

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3  
4 In the Matter of: )  
5 )  
6 )  
7 Jamestown Associates LLC and )  
8 Larry Weitzner )  
9 )

MUR 5026

10 **GENERAL COUNSEL'S BRIEF**

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13  
14 **I. INTRODUCTION**

15 This matter originated with a complaint filed by David Plouffe, Executive Director,  
16 Democratic Congressional Campaign Committee, alleging that Larry Weitzner and his company  
17 Jamestown Associates LLC ("Jamestown") (collectively "respondents"), violated the Federal  
18 Election Campaign Act of 1971, as amended ("the Act") in connection with advertisements  
19 produced and distributed on behalf of congressional candidate Dick Zimmer.<sup>1</sup> More specifically,  
20 the complaint alleged that Weitzner who, through Jamestown, served as Zimmer's principal  
21 consultant during the 2000 Republican primary, participated in coordinating radio and direct  
22 mail advertisements that sought to link Mike Pappas, Zimmer's opponent for New Jersey's 12<sup>th</sup>  
23 congressional seat, with the Ku Klux Klan ("KKK"). On February 14, 2004, the Commission  
24 found reason to believe that Weitzner and Jamestown violated 2 U.S.C. § 441b.

25 The Office of the General Counsel has investigated the allegations, examined documents,  
26 and interviewed or deposed a number of witnesses in this matter. The evidence obtained during

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<sup>1</sup> All of the facts relevant to this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub L. 107-155, 116 Stat 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act or statements of law regarding provisions of the Act contained in this report refer to the Act as it existed prior to the effective date of BCRA. Similarly, all citations to the Commission's regulations or statements of law regarding any specific regulation contained in this report refer to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

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1 this investigation reveals that respondents participated in a scheme to fund, produce and  
2 distribute the anti-Pappas advertisements for the benefit of one of Jamestown's clients, Zimmer  
3 2000, Inc. ("Zimmer 2000" or "Zimmer committee"). In order to distance the activity from  
4 Jamestown and Zimmer 2000, Weitzner and Jamestown participated in this scheme in  
5 conjunction with Fox Media Consulting LLC, which firm permitted respondents to use its name  
6 in the production and distribution of the advertisements, and a third-party non-profit corporation,  
7 New Jersey Citizens for Tax Reform. The activity was deliberately structured in such as way as  
8 to distance it from Jamestown and Zimmer 2000. As a result of this activity, the General  
9 Counsel is prepared to recommend that the Commission find probable cause to believe that  
10 Weitzner and Jamestown knowingly and willfully violated 2 U.S.C. § 441b by receiving these  
11 coordinated in-kind corporate contributions on behalf of the Zimmer committee.

12 The scheme flowed from Weitzner's relationships and interactions with the following  
13 group of individuals and entities, all of whom are discussed below in the summary of facts:

- 14 - Dick Zimmer: candidate for New Jersey's 12<sup>th</sup> congressional district in 2000. Zimmer  
15 2000 was his authorized committee for that race. He was also a longtime friend of  
16 Weitzner's and a client of Jamestown's;  
17
- 18 - Tom Blakely: vice-president at Jamestown and district office manager for Zimmer when  
19 he held the 12<sup>th</sup> congressional seat from 1991-1997. He also operated Fox Media out of  
20 Jamestown's offices, through which entity he produced and distributed the anti-Pappas  
21 advertisements;  
22
- 23 - Megan Jencik: media buyer for Jamestown who also worked for Zimmer 2000 during the  
24 primary and later placed the subject advertisements at the direction of Blakely;  
25
- 26 - New Jersey Citizens for Tax Reform ("NJCTR"): NJCTR served as the sponsor for the  
27 subject anti-Pappas advertisements under the name "Citizens for Tax Reform;"  
28
- 29 - John Sheridan: incorporated NJCTR and served as a member of its Board of Trustees.  
30 Sheridan met Zimmer, Weitzner and Blakely in the 1990s through a New Jersey based  
31 anti-tax movement. He deposited the funds solicited for the anti-Pappas advertisements  
32 into NJCTR's bank account, which funds he then issued to Fox Media to pay for the  
33 production and distribution of these advertisements; and

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- 1  
2 - Jim Treffinger: a candidate in the June 2000 Republican primary election for the U.S.  
3 Senate and a client of Jamestown's. He solicited some of the funds donated to NJCTR  
4 that were used to produce and distribute the anti-Pappas advertisements.  
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6 **II. SUMMARY OF FACTS**

7 **A. Background**  
8

9 1. Jamestown and the Zimmer Primary Campaign

10 Jamestown served as the principal campaign consultant for Zimmer's 2000 bid for  
11 election to the 12<sup>th</sup> congressional district.<sup>2</sup> See Weitzner Tr. at 107; Zimmer Tr. at 32. In 2000,  
12 Jamestown and the Zimmer committee were so closely aligned that they operated out of the same  
13 office, just as they had done during Zimmer's 1996 senatorial campaign. During the 2000  
14 election, the two entities shared space, first in Princeton, New Jersey and, as of January 2000, in  
15 Lawrenceville, New Jersey. See Zimmer Tr. at 42-44; Blakely Tr. at 86, 120, 136; Weitzner Tr.  
16 at 82, 86, 87.

17 By 2000, Jamestown had about a dozen clients, 95% of which were political.<sup>3</sup> See  
18 Weitzner Tr. at 34, 35. Zimmer 2000 was one of Jamestown's biggest clients during the 2000  
19 election cycle, see Weitzner Tr. at 109, and Jamestown also provided Zimmer 2000 with

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<sup>2</sup> Weitzner formed Jamestown as a limited liability company in March of 1995. Jamestown has two members, Weitzner and his wife, Jacqueline See Weitzner Tr. at 27 The company files with the IRS as a partnership. Ex 1, Response #1.

<sup>3</sup> In 2000, Jamestown had one employee and five independent consultants. See Weitzner Tr. at 43, 44; Blakely Tr. at 137. Independent consultants Blakely and Adam Geller handled client accounts for Jamestown, which position included dealing with political issues and providing media services See Weitzner Tr. at 47, 48. Blakely, Geller and media buyer Jencik were paid monthly retainers. See Weitzner Tr. at 45, 46, Ex 3 Jamestown also utilized the services of two graphic artists and a media technician See Weitzner Tr. at 44 Jencik, the graphic artists and the media technician worked on all of Jamestown's client accounts See Weitzner Tr. at 119, Blakely Tr. at 137, 150 Consultants were encouraged to market Jamestown to prospective clients and, if successful, were rewarded with a year-end bonus See Weitzner Tr. at 52-55. According to a former Jamestown consultant, even if a potential client wanted to hire a particular Jamestown consultant for a project, that client, if taken on, was considered a Jamestown client. The former consultant indicated that Jamestown would issue the invoices to the client.

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1 more professional services than any other vendor.<sup>4</sup> As a result of Zimmer 2000's primacy as a  
2 Jamestown client, the committee received the full benefit of Jamestown's facilities, staff and  
3 resources. *Id.* In addition to Weitzner, who served as the lead consultant on this account,  
4 Jamestown vice president Blakely and media buyer Jencik worked on the Zimmer primary  
5 campaign. Ex. 1, Response 2a; *see also* Zimmer Tr. at 80-82. Jamestown provided Zimmer  
6 2000 with overall strategy and media production, including direct mail and television and radio  
7 advertisements. *See* Weitzner Tr. at 109. According to Weitzner, providing Zimmer 2000 with  
8 strategic advice meant developing the campaign's overall theme and determining "the best way  
9 to win an election." *See* Weitzner Tr. at 116, 117.

10 Jamestown participated in the Zimmer committee's day-to-day operations through the  
11 recruitment and hiring of staff for the 2000 campaign. Zimmer's reliance on Jamestown was  
12 such that a number of the Zimmer committee's staff transferred from or worked for Jamestown  
13 prior to joining the campaign. *See* Zimmer Tr. at 72, 73. *See also*, Blakely Tr. at 98. For  
14 example, Jamestown media buyer Jencik worked directly for the campaign as a consultant from  
15 August 1999 through April 20, 2000 while continuing to function as Jamestown's media buyer.  
16 *See* Zimmer 2000: 1999 Mid-Year Report; 1999 Year-End Report; 2000 April Quarterly Report;  
17 and 2000 12-Day Pre-Primary Report; Ex. 2.<sup>5</sup> According to Jencik, Weitzner recommended that

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<sup>4</sup> FEC disclosure reports indicate that about half of the total amount of money disbursed by Zimmer 2000 between February 9, 1999 and the date of the primary, June 6, 2000, was paid to Jamestown (\$441,113.19 out of \$866,019.73). *See* Zimmer 2000's: 1999 Mid-Year Report; 1999 Year-End Report, 2000 April Quarterly Report; and 2000 12-Day Pre-Primary Report. FEC disclosure reports indicate that Jamestown received \$905,994.61 as a result of consulting on the Zimmer campaign during the general election. *See* Zimmer 2000's. 2000 July Quarterly Report, 2000 October Quarterly Report, 2000 Pre-General Report, 2000 Post General Report, and 2000 Year-End Report. In total, for both the 2000 primary and general elections, the Zimmer committee paid Jamestown \$1,347,107.80

<sup>5</sup> Jamestown's Quicken records, which are limited to reflect payments made to Jencik from January 2000 through June 15, 2000, indicate that she was paid her \$1,500 semi-monthly retainer as usual in February, March, May and June 2000. Ex. 2.

1 she work on the campaign. According to a former Jamestown consultant, Zimmer 2000 treasurer  
2 and fundraiser Maria Chappa also received her entrée to the campaign through Jamestown.  
3 Weitzner, who testified that Chappa has worked as a consultant for other Jamestown clients,  
4 interviewed her for the position with the committee. *See* Weitzner Tr. at 126. Similarly, Zimmer  
5 staffer Jeff Pinsky joined the campaign after working as a Jamestown intern. *See* Weitzner Tr. at  
6 130, 131.<sup>6</sup>

7 The evidence suggests that Weitzner and Blakely helped Zimmer choose John Holub, a  
8 field operative on Zimmer's senate campaign, over other candidates to serve as campaign  
9 manager. *See* Zimmer Tr. at 58, 59. Weitzner stated that he was sure he interviewed Holub,  
10 whom he knew from "New Jersey political circles," for the position.<sup>7</sup> *See* Weitzner Tr. at 125,  
11 126; *see also* Zimmer Tr. at 59. Zimmer testified that he relied on Blakely for advice on hiring  
12 when Blakely had a personal familiarity with the individual; so it is likely that Blakely, who had  
13 known Holub for seven years, worked with him on a number of prior political campaigns and  
14 considered him a friend, assisted Zimmer in choosing Holub as the Zimmer committee's  
15 campaign manager.<sup>8</sup> *See* Blakely Tr. at 95-97; Zimmer Tr. at 72, 73.

16 Similarly, Blakely interviewed and hired Matthew Cherney, Zimmer's driver and  
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<sup>6</sup> According to Weitzner and a former Jamestown associate, Zimmer 2000 staffer Richard White also worked at Jamestown for a period of time. It is not known whether his tenure on the campaign was before or after he worked at Jamestown. *See* Weitzner Tr. at 132, 133. *See also* Zimmer Tr. at 54.

<sup>7</sup> In 2002, Holub joined Jamestown as an independent consultant. *See* Weitzner Tr. at 135, Blakely Tr. at 99.

<sup>8</sup> Blakely testified that it was possible he referred Holub for the job as Zimmer's campaign manager or had some involvement in Holub obtaining the position. *See* Blakely Tr. at 98. Blakely admitted that he had recommended Holub for work over the years, although he was unable to recall to which campaigns he had provided those recommendations. *Id.* at 98, 99.

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1 scheduler for the 2000 campaign. According to Cherney, he found out about the job through  
2 Jamestown independent consultant Adam Geller and was interviewed by Blakely who explained  
3 his duties and salary. Cherney said that he never interviewed with campaign manager Holub and  
4 that he did not meet Zimmer until after he was hired.

5 2. Weitzner Has Had Longstanding Relationships with Zimmer and Blakely  
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7 Weitzner and Zimmer have known each other as political colleagues and friends for  
8 about 26 years. *See* Weitzner Tr. at 23, 24; Zimmer Tr. at 31, 32, 34. Weitzner first met Zimmer  
9 in 1979 while working as a volunteer for Zimmer's campaign for a seat in the New Jersey State  
10 Assembly and he worked on all of Zimmer's subsequent state political campaigns, which  
11 included re-election to the State Assembly and election to the State Senate. *Id.* In 1990, Zimmer  
12 asked Weitzner to manage his first campaign for the 12<sup>th</sup> congressional district. *See* Weitzner Tr.  
13 at 25; Zimmer Tr. at 31-32. It was around this time that Weitzner started working professionally  
14 as a part-time political consultant. *See* Weitzner Tr. at 26. Prior to formalizing his business as  
15 Jamestown LLC, Weitzner served as the principal political consultant for Zimmer's 1992 and  
16 1994 congressional campaigns. *See* Weitzner Tr. at 107. After formalizing Jamestown as a  
17 limited liability company, Weitzner served as the principal campaign consultant for Zimmer's  
18 1996 campaign for the United States Senate. *See id.* at 107, 108; Zimmer Tr. at 74.

19 Blakely has known Weitzner and Zimmer for about fifteen years, and during that time  
20 has worked with both of them in various capacities. Blakely first met Weitzner in 1989 while he  
21 was working for the Republican State Committee. *See* Blakely Tr. at 34, 35; Weitzner Tr. at 61,  
22 62. He met Zimmer in 1990 while working as a field operative on Zimmer's first congressional  
23 campaign, which Weitzner managed. *See* Weitzner Tr. at 25; Zimmer Tr. at 31-32. Zimmer  
24 won that election and Blakely became his district director, a position he held during Zimmer's

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1 six years in Congress (1991-1997). *See* Blakely Tr. at 27-29; Zimmer Tr. at 35. Blakely took a  
2 leave of absence from his position in Zimmer's congressional office in 1992 to manage  
3 Zimmer's re-election campaign and in 1996 he managed Zimmer's senatorial campaign. *See*  
4 Blakely Tr. at 26, 27-29; Zimmer Tr. at 35-37; *see also* Jamestown Website,  
5 <http://web.archive.org/web/20000920075508/www.jamestownassociates.com> (last accessed May  
6 5, 2005). In 1998, the same year that Blakely became an independent media consultant, he was  
7 hired by Weitzner to join Jamestown. *See* Blakely Tr. at 26. According to Jamestown's former  
8 bookkeeper, Bridget Capasso, in 2000 Blakely held the title of Jamestown vice president and was  
9 considered second in line at the company after Weitzner.

10 3. Zimmer, Weitzner and Blakely Had a Longstanding Relationship with Sheridan

11  
12 Weitzner, Blakely, Zimmer, and NJCTR spokesman Sheridan have had longstanding  
13 professional and personal relationships through their association with several New Jersey based  
14 anti-tax groups during the 1990s. From around 1990 through 2000, Sheridan served as a non-  
15 voting board member and advisor to one such group called Hands Across New Jersey ("HANJ").  
16 *See* Sheridan Tr. at 71. Sheridan testified that he interacted with Weitzner frequently during this  
17 time period because Jamestown handled HANJ's advertising. *See* Sheridan Tr. at 92-4.  
18 Sheridan testified that he and Weitzner were on such familiar terms that Sheridan would  
19 frequently visit the Jamestown offices in both Princeton and Lawrenceville to talk with Weitzner  
20 about what was "going on at the state house." *See* Sheridan Tr. at 207-209. Sheridan's  
21 continued access to what was effectively the Zimmer committee's headquarters during the 2000  
22 election provided him with an opportunity to learn about the Zimmer campaign's plans and  
23 activities. Sheridan, however, insisted that, apart from Weitzner, he did not know anyone who  
24 worked for the Zimmer committee, did not see Zimmer during the primary and did not discuss

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1 the Zimmer campaign while he was working on the anti-Pappas advertisements. *See* Sheridan  
2 Tr. at 87, 89, 103.

3 Sheridan also stated that while Blakely did not have an official role with HANJ, he was a  
4 HANJ supporter and provided advice on political and legislative issues. *See* Sheridan Tr. at 74,  
5 75; *see also* Zimmer Tr. at 23; Blakely Tr. at 18-20. According to Bobbie Horowitz, who served  
6 for a time as HANJ's president, HANJ relied on Blakely to advise the Board of Directors how to  
7 operate as a grassroots organization and navigate controversial issues. Sheridan testified that he  
8 contacted Blakely at the Jamestown offices on business matters prior to the NJCTR advertising  
9 campaign. *See* Sheridan Tr. at 209, 210. For example, Sheridan recalled contacting Blakely at  
10 Jamestown in January 2000, which contacts were likely related to a HANJ-sponsored advertising  
11 campaign.<sup>9</sup> *See* Sheridan Tr. at 209, 210, 301, 302; Weitzner Tr. at 18.

12 Sheridan testified that he first met Zimmer around 1990 during a meeting relating to a  
13 ballot initiative opposing Governor Jim Florio's tax increases, which initiative HANJ supported.  
14 *See* Sheridan Tr. at 85-6. Zimmer confirmed in his testimony that he worked with HANJ, noting  
15 that they had common political objectives. *See* Zimmer Tr. at 20-22.

16 Weitzner, Zimmer, Blakely, and Sheridan also had interactions through a now defunct  
17 organization that Zimmer founded and chaired, called the Coalition for Lower Taxes ("CLT").  
18 Weitzner served as executive director and media consultant for CLT and Blakely volunteered for  
19 the group.<sup>10</sup> *See* Zimmer Tr. at 16, 17; Weitzner Tr. at 14, 15; Blakely Tr. at 15, 16; *see also*

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<sup>9</sup> Testimony indicates that the last project Sheridan hired Jamestown to do for HANJ was an anti-Bill Bradley advertisement that ran in New Hampshire during the presidential primary on or about January 2000. Blakely and Weitzner both worked on this project. *See* Sheridan Tr. at 301, 302; Weitzner Tr. at 18.

<sup>10</sup> CLT appears to have shared space with Jamestown and Zimmer for Senate, Inc. *See* Zimmer Tr. at 18. *See also* MUR 4238 (Zimmer for Senate, Inc.) (Designation of Counsel form for CLT dated February 2, 1997).

1 MUR 4238 (Zimmer for Senate, Inc.) (CLT and Weitzner, as CLT's executive director, were  
2 respondents in this matter involving alleged coordinated advertisements opposing a potential  
3 federal candidate). Sheridan testified that he and HANJ supported CLT's agenda and attended  
4 its meetings. *See Sheridan Tr. at 73.*

5 The evidence indicates that Weitzner and Blakely's relationships with Sheridan went  
6 beyond their political association. Over the years, Weitzner and Blakely have also been  
7 customers at Valley Furniture, Inc., where Sheridan manages the conservation and restoration  
8 departments. *See Sheridan Tr. at 67, 211, 212.* Sheridan testified he has "done a lot of furniture"  
9 for Weitzner and his wife over the years and that they purchased a dining room set about a year  
10 ago. *See Sheridan Tr. at 211; Weitzner Tr. at 20.* Sheridan has restored furniture for Blakely and  
11 also provided advice on prospective purchases. *See Sheridan Tr. at 212; Blakely Tr. at 242.*

12 **B. Prelude to the Anti-Pappas Advertisements**

13 **1. The Bennett Letter**

14 Zimmer testified that his campaign against Pappas was going well during March and  
15 April 2000. He was leading in his committee's polls and had won the endorsement of all five  
16 county party organizations, which victory gave him preferred ballot position. According to  
17 Zimmer, the campaign was going so well that Pappas's own county chairman endorsed Zimmer.  
18 *See Zimmer Tr. at 84, 85.*

19 According to Pappas, however, his internal polling indicated that he, and not Zimmer,  
20 was the candidate more likely to defeat Democratic candidate Rush Holt. Pappas indicated polls  
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1 taken in late March 2000 showed him gaining ground on Zimmer as the primary drew closer.  
2 According to Pappas, his committee was encouraged by the results of a GOTV/voter  
3 identification program informing voters how close on the issues Zimmer was to Democratic  
4 incumbent Rush Holt. *See also Pappas Poll Shows Him Beating Holt*, HOUSE RACE HOTLINE,  
5 March 30, 2000 (Pappas Public Opinion Strategies Poll released March 29, 2000 in which  
6 Pappas fares better than Zimmer in general election matchups against incumbent Holt). It is  
7 probable that the Zimmer committee was well aware of the press reports of Pappas's continued  
8 viability as a candidate, including an article carried in the e-publication politicsnj.com, which  
9 noted that "Pappas has come on strong lately."<sup>11</sup> *See Politicsnj / Torricelli for Governor Seems*  
10 *an Unlikely Scenario*, March 7, 2000, at <http://www.politicsnj.com/March72000>.

11 The evidence suggests that the Zimmer committee and its Jamestown consultants were  
12 concerned enough about Zimmer's chances in the primary to begin employing a strategy of  
13 utilizing third parties in an effort to effect Pappas's withdrawal from the race. Weitzner testified  
14 that the campaign, which wanted to conserve its resources, made a "determined effort" to  
15 discourage Pappas from filing.<sup>12</sup> *See Weitzner Tr.* at 150, 151. According to Weitzner, Zimmer  
16 was the more electable candidate – Pappas lost every county convention, was not raising any  
17 money, and the Republican Congressional Leadership wanted Zimmer as the candidate. *Id.* at

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<sup>11</sup> The political website politicsnj.com compiles political news from the morning newspapers and provides advice, opinion and commentary. It is "mandatory daily reading for the political class in New Jersey..." Herb Jackson, *Website Keeps Them All Guessing Delivers More Scoop than Ben and Jerry's* NEW JERSEY RECORD, May 6, 2002. Weitzner testified that he was a "pretty regular reader" of the site in 2000 and had even contributed information via e-mail. *See Weitzner Tr.* at 139. Blakely admitted that he read it "frequently" in 2000 and had also contributed articles. *See Blakely Tr.* at 106 ,107 Zimmer was also a reader of the e-publication *See Zimmer Tr.* at 93

<sup>12</sup> It is likely that Weitzner was referring to the requirement that candidates in New Jersey must file petitions to get on the ballot *See* <http://www.state.nj.us/lps/election>

1 151. Weitzner admitted that he and Holub spoke to the NRCC about having members of  
2 Congress call Pappas to discourage him from running by convincing him that his chances of  
3 winning were poor. *See* Weitzner Tr. at 151. These efforts were unsuccessful. *Id.* at 152.

4 Weitzner and the Zimmer committee next tried to achieve the desired result by having a  
5 member of the New Jersey State Republican Leadership urge Pappas to withdraw from the race.  
6 This effort was more heavy-handed than the efforts made through the NRCC in that respondents  
7 used this third party to call for Pappas's withdrawal using inflammatory and negative  
8 information culled from the Zimmer committee's own opposition research file, and  
9 communicated this message directly to Pappas and the New Jersey political cognoscenti.

10 Specifically, Zimmer 2000's opposition research file contained information relating to  
11 Pappas's connection to the Pillar of Fire International Christian Church and the alleged  
12 association of its founder, Alma White, with the Ku Klux Klan ("KKK"), which information  
13 Zimmer testified was gathered as a part of the committee's "normal opposition research." *See*  
14 Zimmer Tr. at 70, 71. Zimmer decided that this was not an appropriate issue to use during the  
15 primary and so advised Weitzner and Holub during discussions held at the campaign's  
16 headquarters. *See* Zimmer Tr. at 96, 97, 101, 102. Zimmer testified that he believed this  
17 discussion was enough to keep Weitzner "from doing what I didn't want him to do." *See*  
18 Zimmer Tr. at 102.<sup>13</sup> Nonetheless, Jamestown and the campaign's staff used this information  
19 against Pappas through the vehicle of an "open letter," ostensibly authored by a third party, State  
20 Senate Majority Leader John O. Bennett ("Bennett letter"). *See* Zimmer Tr. at 101. Bennett was

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<sup>13</sup> Weitzner admitted that the issue of Pappas's connection with the Pillar of Fire International Christian Church and its founder's alleged connection with the KKK was discussed with the campaign. *See* Weitzner Tr. at 192. Blakely testified that he might have seen the Zimmer campaign's opposition file research, but could not recall specifically. *See* Blakely Tr. at 168, 169.

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1 a friend and former State Senate colleague of Zimmer, and a former Jamestown client.<sup>14</sup> Zimmer  
2 Tr. at 85, 86.

3 The Bennett letter, dated April 11, 2000, was sent directly to Pappas and also distributed  
4 on the e-publication, politicsnj.com. Ex. 4. It urged Pappas to withdraw from the primary, in  
5 part because of his association with the Pillar of Fire church. The fourth paragraph of the letter  
6 stated:

7 The Democrats will not hesitate to exploit the recent news article detailing your  
8 employment with the Pillar of Fire church and its association with the Ku Klux Klan.  
9 And I am certain the Democrats can't wait to dust off their commercial of you singing,  
10 "Twinkle, Twinkle Kenneth Star." Ex. 4.

11 According to Bennett, while he takes overall responsibility for the letter, he was not its  
12 true author. Bennett indicated that the letter was not generated out of his office and it contained  
13 certain information that he was unaware of at the time of the letter's release. Specifically,  
14 Bennett knew nothing about and did not write the sentence in paragraph four relating to Pappas's  
15 connection to the Pillar of Fire International Christian Church and the alleged link between that  
16 church and the KKK. Bennett believes that his participation in the letter originated with a call  
17 from Zimmer. According to Bennett, it is likely he discussed the mechanics of generating the  
18 letter, such as providing his letterhead and his signature, with either Blakely or Holub.

19 While Zimmer claims he did not permit his own campaign to use the information relating  
20 to Pappas and his association with the Pillar of Fire International Christian Church, the evidence  
21 suggests that he did not have a problem with the information being used on his behalf by a third  
22 party. *See* Zimmer Tr. at 88, 89, 97. Zimmer's deposition testimony indicates that he played, at

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<sup>14</sup> Bennett ran against Pappas in the 1996 Republican congressional primary for New Jersey's 12<sup>th</sup> congressional seat. According to Bennett, Jamestown provided him with consulting services during this congressional campaign. Bennett also indicated that he had worked with both Blakely and Weitzner in the past. *See also* Weitzner Tr. at 148

1 the very least, some kind of oversight role with regard to the Bennett letter. Although Zimmer  
2 was unable to recall whether he had input into its content or specifically approved its release, he  
3 testified that he was sure he discussed the letter with Weitzner at around the time it was written  
4 and admitted that he probably saw the letter itself at some time in April 2000. *Id.* at 87, 92.  
5 Zimmer testified that he could not rule out that he called Bennett and asked him to sign the letter.  
6 *Id.* at 88, 89.

7 The evidence confirms that Weitzner and campaign manager Holub were directly  
8 involved in the creation and distribution of the letter. *See* Weitzner Tr. at 149, 150, 152; Zimmer  
9 Tr. at 87-90, 92. In particular, Weitzner remembered drafting parts of the letter but was unable  
10 to recall what he specifically contributed.<sup>15</sup> *See* Weitzner Tr. at 152. It is reasonable to infer that  
11 Weitzner was responsible for inserting the language relating to the issue of Pappas and the Pillar  
12 of Fire International Christian Church's connection with the KKK Pappas into the Bennett letter,  
13 given that he engaged in prior efforts to eject Pappas from the primary, had access to the Zimmer  
14 committee's opposition file with its references to that issue, and drafted all the other scripts for  
15 the Zimmer campaign's television, radio and direct mail advertisements. *See* Weitzner Tr. at  
16 118, 151, 192.

17 Through the "open letter" format, Zimmer 2000 was able to use the potentially damaging  
18 information contained in its opposition files about Pappas, his association with the Pillar of Fire  
19 International Christian Church and the church's alleged connections to the KKK while insulating  
20 itself from any criticism about engaging in negative campaigning. It appears that this strategy  
21 was successful as the press never linked Zimmer 2000 to the "open letter" and instead

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<sup>15</sup> Blakely testified that he did not recall being involved in creating the "open letter," but was sure he must have read it when it was posted on-line. *See* Blakely Tr. at 108-110. However, Blakely did state that he saw Bennett frequently and that they may have discussed the letter at some point in time. *Id.*

1 characterized it as a call from New Jersey's Republican political leaders for Pappas to withdraw  
2 from the race and line up behind Zimmer. *See* politicsnj / *Morris Republicans Pursue Possible*  
3 *Open Assembly Seat*, April 14, 2000, at <http://www.politicsnj.com/April112000.html>; Enid  
4 Weiss, *State Majority Leader Calls on Pappas to Drop Out of Race*, NEW JERSEY JEWISH NEWS,  
5 April 27, 2000; *Zimmer Hits Airwave*, HOUSE RACE HOTLINE, April 26, 2000. Once again these  
6 efforts did not have the desired effect, with the press reporting that Pappas's campaign dismissed  
7 Bennett's letter as "sour grapes" stemming from Bennett's loss to Pappas in the 1996 Republican  
8 primary. *State Senate Majority Leader Calls on Pappas to Drop Out of Race*, NEW JERSEY  
9 JEWISH NEWS, April 27, 2000; *see also* Weitzner Tr. at 152.

10 2. Formation of NJCTR and Fox Media

11 Since the strategy of eliminating Pappas as an opponent through leadership intervention  
12 did not work, the evidence suggests that as the primary drew close Weitzner decided to bring the  
13 inflammatory information relating to Pappas's connection to the Pillar of Fire International  
14 Christian Church directly to the electorate through a radio and direct mail advertising campaign.  
15 But, realizing that the harshness of such an attack from the Zimmer committee would damage  
16 Zimmer's candidacy, Weitzner and Blakely arranged to have this anti-Pappas advertising  
17 campaign sponsored by NJCTR, a non-profit corporation controlled by Sheridan, and produced  
18 by Fox Media, the media company run by Blakely out of Jamestown's offices. The evidence  
19 demonstrates that by coordinating the anti-Pappas advertisements through these groups,  
20 Weitzner believed that there was little chance that this activity would be traced back to the  
21 Zimmer committee.

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1 Incorporated as a non-profit with the state of New Jersey in 1997, NJCTR's purpose was  
2 to heighten "public awareness for [*sic*] higher taxes and need for reform."<sup>16</sup> See Sheridan Tr. at  
3 119. The evidence demonstrates that Sheridan, who controlled all of NJCTR's activities, was  
4 favorably inclined to cooperate in a scheme to defeat Pappas in the 2000 Republican primary.  
5 Apart from Sheridan's longstanding relationship with Weitzner and Jamestown and support for  
6 Zimmer, he had tremendous animosity towards Pappas. See Sheridan Tr. at 104-110. According  
7 to Sheridan, Pappas had publicly belittled HANJ and also betrayed the organization through tax  
8 votes made during his tenure as a Freeholder and as a member of Congress. See Sheridan Tr. at  
9 104-107. Sheridan testified that HANJ tried to defeat Pappas in the 1996 primary and general  
10 elections and even went so far as to give his Democratic opponent "everything we had on him."  
11 *Id.* at 107, 109, 110.

12 While NJCTR served as the named sponsor of the planned anti-Pappas advertising  
13 campaign, a virtually unknown media company called Fox Media produced and distributed the  
14 advertisements on behalf of Jamestown. Papers filed with the State of New Jersey indicate that  
15 Blakely formed the company as a single member limited liability company in December 1999,  
16 although Blakely testified that he began soliciting work for Fox Media in late 1998 or early  
17 1999. See Blakely Tr. at 36, 47, 118, 119, 124. The entity, which did no advertising, did not  
18 have a website, and may not have had business cards, allegedly found its clients through "word

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<sup>16</sup> According to Sheridan, NJCTR was an offshoot of HANJ, which until it ceased functioning was a for-profit continuing political committee registered with the New Jersey Election Law Enforcement Commission. He also said that NJCTR was formed to handle national issues while HANJ handled state issues. Bill Green, Holly Ferraro and Bobbie Horowitz, who made up HANJ's Board of Directors as of 2000, are also listed on NJCTR's Incorporation papers as members of its Board of Trustees. See also Sheridan Tr. at 116-121, 133. According to Green, Ferraro and Horowitz, they had little or nothing to do with NJCTR's activities, including but not limited to, its finances. Ferraro and Horowitz indicated that they knew nothing about the anti-Pappas advertisements. This conflicts with statements made by Sheridan in interviews and in his deposition. See Sheridan Tr. at 98, 99, 102, 103, 178, 179, 193, 194, 198, 199, 262.

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1 of mouth.”<sup>17</sup> *Id.* at 124, 125, 131, 135. The investigation indicates that, prior to the press  
2 maelstrom following the release of the anti-Pappas advertisements, Fox Media did not have a  
3 listed telephone number and the firm neither received nor did any publicity. *Id.* 128-130.  
4 Blakely testified that he was unsure whether those with whom he worked at Jamestown,  
5 including Weitzner and Geller, were aware of Fox Media’s existence or whether he had told  
6 anyone on the Zimmer campaign about his firm.<sup>18</sup> *See* Blakely Tr. at 132, 133, 136, 137.

7 Fox Media and Jamestown were not separate entities in any meaningful way. Rather, Fox  
8 Media’s purpose was to serve as a front organization for certain activities, like the anti-Pappas  
9 advertisements, to which Jamestown did not want to attach its name.<sup>19</sup> The evidence  
10 demonstrates that during the relevant time period, Blakely freely utilized Jamestown facilities  
11 and resources in the operation of Fox Media. Fox Media and Jamestown operated from the same  
12 offices, and shared the services of an attorney as well an accountant. *See* Blakely Tr. at 116,  
13 122, 123; Weitzner Tr. at 27, 28, 36. Fox Media’s mail was delivered to Jamestown’s offices  
14 and its checks carried Jamestown’s address. Ex. 5. Blakely testified that one of Jamestown’s  
15 graphic designers laid out some letterhead for Fox Media. Blakely Tr. at 131, 133. Jamestown’s

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<sup>17</sup> Blakely testified that Fox Media had no clients in 2005 and could not recall whether the company had any clients during the 2002 or 2004 election cycles. *Id.* at 131. Blakely was unable or unwilling to provide the names of any other clients served by Fox Media beyond NJCTR. *Id.* at 130, 143, 148, 149.

<sup>18</sup> Blakely testified that he could not “recall offhand” whether Weitzner knew he had started Fox Media, but he believed that Weitzner may have been aware of the firm. He did not know whether Geller was aware that he had started the firm or whether Jencik was aware of Fox Media’s existence until right before June 1, 2000 when the anti-Pappas advertisements ran. *See* Blakely Tr. at 133, 134. Weitzner testified that he could not recall specifically when he first heard of Fox Media. He claimed that he did not know prior to the publicity surrounding the anti-Pappas advertisements that Blakely was using Jamestown resources and personnel on behalf of Fox Media. *See* Weitzner Tr. at 161, 169, 170. Zimmer thinks he first learned about Blakely’s connection to Fox Media through reading press articles relating to the anti-Pappas advertisements. He testified that he did not know that Fox Media was operating out of Jamestown’s offices. *See* Zimmer Tr. at 46, 47, 111, 123.

<sup>19</sup> According to a former Jamestown consultant, Fox Media was a Blakely/Weitzner creation

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1 bookkeeper Capasso maintained and balanced Fox Media's checkbook, wrote checks for  
2 Blakely's signature and made deposits. *See* Blakely Tr. at 139, 142, 173-5, 209. In fact, Blakely  
3 testified that anyone at Jamestown, including but not limited to Capasso and media buyer Jencik,  
4 was authorized to write a check or make a deposit on Fox Media's behalf. *Id.* at 207-209.

5 According to Jencik and Capasso, Fox Media's use of Jamestown's offices and  
6 Jamestown's resources was not a secret. Capasso indicated that everyone seemed aware that she  
7 was doing work for Fox Media. Certainly the layout of Jamestown's offices at 3131 Princeton  
8 Pike, which is where respondents were located in May and June 2000, made it unlikely that Fox  
9 Media's existence and the nature of its activities were not a matter of general knowledge  
10 amongst those who worked in that office. According to Jencik, Weitzner had a corner office in  
11 between the offices occupied by Capasso and Blakely. Jencik's own office was separated from  
12 Blakely's by a conference room. Jencik indicated that her office was directly across from the  
13 open area in the suite where the file cabinets and the Zimmer 2000 campaign staff had their  
14 desks.

15 **C. The Anti-Pappas Advertisements**

16 **1. Initiation and Funding of the Advertising Campaign**

17 Weitzner and Blakely were the driving forces behind the anti-Pappas advertisements.  
18 The evidence suggests that Blakely engineered NJCTR's sponsorship of the advertising  
19 campaign through his association with Sheridan and that the funds NJCTR used in the anti-  
20 Pappas advertising campaign were deliberately solicited by Weitzner and Blakely from  
21 individuals with no direct ties to Zimmer or his committee.

22 Sheridan stated during an interview that the first contact between NJCTR and Fox Media  
23 relating to the anti-Pappas advertisements occurred in April or May 2000. During this interview,

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1 Sheridan also indicated that Blakely might have called him and asked him if the organization  
2 "was doing anything" on Pappas during the primary. According to Sheridan, it was typical for  
3 political committees and their consultants to approach grass roots organizations such as NJCTR  
4 to see whether they were running advertisements on a particular issue or candidate. On a later  
5 date, after Sheridan had conferred with Blakely about the Commission's investigation, Sheridan  
6 presented a different scenario in which he developed the idea of NJCTR running the  
7 advertisements based on his own research and, claiming this was his usual practice, called  
8 Jamestown to see whether Jamestown could produce and distribute the advertisements.  
9 According to Sheridan, the person he spoke with at Jamestown said Jamestown could not get  
10 involved because they were managing Zimmer's campaign against Pappas, but suggested that he  
11 call Blakely, "who had his own media firm," which presumably was Fox Media. At his  
12 deposition, Sheridan changed his story yet again, testifying that in fact he was not referred to  
13 Blakely after being turned down by Jamestown, but instead Fox Media's name was brought up in  
14 subsequent conversations with political activists whose names he could not recall. *See* Sheridan  
15 Tr. at 98-100.

16 Blakely testified that Sheridan initiated the ad campaign on behalf of NJCTR. *See*  
17 Blakely Tr. at 150. The evidence suggests that the first scenario presented by Sheridan, in which  
18 Blakely made the initial contact with Sheridan, is the most plausible, as that explanation  
19 preceded Sheridan's conferring with Blakely and is consistent with prior efforts to alter the  
20 dynamics of the race, such as the attempts to force Pappas's withdrawal through the use of third  
21 parties via the Republican Congressional leadership and Bennett.

22 An additional factor pointing to Weitzner as the one who instigated the advertising  
23 campaign is that NJCTR did not have the funds or the capability to raise the funds necessary to

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1 underwrite the anti-Pappas advertisements. The group's bank statements show that it started the  
2 month of April with a bank balance of \$31.21. Ex. 6. In fact, there was little activity in the  
3 account during April 2000 and most of May 2000. Despite Sheridan's claims that he raised the  
4 funds for the advertisements himself through a direct mail solicitation, the fact is that neither  
5 Sheridan nor anyone else connected with NJCTR solicited the funds used to produce and  
6 distribute the anti-Pappas advertising campaign. See Sheridan Tr. at 186-192. According to  
7 NJCTR board member Green, NJCTR had generated fundraising letters in the past, but never  
8 raised much money as the average contribution was in the range of \$35.<sup>20</sup>

9 As the following chart demonstrates, between May 31, 2000 and June 5, 2000, NJCTR  
10 deposited six checks totaling \$90,000 into its bank account. Ex. 7. Fifty-thousand dollars  
11 (\$50,000) came from a single donor, Thomas Ferguson, whose son, Representative Mike  
12 Ferguson, was one of Jamestown's biggest clients in 2000. See Weitzner Tr. at 112. Another of  
13 Jamestown's biggest clients, Essex County Executive and U.S. Senate candidate James  
14 Treffinger, solicited the remaining \$40,000 from three of his supporters. *Id.* It does not appear  
15 that these four individuals were aware that their donations to Citizens for Tax Reform ("CTR")  
16 were going to be used to underwrite an advertising campaign opposing Pappas.<sup>21</sup>

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<sup>20</sup> NJCTR board member Horowitz, who knew nothing about the anti-Pappas advertising campaign, was unaware that the organization was raising money and did not know of any large donations to group, including any in the amount of \$50,000.

<sup>21</sup> The evidence suggests that in a further effort to obscure the true identities of those involved in the scheme, the sponsoring organization was identified to donors and the public as Citizens for Tax Reform and not New Jersey Citizens for Tax Reform. All six checks were made out to CTR. Ex. 7 Documents related to the airing of the radio advertisements as well as the checks to the radio stations that Fox Media produced during the investigation also refer to the sponsoring organization as CTR. Ex. 7, Ex. 8

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1

DEPOSIT DATE	PAYOR	AMOUNT
May 31, 2000	Thomas Ferguson	\$50,000
June 1, 2000	SSH, Inc. Check signed by: Vernon W. Hill II	\$10,000
June 1, 2000	COMPAC NJ Check signed by: Vernon W Hill II	\$10,000
June 5, 2000	Correctional Health Services, Inc Check signed by: Robert Detore and Andrew Cavaliere	\$10,000
June 5, 2000	King Realty Assoc. LLC Check signed by: Anthony Marino	\$5,000
June 5, 2000	Barbara Realty Check signed by: Anthony Marino	\$5,000
		<b>Total: \$90,000</b>

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Thomas Ferguson does not have a specific memory of the circumstances surrounding the solicitation that resulted in him issuing a check for \$50,000 to CTR.<sup>22</sup> He was under the impression that CTR was somehow connected to Americans for Tax Reform ("ATR").<sup>23</sup> According to Ferguson, if CTR was a state chapter of ATR, it would be the type of conservative organization that would support candidates he wanted to support. Ferguson offered that he hoped that CTR would contribute to his son and other Republicans running at the time.

<sup>22</sup> According to Ferguson, he did not support either Zimmer or Pappas in the 2000 Republican primary. Ferguson indicated that he was disinclined to contribute to either Zimmer or Pappas in 2000 because the former was pro-choice and the latter failed to demonstrate the appropriate gravitas while he was serving in Congress.

<sup>23</sup> Sheridan testified that NJCTR was not a state chapter of ATR. See Sheridan Tr. at 134. CTR, however, is listed as a coordinating organization for Americans for Tax Reform's 1997 State Taxpayer Protection Pledge. This list also provides Sheridan's home address as the New Jersey address for CTR. See *State Taxpayer Protection Pledge Listing of State Organizers as of October 14, 1997* <http://home.southwind.net/~ktn/statepledge.html>

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1 While most requests for donations and contributions would have to be in writing and go  
2 through his personal staff, Ferguson acknowledged that Weitzner was among those individuals  
3 who could have gotten through to him directly to request a donation or contribution.<sup>24</sup> Ferguson  
4 knew Weitzner and Blakely because Jamestown was the consultant on his son's 1998 and 2000  
5 congressional campaigns.<sup>25</sup> *See also* Weitzner Tr. at 140, 141; Blakely Tr. at 55, 58. According  
6 to a former Jamestown consultant, Ferguson was heavily involved in his son's 2000 campaign  
7 and called the office frequently. Ferguson's interactions with Jamestown included his attendance  
8 at polling meetings presided over by Arthur Finkelstein, one of Jamestown's consulting pollsters,  
9 and telephone discussions with Weitzner. *See* Weitzner Tr. at 141, 144; Blakely Tr. at 61.  
10 Ferguson and Weitzner were on such good terms that Weitzner even attended a private reception  
11 that Ferguson hosted at a Washington, D.C. restaurant during the 2004 presidential inauguration.  
12 Weitzner Tr. at 142-143. Thus, the relationship between Ferguson and Weitzner was sufficiently  
13 close that, considering all the other circumstances as well, an inference can be drawn that  
14 Weitzner was involved, directly or indirectly, in this solicitation.

15 Jim Treffinger solicited the remaining \$40,000 for NJCTR.<sup>26</sup> An inference can be drawn  
16

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<sup>24</sup> According to Ferguson, Zimmer and Blakely could also reach him directly. Ferguson did not know Treffinger

<sup>25</sup> Weitzner testified that the Ferguson for Congress committee was a big client for Jamestown in 2000. *See* Weitzner Tr. at 112.

<sup>26</sup> Treffinger was deposed in this matter, but chose to assert his Fifth Amendment right against self-incrimination. Treffinger asserted the Fifth Amendment with respect to virtually all questions posed during the deposition, including but not limited to, questions pertaining to his relationships with Zimmer, Weitzner, Blakely and Sheridan, the identities of those who enlisted his services in soliciting the \$40,000 for NJCTR, the involvement of Zimmer, Weitzner, Blakely and Sheridan in the solicitation and donation of funds to NJCTR, the details and circumstances surrounding his solicitation of these funds; the reasons for his participation in the scheme to raise money for the anti-Pappas advertisements; and his knowledge regarding how the funds he raised were used. *See* Treffinger Tr. at 10-63

1 that he was asked to participate in this scheme by his Jamestown consultants, both of whom he  
2 knew prior to hiring Jamestown as his principal campaign consultant for his 2000 U.S. Senate  
3 campaign.<sup>27</sup> This scenario is made all the more likely given that Treffinger and Blakely enjoyed  
4 significant political and personal connections and Treffinger was willing to use his fundraising  
5 abilities for other candidates to curry favor. Blakely, who came from Essex County, took a leave  
6 of absence from Zimmer's congressional office to manage Treffinger's first campaign in 1994  
7 for Essex County Executive. *See* Blakely at 29. Blakely also served as a strategic advisor during  
8 Treffinger's 1998 re-election campaign. *See* Weitzner Tr. at 54; Blakely Tr. at 64; *see also*  
9 Jamestown Website,  
10 <http://web.archive.org/web/20000920075508/www.jamestownassociates.com> (last accessed May  
11 5, 2005). In addition, Blakely had connections to Treffinger through Blakely's cousin, Kevin  
12 O'Toole, who happened to be Treffinger's chief of staff. *Id.* at 67, 68.

13 Kirnan indicated that Treffinger was eager to help other candidates in order to lay the  
14 groundwork for future runs for office, and that Treffinger was in a position to participate in the  
15 solicitation of these funds in May and June of 2000. According to Kirnan, the Treffinger  
16 campaign had effectively shut down five weeks before the primary, so Treffinger's schedule was  
17 open during what is typically a busy time for campaigns. Moreover, Kirnan indicated that five  
18 weeks before the primary, Treffinger's staff had little to do.

19 According to Kirnan, Treffinger approached him at the Treffinger campaign headquarters  
20 in Verona, New Jersey and said that he "wanted to help our friend Zimmer" in his race by raising

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<sup>27</sup> Blakely served as the lead Jamestown consultant on Treffinger's 2000 U.S. Senate campaign with Weitzner participating in meetings, conference calls and media creation. *See* Blakely Tr. at 62, 63; Weitzner Tr. at 145-146. Weitzner testified that the Treffinger for Senate committee was a big client of Jamestown's in 2000. *See* Weitzner Tr. at 112. According to Weitzner, he and Treffinger met at some point during Treffinger's tenure as Essex County Executive. *Id.* at 145.

1 money for CTR; that the money would be used by the group to "help Zimmer" do a mailing; that  
2 the plan was to approach Treffinger's top supporters and tell them that their contributions to  
3 CTR were important to Treffinger; and that they should give the money as a favor "for Jim."<sup>28</sup>

4 The first checks solicited by Treffinger for CTR appear to be the two \$10,000 checks  
5 signed by Vernon W. Hill II ("Hill"), the president of Commerce Bancorp, Inc. During the  
6 relevant time period, Hill also served as chairman of the bank's state political action committee,  
7 COMPAC NJ.<sup>29</sup> As chairman, he determined which political committees and entities received  
8 contributions and donations. According to Hill, he also had check writing authority for SSH,  
9 Inc. bank accounts, which is a design and architectural firm operated by his wife, Shirley Hill.

10 Hill did not have a specific recollection of the solicitation, but believed that Treffinger,  
11 whom he knew personally, may have asked him to make the contribution. This belief is  
12 supported by the COMPAC NJ's check register, which contained the notation that the check to  
13 "Citizens for Tax Reform" was "for: Treffinger." Ex. 9.

14 According to Robert Detore, Treffinger personally solicited the \$10,000 donation he  
15 made to CTR through Detore's company, Correctional Health Services, Inc.<sup>30</sup> Detore recollected  
16 that Treffinger said that he needed him to contribute \$10,000 to a public interest group.

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<sup>28</sup> Zimmer, who once lived in Essex County, stated that he has known Treffinger since the early 1990s. According to Zimmer, Treffinger helped him in his 1996 campaign for the U S Senate and may have endorsed him in that race. See Zimmer Tr. at 131, 133. Kirnan confirmed that Treffinger and Zimmer were friendly during that time period, often appearing at the same campaign events.

<sup>29</sup> COMPAC NJ does not file with the FEC. It is affiliated with Commerce Bancorps federal PAC, Commerce Bancorp, Inc. - Political Action Committee, which is registered with the FEC.

<sup>30</sup> The check, drawn on a corporate account, was also signed by company CFO, Andrew Cavaliere. According to Detore, company policy at the time was that all checks for over \$5,000 required two signatures.

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1 According to Detore, Treffinger was insistent that he make the donation. When Detore  
2 complained that \$10,000 was "quite a bit of money," Treffinger told him that if he made the  
3 contribution he would not ask Detore to contribute to any of his other political campaigns.  
4 Detore, whose business interests at the time spanned 17 New Jersey counties, felt it was easier to  
5 acquiesce to Treffinger's demands and donate the money. At the time, Detore assumed that the  
6 recipient, CTR, was promoting Treffinger's tax agenda. According to Detore, Treffinger  
7 arranged to have someone, who Detore did not see, pick the check up at his office.

8 Anthony Marino signed two \$5,000 checks issued from bank accounts held by two of his  
9 companies, Barbara Realty and King Realty Associates LLC. According to Marino, Kirman  
10 contacted him in the late afternoon of Friday, June 2, 2000, and requested that he "help  
11 Treffinger" in the upcoming primary. Marino indicated that he made the two donations  
12 assuming that CTR was a Republican political action committee, which would in some fashion  
13 help Treffinger's campaign.

14 Out of the \$90,000 raised, NJCTR issued four checks totaling \$75,000 to Fox Media. Ex.  
15 10. The evidence indicates that Fox Media made disbursements amounting to about \$70,000 on  
16 the advertising campaign: \$50,064.81 on producing and distributing the radio and direct mail  
17 advertisements opposing Pappas and \$23,000 in payments Blakely made to himself and Jencik.  
18 Ex. 11; Ex. 12. Blakely made two payments to himself out of the Fox Media account: one for  
19 \$5,500 on June 5, 2000, and a second one for \$15,000 on June 21, 2000. *See* Blakely Tr. at 186,  
20 187, 201, 202; Ex. 11. Blakely also made a payment to Jencik in the amount of \$2,500 on or  
21 about June 6, 2000. Ex. 13.

22 As the evidence outlined above indicates, the funds used to underwrite the anti-Pappas  
23 advertising campaign were deliberately arranged by Weitzner and Blakely to come from

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1 individuals with no direct ties to Zimmer or his committee.<sup>31</sup> The only discernable connection  
2 between these donors and the anti-Pappas advertisements is that they had significant connections  
3 to two of Jamestown's biggest clients, Representative Mike Ferguson and Treffinger. Blakely  
4 and Weitzner used their connections with Representative Mike Ferguson's father and Treffinger  
5 to raise what they believed would be untraceable funds to generate the anti-Pappas  
6 advertisements.

7           2.       Production and Distribution of the Anti-Pappas Advertisements

8           Weitzner and Blakely testified that the subject radio advertisements stated, at least in  
9 part, that "[t]here is no room in America for hatred and intolerance. Tell Mike Pappas to resign  
10 from the Pillar of Fire, and never work for that type of organization again."<sup>32</sup> See Weitzner Tr. at  
11 179, 185; Blakely Tr. at 169. This message in the radio advertisement was virtually identical to  
12 that of the Bennett letter to Pappas generated by the respondents in early April 2000.

13           The radio advertisements were broadcast on the WCBS, WOR, WCTC and WKXW from  
14 June 1 through June 6, 2000.<sup>33</sup> Ex. 5; Ex. 8. According to Jencik and personnel at WKXW  
15 (NJ101.5 FM), the radio station refused to run this advertisement based on its inflammatory

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<sup>31</sup> None of the individuals or entities that donated to NJCTR appears to have contributed to Zimmer 2000, but the evidence demonstrates that they were supporters of Treffinger. According to the FEC database, Marino, his wife Barbara, Hill and his wife Shirley contributed to Treffinger's 2000 senate campaign committee. Detore made a contribution in 2002 to Treffinger for Senate, Inc. The New Jersey Election Law Enforcement Commission database indicates that the Essex County Republican Committee received contributions from COMPAC NJ in 1998 and 2000, from Barbara Realty in 1998 and 1999, and from Marino in 1999.

<sup>32</sup> Zimmer testified that this statement comports with the content of the advertisement that he heard on or about June 1, 2000. See Zimmer Tr. at 63-65. Zimmer also recalled that the disclaimer identified the sponsor as CTR. *Id.* at 117.

<sup>33</sup> WCBS radio's coverage area includes twenty counties in New York State, New Jersey and parts of Connecticut. See WCBS Website, <http://www.WCBS880.com> (last accessed May 19, 2005). Coverage for WWOR's primary services reaches New York State, New Jersey, Connecticut and parts of Rhode Island. See WWOR Website, <http://www.WOR710.com> (last accessed May 19, 2005).

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1 content and instead ran a CTR sponsored tax advertisement.<sup>34</sup> According to a volunteer for the  
2 Pappas campaign, the substitute was an advertisement critical of one of Pappas's tax votes, the  
3 substance of which was identical to the content of a mailer issued by the Zimmer campaign.<sup>35</sup>  
4 The evidence demonstrates that Fox Media spent \$36,321 on the production, placement and  
5 disbursement of the radio advertisements. Ex. 11; Ex. 12.

6 Although the funds to pay for the advertisements came from NJCTR, the evidence further  
7 demonstrates that the anti-Pappas advertising campaign was a Jamestown project, which  
8 respondents ran through Fox Media in a deliberate effort to hide its origins.<sup>36</sup> Jamestown vice  
9 president Blakely admitted that he managed the project by drafting the script, overseeing  
10 production and distribution and covering the associated costs through his Fox Media bank  
11 account. *See* Blakely Tr. at 150. The advertisements were developed, produced and distributed  
12 using Jamestown's facilities, resources and personnel, including but not limited to, the services  
13 of Jencik in placing the advertisement. Blakely admitted that he provided Jencik with the  
14 information necessary to place the radio buy at her Jamestown office. *See* Blakely Tr. at 216.  
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<sup>34</sup> WKXW is the largest radio station in New Jersey. *See* WKXW's Website, <http://www.nj1015.com> (last accessed May 19, 2005).

<sup>35</sup> The script for a mailer that Jamestown produced on behalf of Zimmer 2000 references several occasions on which Pappas allegedly voted to raise taxes. Ex. 14

<sup>36</sup> Although NJCTR nominally paid for the anti-Pappas advertisements, the evidence suggests that Sheridan was minimally involved in the mechanics of creating these advertisements. For example, Blakely – not Sheridan – decided how long the radio advertisements ran. Sheridan meanwhile did not know how often the advertisements ran, had no idea what the radio advertisements cost, had no idea what he was paying Fox Media to handle the campaign, and had no idea what profit Blakely took for his participation in the project. *See* Sheridan Tr. at 167, 173, 175, 182, 183, 200, 214, 215. According to Capasso, Sheridan telephoned Blakely once or twice at Jamestown during the relevant time period; making it likely that their communications were limited to discussions relating to the transfer of funds to cover the advertising campaign.

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1 Jencik, who had left the Zimmer campaign payroll sometime in April 2000, placed these  
2 advertisements at some point in late May or early June of 2000. Jamestown records reflect that  
3 Jencik continued to receive her regular semi-monthly retainer of \$1,500 during this time period.  
4 Ex. 2. Pam Lewis, who did the voice-overs, and Baker Sound, where the advertisements were  
5 recorded, were both Jamestown vendors. *Id.* at 165, 216, 217.

6 The evidence is equivocal, but it is likely that the respondents were also responsible for  
7 issuing a district-wide mail piece featuring virtually the same content as the radio  
8 advertisements.<sup>37</sup> Although Blakely testified that he couldn't recall doing a direct mail piece on  
9 the same theme as the radio advertisement linking Pappas to the KKK, he did state that his  
10 records appear to reflect distribution of funds for such a project. *Id.* at 157, 231-233. Blakely  
11 was unable to identify any other direct mail projects that Fox Media was involved with at the  
12 time that could account for these disbursements. Based on Blakely's testimony, Fox Media's  
13 bank statements and information from one vendor, it appears that Fox Media spent  
14 approximately \$12,218.81 in payments made to vendors and consultants who worked on the

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<sup>37</sup> In an interview, Sheridan stated that Blakely produced direct mail on behalf of NJCTR. During another interview, Sheridan claimed that he himself printed up some anti-Pappas fliers, which were distributed in some shopping malls and around Pappas's neighborhood by individuals whom he paid in cash. At his deposition, however, Sheridan was unsure whether Fox Media had created an anti-Pappas mailing on NJCTR's behalf. He did state that he, on behalf of NJCTR, produced and had distributed an anti-Pappas flyer, tens of thousands of which were distributed right before the June 2000 primary throughout the entire congressional district. Sheridan claimed that he paid an NJCTR "volunteer" who either owned a copying business or worked in one to print the fliers. Sheridan was unable to recall the first or last name of this individual, identify his business or state how much the project cost. See Sheridan Tr. at 126-131. Sheridan testified that he paid the out of pocket expenses for this project, such as paying the individuals who circulated the fliers as well as the person who arranged for the printing, and then reimbursed himself with an NJCTR check, dated June 14, 2000, for \$4,000. The notation in the check's memo line was "ad campaign production" at *Id.* 273-275.

1 direct mail piece.<sup>38</sup> *Id.* at 197, 198, 231, 232, 233; Ex. 11. At least one of Jamestown's graphic  
2 artists, Sheila "Buffy" Swanson, as well as several of the vendors involved with the labeling and  
3 mailing of the anti-Pappas brochure were Jamestown subcontractors. *See* Weitzner Tr. at 44;  
4 Blakely Tr. at 137.

5 3. Aftermath

6 The anti-Pappas advertisements garnered a great deal of press attention in New Jersey.  
7 *See* Sheridan Tr. at 179; Zimmer Tr. at 110. Weitzner and campaign manager Holub formulated  
8 the Committee's response. *See* Weitzner Tr. at 186, 189; *see also* Zimmer Tr. at 66, 67. The  
9 Zimmer committee publicly responded to these news reports, stating that Jencik had ceased  
10 working for the Zimmer campaign in April 2000 to become an independent media buyer and by  
11 asserting that she had left Jamestown's employment. *See* Aron Pilhofer, *Ex-aide of Zimmer*  
12 *Linked to Ads*, HOME NEWS TRIBUNE, June 3, 2000 (hereinafter, "TRIBUNE article"); *Freshman*  
13 *(19R, 23D) – New Jersey 12: Six Degrees of Separation from Indie Ads?*, HOUSE RACE HOTLINE,  
14 June 5, 2000; Susan Livio, *Democrats File Charges Against Zimmer Over Radio Ad Campaign*,  
15 THE STAR-LEDGER, June 9, 2000. At the time these statements were made, Weitzner knew that  
16 Jencik had placed the anti-Pappas radio advertisements while she was still working as  
17 Jamestown's media buyer. *See* Weitzner Tr. at 119, 129, 185. According to a volunteer for the  
18 Pappas campaign, Jencik was still listed on the Jamestown website on Thursday, June 1, 2000.  
19 *See also*, TRIBUNE article. This individual indicated that by the weekend the entire website had

<sup>38</sup> Based on this evidence, it appears that Fox Media made the following disbursements in connection with the anti-Pappas flyer: Smith Edwards Dunlop - \$2,758 (6/5/00) and \$1,635 (6/16/00), A&E Mailers, Inc. - \$886 (6/6/00) and \$2,086 (6/16/00), Lists and Labels, Inc. - \$2,256 (6/26/00), and Sheila Swanson - \$1,625 (6/26/00). Ex. 11, Ex. 12. Swanson was able to account for at least \$1,025 worth of work that she did for Fox Media in the May and June 2000. Blakely was unable to identify any clients or direct mail projects other than NJCTR that could account for these disbursements. *See* Blakely Tr. at 232

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1 gone off-line.<sup>39</sup> Weitzner's participation in taking down his firm's website represented a  
2 deliberate effort to maintain the fiction that the anti-Pappas advertisements were not coordinated  
3 with the Zimmer campaign.

4 On or about June 6, 2000, Blakely issued a \$2,500 check to Jencik from Fox Media's  
5 bank account. Ex. 13. This single payment to Jencik, which Blakely made only after she was  
6 identified in the press as having been connected to the anti-Pappas advertisements, was one and  
7 two thirds as much as her semi-monthly retainer of \$1,500. *Id.*; *see also* Blakely Tr. at 218.  
8 According to Jencik, she was surprised to receive the money as there was never any discussion  
9 or agreement that she would be paid extra for placing the anti-Pappas radio advertisements. The  
10 size of the check and its timing make it likely that it was an after-the-fact effort to distance  
11 Jencik's work on the project from Jamestown and attach it more firmly to Fox Media. Blakely  
12 first claimed this payment compensated Jencik "[f]or placing the buy, doing the work on it,  
13 whatever. Whatever was entailed in the project." *Id.* at 215. Only after being reminded of the  
14 check's size and date of issuance did Blakely state that he gave Jencik the money because she  
15 had been accused of wrongdoing in connection with placing the advertisement and it seemed like  
16 "fair compensation" for the trouble he had caused her. *Id.* at 218.

17 Weitzner and Blakely both testified that Weitzner and the candidate had no prior  
18 knowledge about the advertisements and that Weitzner and the candidate were disappointed and  
19 angry once they found out about Blakely's involvement. *See* Weitzner Tr. at 32, 36, 189, 190;  
20 Blakely Tr. at 223 -227; Zimmer Tr. at 65-68, 114, 115, 126. However, Weitzner's and  
21 Zimmer's claims that they reacted negatively to Blakely's involvement and that they were

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<sup>39</sup> Weitzner testified that he could not recall whether Jamestown had a website in 2000. *See* Weitzner Tr. at 42.

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1 disappointed and angry with him are less than credible in view of the ultimate result for Blakely.

2 <sup>40</sup> *Id.* Instead of getting fired from Jamestown or banned from the general election campaign,  
3 Blakely continued to work for the campaign during the general election and the recount that took  
4 place after the general election.<sup>41</sup> Blakely Tr. at 241; Weitzner Tr. at 122, 123.

5 **III. RESPONDENTS' COORDINATED ACTIVITY RESULTED IN THEIR**  
6 **RECEIPT OF CORPORATE IN-KIND CONTRIBUTIONS ON BEHALF OF ZIMMER**  
7 **2000**

8  
9 **A. Respondents Coordinated the Anti-Pappas Advertisements in Violation of**  
10 **2 U.S.C. § 441b**  
11

12 The Act prohibits any person from knowingly accepting or receiving any corporate  
13 contribution on behalf of a political committee. 2 U.S.C. § 441b. The Act further provides that  
14 expenditures made “in cooperation, consultation, or concert, with, or at the request or suggestion  
15 of, a candidate, his authorized political committees, or their agents, shall be considered to be a  
16 contribution to such candidate . . . .” 2 U.S.C. § 441a(a)(7)(B)(i); *see also Buckley v. Valeo*, 424  
17 U.S. 1, 46 (1976) (“controlled or coordinated expenditures are treated as contributions”). The

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<sup>40</sup> According to Jamestown's Quicken records Blakely did not receive his monthly \$5,500 retainer in June 2000. Typically he received this payment on the first of the month. Ex 3. Weitzner testified that as a consequence of Blakely's involvement in the advertising campaign, Blakely offered to pay his own retainer for the month of June as well as that of another consultant, Geller. *See* Weitzner Tr. at 69-74. Blakely testified that he could not recall whether he received his June 2000 retainer from Jamestown and did not remember even seeing the \$5,500 check he issued himself from the Fox Media account. *See* Blakely Tr. at 190, 191. An inference can be drawn that Blakely and Weitzner decided, as they had with Jencik, that Fox Media would pay Blakely as part of the effort to distance Blakely and his involvement with the anti-Pappas advertisements from Jamestown and Zimmer 2000. Fox Media's bank statement does reflect that a check for \$7,500 was issued to Geller on or about June 26, 2000. Ex 11. The check was \$2,500 more than his monthly Jamestown retainer, which suggests that Geller performed unrelated work for Fox Media or, like Jencik, Geller was paid for his trouble in helping to respond to the press maelstrom after the release of the anti-Pappas advertisements. What is not credible is that Blakely's alleged payment of his and Geller's Jamestown retainer represents some form of negative consequence for his participation in the anti-Pappas advertising campaign, as the total payments from Fox Media to Blakely, Geller and Jencik all far exceeded their regular monthly compensation from Jamestown. Ex 3, Ex. 11.

<sup>41</sup> The evidence shows that even Sheridan, whose organization was the named sponsor of the anti-Pappas advertisements, was far from shunned by Zimmer or his committee. Sheridan went to Zimmer's victory party after the primary, which event required an invitation. *See* Zimmer Tr. at 29, 30.

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1 Commission's regulations during the applicable period provided that an expenditure made in  
2 coordination with a candidate's campaign would be presumed to be an in-kind contribution to  
3 that campaign when it is "made by or through any person who is, or has been, authorized to raise  
4 or expend funds, who is or has been, an officer of an authorized committee, or who is, or has  
5 been receiving any form of compensation or reimbursement from the candidate, the candidate's  
6 committee or agent." 11 C.F.R. § 109.1(b)(4)(i)(B).<sup>42</sup>

7 Under the regulations in place at the time, which focused on coordinated and independent  
8 expenditures, an agent is defined as "any person who has actual authority, either express or  
9 implied, to make or to authorize the making of expenditures on behalf of a candidate, or means  
10 any person who has been placed in a position within the campaign organization where it would  
11 reasonably appear that in the ordinary course of campaign related activities he or she may  
12 authorize expenditures." 11 C.F.R. § 109.1(b)(5).

13 In his response to the Commission's reason to believe findings, Weitzner, on behalf of  
14 himself and Jamestown, did not deny the factual allegations made in the complaint or  
15 coordinating the subject advertisements with Blakely, Fox Media, the Zimmer committee and  
16 NJCTR. Weitzner did not present any countervailing facts apart from stating that CTR's  
17 spokesman, Sheridan, had been quoted in certain newspaper articles as denying any connection  
18 between CTR and the Zimmer campaign. In Weitzner's deposition testimony, he denied that he

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<sup>42</sup> On December 6, 2000, 11 C.F.R. § 109.1 was amended in part by revising certain paragraphs, including 11 C.F.R. § 109.1(b)(4) on which the original complaint in this matter relies. This particular regulation was revised to eliminate any presumption of coordination based on overbreadth concerns. *See Explanation and Justification for Regulations on General Public Political Communications Coordinated With Candidates and Party Committees, Independent Expenditures*, 65 Fed Reg 76138, 76145 (Dec 6, 2000). Subsequently, the Commission approved new regulations regarding coordinated public communications codified at 11 C.F.R. § 100.23, which became effective on May 9, 2001. *See* 66 Fed Reg 23,537 (May 9, 2001). BCRA repealed 11 C.F.R. § 100.23 and on December 5, 2002, the Commission approved new coordination regulations. Newly promulgated 11 C.F.R. § 109.20(a) defines "coordinated" to mean "made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, the candidate's authorized committee, a political party committee, or the agents of any of the foregoing."

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1 and Jamestown participated in a coordinated effort to fund, produce and distribute the anti-  
2 Pappas advertisements. The investigation has revealed, however, that Weitzner and Jamestown  
3 generated the anti-Pappas advertising with others for the purpose of benefiting Zimmer 2000.

4 As the Zimmer committee's primary political consultant, Weitzner and Jamestown were  
5 responsible for achieving victory in the June 6, 2000 Republican primary election. As detailed in  
6 Section II of this Brief, Jamestown, through Weitzner and Blakely, had a broad grant of authority  
7 to achieve this goal. Jamestown was responsible for developing the campaign's strategy and  
8 theme, making expenditures for the production and distribution of direct mail and radio and  
9 television advertisements, and directing the committee's organization through Jamestown's  
10 participation in the selection of campaign staff. *See* Weitzner Tr. 109, 116, 117; Ex. 15.  
11 Jamestown and its consultants, including Weitzner, used their authority within the campaign and  
12 every resource at their disposal, including but not limited to, Jamestown's personnel, facilities  
13 and client contacts, to ensure Zimmer's victory.

14 Respondents' broad grant of authority to produce a victory for Zimmer is further  
15 demonstrated by the Zimmer committee's approval of Jamestown's strategy of using third parties  
16 to effect Pappas's withdrawal from the race before the 2000 primary. Weitzner and the Zimmer  
17 committee first appealed to Republican Congressional leaders to encourage Pappas to leave the  
18 race and support Zimmer's candidacy. When that did not work, State Senator Bennett was  
19 enlisted by the committee and Jamestown to sign the "open letter," which urged Pappas's  
20 withdrawal in part by spotlighting the highly inflammatory information from the Zimmer  
21 committee's opposition research file relating to Pappas's association with a church linked to the  
22 KKK. When this effort failed, Weitzner's next step was to orchestrate, with Blakely and others,  
23 the third-party sponsored and produced anti-Pappas radio and direct mail advertisements.

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2 and client contacts, to ensure Zimmer's victory.

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4 demonstrated by the Zimmer committee's approval of Jamestown's strategy of using third parties  
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6 committee first appealed to Republican Congressional leaders to encourage Pappas to leave the  
7 race and support Zimmer's candidacy. When that did not work, State Senator Bennett was  
8 enlisted by the committee and Jamestown to sign the "open letter," which urged Pappas's  
9 withdrawal in part by spotlighting the highly inflammatory information from the Zimmer  
10 committee's opposition research file relating to Pappas's association with a church linked to the  
11 KKK. When this effort failed, Weitzner's next step was to orchestrate, with Blakely and others,  
12 the third-party sponsored and produced anti-Pappas radio and direct mail advertisements.

13 Weitzner and Blakely engineered the anti-Pappas advertisements with individuals and  
14 entities that at least appeared to be outside the Zimmer committee's sphere of influence.  
15 Specifically, Blakely secured the participation of NJCTR as nominal sponsor of the  
16 advertisements through NJCTR founder and spokesman Sheridan. It is reasonable to infer that  
17 Weitzner secured funding for the anti-Pappas advertisements by orchestrating \$90,000 in  
18 donations to NJCTR from donors with connections to Jamestown clients Ferguson and  
19 Treffinger, donors who were unaware that their funds were going to benefit the Zimmer  
20 campaign. NJCTR then transferred \$75,000 of this money to Fox Media, which in turn spent  
21 approximately \$70,000 on the production and distribution of the anti-Pappas advertisements.

22 The anti-Pappas advertisements were produced and distributed through Fox Media so that  
23 the activity could not be traced back to Jamestown and the Zimmer committee. By permitting

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1 Weitzner and Blakely engineered the anti-Pappas advertisements with individuals and  
2 entities that to the general public appeared to be outside the Zimmer committee's sphere of  
3 influence. Specifically, Blakely secured the participation of NJCTR as nominal sponsor of the  
4 advertisements through NJCTR founder and spokesman Sheridan. It is reasonable to infer that  
5 Weitzner secured funding for the anti-Pappas advertisements by orchestrating \$90,000 in  
6 donations to NJCTR from donors with connections to Jamestown clients Ferguson and  
7 Treffinger, donors who were unaware that their funds were going to benefit the Zimmer  
8 campaign. NJCTR then transferred \$75,000 of this money to Fox Media, which in turn spent  
9 approximately \$70,000 on the production and distribution of the anti-Pappas advertisements.

10 The anti-Pappas advertisements were produced and distributed through Fox Media so that  
11 the activity could not be traced back to Jamestown and the Zimmer committee. By permitting  
12 the advertisements to be produced and distributed under the Fox Media name, Weitzner and  
13 Blakely were able to hide the true provenance of the advertisements, while all related activity  
14 was performed in Jamestown's offices, using Jamestown's resources, by Jamestown's own  
15 personnel. By using NJCTR's money to produce and distribute the radio and direct mail  
16 advertisements opposing the election of Pappas in the June 6, 2000 Republican primary,  
17 Weitzner and Jamestown accepted over \$70,000 in corporate in-kind contributions from NJCTR  
18 on behalf of Zimmer 2000.

19 In sum, Larry Weitzner and Jamestown Associates LLC, agents of Zimmer 2000,  
20 coordinated the anti-Pappas advertisements with Blakely, Fox Media, NJCTR, and Zimmer 2000  
21 in order to influence the outcome of the 2000 Republican primary in New Jersey's 12<sup>th</sup>  
22 congressional district. Thus, there is probable cause to believe that Larry Weitzner and

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1 Jamestown Associates LLC knowingly and willfully violated 2 U.S.C. § 441b by accepting or  
2 receiving in-kind prohibited contributions on behalf of Zimmer 2000.

3 **B. Weitzner's and Jamestown's Participation in the Prohibited Activity was**  
4 **Knowing and Willful**

5  
6 The evidence demonstrates that Weitzner and Jamestown engaged in this prohibited  
7 activity knowingly and willfully. The phrase knowing and willful indicates that "actions [were]  
8 taken with full knowledge of all of the facts and a recognition that the action is prohibited by  
9 law." H.R. Rpt. 94-917 at 4 (Mar. 17, 1976) (*reprinted in Legislative History of Federal*  
10 *Election Campaign Act Amendments of 1976 at 803-4 (Aug. 1977)*); *see also National Right to*  
11 *Work Comm. v. FEC*, 716 F.2d 1401, 1403 (D.C. Cir. 1983) (citing *AFL-CIO v. FEC*, 628 F.2d  
12 97, 98, 101 (D.C. Cir. 1980) for the proposition that knowing and willful means "'defiance' or  
13 'knowing, conscious, and deliberate flaunting' [sic] of the Act"); *United States v. Hopkins*, 916  
14 F.2d 207, 214-15 (5th Cir. 1990). In addition, the *Hopkins* court held that taking steps to  
15 disguise the source of funds used in illegal activities may reasonably be explained as a  
16 "motivation to evade lawful obligations" and will be considered evidence of knowing and  
17 willing behavior. *Hopkins* 916 F.2d at 213, 214 (citing *Ingram v. United States*, 360 U.S. 672,  
18 679 (1959)).

19 The following two events demonstrate Weitzner's deliberate efforts to conceal the  
20 Zimmer committee's, and thus Jamestown's, participation in the coordinated activity,  
21 specifically the funding and generation of the anti-Pappas advertisements. First, Weitzner  
22 participated in a scheme to raise funds for NJCTR in a manner that intentionally disguised the  
23 source of those funds with the knowledge that the monies would be used for the purpose of  
24 attacking Zimmer's opponent. Second, Weitzner participated in Zimmer 2000's public denials  
25 of involvement with the anti-Pappas advertisements while knowing that the advertisements were

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1 generated out of his offices and that Jamestown personnel, including but not limited to Blakely  
2 and Jencik, were involved in the activity on behalf of the committee. Related to this last action is  
3 Jamestown's website going off-line once it became generally known that the website provided  
4 proof of Jencik's affiliation with Jamestown. It is inconceivable that the website was taken off-  
5 line without the knowledge of Jamestown's founder and then president, Larry Weitzner.

6 For the foregoing reasons, there is probable cause to believe that Larry Weitzner and  
7 Jamestown Associate LLC's acceptance of prohibited in-kind contributions on behalf of Zimmer  
8 2000 was a knowing and willful violation of 2 U.S.C. § 441b.

9 **IV. RECOMMENDATION**

10 Find probable cause to believe that Larry Weitzner and Jamestown Associates LLC  
11 knowingly and willfully violated 2 U.S.C. § 441b.  
12

13  
14 6/17/25  
15 Date

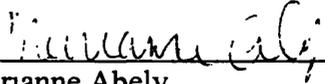
16  
17 Lawrence H. Norton  
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21 Rhonda J. Vosdigh  
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23 Associate General Counsel

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27 Jonathan A. Bernstein  
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29 Assistant General Counsel  
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Marianne Abely  
Attorney

Attachments:  
Exhibits 1 – 15.

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