "We wanted to neutralize his campaign by forcing him to spend money and resources defending these [ballot challenges]," Mr. Moffett explained.⁶⁸

⁶⁶ See Exhibit 34, Robert Brandon Bio.

⁶⁷ See Exhibit 35, Janice D'Arcy, "Moffett's Political Mission Is Derailing Nader," *Hartford Courant* (Oct. 18, 2004).

⁶⁸ See Exhibit 4, Jonathan Finer and Brian Faler, "Nader Still Unsure of Ballot Spot in Many States," *Washington Post* (Aug. 24, 2004).

156. Having settled on that strategy, the leaders of Respondents' conspiracy met privately to discuss their plans on July 26, 2004, at the Four Seasons Hotel in Boston. DNC consultant Robert Brandon organized the meeting and, on information and belief, the DNC paid for it.⁶⁹ Approximately three dozen people attended, including The Ballot Project President Toby Moffett, The Ballot Project Director Elizabeth Holtzman and Democratic consultant Stanley Greenberg.⁷⁰

157. At the Four Seasons meeting, the leaders and organizers of Respondents' conspiracy discussed polling, research, and strategy to undermine the Nader-Camejo Campaign in key states where they believed it would adversely affect Democratic candidates John Kerry and John Edwards most, including Arizona, Florida, Iowa, Michigan, Nevada, Oregon, Pennsylvania, Virginia, West Virginia and Wisconsin. The leaders and organizers of the conspiracy specifically agreed to sue and otherwise obstruct Nader-Camejo not only in these "battleground" states, but also in as many other states as possible.⁷¹ According to Mr. Moffett, the purpose of this litigation was "to drain [Mr. Nader] of resources and force him to spend his time and money."⁷²

158. Mr. Moffett had organized a similar, though much smaller, effort to oppose Mr. Nader's campaign in 2000. Mr. Moffett considered that effort a failure, however, because Mr. Nader achieved ballot access in most states in 2000. "We're not going to let him do it again," Mr. Moffett vowed at the Four Seasons meeting.⁷³

⁶⁹ FEC records indicate that the DNC paid the Four Seasons \$78,808 from July 15, 2004 to Nov. 19, 2004, for "Lodging, Catering, Food & Beverage".

⁷⁰ See Exhibit 15, Janice D'Arcy, "Anti-Nader Forces Coordinate Strategy," *Hartford Courant* (July 27, 2004).

⁷¹ *Id.*

⁷² See Exhibit 14, Katharine Q. Seelye "Convictions Intact, Nader Soldiers On," *The New York Times* (Aug. 2, 2004).

⁷³ See Exhibit 15, Janice D'Arcy, "Anti-Nader Forces Coordinate Strategy," *Hartford Courant* (July 27, 2004).

159. The Democratic National Convention began the same day as Respondents' Four Seasons meeting, and was taking place across town at Boston's Fleet Center. Respondents planned to use the convention as a platform to introduce their litigation strategy to delegates from state Democratic Parties, and to solicit financial support from major party donors.⁷⁴

160. Respondents prepared a memo for this purpose, which they planned to circulate at the convention. This memo outlined Respondents' comprehensive plan of attack against the Nader-Camejo Campaign, which involved not only a nationwide legal assault, but also a communications campaign intended to convince voters not to vote for Nader-Camejo. The memo stated that UP for Victory would work to convince Mr. Nader's supporters that "he is in bed with Republicans," a message Democratic consultant Stanley Greenberg found most effective in polling he conducted prior to the Four Seasons meeting.⁷⁵ The memo further stated that Respondents would coordinate and finance their activities with three 527 organizations they had established. One was The Ballot Project, and the other two were the National Progress Fund and Uniting People for Victory.⁷⁶ The National Progress Fund paid Mr. Greenberg's firm \$25,000 in June 2004, and The Ballot Project paid Mr. Greenberg's firm another \$10,000 in July 2004.⁷⁷

161. Respondents distributed their memo to donors and delegates at the convention and discussed the perceived threat of Nader-Camejo's candidacy. They briefed donors and delegates about their litigation plans and solicited contributions to

⁷⁴ *Id.*

⁷⁵ See Exhibit 16, David Postman, "Nader Foes Seek Funding from Democratic Donors," *The Seattle Times* (July 28, 2004); Exhibit 15, Janice D'Arcy, "Anti-Nader Forces Coordinate Strategy," *Hartford Courant* (July 27, 2004).

⁷⁶ *Id.*

⁷⁷ See Exhibit 11, The National Progress Fund IRS Statements; Exhibit 3, The Ballot Project, Inc. IRS Statements.

their 527 organizations. Respondents also recruited state Democratic Party officials to join their effort, and specifically instructed the officials to bring lawsuits in their states as part of a nationwide strategy to bankrupt the Nader-Camejo Campaign and force Nader-Camejo from the race. “This guy is still a huge threat,” Mr. Moffett said at the convention, in reference to Mr. Nader. “We’re just not going to make the same mistake we made in 2000.”⁷⁸

162. At the convention, Mr. Moffett told New Mexico Democratic Party Chair and DNC official John Wertheim that he should appoint someone to spearhead the Party’s anti-Nader efforts in that state, and Mr. Wertheim agreed to do so. “This is a central focus of my own duties as chairman,” Mr. Wertheim said.⁷⁹

163. Prior to the convention, DNC Chairman Terry McAuliffe said, “Any votes that are taken away from John Kerry clearly are a threat.”⁸⁰ At the close of the convention, on July 29, 2004, Mr. McAuliffe reiterated his claim. “We can’t afford to have Ralph Nader in the race,” Mr. McAuliffe said. *Business Week* quoted him under the headline, “The Dems’ Game Plan to Create a Two-Man Race.”⁸¹ That “Game Plan,” which Respondents jointly planned and executed, was to file groundless and abusive lawsuits and otherwise obstruct the Nader-Camejo Campaign’s effort to gain ballot access as many times in as many states as possible during the 2004 General Election.

164. Eighteen state or local Democratic Parties eventually joined Respondents’ conspiracy and either initiated or materially supported lawsuits filed against the Nader-

⁷⁸ See Exhibit 16, David Postman, “Nader Foes Seek Funding from Democratic Donors,” *The Seattle Times* (July 28, 2004).

⁷⁹ See Exhibit 36, Steve Terrell, “Fears of Nader Keep Dems on Offensive,” *The New Mexican* (July 29, 2004).

⁸⁰ See Exhibit 37, “Democratic Chief Urges Nader to Back Kerry,” CNN.com (July 14, 2004).

⁸¹ See Exhibit 38, Paul Magnusson, “The Dems’ Game Plan to Create a Two-Man Race,” *Business Week Online* (July 29, 2004).

Camejo Campaign, or intervened in proceedings to deny Nader-Camejo ballot access. The state Democratic Parties of Arkansas, Colorado, Florida, Maine, Michigan, Mississippi, Nevada, New Hampshire, Washington and Wisconsin initiated such lawsuits, while the state Democratic Parties of Arizona, Illinois, Iowa, New Mexico, Ohio, and Pennsylvania materially supported such lawsuits filed in their states. In Oregon, state Democratic Party officials (together with Respondent SEIU) intervened in proceedings to deny Nader-Camejo ballot access. In West Virginia, local Democratic Party officials filed a complaint seeking to compel the Secretary of State to refer Nader-Camejo's nomination papers to the Attorney General's office for investigation.

165. Of the 24 complaints eventually filed nationwide to challenge Nader-Camejo's nomination papers, six were filed by DNC officials in their own names, including Scott Maddox of Florida, Dorothy Melanson of Maine, Mark Brewer of Michigan, Wayne Dowdy of Mississippi, Kathleen Sullivan of New Hampshire and Paul Berendt of Washington. In addition, DNC official James Edmundson of Oregon intervened in proceedings filed in that state, as did SEIU, where DNC official Anna Burger serves as Secretary-Treasurer and "oversees SEIU's national political operations."⁸² Finally, DNC officials Michael Madigan of Illinois and John Wertheim of New Mexico assisted in complaints filed in their states. Thus, on information and belief, at least ten DNC officials directly participated in Respondents' conspiracy.⁸³

⁸² See Anna Burger Bio, available at http://seiu.org/about/officers_bios/burger_bio.cfm (last visited May 16, 2008).

⁸³ See Exhibit 27, DNC Membership Roster 2004-2008.

166. During the election, DNC officials denied that the DNC was coordinating or funding the ballot challenges filed against Nader-Camejo.⁸⁴ According to the sworn testimony of Maine Democratic Party Chair and DNC official Dorothy Melanson, however, DNC officials directed her to sue Nader-Camejo in that state and paid the costs of her lawsuit, including attorneys' fees.⁸⁵ FEC records now confirm that the DNC retained not only Ms. Melanson's law firm in Maine (Preti, Flaherty, Beliveau and Pachios), but also law firms that sued Nader-Camejo in Mississippi (Begley Law Firm), Ohio (Schottenstein, Zox and Dunn and Kirkland and Ellis) and Pennsylvania (Reed Smith), paying them more than \$460,000 in total. In addition, the DNC reimbursed expenses for Joel S. Perwin and Martin Lederman, two lawyers who joined Respondents' Florida lawsuit.

167. High-level, paid DNC staff also developed and coordinated Respondents' nationwide litigation strategy, while rank-and-file DNC staff helped prepare Respondents' complaints. For example, on September 17, 2004, DNC employee Caroline Adler sent DNC staff an email with an attachment entitled "Script for Nader Petition Signers," which DNC employees used to help Respondents manufacture evidence upon which to challenge Nader-Camejo's nomination papers.⁸⁶ The document's electronic properties indicate that DNC and Kerry-Edwards Campaign consultant Jack Corrigan was its author, demonstrating direct coordination between the DNC and the Kerry-Edwards

⁸⁴ See Sam Hananel, "Struggling Nader Still Dogs Democrats," *Associated Press* (Sep. 4, 2004) ("Our state parties made the decision to make sure that if Ralph Nader wanted to get on the ballot, that he was playing by the rules," said Democratic National Committee [spokesman] Jano Cabrera. He said the national party is not funding the efforts but fully supports what state parties are doing"); Exhibit 2, Katharine Q. Seelye, "Democrats' Legal Challenges Impede Nader," *The New York Times* (Aug. 19, 2004).

⁸⁵ See Exhibit 1, Testimony of Dorothy Melanson, Public Hearing Before the Maine Bureau of Corporations, Elections and Commissions, Aug. 30-31, 2004.

⁸⁶ See Exhibit 7, Caroline Adler Email and Bio; Jack Corrigan DNC Phone Script.

campaign. Additionally, the DNC appears to have employed a full-time “Nader Coordinator” named Perry Plumart during the 2004 General Election.⁸⁷

168. In May 2004, John Kerry told the Associated Press that he respected other Democrats’ efforts to force Nader-Camejo from the race, but that he would never ask another candidate to abandon an election bid.⁸⁸ By September 2004, however, the Kerry-Edwards Campaign was directly (though not publicly) participating in Respondents’ litigation against Nader-Camejo. For example, an email from Judy Reardon, the campaign’s deputy national director for northern New England, indicates that Ms. Reardon herself drafted at least one of Respondents’ complaints and coordinated with the Democratic Party officials and attorneys who filed it, including New Hampshire Democratic Party Chair and DNC official Kathleen Sullivan.⁸⁹ In addition, Caroline Adler, the DNC staffer who circulated the Jack Corrigan-authored “Script for Nader Petition Signers” to DNC staff, states in her bio that she worked for “the legal team of the Kerry campaign in Washington, D.C.”⁹⁰

169. Several law firms and lawyers connected with the Kerry-Edwards Campaign also joined Respondents’ litigation. For example, Reed Smith, a law firm that has represented John Kerry and Teresa Heinz Kerry in numerous personal and

⁸⁷ See Democratic Committees-Organization 2004 Election Cycle, available at <http://www.gwu.edu/~action/2004/parties/demorg04.html> (last visited March 13, 2008) (identifying Perry Plumart as DNC “Nader Coordinator”); Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data indicating payments by the Democratic Party to Mr. Plumart), available at <http://opensecrets.org/parties/expend.asp?Cmte=DPC&cycle=2004> (last visited March 13, 2008).

⁸⁸ See Exhibit 39, Nedra Pickler, “Kerry Has Chat with Nader – No Plea,” *Associated Press* (May 20, 2004).

⁸⁹ See Exhibit 9, Email from Kerry-Edwards Campaign Deputy National Director Judy Reardon.

⁹⁰ See Exhibit 7, Caroline Adler Email and Bio; Jack Corrigan DNC Phone Script.

professional matters,⁹¹ dedicated at least 18 attorneys to Respondents' Pennsylvania lawsuit. Reed Smith attorneys reportedly spent at least 1,300 hours preparing Respondents' complaint, which the firm billed as "charity," without charging any client.⁹² In addition, Attorney Donald J. McTigue, whom Mr. Kerry appointed to represent the Kerry-Edwards Campaign during the Ohio recount of the 2004 election, also represented the Ohio Democratic Party in its lawsuit against Nader-Camejo.⁹³ Finally, in May 2004 Mr. Kerry told Mr. Nader that he had assembled a team of 2,000 lawyers in preparation for the 2004 campaign – an apparent reference to the group Lawyers for Kerry.⁹⁴ At least four attorneys affiliated with this group, Gregory Corbett of Kirkland and Ellis, John Gilligan of Schottenstein, Zox and Dunn, Eric Sedillo Jeffries of Jeffries, Rugge and Rosales and William Gordon of Sheller, Ludwig and Badey, represented parties that sued Nader-Camejo in 2004 (in Ohio, New Mexico and Pennsylvania).⁹⁵ The Lawyers for Kerry sign-up form on the Kerry-Edwards campaign website states that "We may provide your contact information to the Democratic National Committee for ballot protection efforts," thus providing further confirmation of direct coordination between the Kerry-Edwards campaign, the DNC and the lawyers who pursued Respondents' litigation against Nader-Camejo.⁹⁶

⁹¹ See Exhibit 40, Eric Heyl, "Papers want to unseal Sen. Heinz estate records," *Pittsburgh Tribune-Review*, Aug. 18, 2004 ("The Kerry campaign referred comment to attorney Paul Bschorr," a partner in Reed Smith's New York office); Shannon Duffy, "Still Battling," *The Legal Intelligencer Online* (July 13, 2006) (reporting that Reed Smith represented Mr. Kerry in a lawsuit arising out of the 2004 election); see also Tom Freeman, "Pittsburgh Steal," *Legal Business* (Dec. 2006-Jan. 2007) ("Heinz [Corporation and Family Foundation] is still a major and active client").

⁹² See Exhibit 41, Carlyn Kolker, "Anti-Nader raiders: a massive pro bono effort works to block a third-party ballot spot in the Keystone State," *American Lawyer* (Oct. 1, 2004).

⁹³ See Exhibit 31, Donald McTigue Letter; Donald McTigue Email.

⁹⁴ See Exhibit 30, Lawyers for Kerry Contact List and Sign-Up Form.

⁹⁵ *Id.*; Exhibit 33, William S. Gordon Bio.

⁹⁶ See Exhibit 30, Lawyers for Kerry Contact List and Sign-Up Form.

170. The Ballot Project directed Respondents' nationwide litigation in conjunction with the DNC and the Kerry-Edwards Campaign, and coordinated with state Democratic Parties to recruit law firms to provide legal services free of charge. As Mr. Moffett told the *New York Times*, "We're doing everything we can to facilitate lawyers in over 20 states."⁹⁷ At least 95 lawyers from 53 law firms eventually joined Respondents' litigation nationwide. FEC reports cited herein indicate that the DNC, state Democratic Parties and The Ballot Project collectively paid these law firms and lawyers at least \$859,000, while the law firms unlawfully contributed in excess of \$2 million more in unpaid legal services.⁹⁸

171. Despite their massive expenditure of resources and, in some states, coordinated campaigns of harassment, intimidation and sabotage, Respondents eventually lost the vast majority of lawsuits they filed. Respondents' intent, however, was not to vindicate valid legal claims, but to use the sheer burden of litigation itself as a means to bankrupt and disrupt the Nader-Camejo Campaign and to force Nader-Camejo from the race. As Mr. Moffett admitted in August 2004, "We wanted to neutralize his campaign by forcing him to spend money and resources defending these things, but much to our astonishment we've actually been more successful than we thought we'd be in stopping him from getting on at all."⁹⁹ After the election, Mr. Moffett reaffirmed Respondents' unlawful intent. "We had a role in the ballot challenges," Mr. Moffett said in December

⁹⁷ See Exhibit 2, Katharine Q. Seelye, "Democrats' Legal Challenges Impede Nader," *The New York Times* (Aug. 19, 2004).

⁹⁸ See Exhibit 4, Jonathan Finer and Brian Faler, "Nader Still Unsure of Ballot Spot in Many States," by *Washington Post* (Aug. 24, 2004).

⁹⁹ *Id.*

2004. “We distracted him and drained him of resources. I’d be less than honest if I said it was all about the law. It was about stopping Bush from getting elected.”¹⁰⁰

II. **Respondents Filed 24 Complaints to Challenge Nader-Camejo’s Nomination Papers in 18 States.**

1) **Respondents filed a complaint against the Nader-Camejo Campaign in Arizona.**

172. On June 23, 2004, Dorothy Schultz and Betty Elizabeth Hughes, registered Democrats in Arizona, filed a complaint in the Maricopa County Superior Court challenging Nader-Camejo’s nomination papers under A.R.S. § 16-351. The complaint identified Andrew S. Gordon and the law firm of Coppersmith, Gordon, Schermer, Owens and Nelson, P.L.C. as plaintiffs’ attorneys.

173. State law prohibits the Arizona Democratic Party from filing challenges in its own name, but Chairman and DNC official Jim Pederson told the Associated Press that the party had supported the plaintiffs and had also informed the Kerry-Edwards Campaign about the lawsuit. “The Democratic Party has a right to make sure that those rules are being followed and that the law is met,” a Kerry-Edwards Campaign spokesperson said.¹⁰¹

174. On July 2, 2004, Nader-Camejo was forced to withdraw their nomination papers and end the proceeding due to the prohibitive cost of the litigation.

175. On August 16, 2004, Nader-Camejo filed a complaint in the United States District Court for the District of Arizona, challenging Arizona’s filing deadline.

176. On August 31, 2004, plaintiff Schultz filed an intervenor’s motion to dismiss and requested Rule 11 sanctions in Nader-Camejo’s District Court proceeding.

¹⁰⁰ See Exhibit 6, Julian Borger, “Fasten Your Seatbelts,” *The Guardian UK* (Dec. 7, 2004).

Plaintiff Schultz's motion to dismiss identified Thomas K. Irvine, Larry J. Wulkan, the Irvine Law Firm, P.A., Marty Harper, Kelly J. Flood and Shughart, Thompson and Kilroy, P.C. as her attorneys.

177. On September 10, 2004, the District Court denied Plaintiff Schultz's Rule 11 motion and denied Nader-Camejo injunctive relief. Nader-Camejo did not appear on the Arizona ballot as candidates in the 2004 presidential election.

2) Respondents filed a complaint against the Nader-Camejo Campaign in Arkansas.

178. On September 10, 2004, Linda Chesterfield, a registered Democrat in Arkansas, and the Democratic Party of Arkansas filed a complaint in the Circuit Court of Pulaski County, Sixth Division, challenging Nader-Camejo's nomination papers under Ark. Stat. Ann. § 7-7-103(d). The complaint identified Robin J. Carroll, the law firm of Vickery and Carroll, P.A. and Brian D. Greer as plaintiffs' attorneys.

179. On September 20, 2004, the Circuit Court of Pulaski County ordered the Secretary of State to remove Nader-Camejo from the Arkansas state ballot.

180. On September 21, 2004, Nader-Camejo appealed to the Supreme Court of Arkansas, which vacated the lower court's order and directed the Secretary of State to certify Nader-Camejo's nomination papers. Nader-Camejo appeared on the Arkansas ballot as candidates in the 2004 presidential election.

3) Respondents filed two complaints against the Nader-Camejo Campaign in Colorado.

181. On September 13, 2004, Valentin Vigil, Gary Fedel and Susan Fedel, registered voters in Colorado, and Colorado Democratic Party Executive Director Julie

¹⁰¹ See Exhibit 42, Sam Hananel, "Democrats Challenge Nader in Arizona," *Associated Press* (June 27, 2004).

DeWoody, on behalf of the Colorado Democratic Party, filed a complaint in the District Court of Denver County, Colorado challenging Nader-Camejo's nomination papers under C.R.S. 1-4-501(3). The complaint identified David Fine, Michael Belo, the law firm Kelly, Haglund, Garnsey and Kahn, LLC, and the law firm Berenbaum, Wienshienk and Eason as their attorneys.

182. On September 13, 2004, Nancy Pakieser, a registered Democrat in Colorado, and Maurice O. Nyquist, a registered voter in Colorado, filed a separate complaint in the District Court of Denver County, Colorado, challenging Nader-Camejo's nomination papers under C.R.S. 1-4-501(3). The Pakieser complaint identified Mark G. Grueskin of the firm Isaacson, Rosenbaum, Woods and Levy, P.C. as their attorneys.

183. In an oral decision, the District Court dismissed both complaints, and Nader-Camejo appeared on the Colorado ballot as candidates in the 2004 presidential election.

184. IRS records indicate that The Ballot Project coordinated with Isaacson Rosenbaum and reimbursed the firm for its expenses.¹⁰²

4) Respondents filed two complaints against the Nader-Camejo Campaign in Florida.

185. On September 2, 2004, Candice Wilson and Alan Herman, registered voters in Florida, Scott Maddox, Chairman of the Florida Democratic Party, and the Florida Democratic Party filed a complaint in the Second Judicial Circuit Court for Leon County, Florida, challenging Nader-Camejo's nomination papers under Fla. Stat. § 102.168. The complaint identified Stephen Rosenthal, Michael Olin, Maria Kayanan, Mark Herron, Richard Rosenthal, the law firm Podhurst Orseck, P.A., the law firm

¹⁰² See Exhibit 3, The Ballot Project IRS Statements.

Messer, Caparello and Self, P.A., and the Law Offices of Richard Rosenthal as attorneys for the plaintiffs.

186. On September 2, 2004, Florida voters Harriet Jane Black, William Chapman, Robert Rackleff and Terry Anderson filed a separate complaint in the Second Judicial Circuit Court for Leon County, Florida, challenging Nader-Camejo's nomination papers under Fla. Stat. § 102.168. The complaint identified Edward Stafman as attorney for the plaintiffs. Subsequent filings identified Brooke Lewis and David Miller of the firm Broad and Cassel, and Joel Perwin of the Law Office of Joel S. Perwin as attorneys for the plaintiffs.

187. On September 9, 2004, the Circuit Court issued a preliminary injunction enjoining the Secretary of State from certifying Nader-Camejo as candidates for President and Vice President in Florida. "Florida is huge – huge," Mr. Moffett told a Knight-Ridder reporter after the decision. "Florida is not only important for the obvious reasons, but also as a symbolic victory."¹⁰³

188. On September 10, 2004, Nader-Camejo appealed to Florida's First District Court of Appeals for a stay of the Circuit Court's preliminary injunction. Attorneys Stephen Rosenthal, Michael Olin, Maria Kayanan, Mark Herron, Richard Rosenthal and Joel Perwin filed an opposition to this appeal. The Court of Appeals *sua sponte* certified the case to the Supreme Court of Florida. The Supreme Court accepted jurisdiction but directed the Circuit Court to proceed to final judgment first.

¹⁰³ See Exhibit 43, Maria Recio, "Nader Vows Legal Fight to Appear on Florida Ballot," *Knight-Ridder* (Sep. 9, 2004).

189. On September 15, 2004, the Circuit Court issued an order enjoining the Secretary of State from certifying Nader-Camejo as candidates for President and Vice President in Florida.

190. On September 16, 2004, attorneys Edward Stafman, Kelly Overstreet Johnson, David Miller and Brooke Lewis submitted an appellees' brief to the Supreme Court of Florida in support of plaintiffs below. Attorneys Laurence Tribe, Joel Perwin, Stephen Rosenthal, Michael Olin, Maria Kayanan, Mark Herron, Richard Rosenthal, Martin Lederman, Eric Seiler, Amy Brown and Katherine Pringle submitted a separate appellees' brief in support of plaintiffs below.

191. Attorney Pringle's bio on her firm's website states that she "served as co-counsel to the Kerry for President Campaign in litigation concerning the 2004 Florida election ballot."¹⁰⁴

192. On September 17, 2004, attorney Laurence Tribe argued before the Florida Supreme Court on behalf of the plaintiffs below that Nader-Camejo did not meet the requirements to be candidates for President and Vice President in Florida. Defending his involvement, Mr. Tribe told Harvard Law School's independent newspaper *The Record*, "I believe that Ralph Nader is unfortunately responsible for the fact that Bush rather than Gore became the 43rd President."¹⁰⁵

193. A team of attorneys assisted Mr. Tribe, including M. Stephen Turner, Edward Stafman, Kelly Overstreet Johnson, David Miller, Brooke Lewis, Stephen Rosenthal, Michael Olin, Maria Kayanan, Mark Herron, Thomas Findley, Richard Rosenthal and Joel Perwin.

¹⁰⁴ See Exhibit 28, Katherine Pringle Bio.

194. On September 17, 2004, the Supreme Court of Florida reversed the trial court and vacated the Court of Appeals' injunction. Nader-Camejo appeared on the Florida ballot as candidates in the 2004 presidential election.

195. Respondents reportedly recruited 30 lawyers in total to challenge Nader-Camejo's Florida nomination papers.¹⁰⁶ Respondents did not sue other candidates on Florida's ballot, however, because, as Mr. Moffett told the *Washington Post*, those candidates did not pose a threat to the Kerry-Edwards Campaign.¹⁰⁷

196. IRS records indicate that The Ballot Project paid \$150,000 to Broad and Cassel for representing the Florida plaintiffs, and another \$5,000 to attorney Samuel Dubbin.¹⁰⁸ The Ballot Project also paid \$20,534 to American University professor Allan Lichtman to testify as an expert witness.¹⁰⁹ FEC records indicate that the Florida Democratic Party retained Messer, Caparello and Self, and paid the firm \$57,481 in 2004. FEC records also indicate that the DNC reimbursed Joel S. Perwin and Martin Lederman \$975 and \$536, respectively, for travel expenses in 2004.¹¹⁰

5) Respondents filed a complaint against the Nader-Camejo Campaign in Illinois.

197. On June 28, 2004, John F. Tully, Jr., a registered Democrat in Illinois, filed a complaint with the Illinois State Board of Elections challenging Nader-Camejo's nomination papers under 10 ILCS 5/10-8. Michael Kasper and Michael Kreloff served as

¹⁰⁵ See Exhibit 44, Hugo Torres, "Tribe Argues to Keep Nader off Florida Ballot," *The Record* (Sep. 30, 2004).

¹⁰⁶ See Exhibit 45, Janice D'Arcy, "Nader Says He'll Take on Democrats in Swing States," *Hartford Courant* (Sep. 10, 2004).

¹⁰⁷ See Exhibit 24, Brian Faler, "Nader to Be Absent from Florida Ballot," *Washington Post* (Sep. 11, 2004).

¹⁰⁸ See Exhibit 3, The Ballot Project IRS Statements.

¹⁰⁹ *Id.*

Mr. Tully's attorneys before the Board of Elections and in subsequent proceedings. Mr. Kasper is General Counsel and Treasurer of the Illinois Democratic Party. Mr. Kreloff is a Democratic Party Committeeman from Cook County.

198. The *Illinois Times* reported that Mr. Tully "formally filed the objection" on behalf of the Illinois Democratic Party.¹¹¹ Media reports and records from the Chicago Board of Election Commissioners also indicate that Democratic Speaker of the Illinois State House Michael Madigan's staff secured copies of Nader-Camejo's nomination papers in order, on information and belief, to help prepare Mr. Tully's complaint.¹¹²

199. On July 6, 2004, the Board of Elections invalidated 12,327 signatures on Nader-Camejo's nomination petition, many simply because the current address of voters who signed the petition did not match their prior registered address. The Board thus determined that the petition included only 20,110 valid signatures, and fell short of the 25,000 signatures required by Illinois law.

200. On July 27, 2004, Nader-Camejo sought a preliminary injunction in the United States District Court for the Northern District of Illinois, Eastern Division, to enjoin the Board of Elections from removing them from the Illinois ballot.

201. On August 4, 2004, Mr. Tully, through his Democratic Party attorneys Mr. Kasper and Mr. Kreloff, filed a motion to dismiss Nader-Camejo's complaint in the District Court.

¹¹⁰ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://opensecrets.org/parties/pend.asp?Cmte=DPC&cycle=2004> (last visited March 11, 2008).

¹¹¹ See Exhibit 46, Todd Spivak, "Challenging the Challengers," *Illinois Times* (July 8, 2004).

¹¹² See Exhibit 47, Patrick Martin, "Illinois Democratic Officials Use Legislative Staffers to Attack Third-Party Campaigns," *World Socialist Web Site* (July 6, 2004); "Democrats Put Bush on Ballot While Fighting to Keep Nader Off It," *Critical Montages* (July 19, 2004); Exhibit 48, City of Chicago Board of Election Commissioners Office Sign-In Sheets.

202. On August 19, 2004, the Board of Elections found that Nader-Camejo were not certified as candidates for President and Vice President in Illinois.

203. On August 23, 2004, the District Court denied Nader-Camejo's motion for a preliminary injunction. Nader-Camejo immediately appealed to the United States Court of Appeals for the Seventh Circuit.

204. On August 27, 2004, Nader-Camejo sought expedited review of the Board of Elections' August 19th decision in the Illinois Appellate Court for the First District from the Circuit Court of Cook County.

205. On September 23, 2004, the Illinois Appellate Court affirmed the Board of Elections' decision to remove Nader-Camejo from the Illinois ballot.

206. On September 29, 2004, the Seventh Circuit Court of Appeals denied Nader-Camejo's appeal. Nader-Camejo did not appear on the Illinois ballot as candidates in the 2004 presidential election.

207. The Ballot Project paid Mr. Kreloff \$12,000 for legal consulting in 2004.¹¹³

6) Respondents filed a complaint against the Nader-Camejo Campaign in Iowa.

208. On August 20, 2004, Lee Baldwin Jolliffe, a registered Democrat, filed a complaint with the Iowa State Commissioner of Elections challenging Nader-Camejo's nomination papers under Iowa Code § 44.4. The complaint identified Steven P. Wandro, the law firm of Wandro, Baer and Casper, P.C., Glenn L. Norris and the law firm of Hawkins and Norris, P.C. as her attorneys.

¹¹³ See Exhibit 3, The Ballot Project IRS Statements.

209. On August 26, 2004, Ms. Jolliffe told the *Des Moines Register* that she was a supporter of John Kerry, and that she filed her objection because “I was really upset with the last election,” when Democrat Al Gore lost to George W. Bush. The *Des Moines Register* also identified Mr. Wandro and Mr. Norris as Democrats.¹¹⁴

210. Ms. Jolliffe filed her complaint based upon a review of Nader-Camejo’s petition to determine whether the signers were included as registered voters on the Iowa Democratic Party’s Voter Activation Network, a proprietary database of voters that is not available to the public.¹¹⁵ Ms. Jolliffe thus received valuable material support from the Iowa State Democratic Party in preparing her complaint.

211. On August 30, 2004, Iowa’s Secretary of State found Nader-Camejo’s nomination papers valid. Nader-Camejo appeared on the Iowa ballot as candidates for President and Vice President.

7) Respondents filed two complaints against the Nader-Camejo Campaign in Maine.

212. On August 23, 2004, Maine Democratic Party Chair and DNC official Dorothy M. Melanson filed a complaint with Maine’s Secretary of State challenging Nader-Camejo’s nomination papers under 21-A M.R.S. § 356. The complaint identified Michael K. Mahoney and the law firm Preti, Flaherty, Beliveau, Pachios, and Haley as Ms. Melanson’s attorneys.

213. On August 23, 2004, Benjamin Tucker, a registered Democrat in Maine, filed a second complaint challenging Nader-Camejo’s nomination papers under 21-A

¹¹⁴ See Exhibit 49, Lynn Campbell, “Petition Challenger: I’m No Activist,” *Des Moines Register* (Aug. 26, 2004).

¹¹⁵ See Exhibit 50, Iowa Secretary of State Opinion, page 3.

M.R.S. § 356. Mr. Tucker's complaint identified James T. Kilbreth and the law firm Verrill and Dana, LLP as Mr. Tucker's attorneys.

214. On August 30-31, 2004, the Maine Bureau of Corporations, Elections, and Commissions held a public hearing on Ms. Melanson's and Mr. Tucker's complaints. At the hearing, Ms. Melanson testified that she was a salaried employee of the Democratic Party, and that she had formerly held many positions with the DNC. In fact, Ms. Melanson was and is currently a DNC official.¹¹⁶ Ms. Melanson also testified that DNC officials had directed her to file her lawsuit, that the DNC was paying for her attorneys, and that DNC officials expected Ms. Melanson or her attorneys to report directly to them regarding the lawsuit's outcome.¹¹⁷

215. On September 8, 2004, the Secretary of State denied both Ms. Melanson's and Mr. Tucker's complaints. Ms. Melanson appealed to the Kennebec Superior Court of Maine on September 10, 2004. The Superior Court denied the appeal on September 27, 2004. Ms. Melanson appealed that decision to the Maine Supreme Judicial Court, which affirmed the Superior Court on October 8, 2004. Nader-Camejo appeared on the Maine ballot as candidates in the 2004 presidential election.

216. The DNC retained Preti, Flaherty, Beliveau, Pachios, and Haley in September and October of 2004, and paid the firm \$32,282 in legal and political consulting fees.¹¹⁸

8) Respondents filed a complaint against the Nader-Camejo Campaign in Michigan.

¹¹⁶ See Exhibit 27, DNC Membership Roster 2004-2008.

¹¹⁷ See Exhibit 1, Testimony of Dorothy Melanson, Public Hearing Before the Maine Bureau of Corporations, Elections and Commissions, August 30-31, 2004.

¹¹⁸ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://opensecrets.org/parties/pend.asp?Cmte=DPC&cycle=2004> (last visited March 11, 2008).

217. On July 9, 2004, Michigan's Secretary of State refused to certify Nader-Camejo's nomination as the Reform Party candidates for President and Vice President in Michigan.

218. On July 15, 2004, Nader-Camejo filed a nomination petition to gain ballot access as independent candidates for President and Vice President. The next day, the Michigan Democratic Party issued a press release entitled, "Democrats to File Complaint Unless Nader Withdraws."

219. On July 22, 2004, Mark Brewer, Michigan Democratic Party Executive Chair and Vice Chair of the DNC, filed a complaint with the Michigan State Bureau of Elections challenging Nader-Camejo's nomination papers under NCLS § 168.552. The complaint identified Mary Ellen Gurewitz, Andrew Nickelhoff, and the law firm of Sachs, Waldman as attorneys for the plaintiffs.

220. Ms. Gurewitz's bio on the Sachs Waldman website states that Ms. Gurewitz "provides representation to the Michigan Democratic Party and has represented many candidates...in election related matters, including ballot access." Mr. Nickelhoff's bio states that Mr. Nickelhoff "provides representation and advice to the Michigan Democratic Party, as well as Democratic Party organizations and candidates."¹¹⁹

221. On September 3, 2004, the Michigan State Court of Appeals ruled that Nader-Camejo was qualified to appear on Michigan's ballot. Nader-Camejo appeared on the Michigan ballot as candidates in the 2004 presidential election.

9) Respondents filed a complaint against the Nader-Camejo Campaign in Mississippi.

¹¹⁹ See Exhibit 30, Mary Ellen Gurewitz and Andrew Nickelhoff Bios.

222. On September 3, 2004, Wayne Dowdy, DNC official and Chairman of the Mississippi Democratic Party, filed a complaint on behalf of the party with the Mississippi State Board of Election Commissioners, challenging Nader-Camejo's nomination papers under Miss. Code Ann, 23-15-963. The complaint identified Samuel L. Begley and Begley Law Firm, PLLC as attorneys for the plaintiffs.

223. On September 7, 2004, the Board of Election Commissioners held a hearing on the complaint. Mr. Begley, Brad Pigott of Pigott, Reeves, Johnson and Minor, P.A., and Richard Davidson represented the Democratic Party at the hearing. At the hearing's conclusion, the Board denied the Democratic Party's complaint. Nader-Camejo appeared on the Mississippi ballot as candidates in the 2004 presidential election.

224. FEC records indicate that the DNC paid the Begley Law Firm legal consulting fees of \$6,501 on October 15, 2004.¹²⁰

10) Respondents filed a complaint against the Nader-Camejo Campaign in Nevada.

225. On August 24, 2004, registered Democrats Renee McKinley and Joan T. Ward, joined by registered voter Myrna McKinley and the Nevada State Democratic Party, filed a complaint in Nevada's First Judicial District Court challenging Nader-Camejo's nomination papers under Nev. Rev. Stat. Ann. § 298.109. The complaint and subsequent court filings identified Paul E. Larsen, Allen J. Wilt, and the law firm of Lionel, Sawyer and Collins as attorneys for the plaintiffs.

226. On August 30, the District Court commenced a three-day expedited hearing to consider the complaint. Ian Glinka, Director of Information Technology for the

Nevada State Democratic Party, testified that he had reviewed Nader-Camejo's nomination papers and concluded that thousands of signatures were invalid.

227. On September 1, 2004, the District Court denied plaintiffs' complaint, and they appealed to the Nevada State Supreme Court, which affirmed the District Court on September 15, 2004. Nader-Camejo appeared on the Nevada ballot as candidates in the 2004 presidential election.

11) Respondents file two complaints against the Nader-Camejo Campaign in New Hampshire.

228. On September 7, 2004, DNC official and New Hampshire Democratic Party Chair Kathleen Sullivan and the New Hampshire Democratic State Committee filed a complaint with the New Hampshire Ballot Law Commission challenging Nader-Camejo's nomination papers under RSA 655:44.

229. On September 13, 2004, Kathleen Sullivan and New Hampshire voters Hazel R. Tremblay, Dorie M. Grizzard and Brian Farias filed a second complaint challenging Nader-Camejo's nomination papers under RSA 655:44. The complaint identified Martha Van Oot, Emily Gray Rice and the law firm Orr and Reno, P.A. as attorneys for the plaintiffs.

230. Ms. Van Oot and Ms. Rice worked on the lawsuit in coordination with Kathleen Sullivan and Judy Reardon, the Kerry-Edwards Campaign's deputy national director for northern New England. Ms. Reardon drafted the complaint, while Ms. Van Oot made hand-written revisions, which were circulated to Ms. Sullivan, Ms. Reardon

¹²⁰ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://opensecrets.org/parties/pend.asp?Cmte=DPC&cycle=2004> (last visited March 11, 2008).

and attorneys Mark Atkins of Welts, White and Fontain, Burt Nadler of Petrucelly and Nadler, and Martin Honigberg of Sulloway and Hollis.¹²¹

231. On September 24, 2004, the Commission voted unanimously to deny the two complaints. Nader-Camejo appeared on the New Hampshire ballot as candidates in the 2004 presidential election.

232. The Kerry-Edwards Campaign paid Ms. Reardon \$64,000 from March to July, 2004.¹²²

12) Respondents filed a complaint against the Nader-Camejo Campaign in New Mexico.

233. At the 2004 Democratic National Convention, The Ballot Project president Toby Moffett told New Mexico State Democratic Party Chair and DNC official John Wertheim that he should appoint someone to spearhead the party's efforts to deny Nader-Camejo ballot access in New Mexico. Mr. Wertheim agreed to do so, stating, "This is a central focus of my own duties as chairman."¹²³

234. On September 10, 2004, attorney Eric Sedillo Jeffries, the New Mexico contact for the group Lawyers for Kerry,¹²⁴ wrote to New Mexico's Secretary of State that he represented "at least three Democrats who will probably be filing a suit on the Nader petitions received by your office." On the last page of Attorney Jeffries' letter, he indicated that he had copied several parties, including the clients referenced above and Mr. Nader. Attorney Jeffries used the standard "cc:" designation to indicate this fact. On a separate page of the letter, which was otherwise blank, Attorney Jeffries indicated that

¹²¹ See Exhibit 9, Email from Kerry-Edwards Campaign Deputy National Director Judy Reardon.

¹²² See Exhibit 51, Center for Responsive Politics Judy Reardon Salary Report.

¹²³ See Exhibit 36, Steve Terrell, "Fears of Nader Keep Dems on Offensive," *The New Mexican* (July 29, 2004).

¹²⁴ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

he had privately copied three additional parties via email. Jeffries used the standard “bcc:” designation to indicate this fact. The three additional parties were New Mexico State Democratic Party Deputy Executive Director Gideon Elliot, New Mexico State Democratic Party Chair and DNC official John Wertheim, and attorney Andrew Schultz.¹²⁵

235. On September 15, 2004, plaintiffs Moises Griego, Richard W. Kirschner, Abraham Gutman, Vanessa M. Alarid and Laura LaFlamme filed a complaint in the Second Judicial District Court of New Mexico, presumably under N.M. Dist. Ct. R.C.P. 1-096, seeking a preliminary injunction to prevent the Secretary of State from placing Nader-Camejo on New Mexico’s ballot as candidates for President and Vice President of the United States. The complaint identified Eric Sedillo Jeffries, Andrew G. Schultz, the law firm Jeffries, Rugge, and Rosales, P.C., and the law firm Rodey, Dickason, Sloan, Akin and Robb, P.A. as attorneys for the plaintiffs.

236. On September 17, 2004, District Court Judge Wendy York issued an order denying Nader-Camejo’s right to run as independent candidates for President and Vice President in New Mexico. Three days later, several New Mexico voters revealed that Judge York had donated \$1,000 to Democratic presidential candidate John Kerry’s campaign. Judge York’s order was vacated, and she recused herself from the case. That same day, District Court Judge Theresa Baca issued an identical order.

237. On September 23, 2004, pursuant to Nader-Camejo’s appeal, the New Mexico State Supreme Court stayed the District Court’s order, and directed the Secretary of State not to destroy or distribute any ballots pending further order. That same day, three registered New Mexico voters filed a complaint seeking injunctive relief in the

¹²⁵ See Exhibit 52, Court Filing by Eric Sedillo Jeffries; Exhibit 27, DNC Membership Roster 2004-2008.

United States District Court for the District of New Mexico. The complaint requested the federal District Court to direct the Secretary of State to place Nader-Camejo on New Mexico's ballot as candidates for President and Vice President of the United States.

238. On September 24, 2004, the federal District Court held a hearing. Attorney Jerry Todd Wertheim made an oral motion to intervene on behalf of state court plaintiff Vanessa Alarid. The court denied Attorney Wertheim's motion. Jerry Todd Wertheim is a partner with the firm Jones, Snead, Wertheim and Wentworth, P.A., where New Mexico Democratic Party Chair and DNC official John Wertheim is also a partner.

239. On September 28, 2004, the federal District Court directed the Secretary of State to place Nader-Camejo on New Mexico's ballot. Nader-Camejo appeared on the New Mexico ballot as candidates in the 2004 presidential election.¹²⁶

13) Respondents filed two complaints against the Nader-Camejo Campaign in Ohio.

240. On August 18, 2004, the Nader-Camejo Campaign submitted to the Ohio Secretary of State's Election Division a nomination petition with 14,473 signatures. State law required the campaign to submit 5,000 valid signatures, and no more than 15,000 signatures in total.

241. On August 30, 2004, Ohio voters Benson A. Wolman, Jerilyn L. Wolman, Zachary E. Manifold, Julia E. Manifold, Bassel Korkor, Rebecca S. Mosher, Barry C. Keenan, Gerald L. Robinson, Scott Austin, Mary C. Woods, Johnathon Brunner, Max Kravitz and Daniel T. Kobil filed a complaint with Ohio's Secretary of State challenging Nader-Camejo's nomination papers under ORC Ann. 3513.05 and 3513.257. The

¹²⁶ In a separate proceeding, the New Mexico State Supreme Court also issued an order placing Mr. Nader on the New Mexico ballot as a candidate for president.

complaint identified Donald J. McTigue and the law offices of Donald J. McTigue as attorneys for the plaintiffs.

242. On August 30, 2004, Attorney McTigue requested the Secretary of State to issue subpoenas to nine Nader-Camejo Campaign petitioners, commanding them to appear at the offices of McGinnis and Associates, a court reporting firm, only four days later, on September 3, 2004. Attorney McTigue's request stated:

Each subpoena should command the individual to bring with them all documents which relate in any manner to the circulation of nominating petitions on behalf of Ralph Nader...in Ohio or any other state, all documents which document any contract or payment from the circulation of such petitions, all documents regarding their voter registration status in Ohio or any other state at anytime, and all assessments, which evidence any residence or residences by such person in Ohio during the years 2000 through 2004.

The Secretary of State did not issue any subpoenas pursuant to this request.

243. On September 2, 2004, plaintiffs Benson Wolman, Marjorie Bender and Robert Crosby, Jr. filed a second complaint, presumably also under ORC Ann. 3513.05, and 3513.257, for a declaratory judgment and injunctive relief in the Court of Common Pleas for Franklin County. The plaintiffs requested a preliminary injunction enjoining the Secretary of State from placing Nader-Camejo on Ohio's ballot as candidates for President and Vice President.

244. On September 4, 2004, plaintiffs Benson Wolman, Marjorie Bender and Robert Crosby, Jr. secured subpoenas from the Franklin County Court of Common Pleas for several Nader-Camejo Campaign petitioners. The subpoenas identified John P. Gilligan and Russell J. Kuttell of the law firm Schottenstein, Zox and Dunn, L.P.A, and Attorney McTigue as attorneys for the plaintiffs.

245. The subpoenas commanded Nader-Camejo petitioners to appear and give testimony at law firm offices throughout Ohio. Six petitioners were to appear at the offices of Schottenstein, Zox and Dunn, L.P.A. in Cleveland on September 8, 2004. Six petitioners were to appear at the offices of Beckman, Weil, Shepardson and Faller, LLC in Cincinnati on September 9, 2004. Eleven petitioners were to appear at the offices of Sebaly, Shillito and Dyer, L.P.A. in Dayton on September 10 and 13, 2004. Four petitioners were to appear at the offices of Eastman and Smith, Ltd. in Toledo on September 14, 2004.

246. The subpoenas also commanded each Nader-Camejo petitioner – many of them volunteers – to produce:

- 1) All documents, including but not limited to correspondence, memoranda, notes, electronic mail, and part-petitions, relating to the obtaining of signatures from Ohio residents for part-petitions and/or the Statement of Candidacy and Nominating Petition filed by Ralph Nader.
- 2) All documents, including but not limited to correspondence, memoranda, notes, and/or electronic mail, relating to communications with:
 - a. any persons affiliated with Ralph Nader; and
 - b. any persons acting as solicitors to obtain signatures for Ralph Nader to qualify him for certification to the ballot for the general election as an independent candidate in Ohio.
- 3) All documents, including but not limited to correspondence, memoranda, notes, electronic mail, contracts, bank checks, and bank account statements, relating to your being paid for obtaining signatures for Ralph Nader to qualify him for certification to the ballot for the general election as an independent candidate in Ohio.
- 4) All documents, including but not limited to, voter registration cards, drivers' licenses, bank account statements, leases, deeds, property tax assessments, and utility bills, evidencing your residence since January 1, 2000.
- 5) All documents, including but not limited to, voter registration cards, evidencing the states in which you have been registered to vote.

247. One volunteer petitioner received repeated phone calls from Andrew Clubock, an attorney in Washington, D.C. with the law firm Kirkland and Ellis, who left only his name and the message, "Call me about the subpoena." Another volunteer petitioner received a visit to her home from a private detective who claimed to be investigating her. He left a card and told her to call his firm.

248. On September 7, 2004, Ohio's Attorney General filed a motion for a protective order in the Court of Common Pleas to prevent enforcement of plaintiffs' subpoenas. The Attorney General's memorandum in support of the motion stated:

The Plaintiffs in this case seek to prohibit Ralph Nader from securing a spot to run for president on the Ohio ballot. As part of that strategy, either these specific plaintiffs, or those acting in concert with them, have filed protests with the Ohio Secretary of State concerning various Nader petitions.

249. On September 7, 2004, Attorneys Gilligan, Kuttell and Steven D. Forry of Schottenstein, Zox and Dunn and Attorney McTigue filed a motion to compel depositions and requested oral argument on the motion.

250. On September 8, 2004, the Secretary of State found that 6,464 signatures on Nader-Camejo's petition were valid and certified the petition. That same day, the Court of Common Pleas granted the Secretary of State's motion for a protective order and stay of discovery.

251. On September 24, 2004, attorneys Andrew Clubock, Gregory F. Corbett and Jennifer Levy of Kirkland and Ellis conducted a deposition of Nader-Camejo Campaign Manager Theresa Amato, which lasted approximately 1-1/2 hours.

252. On September 28, 2004, pursuant to hearings on Respondents' complaints, the Secretary of State invalidated 2,756 more signatures on a variety of grounds and reversed certification of Nader-Camejo's petition.

253. On October 6, 2004, Nader-Camejo filed for injunctive relief in the United States District Court for the Southern District of Ohio, Eastern Division. On October 7, 2004, the plaintiffs filed a motion to intervene, asserting that they "are truly the real parties in interest here." The court granted the plaintiffs' motion to intervene and denied Nader-Camejo's motion for injunctive relief on October 12, 2004. Nader-Camejo appealed to the Sixth Circuit Court of Appeals, which denied the appeal on or about October 18, 2004.

254. On October 19, 2004, the Ohio Supreme Court denied Nader-Camejo's request for a writ of mandamus. Nader-Camejo did not appear on the Ohio ballot as candidates in the 2004 presidential election.

255. According to the *Toledo Blade*, the Ohio challenge to Nader-Camejo's nomination papers was "filed by attorneys hired by or allied with the Ohio Democratic Party...[as] part of a nationwide effort to prevent Mr. Nader from siphoning votes from Democratic presidential candidate John Kerry."¹²⁷ Attorney McTigue identified the Ohio Democratic Party as his client in an email to Ohio county boards of elections on August 22, 2004, in which he requested the boards to review Nader-Camejo's nomination petitions for "errors and deficiencies" he claimed to have identified.¹²⁸ Attorney McTigue also represented the Kerry-Edwards Campaign during the Ohio recount of the 2004

¹²⁷ See Exhibit 53, James Drew, "Blackwell Orders Removal of Nader from Ohio's Nov. 2 Ballot," *Toledo Blade* (Sep. 29, 2004).

¹²⁸ See Exhibit 31, Donald McTigue Email and Letter.

presidential election.¹²⁹ In addition, Attorney Gilligan of Schottenstein, Zox and Dunn was the Columbus, Ohio contact and Attorney Gregory Corbett of Kirkland and Ellis was the Washington, D.C. contact for the group Lawyers for Kerry.¹³⁰

256. FEC records indicate that the DNC retained Schottenstein, Zox and Dunn and paid the firm \$39,486 in legal and political consulting fees in September and October of 2004. The DNC also retained Kirkland and Ellis, and paid the firm \$247,711 in legal and political consulting fees in September and November of 2004.¹³¹

14) Respondents intervened in proceedings to deny Nader-Camejo ballot access in Oregon.

257. In April 2004, a spokesperson for the Democratic 527 organization ACT told CBS News, “If we think it gets to a point where we need to step in and mobilize to make sure [Nader-Camejo] doesn’t get on the ballot, then we will.” Later that month, according to CBS, “ACT joined forces with other organizations in the state to discourage people from signing the petition” at Nader-Camejo’s April nominating convention, causing the convention to fall short of the 1,000 signing attendees necessary to qualify for ballot access under state law.¹³²

258. On June 26, 2004, Nader-Camejo held another nominating convention. This time Oregon Democrats, acting under false pretenses, took seats at the convention but refused to sign Nader-Camejo’s petitions. The Democrats acted pursuant to an email Multnomah County Democratic Party official Moses Ross sent to party members, stating:

¹²⁹ *Id.*

¹³⁰ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form.

¹³¹ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://opensecrets.org/parties/pend.asp?Cmte=DPC&cycle=2004> (last visited March 11, 2008).

¹³² See Exhibit 54, Clothilde Ewing, “Nader’s Tough Road Ahead,” *CBS News* (April 30, 2004).

We need as many Oregon Democrats as possible to fill that room and NOT sign that petition. If we attend in large numbers and politely refuse to sign, Nader is denied his needed numbers. It's that simple. Please make every attempt to attend this important event.

Mr. Ross personally attended the convention, reportedly accompanied by at least 100 others who intended to disrupt the convention.¹³³

259. State officials from Democratic Secretary of State Bill Bradbury's office restricted entry to the convention to one doorway, and counted attendees with a manual clicker. In violation of state law providing that nominating conventions may last up to 24 hours, state officials shut the doors after counting approximately 1,100 attendees, before Mr. Nader had even addressed the convention. State officials thereafter refused entry to Nader-Camejo's legitimate supporters. This action by state officials, together with the actions of Oregon Democrats and others who attended the convention but refused to sign the petitions, caused the convention to fall short of the 1,000 signing attendees.

260. On the same day that Oregon Democrats disrupted Nader-Camejo's June convention, the law offices of Gregory Kafoury, who was serving as Nader-Camejo's Oregon convention coordinator, fell victim to a phone-jamming attack. Each caller to Mr. Kafoury's office spoke virtually identical words, as if speaking from a script, and the calls came so rapidly that they incapacitated the office phones for the entire day.

261. After disrupting Nader-Camejo's two nominating conventions, Respondents launched a coordinated campaign of harassment, intimidation and sabotage intended to prevent Nader-Camejo from gaining ballot access by submitting signatures, as Oregon state law alternatively permits. On August 12, 2004, private investigators hired by SEIU visited campaign petitioners at their homes and falsely threatened them,

¹³³ See Exhibit 55, Chris Lydgate, "Raiders of the Lost Cause," *Willamette Week* (June 30, 2004).

according to one petitioner's affidavit, "if any of the people who had signed my petitions were not qualified, I could go to prison."¹³⁴ The investigators also delivered petitioners a letter from attorney Margaret Olney of the law firm Smith, Diamond and Olney, which reiterated the false threat. The letter stated:

[W]e would like to remind you that *your signature certifies* that you personally witnessed each signature collected on the petition and *that you obtained the signatures from qualified voters*. Falsely signing the petition may result in conviction of a felony with a fine of up to \$100,000 or prison for up to five years [emphasis added].

This false threat by an attorney at law was accompanied by a suggestion that the petitioners call Attorney Olney if they had any information to assist an investigation she claimed her firm was conducting.¹³⁵ SEIU local 49 chief Alice Dale subsequently admitted that SEIU had mailed the letters to 59 petitioners, and that "Two were delivered in person."¹³⁶

262. SEIU and ACT took even more extreme measures to deny Nader-Camejo ballot access. According to ACT employee William Gillis, ACT shared the Portland, Oregon office space where he worked with political campaign staff from SEIU. On August 16, 2004, Mr. Gillis posted a detailed blog entry stating that he witnessed "the higher echelons of both staffs" organize "a concerted effort among the ACT/SEIU staff to attack the Nader petition drive." SEIU and ACT's plan, according to Mr. Gillis, was to sabotage Nader-Camejo's petitions by deliberately signing them where petitioners were required to sign and then, after discovering the "error," scratching out the signature, thereby invalidating the entire sheet.¹³⁷

¹³⁴ See Exhibit 56, Oregon Petitioner Affidavit.

¹³⁵ See Exhibit 57, Letter from Margaret Olney.

¹³⁶ See Exhibit 58, Kari Chisholm, *Blue Oregon Blog*, Aug. 18, 2004.

¹³⁷ See Exhibit 59, William Gillis Blog Archive (Aug. 16, 2004).

263. Despite such coordinated efforts by the Oregon Democratic Party, SEIU and ACT to prevent Nader-Camejo from complying with state law, on August 24, 2004 the Nader-Camejo Campaign submitted 18,186 signatures, already certified as valid by county elections officials, to Secretary Bradbury's office. This was almost 2,800 more valid signatures than Oregon law required.

264. On August 25, 2004, attorney Roy Pulvers of Lindsay, Hart, Neil and Weigler sent a letter to Secretary Bradbury challenging Nader-Camejo's nomination papers. Attorney Pulvers sent a second letter the same day, asserting that Nader-Camejo's nomination papers were "misnumbered" and should be disqualified.

265. On September 2, 2004, Secretary Bradbury sent Nader-Camejo a letter stating that "there are not sufficient qualified signatures for you to gain ballot access." In an unprecedented act, Secretary Bradbury had invalidated thousands of signatures that county elections officials had already certified as valid, and which Nader-Camejo submitted in accordance with instructions from Secretary Bradbury's own office. Secretary Bradbury invalidated hundreds of these signatures due to alleged defects in Nader-Camejo petitioners' own signatures, such as crossed out or modified signatures or dates – just as SEIU and ACT had planned.

266. On September 3, 2004, the Nader-Camejo Campaign filed an appeal of Secretary Bradbury's action in Oregon's Marion County Circuit Court. The Oregon Democratic Party, John Neel Pender, the Party's Executive Director, and James Edmundson, the Party's Chair, intervened in support of Secretary Bradbury. SEIU was not permitted to intervene as a party, but did intervene as *amicus curiae*. Pursuant to this appeal, on September 9, 2004, the Court found that Secretary Bradbury's action violated

Oregon law. Of the methods Secretary Bradbury used to disqualify Nader-Camejo's validated signatures, the Court wrote, "Neither action was authorized by administrative rule or statute, and each was inconsistent with both the state elections policy as established by the Legislature...and with the prior policy of the Secretary of State." The Court ordered Secretary Bradbury to certify Nader-Camejo's nomination papers.

267. On September 17, 2004, the Oregon Supreme Court granted Secretary Bradbury a writ of mandamus requiring the Circuit Court to vacate its order, in deference to the Secretary's discretion to interpret and enforce state election laws. The United States Supreme Court declined to review the case, and Nader-Camejo did not appear on the Oregon ballot as candidates in the 2004 presidential election.

268. SEIU maintains close political and financial ties with the DNC. SEIU's Secretary-Treasurer, Anna Burger, is a DNC official, and SEIU endorsed and publicly committed its resources to electing John Kerry in 2004.¹³⁸ SEIU thus donated \$1,000,000 to the DNC in 2004, in violation of FECA's prohibition against contributions from labor unions to national political committees.¹³⁹ Two documents available on SEIU's own website confirm that SEIU made these unlawful contributions.¹⁴⁰ The DNC also made numerous payments to SEIU, including \$33,072 in political consulting fees in October

¹³⁸ See Exhibit 27, DNC Membership Roster 2004-2008; Exhibit 60, SEIU Press Materials.

¹³⁹ 2 U.S.C. 441b(a).

¹⁴⁰ A press release SEIU issued on November 1, 2004, with the headline "Anatomy of an Election Strategy: The Facts on SEIU's Role in Bringing Home a Victory for America's Working Families," states that "SEIU gave \$1 million to the DNC." Lest this claim be mistaken for a typographical error, a separate document, entitled "SEIU's Involvement in 2004 Progressive Political Organizations," reaffirms that "SEIU contributed \$1,000,000 to fund various DNC activities." Both documents are available on SEIU's website. See SEIU Media Center, available at http://seiu.org/media/pressreleases.cfm?pr_id=1201 (last visited May 19, 2008).

and November 2004. In addition, SEIU was a founding member of ACT and its largest contributor, donating \$26 million in 2004, and housing the 527 in SEIU's offices.¹⁴¹

269. On December 14, 2004, the Oregon Democratic Party paid Lindsay, Hart, Neil and Weigel \$12,342. Attorney Pulvers, formerly of that firm and currently with Hinshaw and Culbertson, "has represented the Democratic Party of Oregon since 2003 and represents numerous...campaign committees and candidates in his elections law practice."¹⁴²

15) Respondents filed two complaints against the Nader-Camejo Campaign in Pennsylvania.

270. On August 9, 2004, Philadelphia resident Ralph Dade filed a class action complaint against the Nader-Camejo Campaign in Philadelphia Court of Common Pleas, alleging that he and several others were owed approximately \$200 each for signatures they had collected for the campaign. The complaint identified Philadelphia Democratic Party Ward leader Louis Agre and Thomas Martin as attorneys for the plaintiffs. Nader-Camejo disputed the claim on the ground that plaintiffs had submitted invalid signatures, and the complaint was dismissed.

271. On August 9, 2004, Linda S. Serody, Roderick J. Sweets, Ronald Bergman, Richard Trinclisti, Terry Trinclisti, Bernie Cohen-Scott, Donald G. Brown and Julia O'Connell, registered Democrats in Pennsylvania, filed a second complaint in the Pennsylvania Commonwealth Court challenging Mr. Nader's Pennsylvania nomination papers. The complaint identified Gregory Harvey, Efrem Grail, Daniel Booker, Cynthia Kernick, Brian A. Gordon, Reed Smith LLP, Montgomery McCracken, Walker and Rhoads LLP, and the law offices of Brian A. Gordon as attorneys for the plaintiffs.

¹⁴¹ See Exhibit 61, SEIU Political Contributions Report.

272. The complaint challenged approximately 35,000 of the 51,273 signatures on Nader-Camejo's nominating petition on technical grounds, and alleged numerous procedural grounds for disqualifying Nader-Camejo from Pennsylvania's ballot. Plaintiffs' attorneys prepared the complaint in cooperation with Pennsylvania Democratic Party leaders, including state House Minority Leader Bill DeWeese and former Democratic Whip Mike Veon, and with support from approximately 170 Democratic Party operatives Mr. DeWeese and Mr. Veon recruited.¹⁴³

273. On numerous occasions before, during and after the litigation, Mr. DeWeese, Mr. Veon and other party officials stated that the purpose of their lawsuit was to help John Kerry win the election. In July 2004, before Plaintiffs filed their complaint, Pennsylvania Democratic Party Executive Director Don Morabito told the *Philadelphia City Paper*, "we want to make sure" Nader-Camejo doesn't detract votes from Mr. Kerry.¹⁴⁴ On August 2, 2004, Mr. DeWeese told the *Pittsburgh Post-Gazette*, "Working with the AFL-CIO, we will do everything humanly possible to fight [Nader-Camejo]....You don't need a Ph.D in mathematics to understand that 100 percent of the vote [Nader-Camejo] gets will be skimmed from Senator Kerry's total."¹⁴⁵ On August 9, 2004, the same day that Respondents filed their two complaints, Mr. DeWeese told the *Post-Gazette*, "We are being completely open about our intentions. Our goal is to help elect John Kerry the next President of the United States."¹⁴⁶ After the election, Mr.

¹⁴² See Exhibit 62, Roy Pulvers Bio.

¹⁴³ See Exhibit 63, Press Release: PA Stays Blue Despite Repeated Bush Visits; Exhibit 2, Katharine Q. Seelye, "Democrats' Legal Challenges Impede Nader," *The New York Times* (Aug. 19, 2004).

¹⁴⁴ See Exhibit 64, Rebecca Bellville, Brian Hickey and Tasha Kates, "Darth Nader," *Philadelphia City Paper* (June 17-24, 2004).

¹⁴⁵ See Exhibit 65, Tom Barnes, "Petitions Submitted to Put Nader on PA. Presidential Ballot," *Pittsburgh Post-Gazette* (Aug. 3, 2004).

¹⁴⁶ See Exhibit 5, Associated Press, "Lawyers, Aided by Democratic Leaders, Challenge Nader Petitions," (Aug. 10, 2004).

DeWeese and Mr. Veon issued a press release stating, “our efforts to strike [Nader-Camejo] from the ballot proved successful for John Kerry in Pennsylvania.”¹⁴⁷

274. On August 30, 2004, the Pennsylvania Commonwealth Court set aside Nader-Camejo’s nomination papers and ordered their names stricken from Pennsylvania’s ballot, because they were running as independent candidates in Pennsylvania and as candidates of a political party in other states.

275. On September 2, 2004, Nader-Camejo appealed to the Pennsylvania Supreme Court, seeking a stay of the Commonwealth Court’s order. The Pennsylvania Supreme Court reversed and vacated the Commonwealth Court’s order on September 20, 2004, and remanded to the Commonwealth Court for hearings. The Commonwealth Court immediately scheduled hearings in approximately 48 counties and 13 courtrooms; seven hearings were scheduled simultaneously in six different counties, with two hearings in Philadelphia.

276. On September 22, 2004, Mr. Nader’s attorneys notified the Court that they lacked the resources to staff hearings in 48 counties, and that they lacked attorneys sufficient to appear in 13 different courtrooms, because Respondents’ nationwide legal assault had severely depleted the campaign’s resources. Nader-Camejo’s attorneys therefore requested that the Court reconsider its order of September 20, and instead establish hearings in only one or two courtrooms. The Commonwealth Court rejected this request on September 23, 2004. Several hearings thus proceeded without counsel present on behalf of Nader-Camejo.

277. To prepare for these hearings, Respondents simply enlisted more attorneys. Daniel Booker of Reed Smith estimated that eight to ten lawyers from his firm

¹⁴⁷ See Exhibit 63, Press Release: PA Stays Blue Despite Repeated Bush Visits.

would work 80 hours each a week for two weeks, and could do so for six more weeks.¹⁴⁸ Attorney Booker indicated that his firm had also taken on more than 100 volunteers to work on the case.

278. In fact, Booker's estimate was low: Reed Smith attorneys Ira Lefton, Christopher K. Walters, Milind Shah, Jeremy Feinstein, Mark Tamburi, James Doerfler, John McIntyre, Lisa Campoli, Barbara (Kiely) Hager, Andrea (Simonson) Weingarten, Jeffrey Bresch, Kim Watterson, Melissa Oretsky, and James Williamson also joined Respondents' legal team, for a total of at least 17 Reed Smith attorneys. Attorney William Gordon of the group Lawyers for Kerry and formerly of the law firm Sheller, P.C. also joined the litigation.¹⁴⁹ Respondents' Pennsylvania legal team thus comprised at least 22 attorneys from five law firms (including the lawyers involved in the dismissed class action lawsuit filed by Philadelphia Democratic Party ward leader Louis Agre).

279. On October 13, 2004, following three weeks of hearings in counties across Pennsylvania, Commonwealth Court Judge James Gardner Colins, who was elected to the bench as a Democrat, issued an opinion invalidating more than 30,000 of Nader-Camejo's signatures on technical grounds. For example, approximately 9,000 signatures were invalidated because qualified electors – who could vote – had not yet registered on the day they signed Nader-Camejo's nomination petition (even though Pennsylvania law specifies no such requirement). Another 6,000 signatures were invalidated because voters' current addresses didn't match their prior registered addresses. Thus, after striking a total of 32,455 signatures on these and other technical grounds, Judge Colins concluded that only 18,818 signatures were valid, and set aside Nader-Camejo's nomination papers.

¹⁴⁸ See Exhibit 2, Katharine Q. Seelye, "Democrats' Legal Challenges Impede Nader," *The New York Times* (Aug. 19, 2004).

280. In his opinion, Judge Colins stated in dicta that Nader-Camejo had submitted a “fraudulent” nomination petition that included “thousands” of phony signatures.¹⁵⁰ In fact, however, Judge Colins’ own findings prove this statement to be false. Judge Colins and the other presiding judges counted a combined total of only 687 out of 51,273 signatures (or 1.3%) as “forgeries,”¹⁵¹ and even this tiny number almost certainly resulted from mischief or sabotage by signers, which the campaign’s hired petition circulators failed to detect prior to submitting the petition. Indeed, the circulators had previously removed an estimated 7,000 such signatures, and the record is uncontroverted that Nader-Camejo voluntarily withdrew any others as soon as they were discovered.¹⁵² The rest of the signatures (50,586 or 98.7%), however, Judge Colins and his colleagues counted as free from any allegation of impropriety. As Pennsylvania Supreme Court Justice Thomas Saylor emphasized, the record contains “no evidence” to support Judge Colins’ statement.¹⁵³ Judge Colins nevertheless ordered Nader-Camejo personally to pay Respondents’ litigation costs.

281. On October 19, 2004, a divided Pennsylvania Supreme Court entered a *per curiam* order affirming the Commonwealth Court’s order setting aside Nader-Camejo’s nomination papers. Only Justice Saylor, writing in dissent, issued a written opinion. On October 23, 2004, the United States Supreme Court denied Nader-Camejo’s petition for a writ of certiorari. Nader-Camejo did not appear on the Pennsylvania ballot as candidates in the 2004 presidential election.

¹⁴⁹ See Exhibit 33, William S. Gordon Bio.

¹⁵⁰ See *In re Nomination Paper of Ralph Nader*, 865 A.2d 8, 18 (Pa. Commw. Ct. 2004).

¹⁵¹ See *id.*

¹⁵² See *In re Nomination Paper of Ralph Nader*, 860 A.2d 1, 8 n.13 (Pa. 2004) (Saylor, J. dissenting).

¹⁵³ See *id.*

282. On December 3, 2004, attorneys Efrem Grail, Daniel Booker and Cynthia Kernick of Reed Smith, Gregory Harvey of Montgomery, McCracken, Walker and Rhoads, and Brian A. Gordon, a solo practitioner, submitted a bill of costs to the Commonwealth Court of Pennsylvania in the amount of \$81,102.19.

283. On January 14, 2005, Judge Colins entered an order approving the bill of costs without opinion. A divided Pennsylvania Supreme Court affirmed without citing a single case as precedent for the order; indeed, the principal case upon which the majority relied actually *reversed* a taxation of costs against a candidate.¹⁵⁴ The majority thus upheld what appears to be the first judgment in the history of American jurisprudence that effectively penalizes candidates for attempting to run for office, by ordering them to pay litigation costs to private parties who filed suit to challenge their nomination papers.

284. On July 17, 2007, in an effort to collect on this unprecedented judgment, Reed Smith secured writs of attachment in the Superior Court of the District of Columbia against Amalgamated Bank, M&T Bank and PNC Bank as garnishees of Mr. Nader's personal accounts. Pursuant to these writs, Amalgamated Bank froze \$27,420.16, and PNC Bank froze \$34,218.29, for a total of \$61,638.45 frozen in Mr. Nader's personal accounts. Reed Smith filed a motion to condemn these funds on August 28, 2007, which was denied, and another on September 25, 2007, which is pending.

285. On November 7, 2007, Mr. Nader filed a motion to vacate the judgment on the ground that Reed Smith had committed a fraud upon the court by failing to disclose its ties with several Justices of the Pennsylvania Supreme Court who voted to affirm judgment in the firm's favor. After the Pennsylvania proceedings concluded, Mr.

¹⁵⁴ See *In re Nomination Paper of Ralph Nader*, 905 A.2d 450, 457 (Pa. 2006) (citing *In re Nominating Petition of Esther M. Lee*, 578 A.2d 1277 (Pa. 1990) (reversing taxation of costs against candidate)).

Nader discovered that Reed Smith had been actively representing the Chief Justice as his defense counsel in an ethics probe while the Chief Justice was simultaneously presiding over the Nader-Camejo ballot proceedings. Subsequent investigation revealed that Reed Smith had undisclosed ties with several other Justices who voted to affirm judgment in the firm's favor.¹⁵⁵ As of May 2008, Mr. Nader's motion to vacate is pending, and the funds in his bank accounts remain frozen.

286. Respondents' attorneys claim to have worked on their challenge to Nader-Camejo's Pennsylvania nomination papers free of charge, for the nonpartisan purpose of ensuring ballot integrity.¹⁵⁶ In fact, however, FEC records indicate that the DNC paid Reed Smith \$136,142 in "political consulting" and "legal consulting" fees in October and November of 2004,¹⁵⁷ while IRS records indicate that The Ballot Project paid Gregory Harvey's firm Montgomery McCracken \$6,000 during the 2004 election.¹⁵⁸ Furthermore, these firms prepared Respondents' complaint with help from an estimated 170 Democratic Party operatives recruited by Pennsylvania Democratic leaders Bill DeWeese and Mike Veon,¹⁵⁹ and the Pennsylvania Democratic Party paid associated costs and

¹⁵⁵ Specifically, Reed Smith and Montgomery McCracken gave \$10,000 in campaign contributions (\$5000 from each firm) to a second Justice, who authored the majority opinion, while she was presiding over the Nader-Camejo ballot proceedings. Reed Smith also formerly employed a third Justice, who has longstanding political ties with the firm. Finally, Reed Smith, its attorneys and co-counsel gave a combined total of at least \$67,900 in campaign contributions to five out of six Justices who voted to affirm judgment in Reed Smith's favor. By contrast, Justice Saylor had no undisclosed ties with Reed Smith, and dissented on the ground that Pennsylvania law, like the law of every other state in the nation, does not authorize the taxation of costs against candidates who defend their nomination papers against a private party challenge.

¹⁵⁶ See Exhibit 66, Melissa Nann Burke, "Foiling the Spoiler," *The Legal Intelligencer* (Nov. 2, 2004); Carlyn Kolker, "Anti-Nader raiders: a massive pro bono effort works to block a third-party ballot spot in the Keystone State," *American Lawyer* (Oct. 1, 2004).

¹⁵⁷ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://opensecrets.org/parties/expend.asp?Cmte=DPC&cycle=2004> (last visited March 13, 2008).

¹⁵⁸ See Exhibit 3, The Ballot Project, Inc. IRS Statements.

¹⁵⁹ An ongoing investigation by the Pennsylvania State Attorney General indicates that many of these Democratic Party operatives may have been paid employees of the state, who may have unlawfully received taxpayer funded compensation for their effort to remove Nader-Camejo from the ballot. See

provided other material support, including a list of registered voters.¹⁶⁰ In addition, the managing partner of Reed Smith's Washington, D.C. office, A. Scott Bolden, served as a DNC official and Chair of the District of Columbia Democratic Party in 2004.¹⁶¹ Finally, John Kerry himself is an important client of Reed Smith.¹⁶² It simply is not credible, therefore, that Reed Smith undertook litigation against Nader-Camejo in Pennsylvania without the knowledge and consent of two important clients – the DNC and John Kerry – who were actively engaged in similar litigation in other states.

287. On October 1, 2004, Reed Smith attorneys estimated that the firm had contributed at least 1,300 hours in legal services to Respondents' effort to remove Nader-Camejo from the ballot. Reed Smith did not bill any client for these hours, nor did the firm report them to the FEC as an in kind contribution to the Kerry-Edwards Campaign. Rather, Reed Smith recorded the hours as non-billable charity work, despite the fact that FECA and IRS regulations prohibit campaign contributions from being reported as "charitable" contributions.¹⁶³ As the foregoing facts make clear, however, Reed Smith was not engaged in "charity," but in an effort to benefit an important client's 2004 presidential campaign, to which the firm donated not only legal services, but also litigation costs of at least \$81,107.29, as well as firm resources including office space, office equipment and office supplies utilized by Respondents' legal team and the

Exhibit 68, Dennis Roddy and Tracie Mauriello, "E-mails show how Dems tied staffers' bonuses to campaign work," *Pittsburgh Post-Gazette* (Dec. 16, 2007).

¹⁶⁰ See Exhibit 65, Tom Barnes, "Petitions Submitted to Put Nader on PA. Presidential Ballot," *Pittsburgh Post-Gazette* (Aug. 3, 2004); Exhibit 67, Tom Barnes, "Nader Petitions Challenged to Keep Him off Pennsylvania Ballot," *Pittsburgh Gazette* (Aug. 10, 2004).

¹⁶¹ See A. Scott Bolden Bio, available at

http://www.reedsmith.com/our_people.cfm?cit_id=1085&widCall1=customWidgets.content_view_1 (last visited May 14, 2008).

¹⁶² See *supra* n.83.

Democratic Party operatives supporting it.¹⁶⁴ In addition, while Attorney Harvey of Montgomery, McCracken claims to have taken an unpaid leave of absence from his firm to work on Respondents' behalf, he also headed a team of 70 "volunteers" working in Philadelphia.¹⁶⁵ Thus, any firm resources Mr. Harvey's team used, including office space, office equipment and office supplies, constitutes an in kind contribution from the firm to the Kerry-Edwards Campaign. Finally, Mr. Harvey told the *Legal Intelligencer* that he personally paid \$3,400 in expenses for Respondents' litigation, and this too constitutes a contribution to the Kerry-Edwards Campaign.¹⁶⁶ As Mr. Harvey stated on Philadelphia's Dom Giordano radio program on July 11, 2007, he agreed to work for Respondents "because I desired to prevent Nader from tipping Pennsylvania to President Bush as Nader in my view had tipped Florida to candidate Bush in 2000." Except for Mr. Harvey, none of Respondents' 95 lawyers nationwide claim to have taken unpaid leaves from their employer law firms; instead, these lawyers appear to have received normal compensation from their employer law firms. Such compensation constitutes an unlawful in kind contribution to the Kerry-Edwards campaign which, in the case of Reed Smith alone, was worth hundreds of thousands of dollars.

16) Respondents filed two complaints against the Nader-Camejo Campaign in Washington.

288. On August 31, 2004, attorney Parker Folse of the law firm Susman Godfrey, LLP sent Washington's Secretary of State a letter stating, "I represent a voter who has an interest in whether Mr. Nader has complied with the law." Attorney Folse

¹⁶³ See Exhibit 66, Melissa Nann Burke, "Foiling the Spoiler," *The Legal Intelligencer* (Nov. 2, 2004); Carlyn Kolker, "Anti-Nader raiders: a massive pro bono effort works to block a third-party ballot spot in the Keystone State," *American Lawyer* (Oct. 1, 2004).

¹⁶⁴ *Id.*

asked Secretary Reed not to certify Mr. Nader as a candidate for President of the United States in Washington until Mr. Folse could examine the nomination papers. Attorney Folse indicated that attorney Drew D. Hansen would assist him. Later that day Attorney Folse sent the Secretary of State another letter alleging that Nader-Camejo's nomination papers included an insufficient number of valid signatures. On September 1, 2004, Attorney Folse sent another letter outlining additional concerns and requesting an investigation.

289. On September 1, 2004, the Secretary of State certified Nader-Camejo's nomination papers and ordered their placement on the Washington ballot as candidates for President and Vice President.

290. On September 3, 2004, attorney James Foley filed a complaint on behalf of attorney Ken Valz in the Thurston County Superior Court of Washington, challenging Nader-Camejo's nomination papers under RWC 29A.20.191. The complaint's "legal argument" was one paragraph long, and concluded with a request that Nader-Camejo's nominating signatures be declared invalid.

291. On September 8, 2004, Susman Godfrey Attorneys Folse, Hansen and Rachel Black filed a separate complaint in the Thurston County Superior Court on behalf of the Washington State Democratic Central Committee, Josh Castle, DiAnne Grieser, Randy Poplock, Ann Thoeny and Elizabeth Walter, challenging Nader-Camejo's nomination papers under RWC 29A.20.191. The complaint requested the court to overrule the Secretary of State and to remove Nader-Camejo from the Washington ballot as candidates for President and Vice President.

¹⁶⁵ See Exhibit 2, Katharine Q. Seelye, "Democrats' Legal Challenges Impede Nader," *The New York Times* (Aug. 19, 2004).

292. On September 15, 2004, the court upheld the Secretary of State's decision, and Nader-Camejo appeared on the Washington ballot as candidates in the 2004 presidential election.

293. Attorney Hansen's bio on the Susman Godfrey website states that "he represented the Washington State Democratic Party in a *pro bono* lawsuit against Ralph Nader because of what it alleged was Nader's illegal effort to qualify for the 2004 Presidential ballot in Washington state."¹⁶⁷

294. DiAnne Grieser signed an online petition to support John Kerry as the Democratic Party's presidential nominee in 2008, identifying herself as the 2003-2004 moderator for the Kerry-Edwards Campaign blog.¹⁶⁸ Randy Poplock identified himself on the John Kerry Meetup Online Message Board as an affiliate of the 527 United Progressives for Victory, and an organizer for the Kerry-Edwards Campaign.¹⁶⁹

17) Respondents filed a complaint against the Nader-Camejo Campaign in West Virginia.

295. On July 29, 2004, the Nader-Camejo Campaign submitted nomination papers with a petition including more than 23,000 signatures to satisfy West Virginia's requirement of 12,962 signatures. Secretary of State Joe Manchin certified 15,302 signatures as valid and determined that Nader-Camejo qualified as candidates for President and Vice President in West Virginia.

296. On August 16, 2004, Kanawha County Democratic Executive Committee Chairman Norris Light, Democratic Party presidential elector Phil Hancock, and registered voters Deirdre Purdy, Gary Collias and Karen Coria filed a petition in the West

¹⁶⁶ See Exhibit 66, Melissa Nann Burke, "Foiling the Spoiler," *The Legal Intelligencer* (Nov. 2, 2004).

¹⁶⁷ See Exhibit 69, Drew Hansen Bio.

¹⁶⁸ See Exhibit 70, DiAnne Grieser Online Petition Signature.

Virginia Supreme Court of Appeals seeking a writ of mandamus ordering Secretary Manchin either to initiate an investigation into Nader-Camejo's nomination papers, or to refer the matter to the Attorney General's office. The petition identified Jason E. Huber and the law firm of Forman and Huber, L.C. as petitioners' attorneys.

297. Attorney Huber had previously written an open letter to the West Virginia Mountain Party, which had already qualified for ballot listing in the 2004 election, urging the party not to nominate Mr. Nader as its presidential candidate. "The most obvious risk with horrendous consequences," Attorney Huber wrote, "is that a Nader nomination will cost Kerry the presidential race...This risk is most apparent in key states like West Virginia." The letter continued:

Considering this, we must take every precaution to assure that Kerry wins West Virginia even if it includes keeping Nader off the ballot. ... It is for these reasons that I ask all those who support a Nader nomination to cast aside your third-party ideals for this one election (like I have done)...hold your nose and vote Kerry in 2004.¹⁷⁰

298. On August 19, 2004, Secretary Manchin, a Democrat who was running for governor, reversed his prior decision, "accompanied by intense political pressure from the Democratic Party," the *Wall Street Journal* reported.¹⁷¹ Secretary Manchin thus wrote to West Virginia Attorney General Darrell McGraw, also a Democrat, stating that "a measure of doubt exists as to the validity" of Nader-Camejo's petition. The letter requested Attorney General McGraw to institute a *quo warranto* proceeding to determine the validity of Nader-Camejo's nomination papers under West Virginia Code § 3-5-23.

299. The basis for Secretary Manchin's newfound doubt was that a group of citizens had complained that Nader-Camejo petitioners did not display proper credentials

¹⁶⁹ See Exhibit 71, Randy Poplock John Kerry Meetup Message Board Posts.

¹⁷⁰ See Exhibit 72, Letter From Jason Huber to West Virginia Mountain Party.

or did not display the petition appropriately. Several citizens filed affidavits to this effect, but only four out of approximately 23,000 people who actually signed the petition raised such complaints.

300. On August 23, 2004, Attorney General McGraw filed a Complaint in Quo Warranto “in the name of the state of West Virginia” in Kanawha County Circuit Court. The complaint stated, “the State of West Virginia prays that this Court immediately issue an order requiring Defendant Ralph Nader to appear at said hearing and show cause why he should not be precluded from being nominated.” The complaint sought “such declaratory and injunctive relief regarding the purported nomination of Ralph Nader as may be warranted by the evidence.”

301. On or about August 30, 2004, the Circuit Court dismissed Attorney General McGraw’s complaint. The Court called the complaint “extraordinary” and noted that “the testimony of a half dozen citizens” was insufficient to invalidate an entire petition signed by 23,000 citizens. Attorney General McGraw nevertheless appealed to the West Virginia Supreme Court of Appeals, which denied the appeal on September 9, 2004. Nader-Camejo appeared on the West Virginia ballot as candidates in the 2004 presidential election.

18) Respondents filed a complaint against the Nader-Camejo Campaign in Wisconsin.

302. On September 10, 2004, the Democratic Party of Wisconsin and Kim Warkentin, its Executive Director, filed a complaint before the Wisconsin Elections Board challenging Nader-Camejo’s nomination papers. The complaint identified Jeralyn B. Wendelberger, the Democratic Party of Wisconsin’s counsel, as plaintiffs’ attorney. In

¹⁷¹ See Exhibit 73, Editorial, “Nader’s Complaint,” *Wall Street Journal* (Sep. 14, 2004).

subsequent proceedings Lester Pines, Tamara Packard, the law firm Cullen, Weston, Pines & Bach LLP, Brenda Lewison, Tricia Knight, James Troupis, Eric McLeod, John Scheller, Brian Rybarik and the law firm Michael Best & Friedrich, LLP also represented the plaintiffs.

303. On September 22, 2004, the Elections Board dismissed plaintiffs' complaint and ordered Nader-Camejo to be placed on the Wisconsin ballot as candidates for President and Vice President.

304. On September 24, 2004, the Democratic Party of Wisconsin and Executive Director Warkentin appealed the Elections Board decision to Wisconsin's Dane County Circuit Court. The Circuit Court found that the Elections Board applied an incorrect standard when reviewing plaintiffs' complaint. On September 28, 2004, the Circuit Court ordered Nader-Camejo removed from the ballot.

305. On September 28, 2004, Nader-Camejo filed an Emergency Petition for Writ of Mandamus requesting the Wisconsin Supreme Court to assume original jurisdiction over the matter. The Supreme Court granted Nader-Camejo's petition and held a hearing on the same day.

306. On September 30, 2004, the Wisconsin Supreme Court unanimously concluded that the Elections Board did not abuse its discretion and vacated the Circuit Court decision. Nader-Camejo appeared on the Wisconsin ballot as candidates in the 2004 presidential election.

307. On October 18, 2004, the Wisconsin Democratic Party paid Cullen, Weston, Pines and Bach LLP \$553 for "Nader Ballot Challenge Legal Support."

Count One
(Illegal and Unreported Contributions and Expenditures)

308. The DNC, 18 state or local Democratic Parties, the Kerry-Edwards Campaign, The Ballot Project, at least 95 lawyers from 53 law firms, and an unknown number of DNC and state Democratic Party employees jointly engaged in a nationwide effort to prevent Nader-Camejo from participating as candidates in the 2004 presidential election. Pursuant to this effort, Respondents initiated or supported litigation to force Nader-Camejo from the ballot in 18 states, for the specific purpose of benefiting the Kerry-Edwards Campaign by denying voters the choice of voting for a competing candidacy. Respondents therefore made millions of dollars in illegal and unreported contributions and expenditures to benefit the Kerry-Edwards Campaign. *See* AO 2006-22; AO 1983-37; AO 1980-57.

309. As set forth herein (pp. 2-8; ¶¶ 155-71), the law firms and individual lawyers who initiated or supported litigation to remove Nader-Camejo from the 2004 General Election ballot in Arizona, Arkansas, Colorado, Florida, Illinois, Iowa, Maine, Michigan, Mississippi, New Hampshire, Nevada, New Mexico, Ohio, Oregon, Pennsylvania, Washington, West Virginia and Wisconsin knowingly and willfully joined Respondents' effort. Accordingly, the value of the legal services and resources that each law firm contributed without compensation, including office space, office equipment and office supplies, constitutes an in kind contribution to the Kerry-Edwards Campaign, and any expense that each firm incurred constitutes an expenditure on behalf of the Kerry-Edwards Campaign. 2 U.S.C. §§ 431(8)(A), 431(9)(A). Such contributions and expenditures must be reported, and any contributions and expenditures made by an incorporated law firm are prohibited. 2 U.S.C. §§ 434, 441b.

310. Respondents' lawyers provided their legal services for the benefit of the Kerry-Edwards campaign during normal working hours. Only one of the 95 lawyers named herein claims to have taken an unpaid leave to provide such services on a volunteer basis. The other lawyers apparently received normal compensation from their law firm employers.¹⁷² Under these circumstances, the FEC has held that the value of legal services provided by such paid employees constitutes a contribution by their law firm employers. *See* AO 2006-22; 2 U.S.C. 431(8)(A)(ii); 11 C.F.R. 100.54. Even a lawyer who took an unpaid leave of absence to volunteer for Respondents' effort is required to report any expense in connection therewith as a contribution subject to the Act's limitations. 2 U.S.C. §§ 434, 441a.

311. Respondents cannot avoid the Act's requirements by claiming that their litigation against Nader-Camejo was not intended to influence a federal election. The FEC has unequivocally stated that the attempt through litigation or otherwise to force a candidate off the ballot in order to deny voters the choice of voting for that candidate constitutes an effort to influence an election. AO 1983-37; AO 1980-57. Furthermore, the facts set forth in this Complaint, including numerous admissions by Respondents themselves, prove that Respondents did intend to benefit the Kerry-Edwards Campaign by denying Nader-Camejo ballot listing in as many states as possible. The DNC, its state party affiliates, The Ballot Project and Respondents' 53 law firms coordinated their efforts for the benefit of the Kerry-Edwards Campaign, and the Kerry-Edwards

¹⁷² The managing partner of Reed Smith, for example, stated that the firm's *pro bono* committee made the decision to allow firm lawyers to represent the parties that sued Nader-Camejo in Pennsylvania, and to bill the case as a *pro bono* matter. Thus Reed Smith, an incorporated law firm, contributed the services of its paid employees to Respondents' effort. *See* Exhibit 66, Melissa Nann Burke, "Foiling the Spoiler," *The Legal Intelligencer* (Nov. 2, 2004); Carlyn Kolker, "Anti-Nader raiders: a massive pro bono effort works to block a third-party ballot spot in the Keystone State," *American Lawyer* (Oct. 1, 2004).

Campaign also directly participated in Respondents' effort to deny Nader-Camejo ballot access. In addition, the DNC retained and paid several law firms that sued Nader-Camejo, while state Democratic Parties retained and paid several others. On information and belief, such payments violated 2 U.S.C. § 441a(d). The Ballot Project recruited dozens more law firms to sue Nader-Camejo, and explicitly solicited their services for the benefit of the Kerry-Edwards Campaign. These firms unlawfully contributed a combined total of more than \$2 million in legal services, free of charge, to Respondents' effort, almost all of which constituted unreported corporate in kind contributions, in violation of 2 U.S.C. §§ 434 and 441b.

312. Because the DNC, 18 state or local Democratic Parties, the Kerry-Edwards Campaign, The Ballot Project, at least 95 lawyers from 53 law firms, and an unknown number of DNC and state Democratic Party employees jointly engaged in an effort to deny Nader-Camejo ballot access and prevent them from participating as candidates in the 2004 presidential election, and because Respondents collectively spent nearly \$1 million and solicited more than \$2 million more in unreported and illegal corporate in kind contributions and expenditures for this purpose, the FEC should find these Respondents in violation of 2 U.S.C. §§ 434, 441a and 441b.

Count Two
(Illegal and Unreported Contributions and Expenditures)

313. As set forth herein (¶¶ 257-69), SEIU and its allied 527 group America Coming Together¹⁷³ jointly planned and executed an effort to prevent Nader-Camejo from complying with Oregon state election laws by disrupting their nomination conventions, sabotaging their nomination papers and falsely threatening their campaign

petitioners. SEIU's own press materials make clear that this joint effort with ACT was consistent with the labor union's pledge to "do whatever we can to make sure John Kerry is the next president of the United States."¹⁷⁴ In a press release entitled "Anatomy of an Election Strategy: The Facts on SEIU's Role in Bringing Home a Victory for America's Working Families," SEIU claims that it has "played a critical role in shaping the outcome of the presidential election." Among the specific acts the labor union took in furtherance of its goal of influencing the 2004 presidential election, the press release states, "SEIU gave \$1 million to the DNC."¹⁷⁵ A separate document attached to this press release, entitled "Anatomy of an Election Strategy," reaffirms that "SEIU contributed \$1,000,000 to fund various DNC activities."¹⁷⁶ Under the Act, labor organizations such as SEIU are prohibited from making such contributions to a national political party, and contributions by SEIU's political action committee to political parties are limited to \$15,000. *See* 2 U.S.C. § 441b(a); § 441a(a)(2)(B). SEIU's \$1 million contribution to the DNC therefore clearly violates the Act's limitations and prohibitions. *Id.* In addition, any contributions and expenditures by SEIU in connection with its effort to deny Nader-Camejo ballot access in Oregon or elsewhere, including compensation paid to the law firm that SEIU retained to "investigate" Nader-Camejo petitioners and to intervene in Respondents' Oregon ballot access challenge, compensation paid to SEIU staff that participated in Respondents' effort to deny Nader-Camejo ballot access, and any other thing of value SEIU contributed to Respondents' effort, constitute further violations of the Act. *Id.*

¹⁷³ *See* Exhibit 61, SEIU Political Contributions Report (stating that "SEIU is the largest contributor to ACT at \$26 million").

¹⁷⁴ *See* Exhibit 60, SEIU Press Releases.

¹⁷⁵ *Id.*

¹⁷⁶ Both documents are available on SEIU's website at http://seiu.org/media/pressreleases.cfm?pr_id=1201 (last visited May 18, 2008).

Count Three
(Political Committee Status and Conduit for Corporate and Union Spending)

314. The Section 527 Respondents named herein were required to register as political committees. Each entity satisfies the two-part test established by FECA and the Supreme Court decisions construing the Act. First, each entity has or had a “major purpose” of influencing a federal election. *See FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 262 (1986); *Buckley v. Valeo*, 424 U.S. 1, 79 (1976). Second, each entity received contributions and made expenditures far in excess of \$1,000. 2 U.S.C. § 431(4). Accordingly, each 527 Respondent is or was required to register with the FEC by filing a statement of organization and periodic reports of receipts and disbursements, 2 U.S.C. §§ 433-434, and each 527 Respondent is subject to the Act’s limitations and prohibitions on contributions. 2 U.S.C. § 441a(a)(1), §441a(a)(2). In addition, the officers and employees of the 527 Respondents are prohibited from knowingly accepting contributions or making expenditures on behalf of a candidate in violation of these limitations and prohibitions. 2 U.S.C. § 441a(f). These limitations and prohibitions apply even if the FEC determines that the 527 Respondents only made independent expenditures. 11 C.F.R. § 110.1(n).

315. As set forth herein (pp. 8-20; ¶¶ 155-71), the 527 Respondents each had a major purpose of supporting John Kerry and John Edwards as candidates for President and Vice President, respectively, in the 2004 General Election.¹⁷⁷ Respondents affiliated with these 527 groups solicited and received funds for this purpose from major Democratic Party donors at the 2004 Democratic National Convention and elsewhere,

¹⁷⁷ While Americans for Jobs’ original major purpose was to oppose Howard Dean’s candidacy during the 2004 primary elections, the group’s executive director and treasurer subsequently established the National Progress Fund with a contribution of \$225,000. The National Progress Fund’s major purpose was to support John Kerry and John Edwards in the 2004 General Election.

and specifically informed these donors that the funds would be used to help elect John Kerry and John Edwards in the 2004 General Election. Respondents continued to make these solicitations and explicit promises through October 2004. Respondents never registered their 527s with the FEC, however, despite raising and spending millions in cash and in kind contributions to benefit the Kerry-Edwards Campaign. Each 527 group thus received numerous unreported contributions and made numerous unreported expenditures in violation of the Act's limitations and prohibitions, as set forth herein (pp. 8-20).

316. The National Progress Fund raised and spent at least \$516,334 for the purpose of supporting the Kerry-Edwards Campaign during the 2004 General Election. The 527 group produced and broadcast at least eight different radio and television commercials, each of which included express advocacy against the Nader-Camejo Campaign, which was intended to benefit the Kerry-Edwards Campaign. To pay for this activity, the National Progress fund solicited contributions and specifically tied its solicitations to the group's opposition to Nader-Camejo's candidacy.

317. United Progressives/Uniting People for Victory spent approximately \$235,000 on advertisements, fact sheets, flyers, letters to the editor and related material that constituted express advocacy in opposition to the Nader-Camejo candidacy and in support of the Kerry-Edwards candidacy during the 2004 General Election. To pay for this activity, United Progressives/Uniting People for Victory solicited contributions and specifically tied its solicitations to the group's opposition to Nader-Camejo's candidacy.

318. The Ballot Project retained and recruited law firms to sue the Nader-Camejo Campaign in at least 18 states. The Ballot Project spent at least \$331,398 for this

purpose and solicited in excess of \$2 million more in legal services from law firms that sued Nader-Camejo. The Ballot Project solicited these services and the law firms donated them for the express purpose of benefiting the Kerry-Edwards Campaign by forcing their competitors from the race.

319. Americans for Jobs raised and spent \$1 million during the 2004 election cycle. The group's original purpose was to oppose Howard Dean's candidacy during the 2004 primary elections by producing and broadcasting television advertisements attacking Mr. Dean. After the primary election, Americans for Jobs contributed \$225,000 to the National Progress Fund and ceased operations. The National Progress Fund used this contribution to produce advertisements expressly advocating against Nader-Camejo's candidacy.

320. America Coming Together entered into a conciliation agreement with the FEC on August 20, 2007, pursuant to which the 527 agreed to pay \$775,000 – the third largest civil penalty in the FEC's history – to settle charges that ACT violated FECA's source limitations and prohibitions.¹⁷⁸ On information and belief, the matters under review did not concern ACT's contributions and expenditures in connection with its participation in Respondents' effort to deny Nader-Camejo ballot access, as set forth herein (¶¶ 257-69).¹⁷⁹ Such contributions and expenditures, including the compensation paid to ACT staffers who participated in Respondents' effort, were made to influence a federal election, and therefore constitute further violations of the Act.

321. Each of the 527 Respondents named herein also accepted contributions from labor unions and/or corporations, which the 527 groups used to fund their efforts to

¹⁷⁸ See Press Release, "FEC To Collect \$775,000 Civil Penalty From America Coming Together" (Aug. 29, 2007) available at <http://fec.gov/press/press2007/20070829act.shtml> (last visited May 18, 2008).

influence the 2004 presidential election for the benefit of the Kerry-Edwards Campaign. These contributions were unlawful, because labor unions and corporations are prohibited from making contributions or expenditures “in connection with” a federal election, including any “direct or indirect payment” to an organization in connection with a federal election. 2 U.S.C. 441b(a).

322. Because the National Progress Fund, United Progressives/Uniting People for Victory, The Ballot Project, Americans for Jobs have or had a major purpose of supporting or opposing particular candidates in a federal election, and because each entity raised and spent far in excess of the \$1,000 threshold amount for this purpose, each Section 527 Respondent named herein is a political committee as defined by FECA. None of these Respondents registered with the FEC by filing a statement of organization. None of these Respondents complied with the Act’s reporting requirements, and none of these Respondents complied with the Act’s limitations and prohibitions on contributions. The 527 Respondents and their officers and employees named herein therefore violated 2 U.S.C. § 432, § 434, § 441a and §441b.

PRAYER FOR RELIEF

Wherefore, Complainant respectfully requests that the Commission conduct an immediate investigation under 2 U.S.C. §437g; determine that Respondents violated 2 U.S.C. §§ 432, 433, 434, 441a, 441b and any other applicable sections of the Act and the Code of Federal Regulations; impose appropriate civil penalties for Respondents’ FECA violations and enjoin Respondents from committing further violations; and take any other actions and impose such additional remedies as necessary to prevent further violations of the law.

¹⁷⁹ *Id.*

Respectfully submitted,

Complainant Ralph Nader, by
Oliver B. Hall
1835 16th Street N.W.
Washington, D.C. 20009
617-953-0161

Verification

The Complainant listed below hereby verifies that the statements made in the attached Complaint are, upon his information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Ralph Nader

Oliver Hall

Sworn to and subscribed before me
this 30th day of May, 2008

Notary Public