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June 30, 1993

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TELEX 248349 WYRN UR

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Jonathan Bernstein, Esq.

Re: MUR 3774 (National Republican Senatorial Committee)

Dear Mr. Noble:

This response, including the attached Affidavit, is submitted on behalf of the National Republican Senatorial Committee ("the Committee"), and Sonya M. Vazquez, as Treasurer, in reply to a complaint filed by the Democratic Senatorial Campaign Committee and designated Matter Under Review ("MUR") 3774. For the reasons set forth herein, the Federal Election Commission ("FEC" or "Commission") should find no reason to believe that the Committee has violated any provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-455 ("Act").

COMPLAINT

The Complaint in this matter calls into question the legal and legitimate donations made by the NRSC to several non-partisan, non-profit organizations. Yet, the Complaint states that these donations represented a "significant and sustained effort" to channel NRSC funds illegally into a federal election, namely the

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Second General Election for U.S. Senator in Georgia, held November 24, 1992. There is no evidence to support this unsubstantiated allegation. Rather, this complaint was designed to invite the FEC to wander into legal transactions solely for the sake of curiosity despite the fact that complainant provides no factual basis either establishing or suggesting a violation.

FACTS

The NRSC raises funds for both federal and non-federal expenditures, segregating both according to FEC regulations. Historically, the NRSC has made donations from its non-federal account to a wide variety of non-partisan, tax exempt organizations. See Affidavit of Sonya M. Vazquez at ¶ 3, attached hereto as Exhibit 1 (hereinafter "Vazquez Aff."). These organizations are exempt from income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.^{1/} As a

^{1/} Organizations exempt under Section 501(c)(3) are permitted to engage in non-partisan voter education and registration activities. 26 U.S.C. § 4945. Further, organizations exempt under Section 501(c)(4) may lawfully engage in similar non-partisan activities. Treas. Reg. 1.501(c)(4)-1(a)(2)(ii). See Revenue Ruling 81-95, 1981-1 C.B. 332. Thus, even if one assumes that tax exempt organizations were involved in some political activities, that, in and of itself, is not prohibited under existing case law if it is non-partisan. See Faucher v. Federal Election Commission, 743 F. Supp. 64 (D. Me. 1990), aff'd 928 F. 2d 468 (1st Cir. 1991); Federal Election Commission v. National Organization for Women, 713 F. Supp. 428 (D.D.C. 1989).

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result, these organizations may not engage in partisan political activity.

In accordance with past practice, the NRSC made several donations from its non-federal account to the following entities in 1992:

<u>Organization</u>	<u>Date</u>	<u>Amount</u>
National Right to Life Committee	10-02-92	\$ 25,000
American Defense Foundation	10-02-92	250,000
Coalitions for America	10-20-92	50,000
National Right to Life Committee	10-20-92	15,000
American Defense Foundation	11-10-92	30,000
Coalitions for America	11-11-92	40,000
National Right to Life Committee	11-17-92	45,000
Good Government Committee	11-18-92	7,000

Vazquez Aff. at ¶ 5. Further, "[s]ince the Commission instituted the requirement on January 1, 1991, all non-federal expenditures required to be reported by the federal election laws have been reported by the NRSC on its Federal Election Commission disclosure reports." Vazquez Aff. at ¶ 4.

The recipients of the donations listed above are "legitimate non-partisan organizations exempt from taxation under Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code." Id. The Act does not preclude the donation of funds to charitable organizations, and, in fact, explicitly permits and encourages candidates to donate excess campaign funds to charitable organizations. See 2 U.S.C. § 439a. Thus, donations by the NRSC

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to these bona fide organizations are consistent with the policy established in the Act.

Each of these donations was accompanied by a "transmittal letter emphasizing that the contribution was for 'good government activities' and was 'to be used in a manner consistent with' the organization's charter." Vazquez Aff. at ¶ 6. Such letters further specified that "utilizing any of this money in any way to influence a federal election is strictly prohibited." Id.

LEGAL ANALYSIS

The Complaint alleges a variety of violations of the Federal Election Campaign Act, but is unsupported by the facts, misleading, and, in some cases, wholly erroneous. Complainants have taken the fact that the NRSC made six donations to non-partisan, tax exempt organizations, and the fact that Senator Paul Coverdell (R-GA) won the Second General Election held in Georgia on November 24, 1992 (Second General Election), and have attempted to weave a tale of coordinated illegal expenditures. The theory espoused in the Complaint is completely without merit.

A. There Is No Factual Basis For The Allegations

Numerous allegations are made in the Complaint without any factual substantiation relating to the alleged violations. Complainants even readily admit that "there is no direct evidence of contributions from the NRSC in connection with the Georgia

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runoff. . . ." Complaint at 7. Other than reciting a list of six publicly acknowledged donations by the NRSC to tax exempt organizations, Complainants have not provided NRSC or the Commission with one iota of evidence that any such funds were used by these tax exempt organizations in contravention to NRSC's instructions that the money must be used for good government purposes and not to influence a federal election. Nor is there evidence that the money was used by these entities in a manner inconsistent with their stated public purpose as found in each organization's charter.^{2/} In fact, to our knowledge, each of these entities have engaged only in legal activities. See Vazquez Aff. at 6.

B. Erroneous Claims and Innuendo

Many of the facts found in the complaint are either inaccurate or designed to mislead the Commission.

1. Timing of Contributions

In trying to demonstrate that all NRSC donations to non-partisan, tax exempt organizations were made in connection with the Second General Election, Complainants state that "[b]efore

^{2/} Such is the lack of concrete evidence that Complainants even admit that they have "no information about the activities of "one of the recipient organizations, the Good Government Committee of Montgomery, Alabama." Id. at n.4.

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October 20, the NRSC had not made a single soft money donation to any non-party group during the 1992 elections." Complaint at 3. This is simply wrong. First, the NRSC has made such donations from its non-federal account to such organizations on a regular basis over the years. See Vazquez Aff. at 3. Second, the NRSC made earlier donations to tax-exempt organizations in 1992. Examples of such donations prior to October 20 include a total of \$275,000 to the American Defense Foundation and the National Right to Life Committee on October 2, 1992. See Exhibit 2. These obviously could not have been directed toward the Second General Election in Georgia.

2. Identity of Recipient

The Complaint also uses innuendo to distort who the recipients of NRSC contributions were. For example, with respect to the National Right to Life Committee, the Complaint states that "[a]t the same time the NRSC was donating \$45,000 to the NRLC, [the NRLC's] PAC was making over \$15,000 in independent expenditures supporting Paul Coverdell." Complaint at 4. These are two unrelated events.^{3/} As Complainants concede, the NRSC donation was made to the NRLC, not the NRLC PAC, which was the entity reporting the Coverdell-related expenditures. See Vazquez Aff. at ¶ 5. The

^{3/} The NRSC donation to the NRLC is similarly unrelated to the \$2,500 contribution made by NRLC PAC to the Coverdell campaign. See Complaint at 4.

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NRSC donation to the NRLC, to its knowledge, was not in any way used in the Georgia race by the NRLC.

The complaint also implies that a Georgia Right to Life Committee mailing attacking Senator Wyche Fowler was, in some way, linked to the NRSC. See Complaint at 4, Exhibit 3. The only evidence provided to the Commission is a memorandum by a former Fowler campaign staffer (not even a sworn affidavit) claiming to have seen an anti-Fowler mailing "form [sic] Georgia Right to Life" that contained text from "a political memo about the race whose author was listed as being from National Right to Life." Id. No copy of this mailing has been provided to NRSC or the Commission, nor does it relate to the NRSC in any way. The NRSC "made no donations to the Georgia Right to Life Committee during the 1992 election cycle." Vazquez Aff. at ¶ 7.

Similarly, the Complaint refers to radio advertisements broadcast by the National Right to Life Committee on Senator Coverdell's behalf, inaccurately implying that the NRSC was involved in some manner. Complaint at 4. The only evidence proffered is a Roll Call newspaper article indicating that the National Right to Life Committee may have undertaken such a radio campaign. See Complaint at Exhibit 3. Again, complainants have included an article that has no tie to the NRSC.

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The reference to the NRSC's contribution to Coalitions for America is also speculative. The Complaint implies that the NRSC has violated the Act through its involvement with this organization, noting that Senator Phil Gramm has endorsed Coalitions for America and participated in its activities. Complaint at 4, 9. The Complaint fails, however, to provide any evidence that NRSC funds were used by the Coalition in violation of the Act, nor does it contain any evidence of Coalition activities in the Second General Election.^{4/} Again, to the NRSC's knowledge, Coalitions for America engages only in legal activities within the organization's charter. See Vazquez Aff. at 6.

References to the American Defense Foundation are also devoid of substance. The Complaint alleges that this organization participated in the Georgia runoff by encouraging voter turnout through public appearances by its founder and through radio advertisements. Id. at 7. Again, there is no allegation that NRSC funds were used improperly. In fact, the only activities that are described in the exhibits are related to non-partisan voter

^{4/} The Washington Post article provided by Complainants quotes Paul Weyrich, as saying that the sentiment of activists was for focusing on Senate races. Complaint at Exhibit 4. Complainants fail to note, however, that: (1) the article was written nearly four months before the Second General Election; (2) it does not mention Georgia; and (3) there is no mention of Coalitions for America, only its corporate parent, Free Congress Foundation.

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registration and turnout efforts which involve not just Georgia, but eight states. None of these activities appear to be violations of the Act, but rather are legal, non-partisan activities which may be conducted by organizations such as the American Defense Foundation.

3. Coordination of Efforts

The Complaint states that the "organizations in question do not operate alone, but coordinate their efforts through overlapping staff and operations." Complaint at 9, and further suggest that these organizations have a "common political agenda of electing Republican candidates to federal office." Complaint at 10.

The DSCC is simply being disingenuous in making such an allegation. These are non-partisan organizations. The NRSC recognizes them to be such when making donations to them and anticipates that these organizations will pursue "good government activities." But, the NRSC has not "used the organizations as its agents in distributing moneys that could not otherwise be lawfully spent in connection with the elections in question." *Id.* at 10. It is not a crime for individuals and groups to talk to each other or support common philosophies.

C. Superfluous Facts

In an effort to distract the Commission from the appalling lack of evidence in support of their allegations. Complainants

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have included a variety of irrelevant allegations and observations in their Complaint. For example, the Complaint states that the Christian Coalition was active in the Second General Election. Complaint at 8. But, the NRSC "made no donations to the Christian Coalition during the 1992 election cycle." Vazquez Aff. at ¶ 8. Thus, the mention of the Christian Coalition is gratuitous.^{5/}

The section entitled "History of Similar Activities by Republican Party" is so lacking in merit as to almost invite no response. See Complaint at 11. However, Respondents note that these allegations are irrelevant to the six donations at issue in this Matter. Further, the Commission should note that Democratic party organizations lost most of the cases against the Republican groups cited and have thus far unsuccessfully filed Complaints in the other Matters.

Finally, the discussion in the Complaint about the legislative activities of Senators McConnell and Gramm in the debate over campaign finance reform legislation is nonsense and was solely filed by Complainants in the context of the current partisan legislative debate on Capitol Hill. See id.

^{5/} Similarly, the appearance in November, 1991, by Curt Anderson at a Christian Coalition meeting is irrelevant to this Complaint. His general exhortation concerning the political process occurred one year before there could have even been a runoff, thus making it impossible for him to even discuss the use of NRSC funds in the Second General Election. See Complaint at 8.

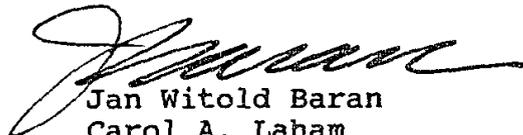
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CONCLUSION

The Complaint fails to provide any evidence or even a legitimate allegation that the NRSC violated the Act in connection with the Second General Election through its donations to non-partisan, tax exempt organizations. On the contrary, in making these donations, the NRSC was careful to provide written guidance to the recipients that the funds were for appropriate lawful activities and not to be used in any manner to influence a federal election. Accordingly, the Commission should find no reason to believe that the National Republican Senatorial Committee and Sonya M. Vazquez, as Treasurer, have violated the Act.

Sincerely,



Jan Witold Baran
Carol A. Laham
Dan Renberg

Counsel for the National Republican
Senatorial Committee and Sonya
Vazquez, as Treasurer

Encl.

BEFORE THE FEDERAL ELECTION COMMISSION

City of Washington)
) MUR 3774
District of Columbia)

AFFIDAVIT OF SONYA M. VAZQUEZ

SONYA M. VAZQUEZ, first being duly sworn, deposes and says:

1. I am Sonya M. Vazquez, Treasurer of the National Republican Senatorial Committee ("NRSC"). I have been the Treasurer of the NRSC since December 17, 1992.

2. The NRSC has historically made contributions, to the extent allowed by law, to non-partisan, non-profit organizations.

3. Since the Commission instituted the requirement effective January 1, 1991, all non-federal expenditures required to be reported by the federal election laws have been reported by the NRSC on its Federal Election Commission disclosure reports.

4. The NRSC made the following donations from its non-federal expenditures account to entities that are legitimate non-partisan organizations exempt from taxation under Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code:

<u>Organization</u>	<u>Date</u>	<u>Amount</u>
National Right to Life Committee	10-02-92	\$ 25,000
American Defense Foundation	10-02-92	\$250,000
Coalitions For America	10-20-92	\$ 50,000
National Right to Life Committee	10-20-92	\$ 15,000
American Defense Foundation	11-10-92	\$ 30,000
Coalitions For America	11-11-92	\$ 40,000
National Right to Life Committee	11-17-92	\$ 45,000
Good Government Committee	11-18-92	\$ 7,000

See Attachment A.

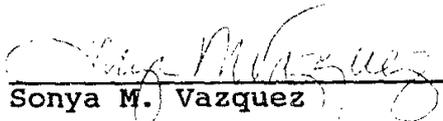
5. When making such donations, the NRSC attached to the check a transmittal letter emphasizing that the donation was for "good government activities" and was "to be used in a manner consistent with" the organization's charter. See Attachment B. Further, such letters noted that "utilizing any of this money in any way to influence a federal election is strictly prohibited." Id.

6. To our knowledge, each of the entities receiving donations from the NRSC engages only in legal activities consistent with the organization's charter.

7. The NRSC made no donations to the Georgia Right to Life Committee during the 1992 election cycle.

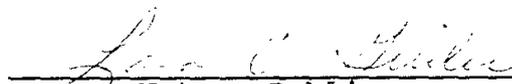
8. The NRSC made no donations to the Christian Coalition during the 1992 election cycle.

The above information is true and correct to the best of my knowledge, information and belief.



Sonya M. Vazquez

Signed and sworn to before me
this 29 day of June, 1993.



Notary Public

My Commission Expires: July 14 1997

(A)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - NONFEDERAL

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
----------------------------------	--

NAME, ADDRESS, CITY, STATE, ZIP MP CONSULTING CORPORATION 2000 K ST. NW, STE. 105 WASHINGTON DC 20007	PURPOSE OF DISBURSEMENT PROFESSIONAL SERVICE DISBURSEMENT FOR:	10/13/92	5000.00
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NAME, ADDRESS, CITY, STATE, ZIP WILEY, REIN & FIELDING 1776 K STREET NW WASHINGTON DC 20006	PURPOSE OF DISBURSEMENT PROFESSIONAL SERVICE DISBURSEMENT FOR:	10/06/92	10629.44
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NAME, ADDRESS, CITY, STATE, ZIP NATIONAL RIGHT TO LIFE COMM. 1419 7TH ST. NW, STE. 500 WASHINGTON DC 20004	PURPOSE OF DISBURSEMENT CONTRIBUTION DISBURSEMENT FOR:	10/02/92	25000.00
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NAME, ADDRESS, CITY, STATE, ZIP AMERICAN DEFENSE FOUNDATION 1055 NORTH FAIRFAX STREET ALEXANDRIA VA 22314	PURPOSE OF DISBURSEMENT CONTRIBUTION DISBURSEMENT FOR:	10/02/92	25000.00
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NAME, ADDRESS, CITY, STATE, ZIP NRSC/BUILDING FUND 1425 SECOND STREET NE WASHINGTON DC 20002	PURPOSE OF DISBURSEMENT TRANSFER DISBURSEMENT FOR:	10/14/92	10000.00
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NAME, ADDRESS, CITY, STATE, ZIP WILEY, REIN & FIELDING 1776 K STREET NW WASHINGTON DC 20006	PURPOSE OF DISBURSEMENT VOIDED CHECK DISBURSEMENT FOR:	10/06/92	10629.44
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NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
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SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)	390,000.00
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TOTAL THIS PERIOD (last page this line number only)	390,000.00
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NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE/NONFEDERAL

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NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT	DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
COALITIONS FOR AMERICA 717 2ND STREET NE WASHINGTON DC 20002	CONTRIBUTION DISBURSEMENT FOR:	10/20/92	50000.00
NATIONAL RIGHT TO LIFE COMMITTEE 419 7TH ST. NW, SUITE 500 WASHINGTON DC 20004	CONTRIBUTION DISBURSEMENT FOR:	10/20/92	15000.00
AMERICAN DEFENSE FOUNDATION 1055 NORTH FAIRFAX STREET ALEXANDRIA VA 22314	CONTRIBUTION DISBURSEMENT FOR:	11/10/92	30000.00
COALITIONS, FOR AMERICA 717 SECOND STREET NE WASHINGTON DC 20002	CONTRIBUTION DISBURSEMENT FOR:	11/11/92	40000.00
PM CONSULTING CORPORATION 3050 K STREET NW, #104 WASHINGTON DC 20007	PROFESSIONAL SERVICE DISBURSEMENT FOR:	11/11/92	10000.00
NATIONAL RIGHT TO LIFE COMMITTEE 419 7TH ST NW, SUITE 500 WASHINGTON DC 20004	CONTRIBUTION DISBURSEMENT FOR:	11/17/92	45000.00
GOOD GOVERNMENT COMMITTEE 103 NORTH PERRY STREET MONTGOMERY AL 36101	CONTRIBUTION DISBURSEMENT FOR:	11/18/92	7000.00
SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)			197,000.00
TOTAL THIS PERIOD (last page this line number only)			197,000.00

National Republican Senatorial Committee

(B)

SENATOR PHIL GRAMM
CHAIRMAN

JEB HENSARLING
EXECUTIVE DIRECTOR

October 2, 1992

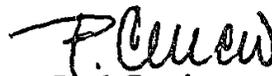
Mr. David O'Steen
National Right to Life Committee
419 7th Street N.W., Suite 500
Washington, D.C. 20004

Dear David,

Enclosed please find a \$25,000 contribution from the National Republican Senatorial Committee for your Good Government Activities to be used in a manner consistent with your charter. Please note that utilizing any of this money in any way to influence a federal election is strictly prohibited.

We wish you luck in all your endeavors.

Sincerely,



Paul Curcio
Director of Political Services

RONALD REAGAN REPUBLICAN CENTER
425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.

(2)

NAME OF COMMITTEE
NATIONAL REPUBLICAN SENATORIAL COMMITTEE - NONFEDERAL

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

DATE (MONTH, DAY, YEAR)	AMOUNT OF EACH DISBURSEMENT THIS PERIOD
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NAME, ADDRESS, CITY, STATE, ZIP IFM CONSULTING CORPORATION 13030 K ST. NW, STE. 109 WASHINGTON DC 20007	PURPOSE OF DISBURSEMENT PROFESSIONAL SERVICE DISBURSEMENT FOR:	10/13/92	5000.00
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NAME, ADDRESS, CITY, STATE, ZIP WILEY, REIN & FIELDING 1776 K STREET NW WASHINGTON DC 20006	PURPOSE OF DISBURSEMENT PROFESSIONAL SERVICE DISBURSEMENT FOR:	10/06/92	10629.44
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NAME, ADDRESS, CITY, STATE, ZIP NATIONAL RIGHT TO LIFE COMM. 1419 7TH ST. NW, STE. 300 WASHINGTON DC 20004	PURPOSE OF DISBURSEMENT CONTRIBUTION DISBURSEMENT FOR:	10/02/92	25000.00
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NAME, ADDRESS, CITY, STATE, ZIP AMERICAN DEFENSE FOUNDATION 1055 NORTH FAIRFAX STREET ALEXANDRIA VA 22314	PURPOSE OF DISBURSEMENT CONTRIBUTION DISBURSEMENT FOR:	10/02/92	250000.00
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NAME, ADDRESS, CITY, STATE, ZIP NRSC/BUILDING FUND 1425 SECOND STREET NE WASHINGTON DC 20002	PURPOSE OF DISBURSEMENT TRANSFER DISBURSEMENT FOR:	10/14/92	100000.00
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NAME, ADDRESS, CITY, STATE, ZIP WILEY, REIN & FIELDING 1776 K STREET NW WASHINGTON DC 20006	PURPOSE OF DISBURSEMENT VOIDED CHECK DISBURSEMENT FOR:	10/06/92	10629.44
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NAME, ADDRESS, CITY, STATE, ZIP	PURPOSE OF DISBURSEMENT		
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SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional)	390,000.00
TOTAL THIS PERIOD (last page this line number only)	390,000.00