EXHIBITS SUBMITTED IN SUPPORT OF 2002 REQUEST BY THE SOCIALIST WORKERS PARTY, THE SOCIALIST WORKERS PARTY NATIONAL CAMPAIGN COMMITTEE AND COMMITTEE SUPPORTING CANDIDATES OF THE SOCIALIST WORKERS PARTY FOR AN ADVISORY OPINION

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EXHIBITS TO 2002 ADVISORY OPINION REQUEST LETTER

A. FEC Advisory Opinion 1996-46

B. FEC Advisory Opinion 1990-13

C. Declaration of Margaret Trowe

D. Declaration of Gregory McCarten

E. Declaration of Sara Lobman

F. 1998 State of Washington Ruling

G. 1997 City of Seattle Ruling

H. Statement of Geoff Mirelowitz

I. Statement of Robbie Scherr

J. Declaration of Margaret Trowe

K. Declaration of James Harris

L. Declaration of Edwin Fruit

M. Declaration of Edwin Fruit

N. Statement of Argyrios Malapanis

1. Declaration of Daniel Fein

2. Declaration of Ved Dookhun

3. Declaration of Deborah Liatos

4. Declaration of Nelson Gonzalez

5. Declaration of Sam Manuel

6. Declaration of Argryrios Malapanis

7. Declaration of Ellen Brickely

8. Declaration of Ellen Brickely

9. Declaration of Joel Britton

10. Declaration of Michael Taber

11. Declaration of Daniel Fein

12. Declaration of Philip J. Duzinski; SWP Press Release

13. Declaration of Rollande Girard

14. Declaration of Philip Duzinski

15. Declaration of Michael Italie; articles from Miami Herald; Florida Unemployment Compensation Program statement.

16. Declaration of Tom Fiske

17. Declaration of Deborah Liatos

18. Declaration of Anthony Dutrow

19. Declaration of William T. Leonard

20. Declaration of Deborah Liatos

21. Declaration of Emily Fitzsimmons

22. Article from Des Moines Register, September 3, 2001

23. Declaration of Eva R. Braiman

24. Declaration of Mark Gilsdorf

25. Declaration of Dean Hazlewood

26. Declaration of Evan Roberts

27. Declaration of Joel Britton; letter from Roxana Roman

28. Declaration of Rebecca Arenson

29. Declaration of Joseph R. Swanson; article from Des Moines Register, SWP Press Release; photographs of pig's foot and other animal products

30. Declaration of Angela Abernathy

31. Declaration of Gregory McCartan; copy of email to SWP

32. Declaration of Jacob Perasso

33. Declaration of Ernest Mailhot

34. Declaration of Betsy Farley

35. Declaration of Tom Leonard

36. Declaration of William Arth; copy of summons; letter from Alison Kennedy; letter from Kim Kleinman

37. Declaration of Ned C. Measel

38. Declaration of Naomi Craine

39. Declaration of Ellen Berman; copy of police report; articles from The Militant

40. Declaration of Betsy Farley; excerpt from case reporter.

41. Declaration of Candace Wagner; letter from Gregory O'Connell; copy of Notice of Withdrawal of Charges

42. Declaration of John Staggs; copy of photograph of wrecked car.

43. Declaration of Wes Weinhold

44. Declaration of Michael J. Fitzsimmons

45. Declaration of Mary Martin

46. Declaration of Raymond A. Parsons

47. Declaration of Joseph R. Swanson; article from Des Moines Register; SWP statements,

photographs of vandalized offices.

48. Declaration of Earl L. Kidd

49. Declaration of Thomas L. Headley

50. Declaration of Geoff Mirelowitz

51. Declaration of Dennis Richter

52. Declaration of Estelle Debates

53. Declaration of Nell Wheeler

54. Declaration of Lea Sherman; materials from employee file

55. Declaration of Brian Williams; letter to Mayor of Washington, D.C.

56. Statement of Chris Rayson

57. Declaration of Henry Clay Dennison

58. Declaration of Susan Lamont

59. Declaration of Omari Musa; photograph of graffito.

60. Declaration of Joseph P. Callahan

61. Declaration of Bill Scheer

62. Declaration of Scott A. Breen

63. Declaration of Linda Marcus

64. Declaration of Omari Musa

65. Declaration of Jennifer Benton; court appearance documents; legal bill; legal correspondence; SWP statement; articles from Minneapolis Star Tribune; articles from St. Paul Pioneer Press; opinion and order from U.S. District Court, District of Minnesota.

66. Declaration of Jeff Powers

67. Declaration of Autumn Knowlton

68. Declaration of Diana Newberry

69. Declaration of Jeff Powers

70. Declaration of Brian Williams; copies of related corrrespondence.

71. Declaration of Rollande Girard

72. Statement of Alaric Dirmeyer

73. Declaration of Jeff Powers

74. Correspondence addressed to Socialist Party in Seattle, Washington

A

Exh. A

11 pages

A-1

Federal Election Commission Advisory Opinion Number 1996-46

Back to Federal Election Commission Advisory Opinions Search Page

Federal Election Commission Main Page

CERTIFIED MAIL March 11, 1997
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1996-46

Michael Krinsky
Rabinowitz, Boudin, Standard,
Krinsky & Lieberman
740 Broadway at Astor Place
New York, NY 10003-9518

Dear Mr. Krinsky:

This responds to your letter dated November 1, 1996, as supplemented by your letter dated January 13, 1997, requesting an advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to the continuation of a partial reporting exemption for the Socialist Workers Party National Campaign Committee and committees supporting candidates of the Socialist Workers Party ("SWP").

The SWP National Campaign Committee and committees supporting SWP candidates were first granted a partial reporting exemption in a consent decree, dated January 2, 1979, that resolved Socialist Workers 1974 National Campaign Committee v. Federal Election Commission, Civil Action No. 74-1338 (D.D.C.). In that case, such committees brought an action for declaratory, injunctive and affirmative relief, alleging that specific disclosure sections of the Act operated to deprive them and their supporters of rights guaranteed by the First Amendment to the Constitution because of the likelihood of harassment resulting from such disclosure. The decree required the committees supporting SWP candidates to maintain records in accordance with the Act and to file reports in a timely manner. It also, however, exempted the committees from the provisions requiring the disclosure of the names, addresses, occupations, and principal places of business of

A-2

contributors to SWP committees; of political committees or candidates supported by SWP committees; of lenders, endorsers or guarantors of loans to the SWP committees; and of persons to whom the SWP committees made expenditures.1 The decree stated that its provisions would extend to the end of 1984, and set out a procedure for the SWP committees to apply, prior to that date, for a renewal of the exemptions.

On July 24, 1985, the court approved an updated settlement agreement with the same requirements and partial reporting exemption.2 The court decree extended the exemption until the end of 1988, and again set out a renewal procedure. The SWP missed the deadline for reapplication for the exemption. In lieu of a renewal obtained from the court, the committees, in July 1990, sought a determination from the Commission of entitlement to the partial reporting exemption through the advisory opinion process.

On August 21, 1990, the Commission issued Advisory Opinion 1990-13, which granted the same exemption provided for in the previous consent decrees. The opinion provided that the exemption would last through the next two presidential election cycles, i.e., through December 31, 1996. The SWP committees could seek a renewal of the exemption by submitting an advisory opinion request by November 1, 1996, that would present information as to harassment of the SWP, or persons associated with the SWP, during the 1990-1996 period. Advisory Opinion 1990-13. The Commission received your request for a renewal on that date. You have asked that the exemption period last through the next two presidential election cycles, i.e., until December 31, 2004.

I. Applicable Law

The Act requires political committees to file reports with the Commission that identify individuals and other persons who make contributions over $200, or who come within various other disclosure categories listed above in reference to the consent agreements. 2 U.S.C. 434(b)(3), (5), and (6). See also 2 U.S.C. 431(13). The United States Supreme Court, however, in Buckley v. Valeo, 424 U.S. 1 (1976), recognized that, under certain circumstances, the Act's disclosure requirements as applied to a minor party would be unconstitutional because the threat to the exercise of First Amendment rights resulting from disclosure would outweigh the insubstantial interest in disclosure by that entity. 424 U.S. at 71-72. Asserting that "[m]inor parties

A-3

must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim for a reporting exemption, the Court stated that "[t]he evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties." 424 U.S. at 74. The Court elaborated on this standard, stating:

> The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations of public hostility may be sufficient. New parties that have no history upon which to draw may be able to offer evidence of reprisals and threats directed against individuals or organizations holding similar views.

424 U.S. at 74.

The Court reaffirmed this standard in Brown v. Socialist Workers '74 Campaign Committee (Ohio), 459 U.S. 87 (1982), granting the SWP an exemption from state campaign disclosure requirements. The Court referred to the introduction of proof of specific incidents of private and government hostility toward the SWP and its members within the four years preceding the trial in that case. The Court also referred to the long history of Federal governmental surveillance and disruption of the SWP until at least 1976. 459 U.S. at 99-100. Noting the appellants' challenge to the relevance of evidence of Government harassment "in light of recent efforts to curb official misconduct," the Court concluded that "[n]otwithstanding these efforts, the evidence suggests that hostility toward the SWP is ingrained and likely to continue." 459 U.S. at 101.

The Court in Brown also clarified the extent of the exemption recognized in Buckley, stating that the exemption included the disclosure of the names of recipients of disbursements as well as the names of contributors. The Court characterized the view that the exemption pertained only to contributors' names as "unduly narrow" and "inconsistent with the rationale for the exemption stated in Buckley." 459 U.S. at 95.

The United States Court of Appeals for the Second Circuit used the Buckley standard as a basis for exempting

A-4

the campaign committee of the Communist Party presidential and vice presidential candidates from the requirements to disclose the identification of contributors and to maintain records of the name and addresses of contributors. Federal Election Commission v. Hall-Tyner Election Campaign Committee, 678 F.2d 416 (2d Cir. 1982), cert. denied, 459 U.S. 1145 (1983). The court described the applicability of the standard, stating:

[W]e note that Buckley did not impose unduly strict or burdensome requirements on the minority group seeking constitutional exemption. A minority party striving to avoid FECA's disclosure provisions does not carry a burden of demonstrating that harassment will certainly follow compelled disclosure of contributors' names. Indeed, when First Amendment rights are at stake and the spectre of significant chill exists, courts have never required such a heavy burden to be carried because 'First Amendment freedoms need breathing space to survive.' (Citations omitted.) Breathing space is especially important in a historical context of harassment based on political belief. Our examination of the treatment historically accorded persons identified with the Communist Party and a survey of statutes still extant reveal that the disclosure sought would have the effect of restraining the First Amendment rights of supporters of the Committee to an extent unjustified by the minimal governmental interest in obtaining the information.

678 F.2d at 421-422.

Commission agreement to the consent decrees granting the previous exemptions to the SWP committees has been based upon the long history of systematic harassment of the SWP and those associating with it and the continuation of harassment. The Commission has required only a "reasonable probability that the compelled disclosure" would result in "threats, harassment, or reprisals from either Government officials or private parties." Buckley, 424 U.S. at 74. In addition, the Commission has agreed to the application of this standard to both contributors and recipients of disbursements.

Advisory Opinion 1990-13 noted that, in agreeing to the granting of the exemption and its renewal, the Commission had considered both "present" and historical harassment.

A-5

The 1979 Stipulation of Settlement refers to the fact that the Commission had been ordered "to develop a full factual record regarding the present nature and extent of harassment of the plaintiffs and their supporters resulting from the disclosure provisions." According to the 1985 Stipulation of Settlement, the renewal was based on evidentiary materials regarding the nature and extent of harassment during the previous five years. As referred to above, Advisory Opinion 1990-13 based its grant on the evidence of harassment since 1985. The very nature of the periodic extensions indicates that, after a number of years, it is necessary to reassess the SWP's situation to see if the reasonable probability of harassment still exists.3

II. Facts Presented

In the request for the exemption granted in Advisory Opinion 1990-13 and in your present request, you have presented facts indicating SWP's status as a minor party since its founding in 1938. Despite running a presidential candidate in every election since 1948 and numerous other candidates for Federal, state, and local offices, no SWP candidate has ever been elected to public office in a partisan election. You have presented data from the 1992 and 1994 elections indicating very low vote totals for SWP presidential and senatorial candidates.

Advisory Opinion 1990-13 discusses the long history of governmental harassment of the SWP. The opinion describes FBI investigative activities lasting from 1941 to 1976 that included the extensive use of informants to gather information on SWP activities and on the personal lives of SWP members, warrantless electronic surveillance, surreptitious entry of SWP offices, other disruptive activity, including attempts to embarrass SWP candidates and to foment strife within the SWP and between the SWP and others, and frequent interviews of employers and landlords of SWP members.4

The advisory opinion also referred to statements made by Federal governmental officials in several agencies expressing the need for information about the SWP based on the officials' unfavorable perceptions of the SWP. These statements were made in affidavits submitted during 1987 in connection with Socialist Workers Party v. Attorney General, 666 F. Supp. 621 (S.D.N.Y. 1987), in which the court granted an injunction preventing the government from using, releasing, or disclosing information on the SWP unlawfully obtained or developed from unlawfully obtained material,

A-6

except in response to a court order or an FOIA request.5

The opinion also discussed incidents of private and local governmental harassment of the SWP and those associating with it during the period from 1985 through the beginning of 1990. These included private threats and private acts of violence and vandalism, as well as harassment by local police.

As evidence of continuing private and governmental harassment of the SWP and those associated with the SWP during the 1990-1996 period, you have provided descriptions with supporting signed declarations or other documentation as to approximately 70 incidents. Incidents of harassment from private sources included (but were not limited to) acts of vandalism against SWP offices and SWP-related bookstores; threats and acts of violence from persons identifying themselves as members of the Ku Klux Klan; threats and acts of violence by anti-Castro activists; negative actions by, or statements from, employers against persons apparently as a result of those persons' association with the SWP; and abusive behavior toward SWP candidates or other persons publicly associating with the SWP.

Specific examples of the above-described activities area as follows: (1) The windows of SWP headquarters in Detroit, St. Louis, Kansas City, and Chicago were broken, in two cases from thrown objects (a piece of asphalt and a rock). A bullet was fired through the window of the Des Moines headquarters in 1992. A swastika and a "White Power" slogan were spray-painted on the building that housed SWP offices and the Pathfinder bookstore in Birmingham (AL) in 1991. (2) In 1994, the SWP office in Philadelphia (PA) received an abusive letter that was clearly intended to intimidate from a person representing himself as the Grand Dragon of the Pennsylvania KKK (with letterhead stating "The Revolutionary Knights of the Ku Klux Klan," and a mailing address of the state headquarters, as well as a card with the same information). In 1990 and 1991, threatening phone messages were left on the SWP answering machine in Greensboro (NC) by persons identifying themselves as with the KKK. In 1991, two threatening stickers, one purportedly from the KKK, were placed on the entrances of the SWP's Greensboro offices. (3) Anti-Castro activists in Miami overturned SWP informational tables in Miami in 1993 and 1996, and physically assaulted SWP personnel at informational tables in New Jersey in 1995 and 1993. The SWP headquarters in Miami received a number of threatening phone calls in Spanish after radio appearances by SWP

A-7

candidates in 1993.6 (4) In 1995, a woman, who was a politically active socialist and had been an SWP congressional candidate, was denied employment at a mine in Utah. The Employee Relations Director had informed her of his investigation of her socialist political activities, and they appear to have been a disqualifying factor. (5) In several cities, individuals who were known as SWP supporters were subject to insults, written threats, and vandalism, from co-workers, related to their political stances and activities.

Your request includes descriptions and documentation of approximately 20 incidents involving police interactions with SWP workers. Many of these incidents entailed demands by police to remove informational tables or to cease other activities involving petition-signing or the distribution of printed materials in public places. The police would assert that the SWP workers were obstructing pedestrian traffic or acting without a permit or peddler's license. They would sometimes arrest or give citations to the SWP workers. In almost all of those cases, the local prosecutor would drop the charges or the cases would be dismissed. These incidents sometimes appear to involve actions by the police that were apparently motivated by a hostile feeling toward the SWP or the views expressed by the SWP.

Two examples of these cases are as follows: (1) In 1996, three SWP workers who were petitioning for the placement of SWP candidates for president and vice president on the state ballot were taken to the police station by the New York City Parks Department Police and charged with unlawful solicitation and illegal assembly. Their materials, including the petitions, were held by the police for a week and returned after protests by NYCLU and the SWP. The charges were later dismissed in court. (2) According to a 1991 letter from counsel for the New Jersey chapter of the ACLU to the Newark Corporation Counsel, three policemen, two of them mounted, intimidated SWP workers who had set up a literature table outside of local SWP headquarters. The officers blocked access to the table and the book store for over one-half hour and threatened and verbally abused the workers (including comments related to their political views). The workers decided to take down the table.

You present only a few incidents that relate to SWP interaction with governmental officials other than local police. The two most significant events relate to the job status of SWP members: (1) A civilian employee at the Alameda Naval Aviation Depot was investigated by the Office

A-8

of Special Counsel (OSC) for violations of the Hatch Act because he ran for the San Francisco Board of Supervisors in 1992, distributed campaign literature for candidates running in partisan elections, and held positions in the SWP. Although candidates for the Board of Supervisors did not run under party labels, OSC noted that the employee accepted the endorsement and support of the SWP. Even though OSC concluded that violations occurred, it decided not to seek disciplinary action against the employee while noting that subsequent violations would be considered knowing and willful. The employee maintained that he should not have been considered a partisan candidate, that the investigation occurred only after his superiors at Alameda became concerned with the content of his views, and that other employees thought to have violated the Hatch Act were merely warned without a referral to OSC. (2) In 1991, the security clearance of an Air Force enlisted man was suspended, and he was transferred from his job as a computer programmer with the nuclear targeting staff to a job as a clerk at the base housing office. The airman was a member of the SWP's affiliate, the Young Socialist Alliance (YSA). The suspension occurred on the day he returned to work from a YSA convention. A subsequent Air Force letter notified the airman of the opening of a security investigation (to resolve the question of his clearance) based on his involvement in socialist organizations, unreported contact with a foreign national (referring to contact at the convention), and perceived questionable loyalty, honesty, and reliability in his previous workcenter. In reply to this letter, the airman disputed the charge as to the foreign national and noted his favorable reviews by supervisors and his initiative on the job. The airman resigned before the end of the investigation as a result of his inability to obtain a promotion in the field under which he enlisted, which would have required regaining his security clearance.

A review of the information presented by you indicates that the SWP and persons publicly associated with it have experienced a significant amount of harassment from private sources in the 1990-1996 period. Such harassment appears to have been intended to intimidate the SWP and persons associated with it from engaging in their political activities and in expressing their political views. There is also evidence of continuing harassment by local police, similar to incidents discussed in the 1990 opinion.

Based on the evidence presented, the hostility from other governmental sources appears to have abated. As

A-9

indicated above, massive Federal governmental surveillance and disruption was discontinued well before 1990. Moreover, you do not present evidence similar to the affidavits filed by Federal officials in 1987, referred to above, indicating negative attitudes toward the SWP and the need to gather information on it. The incidents involving the naval employee and the airman are difficult to assess without complete information, although the airman's situation presents the possibility of a chilling effect on public association with the SWP.

Nevertheless, the continuation of harassment from private and local police sources during the 1990-1996 period, coupled with the long history of harassment of the SWP, is still sufficient evidence that there is a reasonable probability that the compelled public disclosure of previously exempted information will subject the persons in the exempted categories to threats or harassment from various sources. The Commission, therefore, grants the committees supporting the candidates of the SWP the exemption provided for in the consent agreements and in Advisory Opinion 1990-13, with one new condition described below. Consistent with the length of the exemption granted in 1990, this exemption is to last for the reports covering the next six years, i.e., through December 31, 2002.7 At least sixty days prior to December 31, 2002, the SWP may submit a new advisory opinion request seeking a renewal of the exemption. If a request is submitted, the Commission will consider the factual information then presented as to harassment after 1996, or the lack thereof, and will make a decision at that time as to the renewal.

As in Advisory Opinion 1990-13, the Commission emphasizes that the committees supporting the Federal office candidates of the SWP must still comply with all of the remaining requirements of the Act and Commission regulations. The committees must file reports containing the information required by 2 U.S.C. 434(b) with the exception of the information specifically exempted, and the committees must keep and maintain records as required under 2 U.S.C. 432 with sufficient accuracy so as to be able to provide information, otherwise exempt from disclosure, in connection with a Commission investigation. In addition to complying with the requirements of the decrees, the committees must file all reports required under 2 U.S.C. 434(a) in a timely manner. The committees must also comply with the provisions of the Act governing the organization and registration of political committees. See, e.g., 2 U.S.C. 432 and 433. Adherence to the disclaimer

A-10

provisions of 2 U.S.C. 441d is also required. Finally, the committees must comply with the Act's contribution limitations and prohibitions.
2 U.S.C. 441a, 441b, 441c, 441e, 441f, and 441g.

As indicated above, the Commission adds one new condition to the reporting requirements. In partial reporting exemptions granted to an SWP campaign committee and various SWP candidates for state or local office, the agencies administering campaign disclosure in the States of Washington and Iowa have required that the committees assign a code number to each contributor whose name and address is not being disclosed. The Iowa agency required that the committee keep books and records that would correlate the code numbers with the names and contributions. The Commission believes that a requirement of assigning a code number for each contributor and reporting that code number when disclosing a contribution by that person would enable a reviewer of that report (i.e., either the Commission staff or a member of the public) to determine whether contributions in excess of the limits of 2 U.S.C. 441a are being made. At the same time, such a requirement would not diminish the anonymity that is already given to contributors under Advisory Opinion 1990-13 and the consent decrees. Therefore, each committee entitled to the exemption should assign a code number to each individual or entity from whom it receives one or more contributions aggregating in excess of $200 in a calendar year. That code number must be included in FEC reports filed by each committee in the same manner that full contributor identification would otherwise be disclosed. Consistent with the requirement that the committees comply with the recordkeeping provisions of the Act, the committee's records should correlate each code number with the name and other identification data of the contributor who is represented by that code.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

John Warren McGarry
Chairman

Enclosure (AO 1990-13)

A-11

1 Nevertheless, the agreement also stated that if the Commission found reason to believe that the committees violated a provision of the Act, other than those for which an exemption was specified, but needed the withheld information in order to proceed, the Commission could apply to the court for an order requiring the production of such information.

2 In view of the specific provisions of the 1979 amendments to the disclosure provisions, the agreement also makes reference to an exemption for reporting the identification of persons providing rebates, refunds or other offsets to operating expenditures, and persons providing any dividend, interest or other receipt.

3 In addition, the courts in Brown and Hall-Tyner rendered their decisions with reference to recent or current events or factors, as well as a history of harassment, i.e., recent incidents of harassment against the SWP and extant statutes directed against the Communist Party.

4 As noted in the opinion, these activities were set out in the Final Report of Special Master Judge Breitel in Socialist Workers Party v. Attorney General, 73 Civ. 3160 (TPG) (S.D.N.Y., February 4, 1980) and in Socialist Workers Party v. Attorney General, 642 F. Supp. 1357 (S.D.N.Y. 1986), a case in which the Federal District Court awarded judgment against the United States under the Federal Tort Claims Act for disruption activities, surreptitious entries, and use of informants by the FBI.

5 See Advisory Opinion 1990-13 for a further discussion of the implications of the unfavorable statements.

6 You also provide a declaration from an SWP congressional candidate from Florida who noted that some of her airline co-workers asked that SWP newspapers not be delivered to their homes and that they be hand-delivered at work instead, or that the newspapers be mailed in envelopes.

7 As stated above, you have asked for an exemption period that is similar to the previous period because that period was to last through the next two presidential election cycles. Nevertheless, the more important aspect of this exemption is the actual length of time, and that is why six years, not eight, is being granted. Moreover, in view of the apparent abatement in governmental harassment, a longer time interval between the dates when the Commission reviews its grant of the partial exemption is unwarranted.

Exh. B

6 pages

B

B-1

You are a candidate for the Democratic nomination for the House seat from New York's 22nd Congressional District. Originally, David Hochberg, who was going to run for that seat, had commissioned a survey paid for by his personal funds. He subsequently decided not to run, and you decided to run instead.[1] Mr. Hochberg has offered to assist your campaign as a part-time volunteer, in which capacity he proposes to help to set up interviews with the media and solicit individuals for contributions to your campaign.

The survey results contain information concerning demographics, public opinion, and name recognition of elected officials in the 22nd District that Mr. Hochberg could utilize in his volunteer efforts or disclose to you. You are concerned that "[t]o some extent, information found in the survey could apply to [your] campaign strategy and tactics." Mr. Hochberg received the results of the poll on May 22 but has neither informed you of nor shown you any results.

You state that your campaign has very little money and that it is unlikely that the campaign can pay for the poll until autumn. You ask what effect Mr. Hochberg's access to the survey information has on his involvement as a campaign volunteer. You also ask if the situation presented involves any other issues.

Under the Act and Commission regulations, the term contribution does not include the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee. 2 U.S.C. § 431(8)(B)(i); 11 CFR 100.7(b)(3). The situation presented by you involves volunteer services to your committee by a person who has received poll results that are pertinent to the operations of your campaign.

Commission regulations address the making and acceptance of contributions in the form of poll results. The purchase of opinion poll results by a political committee or other person not authorized by a candidate to make expenditures and the subsequent acceptance of the poll results by a candidate or a candidate's authorized committee or agent is a contribution in-kind by the purchaser to the candidate and an expenditure by the candidate. 11 CFR 106.4(b). Poll results are considered to be accepted by a candidate if the candidate or candidate's authorized political committee or agent (1) requested the poll results before their receipt; (2) uses the poll results; or (3) does not notify the contributor that the results are refused. 11 CFR 106.4(b)(1), (2), and (3).

Mr. Hochberg commissioned this poll for his own potential candidacy and not on behalf of your campaign. Although Mr. Hochberg obviously will have knowledge of the polling information while he pursues his volunteer activities, Mr. Hochberg entered into the transaction with the pollster prior to working for your campaign and not in contemplation of working for your campaign. His receipt of the results was a completion of that transaction, rather than a receipt on behalf of your campaign. In such circumstances, Mr. Hochberg's knowledge of the poll results by itself is not treated as a contribution of the poll and will not preclude his unpaid volunteer services to the campaign.

If, however, Mr. Hochberg imparts poll result information to you or anyone else working for your campaign, including any data or any analysis of the results, or if he uses the poll information to advise your campaign on matters such as campaign strategy or creating media messages, such poll information will constitute an in-kind contribution from Mr. Hochberg to your campaign, and an expenditure in an equal amount by your committee. 11 CFR 106.4(b). See also 11 CFR 104.13(a) and (b). The amount of such a contribution will be determined by calculating the share of the overall cost of the poll allocable to that particular information. *Cf.* 11 CFR 106.4(e). A determination as to the overall cost of the poll in its entirety will be premised upon the decreasing valuations presented in 11 CFR 106.4(g).[2]

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. § 437f.

Dated: August 3, 1990.

[¶ 5991] AO 1990-13: Reporting Exemption for Socialist Workers Party

[Because of continuing harassment of members, the Socialist Workers Party and committees supporting the Party are entitled to an exemption from the reporting requirements of the

[1] Mr. Strub's Statement of Candidacy and the Statement of Organization for Strub for Congress were received by the Clerk of the House on June 25, 1990. No Statement of Candidacy or Statement of Organization was ever received for Mr. Hochberg.

[2] That subsection provides that the amount of a contribution and expenditure by a candidate or committee receiving poll results would be 50 percent of the original amount if received during a period 16 to 60 days after the initial receipt, five percent of the original amount during a period 61 to 180 days after the initial receipt, and zero during the period after 180 days.

B-2

Federal Election Campaign Act. Answer to Edward Copeland of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., 740 Broadway at Astor Place, New York, New York 10003-9518.]

This responds to your letters dated July 2 and July 9, 1990, requesting an advisory opinion on behalf of the Socialist Workers Party National Campaign Committee and committees supporting candidates of the Socialist Workers Party ("the SWP") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to its eligibility for reporting exemptions granted in consent orders issued in *Socialist Workers 1974 National Campaign Committee v. Federal Election Commission*, Civil Action No. 74-1338 (D.D.C.).

In the above-captioned case, committees supporting candidates of the Socialist Workers Party brought an action against the Commission for declaratory, injunctive and affirmative relief, alleging that specific disclosure sections of the Act operate to deprive them and their supporters of rights guaranteed by the First Amendment to the Constitution because of the likelihood of harassment resulting from such disclosure. The case was resolved by a consent decree entered into by the plaintiffs and the Commission on January 2, 1979. This decree required the committees supporting SWP candidates to maintain records in accordance with the Act and to file reports in a timely manner. The agreement also, however, exempted the committees from the provisions requiring the disclosure of the names, addresses, occupations, and principal places of business of contributors to SWP committees; of political committees or candidates supported by SWP committees; of lenders, endorsers or guarantors of loans to the SWP committees; and of persons to whom the SWP committees made expenditures.[1] The decree stated that its provisions would extend to the end of 1984. It also expressly permitted the SWP committees to apply for an extension of the provisions.

On July 24, 1985, the court approved an updated settlement with the same requirements and exemptions[2] and provisions for extension of the reporting exemption. The exemptions were extended until the end of 1988. The SWP missed the deadline for reapplication for the exemption and, instead, is seeking an advisory opinion wherein the Commission determines whether the SWP committees remain entitled to the reporting exemptions.

I. The Applicable Law

Although the United States District Court has been the forum for the granting and extension of the reporting exemption to the requester, the Commission can consider a request for the application of an exemption to prospective behavior by the SWP, i.e., the filing of disclosure reports. See 11 CFR 112.1(b). The Commission may not grant a renewal of an exemption that could have been granted by the court. The Commission may, however, consider whether, under the facts presented by the requester, it should grant a new exemption.

The Act requires political committees to file reports with the Commission that identify individuals and other persons who make contributions over $200, or who come within various other disclosure categories listed above in reference to the consent agreements. 2 U.S.C. § 434(b)(3), (5), and (6). See also 2 U.S.C. § 431(13). The United States Supreme Court, however, in *Buckley v. Valeo* [¶ 9001], 424 U.S. 1 (1976), recognized that, under certain circumstances, the Act's disclosure requirements as applied to a minor party would be unconstitutional because the threat to the exercise of First Amendment rights resulting from disclosure would outweigh the insubstantial interest in disclosure by that entity. 424 U.S. at 71. Asserting that "[m]inor parties must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim" for a reporting exemption, the Court stated that "[t]he evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals from either Government officials or private parties." 424 U.S. at 74. The Court elaborated on this standard, stating:

> The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations of public hostility may be sufficient. New parties that have no history upon which to draw may be able to offer evidence of reprisals and threats directed against individuals or organizations holding similar views.

424 U.S. at 74.

[1] Nevertheless, the agreement also stated that if the Commission found reason to believe that the committees violated a provision of the Act, other than those for which an exemption was specified, but needed the withheld information in order to proceed, the Commission could apply to the court for an order requiring the production of such information.

[2] In view of the specific provisions of the 1979 amendments to the disclosure provisions, the agreement also makes reference to an exemption for reporting the identification of persons providing rebates, refunds or other offsets to operating expenditures, and persons providing any dividend, interest or other receipt.

B-3

The Court reaffirmed this standard in *Brown v. Socialist Workers '74 Campaign Committee (Ohio)*, 459 U.S. 87 (1982), granting the SWP an exemption from state campaign disclosure requirements. The Court referred to the introduction of proof of specific incidents of private and government hostility toward the SWP and its members within the four years preceding the trial in that case. The Court also referred to the long history of Federal governmental surveillance and disruption of the SWP until at least 1976. 459 U.S. at 99-100. Noting the appellants' challenge to the relevance of evidence of Government harassment "in light of recent efforts to curb official misconduct," the Court concluded that "[n]otwithstanding these efforts, the evidence suggests that hostility toward the SWP is ingrained and likely to continue." 459 U.S. at 101.

The Court in *Brown* also clarified the extent of the exemption recognized in *Buckley*, stating that the exemption included the disclosure of the names of recipients of disbursements as well as the names of contributors. The Court characterized the view that the exemption pertained only to contributors' names as "unduly narrow" and "inconsistent with the rationale for the exemption stated in *Buckley*." 459 U.S. at 95.

The United States Court of Appeals for the Second Circuit used the *Buckley* standard as a basis for exempting the campaign committee of the Communist Party presidential and vice-presidential candidates from the requirements to disclose the identification of contributors and to maintain records of the name and addresses of contributors. *Federal Election Commission v. Hall-Tyner Election Campaign Committee*, 678 F.2d 416 (2d Cir. 1982) [¶ 9174], *cert. denied* [¶ 9185], 459 U.S. 1145 (1983). The court described the applicability of the standard, stating:

> [W]e note that *Buckley* did not impose unduly strict or burdensome requirements on the minority group seeking constitutional exemption. A minority party striving to avoid FECA's disclosure provisions does not carry a burden of demonstrating that harassment will certainly follow compelled disclosure of contributors' names. Indeed, when First Amendment rights are at stake and the spectre of significant chill exists, courts have never required such a heavy burden to be carried because 'First Amendment freedoms need breathing space to survive.' (Citations omitted.) Breathing space is especially important in a historical context of harassment based on political belief. Our examination of the treatment historically accorded persons identified with the Communist Party and a survey of statutes still extant reveal that the disclosure sought would have the effect of restraining the First Amendment rights of supporters of the Committee to an extent unjustified by the minimal governmental interest in obtaining the information.

678 F.2d at 421-422.

Commission agreement to the consent decrees granting the previous exemptions to the SWP committees has been based upon the long history of systematic harassment of the SWP and those associating with it and the continuation of such harassment. The Commission has required only a "reasonable probability that the compelled disclosure" would result in "threats, harassment, or reprisals from either Government officials or private parties." *Buckley*, 424 U.S. at 74. In addition, the Commission has agreed to the application of this standard to both contributors and recipients of disbursements.

In agreeing to the granting of the exemption and its renewal, the Commission has considered both "present" and historical harassment. The 1979 Stipulation of Settlement refers to the fact that the Commission was ordered "to develop a full factual record regarding the present nature and extent of harassment of the plaintiffs and their supporters resulting from the disclosure provisions." According to the 1985 Stipulation of Settlement, the renewal was based on evidentiary materials regarding the nature and extent of harassment during the previous five years. The very nature of the periodic extensions indicates that, after a number of years, it is necessary to reassess the SWP's situation to see if the reasonable probability of resultant harassment still exists. In addition, the courts in *Brown* and *Hall-Tyner* rendered their decisions with reference to recent or current events or factors, as well as a history of harassment, i.e., recent incidents of harassment against the SWP and extant provisions of laws directed against the Communist Party

II. The Facts Presented

You have presented facts indicating SWP's status as a minor party since its founding in 1938. Despite running a presidential candidate in every election since 1948 and numerous other candidates for Federal, state, and local offices, no SWP candidate has ever been elected to public office in a partisan election.

You describe the long history of FBI and other governmental harassment of the SWP set out in *Socialist Workers Party v. Attorney General*, 642 F. Supp. 1357 (S.D.N.Y. 1986), a case in which the

B-4

Federal District Court awarded judgment against the United States under the Federal Tort Claims Act for disruption activities, surreptitious entries, and use of informants by the FBI.

Beginning in 1941, the FBI began a generalized investigation of the SWP that was to last at least until 1976. With respect to informants, you enclose the report of the Special Master who was appointed to review the FBI's substantial informant files in connection with the ongoing litigation leading up to the above-described decision. Final Report of Special Master Judge Breitel in *Socialist Workers Party v. Attorney General*, 73 Civ. 3160 (TPG) (S.D.N.Y., February 4, 1980).[3] Between the years 1960 and 1976, the FBI employed approximately 1300 informants who reported on the activities, discussions and debates of the SWP. In addition to reporting on what the Special Master described, with some qualifications, as "peaceful, lawful political activity" by the SWP and its adjunct, the Young Socialist Alliance ("YSA"), the informants also provided information as to the names, addresses, places and changes of employment of SWP members, and such personal data as information on "marital or cohabitational status, marital strife, health, travel plans, and personal habits." 642 F. Supp. at 1379-1381.

In the 1960's and 1970's, the SWP was the subject of FBI Counterintelligence Programs " 'designed to disrupt the SWP on a broad national basis'." 642 F. Supp. at 1384. The disruption under these programs included attempts to embarrass SWP candidates, foment racial strife within the SWP, and cause strife between the SWP and others in a variety of political movements. 642 F. Supp. at 1385-1389. For a number of years, the FBI also conducted warrantless electronic surveillance of the SWP on an extensive basis and at least 204 surreptitious entries of SWP offices, principally to photograph or remove documents. The court noted that "there is no indication that the FBI obtained any documents showing any violence or any action to overthrow the Government." 642 F. Supp. at 1394.

Over a period of many years, the FBI maintained a list known successively as the Custodial Detention List, the Security Index, and the Administrative Index. The persons on this list were to be considered for apprehension and detention in time of war or national emergency. The FBI intended to include all SWP members on this list. The list was maintained by frequent interviews of landlords and employers of the members. 642 F. Supp. at 1395. The SWP was also included on the Attorney General's list of subversive, communist, or fascist organizations whose members, under the Employee Loyalty Program, would be subject to a full field investigation if applying for or holding any civilian Federal governmental position. 642 F. Supp. at 1396-1400.

You maintain that there is still Federal governmental hostility toward the SWP. You refer to *Socialist Workers Party v. Attorney General*, 666 F. Supp. 621 (S.D.N.Y. 1987), in which the court granted an injunction preventing the government from using, releasing, or disclosing information on the SWP unlawfully obtained or developed from unlawfully obtained material except in response to a court order or an FOIA request. You have enclosed affidavits submitted during 1987 in connection with this case by officials of the Office of Personnel Management, the State Department, the Immigration and Naturalization Service, and the Defense Investigative Service expressing the need for the information on the SWP based on certain unfavorable perceptions of the SWP. The OPM official stated that the information was important because the SWP and YSA "in the past were opposed to our form of Government and the national interest." The representative of the State Department characterized the SWP as a "hostile organization which has consistently posed a threat to free governments."

The court in this 1987 decision, and in the companion 1986 decision (at 642 F. Supp.), conceded the propriety of the type of inquiry proposed by the government officials, wherein SWP membership would not be dispositive but might be a reasonable basis for questioning the person as to whether he or she should be entrusted with sensitive data pertaining to national security. 666 F. Supp. at 623; 642 F. Supp. at 1427-1428. However, the court in the companion 1986 decision warned that "where information about the SWP or YSA is considered relevant, there must be a rigorous regard for the facts about these organizations" and "[a]ny indication that the SWP or YSA has a current program of carrying out violent revolution or acts of violence or terrorism would not reflect the presently known facts." 642 F. Supp. at 1428. The court in that case referred a number of times to the generally peaceful and lawful nature of SWP's activities, if not its ideology. 642 F. Supp. at 1370-75, 1380, 1426. The statements in the affidavits were made even after the court had made these assessments of SWP's activities.

Your request makes reference to a number of incidents over the past five years indicating primarily private harassment of the SWP and those associating with it.

[3] The Special Master's Report was also used as a basis for information by the U.S. District Court in the *Brown* case and information from the report was cited by the Supreme Court which affirmed the lower court decision. *Brown*, 459 U.S. at 99

B-5

You enclose an article published in the *Midlands Business Journal* of April 21-27, 1989, promoting a security firm's services in labor disputes and urging companies to screen their employees. According to the article, the firm has compiled "an extensive data base and information index on violent domestic organizations and communist and Marxist groups." The firm referred to its work during the Hormel strike, stating that the local union was "absolutely infiltrated" by the SWP and that, following the strike, the firm started compiling names and photographs of "agitators." The firm claimed that, in another case involving product sabotage, it checked its index and found several names of persons "involved" with the SWP.

You also make reference to a series of incidents involving threats or violence against the SWP and SWP offices. These include: (1) threatening phone calls in February 1990 to the local office of the SWP in New York City (located on the same premises as the Pathfinder bookstore) the night before a public forum on Cuba was to be held at SWP offices; (2) threatening phone calls in January 1990 to a Pathfinder bookstore where the local SWP headquarters in Kansas City are located, followed by a rock through the store window, after a meeting on Panama sponsored by the SWP newsweekly, *The Militant*, was held on the premises; (3) bricks thrown through the windows of the SWP office in Omaha in March 1989; (4) a demonstration in San Jose in April 1985 outside an SWP-sponsored conference on Vietnam during which demonstrators attempted to intimidate people from attending; and (5) a shot fired through the window of a socialist bookstore and campaign headquarters of an SWP mayoral candidate in Atlanta in May 1985.

You also make reference to local government harassment of persons distributing SWP campaign literature. In April, 1988, an SWP gubernatorial candidate in West Virginia was ordered to remove his literature table in a public park by an officer who, according to the affidavit of the candidate, stated words to the effect of, "I don't like what you have on your table and I order you to take it down." You cite two examples, one in 1987 in Masontown, Pennsylvania, and one in 1986 in Newark, New Jersey, of persons distributing and selling SWP literature who were arrested and convicted for violating peddler's ordinances. On appeal, these convictions were overturned on First Amendment grounds.

You submit a number of documents pertaining to threats, harassment, and violence during the past 10 years in Miami against individuals associated with left-wing views, including the 1983 fire-bombing of the Militant Book Store, which served as a local SWP office. You state that the incidents set forth in these exhibits were submitted to the court in *McArthur v. Smith*, 716 F. Supp. 592 (S.D.Fla. 1989), in which the court decided that certain Florida campaign disclosure laws were unconstitutional as applied to the SWP in Miami's nonpartisan mayoral race. In that case, although the State of Florida contested the probability of threats by government officials, "[t]he parties mutually conclude[d] ... that no material issue of fact exists regarding the danger in Miami of publicly associating with the SWP." 716 F. Supp. at 593.

Based on the foregoing information, it appears that, during the past five years, the SWP has continued to experience harassment from several sources. The recent events cited, along with the history of governmental harassment, indicate that there is a reasonable probability that compelled disclosure of the names, addresses, occupations, and names of employers of those categories of persons listed in the 1979 and 1985 consent agreements will subject them to threats, harassment, or reprisals from governmental or private sources. The Commission, therefore, grants the committees supporting the candidates of the SWP the exemption provided for in the consent agreements. Consistent with the length of the exemption granted in the original 1979 court decree, this exemption is to last through the next two presidential year election cycles, i.e., until December 31, 1996. At least sixty days prior to December 31, 1996, the SWP may submit a new advisory opinion request seeking a renewal of the exemption. If a request is submitted, the Commission will consider the factual information then presented as to harassment after 1989, or the lack thereof, and will make a decision at that time as to the renewal.

The Commission emphasizes that the committees supporting the Federal office candidates of the SWP must still comply with all of the remaining requirements of the Act and Commission regulations. As provided for in the consent agreements, the committees must file reports containing the information required by 2 U.S.C. § 434(b) with the exception of the information specifically exempted, and the committees must keep and maintain records as required under 2 U.S.C. § 432 with sufficient accuracy [illegible] to be able to provide information, otherwise exempt from disclosure, in connection with a Commission investigation. In addition to complying with the requirements of the decrees, the committees must file all reports required under 2 U.S.C. § 434(a) in a timely manner. The committees must also comply with the provisions of the Act governing the organization and registration of political committees. See, e.g., 2 U.S.C. §§ 432 and 433. Adherence to the disclaimer provisions of 2 U.S.C.

B-6

§441d is also required. Finally, the committee must comply with the Act's contribution limitations and prohibitions. 2 U.S.C. §§441a, 441b, 441c, 441e, 441f, and 441g.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. §437f.

Dated: August 21, 1990.

[¶ 5992] AO 1990-15: Termination of Committee

[A campaign committee may apply to be terminated if its only outstanding debt cannot be paid or settled. Answer to Kenneth B. Kramer, 1400 S. Joyce Street—C108, Arlington, Virginia 22202-1812.]

This refers to your letter dated July 11, 1990, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the administrative termination of "Ken Kramer '86" which was your principal campaign committee in the 1986 election cycle for the United States Senate in Colorado.

Your letter states that Ken Kramer '86 ("the Committee") has been reporting since 1985 when you began your 1986 Senate campaign but that you are not currently a candidate for any elective office. You also state that the Committee has resolved "all creditor issues" except one disputed debt involving Kenneth D. Bailey, doing business as Direct Marketing Resources ("DMR"). Your position is that no debt is owed to DMR or Mr. Bailey. In an attempt to settle DMR's asserted claim of $24,304 and without admitting any liability, you tendered a Committee check in the amount of $2,000 in February 1989.

Your proposed settlement was apparently rejected by Mr. Bailey who, by letter from his counsel dated June 21, 1989, did offer to settle his claim against the Committee for $17,989. This letter also references a civil complaint that counsel for Bailey and DMR proposed to file in King County Superior Court, Washington, in the event you declined to accept his settlement. You responded by letter dated July 18, 1989, to Chuck Bailey (Ken Bailey's father and business associate) stating that you hoped "we can still settle this matter on a reasonable basis." This letter further explained that Ken Bailey's proposed settlement of about "$18,000 is just not in the ballpark."

Your request includes copies of ten letters concerning this disputed debt from or on behalf of Mr. Bailey, and from you to Mr. Bailey, beginning in December 1986. Nine of the letters are dated in 1988 and 1989. Several letters make reference to telephone conversations and personal meetings involving you, your campaign staff, and both of the Baileys in the same time period. Taken together they indicate a fairly protracted effort of exchanging information and explanations to ascertain the relevant facts regarding the campaign services provided by Bailey and DMR and their debt claim against the Committee.

Committee reports filed with the Commission indicate that this disputed debt claim by DMR is the only unsettled obligation of the Committee. The 1989 year end report also discloses that the Committee had receipts of $2,375 and disbursements of $3,154 in 1989. As of December 31, 1989, the Committee reported $8,401 of cash on hand. For the first six months of 1990, the Committee reports $270 in receipts, $630 in disbursements, and cash on hand of $8,043 on June 30, 1990.

You explain that the Committee's continued filing with the Commission imposes "significant difficulties on a defunct Committee" and that "as long as the Committee remains open, it is also necessary for it to pay federal income tax and file a return with the Internal Revenue Service." You ask whether the Act and Commission regulations permit the Commission to administratively terminate the Committee's reporting obligations in view of the circumstances presented in your request and summarized above. You also ask what effect, if any, the running of the Colorado statute of limitations has upon the administrative termination of the Committee.

Several provisions of the Act and Commission regulations are relevant to your questions. First, the amount of outstanding debts and obligations owed by a political committee must be continuously reported until extinguished by either payment in full, or by lawful settlement subject to review by the Commission. 2 U.S.C. §434(b); 11 CFR 104.3(d), 104.11, 114.10. Furthermore, a political committee may terminate its reporting status only upon filing a termination report or statement indicating that it will no longer receive any contributions or make any disbursement, and that it has no outstanding debts or obligations. 2 U.S.C. §433(d)(1), 11 CFR 102.3.

The Act also recognizes that the Commission has authority to terminate the reporting status of a political committee by administrative decision even if it still has unpaid debts and obligations. 2 U.S.C.

Exh. C

4 pages

C-1

I, Margaret Trowe, submit the following list of election results for Socialist Workers candidates for public office since 1996, in support of the application to the Federal Elections Commission for an advisory opinion that the Socialist Workers Party, the Socialist Workers Party's National Campaign Committee, and the committees supporting the candidates of the Socialist Workers Party are entitled to an exemption from certain disclosure provisions of the Federal Elections Campaign Act.

I was the Socialist Workers candidate for vice president of the United States in 2000. I prepared the list.

Since January 1, 1996, the Socialist Workers candidates have won no elections.

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 9, 2002.

Margaret Trowe

Margaret Trowe

October 9, 2002

Socialist Workers Campaign Election Results 1996-2000

Socialist Workers Presidential Ticket

1996: James Harris for president
Laura Garza for vice-president
-- on ballot in 8 states
-- 8,476 votes in those states

2000: James Harris for president
Margaret Trowe for vice-president
-- on ballot in 14 states
-- 10, 644 votes in those states

Socialist Workers Candidates for U.S. Senate

1996

Candidate	State	Vote total
Shirley Peña	Iowa	1,844
Thomas Fiske	Minnesota	1,554
Olga Rodríguez	New Jersey	14,319
In addition to the above three states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in Alabama, Georgia, Illinois, Massachusetts, Michigan, Texas, and Washington, D.C., and West Virginia. No vote totals are available for these write-in candidates.		

1998

Candidate	State	Vote total
Margaret Trowe	Iowa	2,542
Rose Ana Berbeo	New York	3,513
Nan Bailey	Washington	3,709
In addition to the above three states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in Alabama, California, Georgia, Illinois, Ohio, and Pennsylvania. No vote totals are available for these write-in candidates.		

C-3

2000

Candidate	State	Vote total
Rebecca Ellis	Minnesota	13,781
Nancy Rosenstock	New Jersey	3,219
Jacob Perasso	New York	4,103
In addition to the above three states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in California, Florida, Massachusetts, Michigan, Missouri, Ohio, Pennsylvania, and Texas. No vote totals are available for these write-in candidates.		

Socialist Workers Candidates for U.S. House of Representatives

1996

Candidate	State	Vote total
Richard McBride	Iowa	700
Willie Reid	Michigan	717
Jennifer Benton	Minnesota	4,284
William Estrada	New Jersey	720
Toni Jackson	New Jersey	656
Stefanie Trice	New Jersey	641
Robert Robertson	New Jersey	696
Eleanor Garcia	New York	1,283
Jerry Freiwirth	Texas	270
John Langford	Utah	270
Sam Manuel	Washington, DC	1,146
In addition to the above eight states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in Alabama, California, Florida, Georgia, Illinois, Michigan, Minnesota, New York, Ohio, Pennsylvania, Texas, and Washington. No vote totals are available for these write-in candidates.		

C-4

1998

Candidate	State	Vote total
Andrea Morell	Massachusetts	4,854
Holly Harkness	Michigan	808
Heather Wood	Minnesota	2,264
Michael Pennock	Minnesota	2,842
José Aravena	New Jersey	318
Susan Anmuth	New Jersey	752
Maurice Williams	New Jersey	2,279
Dorothy Kolis	Pennsylvania	1,625
Nancy Cole	Pennsylvania	964
Lea Sherman	Texas	2,013
Mary Martin	Washington, DC	1,087
Jeff Powers	Washington	4,921
In addition to the above eight states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in Alabama, California, Georgia, Michigan, Ohio, and Texas. No vote totals are available for these write-in candidates.		

2000

Candidate	State	Vote total
Edwin Fruit	Iowa	612
Maurice Williams	New Jersey	448
Kari Sachs	New Jersey	156
Paul Pederson	New York	1,271
Sam Manuel	Washington, DC	1,419
In addition to the above four states where Socialist Workers candidates were on the ballot, there were also write-in campaigns in Alabama, California, Georgia, Illinois, Massachusetts, New York, Pennsylvnia, and Texas. No vote totals are available for these write-in candidates.		

D

Exh. D

1 page

D-1

Declaration

I, Greg McCartan, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge:

1. I was the treasurer of the Socialist Workers National Campaign Committee in 2000.

2. I requested each local committee supporting federal candidates for office report to me the number of contributors to the committee and the total number of contributors of $300 or more, a randomly low dollar amount.

3. There were a total of 17 campaign committees in the United States supporting a candidate for federal office.

4. A total of 354 people contributed funds to these committees.

5. There was one contribution of over $300 to any of these committees.

Executed on December 23, 2000

Greg McCartan

Greg McCartan

E

Exh. E

1 page

E - 1

DECLARATION

I, Sara J. Lobman, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the Socialist Workers Party, the Socialist Workers Party's National Campaign Committee, and the committees supporting the candidates of the Socialist Workers Party are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge:

> In late September, Paul Pederson, Socialist Workers Party candidate for Congress, 12th CD, sold a copy of the campaign newspaper, *The Militant*, to the man who brings the lunch truck to the factory where I work (St. James Gourmet at 105 Bicounty Road in Farmingdale, New York.) after telling him about the campaign.
>
> Yesterday, on October 2, 2002, at approximately 8:15 a.m., I went out to the lunch truck to ask the driver whether he had liked the paper. Before I could even ask, he told me how much he had enjoyed it because it had a perspective you didn't get in other papers or on the TV news. He said he wanted to buy a copy every week from me. I told him that after this week I would no longer be working in the plant and suggested he take advantage of the special $10 introductory subscription offer; that it would be a good way to follow Paul's campaign and the other coverage in the paper. He told me "The money is no problem, but I don't want to get it through the mail. I don't want to get on government lists. I remember the 1960s."

I declare under the penalty of perjury that the foregoing is true and correct. Executed on October 3, 2002.

Sara J. Lobman

Sara J. Lobman
October, 3, 2002

Exh. F

4 pages

STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION
711 Capitol Way, Rm 403, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

F-1

BEFORE THE PUBLIC DISCLOSURE COMMISSION OF THE STATE OF WASHINGTON

IN THE MATTER OF THE APPLICATION OF THE SOCIALIST WORKERS 1998 STATE CAMPAIGN FOR A REPORTING MODIFICATION	PDC NO. 2197 Findings, Conclusions and Order

I.

This matter came on for hearing before the Public Disclosure Commission on the application of the Socialist Workers 1998 State Campaign for a modification of the reporting requirements of RCW 42.17.065(2) (a) and (b); .065(5); .067(6); .080(4); and .090. Consideration of the request was made pursuant to RCW 42.17.370(9) and chapter 390-28 WAC by the entire Commission. The proceedings were held in the John A. Cherberg Building, Senate Hearing Room #2, Capitol Campus, Olympia, Washington on August 25, 1998. Richard Berley, representing the Socialist Workers 1998 State Campaign, was present and addressed the Commission. Scott Breen, the Socialist Workers 1998 State Campaign's only candidate for state or local office, also addressed the Commission.

II.

Based on the testimony offered at the hearing, the Commission made the following

FINDINGS OF FACT

1. The Socialist Workers 1998 State Campaign is the election campaign committee of the one candidate for state or local office of the Socialist Workers Party. The Party's one candidate for state or local office in 1998 is Scott Breen, a candidate for State Senate in the 37th Legislative District. The Socialist Workers Party is a political party which receives funds and makes contributions to Washington state candidates and committees. The Party sponsors candidates in state and local elections, as well as in federal elections, and has done so for many years. Thus far, no Socialist Workers Party candidate has been elected to public office in Washington state.

F-2

2. There is a long history of harassment, disruptive efforts by individuals and government agencies, government surveillance, and threats against individuals identified with the Socialist Workers Party nationwide. The Socialist Workers Party is outspoken in its defense of the rights of Blacks and other minorities, desegregation, affirmative action and similar, often controversial issues. As a result, candidates and party supporters have been subject to racial threats and potential victimization.

3. On several occasions in the past Socialist Workers Party campaigns and candidates have been either exempted from or granted modification of campaign reporting provisions of state and federal law because of the hardships met by the Party if required to disclose campaign contributors' or vendors' names. The Socialist Workers Party has not reported this information in the past in Washington state.

4. The Socialist Workers Party has run candidates in Washington state for federal, state and local office since 1978. No candidate has won election thus far.

5. There are instances where business owners fear they will become the target of reprisals if it is known they do business with the Party or its candidates.

6. Disclosure of the names and addresses of persons who contribute could have a chilling effect on the Party's ability to solicit and collect campaign funds.

7. Disclosure of the names and addresses of vendors who supply goods and services could have a chilling effect on the Party's ability to purchase necessary campaign materials and services.

8. Disclosure of the occupation of any coded contributors, or the employers of such contributors, could have a chilling effect on the Party's ability to solicit and collect campaign funds.

9. Making the books and records of the Party available for public inspection during the eight days prior to any election could have a chilling effect on the Party's ability to solicit and collect campaign funds, and on the Party's ability to purchase necessary campaign materials and services.

F-3

III.

Having made these Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. Literal compliance with all the provisions of the statute and the rules would work a manifestly unreasonable hardship on the applicant.

2. Limited suspension or modification of the reporting requirements of RCW 42.17 as specified in the Order would not frustrate the purposes of the Act in this particular case.

IV.

Having made these Findings of Fact and Conclusions of Law, the Commission issues the following

ORDER

1. The applicant may establish a separate candidate committee for its one candidate (Scott Breen, Candidate for State Senate, 37th Legislative District) and report the activity of that candidate committee only. The applicant shall not be required to report the activity of the Socialist Workers Party as a whole because none of this money will be given to other campaigns, whether to another candidate or a ballot measure. The candidate's committee, known as the *"Socialist Workers 1998 State Campaign"*, will adhere to all laws applicable to candidate committees. Contributions coming from any one source shall not exceed $575 per election. Should the Socialist Workers 1998 State Campaign field additional candidates, its campaign finance reports shall designate for whom its contributions were received, and for whom its expenditures were made. If multiple legislative candidates are supported, contributions received shall not exceed $575 from one source for any one candidate, and expenditures made on behalf of any one candidate shall not exceed the amount received for that candidate.

2. The applicant may satisfy the requirements to report the names and addresses of contributors and persons to whom expenditures are made by assigning a code number to each such person and reporting that code together with the amounts contributed or paid as an expenditure. The applicant shall identify each coded contributor as being either an individual or a non-individual. The applicant shall be required to obtain, but not disclose, the occupation of individual contributors who give an aggregate of $100 or more, and the name and address of the individual's employer, as required by WAC 390-16-034.

F-4

3. The applicant shall make available its public disclosure reports for public inspection during the eight days before the election, but not its books of account; except that, if the PDC determines a review of the applicant's books of account is necessary, the records shall be made available to an independent third party mutually agreed to by the applicant and the PDC.

4. This modification shall be in effect through December 31, 1998.

5. In all other matters required to be reported, the applicant shall comply in full with the reporting requirements of Chapter 42.17 RCW.

DATED this 27th day of August, 1998.

FOR THE PUBLIC DISCLOSURE COMMISSION

Melissa Warheit

Melissa Warheit, Executive Director

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Exh. G

2 pages

G

G-1

BEFORE THE SEATTLE ETHICS AND ELECTIONS COMMISSION

In the Matter of the Application of THE SOCIALIST WORKERS' 1997 CAMPAIGN for a Reporting Modification	)))	DECISION

This matter came before the Seattle Ethics and Elections Commission pursuant to SMC 2.04.320 on Wednesday, August 6, 1997 and was continued to Wednesday, September 10, 1997, in 221 Municipal Building, 600 Fourth Avenue, Seattle, Washington.

INTRODUCTION

The Socialist Workers' 1997 Campaign is a political committee that is raising campaign contributions and giving them to two candidates for City office, one for Mayor and one for City Council. The Seattle Elections Code, Seattle Municipal Code 2.04.160 through .290, requires public disclosure of the finances of political committees and candidates involved in City office campaigns, including the disclosure of the name and address of each contributor of more than twenty-five dollars and each person to whom more than fifty dollars was paid. In addition, the Code requires each campaign to make its books of account available for public inspection for two consecutive hours during the six business days before each election. The Socialist Workers' 1997 Campaign has been filing reports with the City Clerk for the political committee and for the Mayoral and City Council candidates, but in those reports has not revealed the identities or any other information about contributors or vendors.

Jeff Powers, representative of The Socialist Workers' 1997 Campaign, filed with the Commission a letter requesting modification of reporting by The Socialist Workers' 1997 Campaign for the committee and for the candidates. He asked that all reports submitted by The Socialist Workers' 1997 Campaign not be required to show the names and addresses of contributors to their campaigns and the vendors to whom the campaigns made expenditures. He further requested that original books and records of the campaigns not be available for public inspection. The Commission received his written request with two prior orders and four written exhibits of statements by persons claiming harassment. The Commission scheduled a hearing for August 6, 1997. No one appeared at the hearing to testify. After considering the submitted materials, the Commission continued the hearing to September 10, 1997 to allow a representative from the Campaign another opportunity to appear before the Commission. No additional documents were submitted. At the September 10, 1997 hearing, the Commission heard from Jeff Powers and from Socialist Workers' 1997 Campaign Mayoral candidate Scott Breen and Socialist Workers' 1997 Campaign City Council candidate Robbie Scherr, and the Commission reviewed the documents that had been submitted by Jeff Powers, representative of The Socialist Workers' 1997 Campaign. Based on the statements made at the hearing and documents and discussion in the record, the Commission enters the following order.

DECISION

Despite an opportunity on August 6 to present evidence and another opportunity on September 10 to present evidence and to make oral argument, The Socialist Workers' 1997 Campaign failed to produce evidence sufficient to demonstrate a reasonable probability that the compelled disclosure of contributors to and vendors of The Socialist Workers' 1997 Campaign will

subject the contributors and vendors to threats, harassment, or reprisals from either government officials or private parties and failed to produce evidence sufficient to demonstrate that there is a reasonable probability that advocacy of the Socialist Workers' 1997 Campaign views will be hindered and the right of free association will be chilled by such compelled disclosure.

The recent incidents of alleged harassment in Washington state pointed to by the Socialist Workers' 1997 Campaign do not indicate that a special exemption is needed to protect associational or expressive rights for those who espouse the views of the Campaign. The evidence presented did not demonstrate that in this region there is a reasonable probability of chilling the expression of the views of the Socialist Workers' 1997 Campaign with respect to abortion rights or union support. A large segment of the local population openly and routinely expresses views on these issues that parallel those of the Socialist Workers' 1997 Campaign. There is not sufficient evidence the Socialist Workers' 1997 Campaign has experienced or will experience any threats or harassment different than that experienced by others who express similar views. Neither the other expressed views of the Socialist Workers' 1997 Campaign (such as support for the Cuban revolution) nor membership in the Socialist Workers' Party were convincingly alleged to have resulted in serious threats or reprisals in any recent, geographically meaningful incidents. For example, Meg Novak complained her private employer was hostile to her efforts to attend an International Youth Festival in Cuba as part of her 1995 Socialist Workers' Party campaign effort. But the granting of leaves of absence to Ms. Novak's factory co-workers, and eventually to Ms. Novak herself, for this purpose is more suggestive of a lack of harassment than of its presence.

The Socialist Workers' 1997 Campaign has not shown a reasonable probability that its potential campaign contributors for the Seattle City Council and Mayor races are significantly deterred from contributing by the possibility of public disclosure of their identities. Nor is there evidence that local vendors have insisted on anonymity before they will do business with the Socialist Workers' 1997 Campaign.

The request for modification is DENIED. The Socialist Workers' 1997 Campaign is subject to all disclosure requirements of the Seattle Elections Code, SMC 2.04.

Dated this 22nd day of September, 1997.

FOR THE SEATTLE ETHICS AND ELECTIONS COMMISSION

Daniel J. Ichinaga, Chair, Seattle Ethics and Elections Commission

The Commission members voting to take this action were:

Daniel Ichinaga, Chair
Marc A. Boman
Timothy Burgess
Sharon K. Gang
John A. Loftus

Voting against this action was:
Rosselle Pekelis

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Exh. H

2 pages

H

Statement by Geoff Mirelowitz

I, Geoff Mirelowitz, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the Socialist Workers Party, the Socialist Workers Party's National Campaign Committee, and the committees supporting the candidates of the Socialist Workers Party are entitled to an exemption from certain disclosure provisions of the Federal Elections Campaign Act.

I make this statement on the basis of personal knowledge:

Within a few days of the September 1997 decision of the Seattle Ethics and Elections Commission, denying the Socialist Workers campaign exemption from disclosing the names of its contributors, I was staffing the Pathfinder Bookstore at 1405 E. Madison in Seattle. The Socialist Workers campaign shared office space at the same location.

In the late afternoon or early evening an individual walked in. He was looking for the Socialist Workers campaign. He explained he had just learned of the SEEC decision. He was quite concerned because, he explained, he had mailed a financial contribution to the Socialist Workers campaign, immediately prior to the decision, or immediately prior to his learning of it. He wanted to know if his check had been received.

I explained I did not know the answer to his question. He expressed his hope that the check had not yet been deposited. He indicated he was considering asking the campaign to return the check to him.

While we were talking, Jeff Powers, the Socialist Workers campaign treasurer, arrived at the bookstore. He and I both continued talking with this individual who expressed his understanding that if his check had been for $99 rather than the $100 he had written it for, the campaign might not have to disclose his name under the disclosure laws. Powers explained that according to the law, any contribution over $25 required disclosing the full name of the contributor. Powers further explained that, according to his understanding, a $100 contribution would also require disclosing the contributor's place of employment. The individual visiting the offices expressed great concern that any information could be required, in particular his place of employment.

To the best of my recollection Powers informed this individual that his check had not yet arrived in the mail. Powers assured him that the Socialist Workers campaign had no intention of disclosing the names of financial contributors and was taking legal and political steps to try to reverse the SEEC decision.

This seemed to reassure this individual. I understood that he planned to consider the matter further, including the possibility that he might reduce the size of his contribution. I believe he may have asked Powers to let him know when his check arrived in the mail.

H-2

I am not sure of the precise date of this incident but can verify it by looking at the bookstore's records which are not available to me at this time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed October 29, 2002.

Signed: Geoff Mirelowitz

Geoff Mirelowitz
October 29, 2002
Seattle, Washington

Description

Exh. I

1 page

I - 1

Statement attesting that fear of reprisals will influence financial contributions to the SWP election campaigns.

On Friday, September 19, 1997, I attended a meeting of the Militant Labor Forum. The forum is a weekly free-speech meeting held at the Pathfinder Bookstore. The topic under discussion that night was a talk by Socialist Workers 1997 Campaign treasurer Jeff Powers on the Seattle Ethics and Elections Commission's decision to deny the SWP's request for an exemption from financial disclosure laws.

Following the discussion, a long-time supporter of the party's election campaigns told me that he was happy to hear that the campaign committee had not turned over the names of contributors. He explicitly said that if such disclosures were going to be made in the future he and his wife would certainly think twice about contributing as they have done in the past. He mentioned being especially concerned about potential victimization of his wife who works at Boeing.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Robbie Scherr
9/30/97

Exh. J

1 page

J

J - 1

Declaration

I, Margaret Trowe, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge:

1. I was the Socialist Workers candidate for U.S. vice president in 2000.

2. At numerous times during the campaign people who were interested in the campaign declined to disclose their name or address, either on nominating petitions being circulated to attain ballot status or by subscribing to the *Militant* or *Perspectiva Mundial* newspapers, stating they feared being placed on a federal or FBI list.

3. It is not uncommon in my experience on the job that coworkers will declined to disclose their name or address, either on nominating petitions being circulated to attain ballot status or by subscribing to the *Militant* or *Perspectiva Mundial* newspapers, stating they feared being placed on a federal or FBI list.

Executed on December 23, 2000

Margaret Trowe

Exh. K

1 page

K

K - 1

Declaration

I, James Harris, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the SWP, the SWP's National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge:

1. I was the Socialist Workers candidate for U.S. president in 2000.

2. At numerous times during the campaign people who were interested in the campaign declined to disclose their name or address, either on nominating petitions being circulated to attain ballot status or by subscribing to the *Militant* or *Perspectiva Mundial* newspapers, stating they feared being placed on a federal or FBI list.

3. It is not uncommon in my experience on the job that coworkers will declined to disclose their name or address, either on nominating petitions being circulated to attain ballot status or by subscribing to the *Militant* or *Perspectiva Mundial* newspapers, stating they feared being placed on a federal or FBI list.

Executed on December 23, 2000

James E Harris

James Harris

Exh. L

1 page

L

L-1

DECLARATION

I, Edwin B. Fruit, make this declaration in support of the application to the Federal Elections Commission, an advisory opinion that the Socialist Workers Party, the Socialist Workers National Campaign Committee, and the committees supporting the candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge:

1. I am currently the Socialist Workers candidate for U.S. Representative in the 3rd District of the state of Iowa.

2. On September 22 a campaign supporter and myself had a campaign table outside a food store in Des Moines.

3. Along with getting out information on my campaign we were encouraging people to subscribe to our campaign newspapers, The Militant and Perspectiva Mundial. One person came by the table and said, "If I subscribe, will I be put on an FBI list?" He declined to subscribe.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on September 30, 2002.

Edwin B. Fruit

s/ Edwin B. Fruit
9/30/2002

Exh. M

1 page

M

m - 1

DECLARATION

I, Edwin B. Fruit, make this declaration in support of the application to the Federal Elections Commission as an advisory opinion that the Socialist Workers Party, the Socialist Workers National Campaign Committee, and the committees supporting candidates of the SWP are entitled to an exemption from certain disclosure provisions of the Federal Election Campaign Act.

I make this statement on the basis of my personal knowledge.

1. I am currently the Socialist Workers candidate for U.S. Representative in the 3rd District in Iowa.

2. I am working at an IBP plant in Perry, Iowa and am informing co-workers of my campaign as well as asking them to subscribe to my campaign newspapers, The Militant and Perspectiva Mundial.

3. On September 26, one of my coworkers, who is from another country said he did not want to subscribe because this might bring him trouble with the police or other government agencies.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on September 30, 2002

Edwin B. Fruit

s/ Edwin B. Fruit
9/30/2002

Exh. N

2 pages

N

N - 1

I, Argyrios Malapanis, make this declaration in support of the application to the Federal Elections Commission for an advisory opinion that the Socialist Workers Party, the Socialist Workers Party's National Campaign Committee, and the committees supporting the candidates of the Socialist Workers Party are entitled to an exemption from certain disclosure provisions of the Federal Elections Campaign Act.

I make this statement on the basis of personal knowledge:

1. I am a member of the National Committee of the Socialist Workers Party. I frequently sell subscriptions to the *Militant*, the newsweekly that supports Socialist Workers Party candidates, and its sister publication in Spanish *Perspectiva Mundial*, on my job, through setting up literature tables on campuses or in the streets of Miami, where I reside, or visiting people door-to-door in working-class communities.

2. Over the last year, I have met an increasing number of people -- at least a dozen -- during these activities who purchased single copies of the *Militant* or *Perspectiva Mundial*, said they had read these publications before and liked them, but would not subscribe because they were afraid of government harassment if their name got on such a mailing list. I cite three such examples below.

3. On May 24, 2002, a coworker of mine at a meatcutting plant and food distribution center where I worked, located in Hollywood, Florida, told me after purchasing several issues of the *Militant* from me on the job that he liked the newsweekly very much. This coworker also said he decided not to get the paper mailed to him at home because he "does not want to get on a list that the government could use against" him. Being an immigrant from Jamaica, this coworker said he knows of others who have "gotten in trouble with the government" for similar things.

4. On the afternoon of June 7, 2002, I was selling subscriptions to the *Militant* through a literature table in front of the Pathfinder Bookstore at 8365 NE 2nd Ave. in Miami. A medical doctor of Haitian origin who stopped by said he was glad to see the *Militant* again, he had purchased copies before. When I asked him if he would like to buy a subscription, he responded that he would love to do that but he does not want his name "on the list." We finally agreed that I would personally deliver the paper to his house for the duration of the 12-week subscription, which

N-2

he agreed to buy as long as his name and address was not turned over to the paper's mailing list.

5. On the afternoon of September 25, 2002, I was selling subscriptions to the *Militant* through a literature table on a public sidewalk across the street from the Wolfson campus of the Miami Dade Community College (MDCC) on the corner of NE 2nd Ave. and NE 4th St. near downtown Miami. A student who had purchased the paper from me several times in the past, said he had thought about previous offers but decided against buying a subscription because he was scared to get on any mailing list that "the government may scrutinize."

I declare under penalty of perjury that the foregoing is true and correct. Executed October 9, 2002.

Argyrios Malapanis
October 9, 2002