

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF COLUMBIA

3

4 CHRISTIAN CIVIC LEAGUE)
OF MAINE, INC.,) Docket No. 1:06CV00614

5)
Plaintiff,)

6)
v.)

7)
FEDERAL ELECTION COMMISSION,)

8)
Defendant.)

9

10

11

12 DEPOSITION of MICHAEL HEATH, taken pursuant to

13 notice dated April 5, 2006, at the Sheraton Hotel, 363 Maine

14 Mall Road, South Portland, Maine, on April 13, 2006,

15 commencing at 9:55 a.m., before Cindy Packard, Registered

16 Merit Reporter, a Notary Public in and for the State of

17 Maine.

18

19 APPEARANCES:

20 For the Plaintiff: James Bopp, Jr., Esq.

21 For the Defendant: Harry J. Summers, Esq.
Colleen T. Sealander, Esq.

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2 MICHAEL HEATH, having been duly sworn by the Notary
3 Public, was examined and deposed as follows:

4 MR. SUMMERS: My name is Harry Summers, I'm
5 an attorney with the Federal Election Commission. With
6 me today is Colleen Sealander, also an attorney with
7 the Commission.

8 Would other counsel please identify himself?

9 MR. BOPP: James Bopp, Jr.

10 MR. SUMMERS: This deposition is being taken
11 in connection with Christian Civic League of Maine v.
12 Federal Election Commission, Civil Action Number
13 06-0614 in the District -- U.S. District Court for the
14 District of Columbia.

15 EXAMINATION

16 BY MR. SUMMERS:

17 Q Please state your name, sir?

18 A Michael Heath.

19 Q And what is your home address?

20 A 28 Mayflower Lane, South China, Maine.

21 Q And your professional address or your work address?

22 A 70 Sewall Street, Augusta, Maine.

23 Q And that's the -- also the address of the Christian

24 Civic League of Maine?

25 A Yes.

4

1 Q Are you represented by a lawyer today, by counsel

2 today?

3 A I am.

4 Q And who is that counsel?

5 A James Bopp.

6 Q Okay. Have you been deposed before, sir?

7 A No, sir.

8 Q Do you understand that if I ask questions, the court

9 reporter takes down the questions and the answers, so

10 it's important to answer orally?

11 A Yes.

12 Q Do you understand you're under oath today and required

13 to testify truthfully to the best of your ability?

14 A I do.

15 Q If you don't understand a question, will you let me

16 know?

17 A Yes.

18 Q We'll take breaks, but if you need one at any

19 particular time, just let me know. Is there anything

20 such as medication that could affect your ability to

21 testify accurately today?

22 A No.

23 Q Okay. Did you do anything to prepare for this

24 deposition?

25 A Yes.

5

1 Q What did you do?

2 A I spoke with counsel. I instructed my staff to

3 cooperate with counsel in the preparation of documents

4 related to this deposition. I reviewed those

5 documents. And that's about it.

6 Q Did you discuss the deposition itself with anyone other

7 than counsel?

8 A My wife.

9 Q Anyone else?

10 A Besides staff?

11 Q Including staff?

12 A I discussed it with the president of our board of

13 directors.

14 Q And what is his name?

15 A Dallas Henry.

16 Q Anyone else?

17 A No.

18 Q Okay. Did your counsel give you anything to review in

19 preparing for today's deposition?

20 A He gave me the documents that you have.

21 Q The documents that were produced to the Commission

22 earlier this week?

23 A Correct.

24 Q By Christian -- I'm sorry, Christian Civic League, I'm

25 sorry, those documents?

1 A Yes.

2 Q Just to save time, in the papers that counsel has
3 filed, he's used the abbreviation CCL for your
4 employer. Is that okay with you if I use that as well,
5 or is there one you prefer, just to make it shorter?

6 A That's fine.

7 Q That's fine, okay. Any other materials that --

8 A Related to -- any other materials related to --

9 Q To the deposition that you were given by counsel before
10 the deposition?

11 A Okay. Related to this meeting?

12 Q Yes.

13 A To the deposition?

14 (Mr. Bopp confers with the witness.)

15 THE WITNESS: Can you repeat the question?

16 Q (By Mr. Summers) Did counsel give you any other
17 materials other than what you've described in
18 preparation for this meeting, this deposition?

19 A I'm pausing to reflect on what I described in the
20 previous questions. No.

21 Q Okay. Could you state your job, please?

22 A I'm the executive director of the Christian Civic

23 League of Maine.

24 Q Do you hold any other work positions?

25 A I'm the executive director of the Christian Education

1 League. And I also have responsibilities related to

2 our political action committees.

3 Q And what are those? What are your positions with those

4 committees?

5 A Executive director.

6 Q Of?

7 A Christian Action League. The Coalition for Marriage,

8 which is a -- doing business as PAC, related to the

9 Coalition -- I mean, to the Christian Action League.

10 And the -- recently -- we're in process of working with

11 a PAC called the No Slots for Maine.

12 Q And what's your position with No Slots for Maine?

13 A Still being determined because the board of No Slots

14 for Maine is transitioning, and we are working with

15 them to --

16 Q I see.

17 A -- develop a petition effort related to gambling.

18 Q So that's an existing PAC?

19 A It is. State.

20 Q State PAC, yes. Is it okay if for -- if I use these

21 abbreviations as well, for the Christian Action League,

22 CAL, and for the Coalition for Marriage, CFM?

23 A Yes.

24 Q Okay. Thank you. How long have you held a position

25 with CCL?

1 A As executive --

2 Q Let's start when you first started and maybe work your
3 way through the different job titles until now, if you
4 would?

5 A I started in 1988, I believe, around there, as the
6 administrative assistant. And sometime in the early
7 1990s, became associate director. And in 1994, became
8 executive director of CCL. I've held that post since
9 that time.

10 Q Can you describe your duties as executive director of
11 CCL, please?

12 A My duties. I am responsible for the day to day
13 operations of CCL. And my duty is to the board. I'm
14 responsible to the board of directors.

15 Q What do you actually do as executive director in a more
16 concrete way?

17 A I manage the staff. I sign the checks. I speak for
18 the organization publicly, am responsive to the media.

19 I implement the broad policy directives of the
20 board with respect to our operations, our day to day
21 operations, which sometimes include petitioning

22 campaigns, and other times include lobbying efforts in

23 the State House.

24 Q Would you say that you direct the policy and activities

25 of CCL on a day to day basis?

1 A Yes.

2 Q Okay.

3 MR. SUMMERS: I'd like to have the court
4 reporter mark an exhibit.
5 (Heath Deposition Exhibit Number 1 was marked for
6 identification.)

7 MR. BOPP: Before we do 1, I was expecting
8 you to go to the notice of deposition, and of course --
9 do you have a copy of the notice of deposition?

10 MR. SUMMERS: I do. I have no objection to
11 having that marked, if you --

12 MR. BOPP: Could we mark that now? Do you
13 have a copy?

14 MR. SUMMERS: I do. Is it okay if that's
15 marked as Exhibit 2?

16 MR. BOPP: Yes, sure.
17 (Heath Deposition Exhibit Number 2 was marked for
18 identification.)

19 MR. BOPP: Mr. Heath of course has been
20 produced pursuant to the notice of deposition, which is
21 Exhibit Number 2, pursuant to Rule 30(b)(6), as the

22 representative of CCL. And in that regard, the notice
23 of deposition has subject matters as required that he
24 is to familiarize himself with and be prepared to
25 testify about in this deposition.

1 Now we have to both the interrogatories and to the
2 document request, we have interposed objections and
3 have answered subject to those objections. And that
4 would be our intention here.

5 We have the same substantive objections to the
6 subject matters that you are asking this witness to be
7 prepared to answer on as we do to the interrogatories
8 and to the depositions -- or the document request.

9 Specifically, it is our -- we object to any
10 questions that go beyond the facts verified in the
11 complaint, that go beyond the content of the ad or
12 relevant contextual factors that go to whether or not
13 the particular ad in question is an electioneering
14 communication.

15 And specifically, we object to questions about
16 other lobbying efforts that have been engaged in by the
17 organization, by -- with respect to their subjective
18 intent in conducting this broadcast advertising
19 campaign, to their projected belief on whether or not
20 there will be any effect on any election by their
21 advertising campaign.

22 We object to any questions about practical
23 difficulties that they would encounter in creating a
24 PAC.
25 And so as a result, we object to subject matters

1 listed in the notice of deposition, Numbers 1, 3, 4, 5,
2 7, and 9.

3 We do not object to questions specifically related
4 to the ad in question in Number 2, which we believe is
5 encompassed in Number 2.

6 We do not object to the extent to which Number 6
7 is involved in -- in questions related to contributions
8 or expenditures for the ad in question.

9 We do object to questions beyond that, including
10 the identity of any donors.

11 And we do not object to questions related to 8, as
12 long as they're not asking for legal conclusions of the
13 witness, they're asking for factual matters that would
14 relate to that criteria, we do not object to that.

15 And I would ask -- and we of course had this
16 discussion prior to the deposition that we stipulate
17 that these objections are, you know, ongoing so we do
18 not have to interpose them to each question.

19 And we intend to have the witness to answer those
20 questions even though we believe they're objectionable.

21 And if we have any specific question -- objections go

22 beyond this, of course, we would make those at that

23 time.

24 So if that is agreeable to you, then that's the

25 way we'd proceed.

1 MR. SUMMERS: That is agreeable. We'll

2 stipulate to that, and we appreciate that.

3 Q (By Mr. Summers) Mr. Heath, if I could direct your

4 attention to what's been marked as Exhibit 1. And if

5 you could turn to Section 9 of that exhibit. Is this

6 exhibit the current bylaws of CCL?

7 A Yes.

8 Q And is Paragraph 9 an accurate description of your

9 duties as executive director today?

10 A Yes.

11 Q Mr. Heath, you were a Republican nominee for the Maine

12 House of Representatives in 1992; is that correct?

13 A Yes.

14 Q Have you made any other bids for government office?

15 A No.

16 Q Okay. Have you worked on any other electoral campaigns

17 since then, either paid or volunteer?

18 A No.

19 Q Have you held any position in a political party since

20 then?

21 A No.

22 Q Okay. You made reference earlier to the documents
23 produced to the Commission earlier this week. Is it
24 part of your job to maintain the documents that CCL
25 produced to the Commission earlier this week?

1 A I have a staff member who I delegate that

2 responsibility to.

3 Q I see. Were those documents true and correct copies of

4 documents kept in the course of CCL's regular business?

5 A Yes.

6 Q Were they made by persons with knowledge of the matters

7 they discuss?

8 A Yes.

9 Q And was it the regular practice of CCL to make those

10 documents?

11 MR. BOPP: I'll be glad to stipulate, they're

12 business records that are admissible.

13 MR. SUMMERS: Thank you.

14 Q (By Mr. Summers) Please answer, anyway, if you would?

15 A Could you repeat the question?

16 Q Yes. Was it the regular practice of CCL to make those

17 documents?

18 A No.

19 Q In what way was it not?

20 A Well, to make those specific documents, we maintain

21 some of those electronically, we produced those in that

22 sequence for this purpose.

23 Q Maybe I should explain. To -- was it the regular

24 practice of CCL to create documents like those in

25 whatever medium they were -- they are normally created

1 or maintained, whether in a digital version or in a

2 printed version?

3 A Yes, but not in the -- not in the sequence or --

4 Q I understand.

5 A -- organization that was given -- that was provided.

6 Q I understand. But in some organization that you may

7 have in the organization itself?

8 A Yes.

9 Q Thank you. Okay.

10 (Mr. Bopp and the witness confer.)

11 Q (By Mr. Summers) What is CCL?

12 A The Christian Civic League is a ministry that was

13 formed in 1897 and which has been active in the state

14 of Maine since that time bringing Christian individuals

15 and churches together to accomplish three purposes.

16 One, to elect honest and competent public

17 officials.

18 Second, to encourage all the people of Maine in

19 good citizenship.

20 And third, to enact good laws and provide for

21 their impartial enforcement.

22 Q Let me direct your attention once again to what's been

23 marked as Exhibit 1, Section 2. Section 2 describes

24 the purpose of CCL; correct?

25 A Uh-huh.

1 Q And I see four purposes there, are those four purposes

2 all still the current purposes of CCL?

3 A Yes.

4 Q How does CCL work to elect honest and competent

5 officials?

6 A The -- that has been a subject of discussion among

7 staff and board for years as a result of the, in part,

8 IRS designations and rules. Also rules related to

9 electioneering, some of which -- some of which are

10 beyond my -- I don't know them all. I don't work hard

11 to try to understand what presents itself as an issue.

12 So in recent decades, the Christian Civic League

13 of Maine, which is the name of the founding -- which

14 was the founding name in 1897, has seen that purpose of

15 electing honest and competent public officials become

16 less active in its actions, in its daily actions.

17 That's changing, and we are becoming more active

18 in our efforts related to candidates. In doing so, we

19 are familiarizing ourselves with contemporary rules and

20 regulations related to that sort of activity.

21 Some of the, from what I've been able to determine

22 in travelling around the state and speaking with our
23 supporters, reason for the election of honest and
24 competent public officials fading into the background
25 is the 501(c)(3) rules that churches operate

1 under related to the Internal Revenue Service.

2 And because the Civic League was founded to work
3 with churches, in part, that is a reality within our
4 organization, their concerns related to candidate --
5 related to any statements they might make or actions
6 they might take related to candidate politics.

7 So we are in process regarding that purpose,
8 discussing it.

9 Q CCL --

10 MR. BOPP: Just a second.

11 (Mr. Bopp and the witness confer.)

12 Q (By Mr. Summers) CCL is a 501(c)(4) organization under
13 the IRS rules; correct?

14 A Repeat the question.

15 Q CCL is a 501(c)(4) organization under the IRS law; is
16 that correct?

17 A Yes.

18 Q What does CCL -- I understand your prior answer about
19 the CCL's activities with regard to electing officials,
20 my question was directed at what CCL has actually done
21 in the past to -- and say in the last few years, to

22 pursue that goal?

23 A What goal?

24 Q The goal of electing honest and competent officials?

25 A Nothing.

1 Q Nothing. You've --

2 A Let me clarify, if what you mean by that is endorsement
3 of candidates or direct organized opposition of a
4 candidate, it hasn't done anything.

5 Q What has it done?

6 A It produces a voter guide, which can be viewed online,
7 which involves a questionnaire and a ranking of
8 candidates.

9 Q And what years has it produced voter guides?

10 A We began producing them in 2000 -- I don't remember
11 exactly when, but I --

12 Q If it would help --

13 A We've been producing them since the date that you
14 requested documents, January 1, 2004.

15 Q Did you produce one in 2002?

16 A We may have.

17 MR. SUMMERS: I'd like to mark another
18 exhibit.

19 (Heath Deposition Exhibit Number 3 was marked for
20 identification.)

21 Q (By Mr. Summers) I'll show you what's been marked as

22 Exhibit 3, a document dated 2002 and entitled voter's

23 guide. Do you recognize this?

24 A Yes.

25 Q As the CCL's 2002 voter's guide?

1 A Yes.

2 Q What's the purpose of the voter's guide?

3 A To inform our -- well, to inform the public.

4 Q I'll direct your attention to Page Number 5 of the

5 voter's guide. At the top of Page 5, there is a

6 listing of several federal candidates; correct?

7 A Uh-huh.

8 Q And then over -- and that includes Senator Susan

9 Collins; correct?

10 A Yes.

11 Q Then over on the right side of the page, there are

12 what's described as CCL ratings; correct?

13 A Yes.

14 Q Can you explain those?

15 A Page 4, halfway down the page, how we rated the

16 candidates. Christian Civic League board of directors

17 rated candidates according to their comments and

18 answers to the questionnaire. Our policy statement was

19 used as a standard to grade the stands of each

20 candidate. Each candidate running in the November

21 election was sent a questionnaire, and every effort was

22 made to assure the candidates received questionnaires
23 and had ample opportunity to respond. Followup
24 telephone calls were made when possible. And the
25 rating of A through F is shown here.

1 Q So what's on Page 4 is an accurate description of how

2 the rating process works in the voter guides for CCL?

3 A Uh-huh.

4 Q And is that also how it worked in -- for the -- well,

5 strike that. Did you also create a voter guide in

6 2004?

7 A Yes.

8 Q Was the same rating system used in 2004?

9 A Yes.

10 Q Did you also create a voter guide in 2000?

11 A 2000, I don't remember.

12 Q Do you remember any prior years, whether a guide was

13 created in years prior to 2000?

14 A None were -- none were created.

15 Q You're sure that none were created prior to 2000?

16 A Not during my -- not while I was executive director.

17 Q Was there a printed version of the 2004 voter's guide?

18 A I don't remember.

19 Q Is the 2004 voter's guide available on your web site?

20 A Yes.

21 Q Were any federal candidates rated in the 2004 voter's

22 guide?

23 A I don't remember.

24 Q Okay.

25 MR. SUMMERS: We would request a copy of the

1 2004 voter's guide if one can be created in hard copy.

2 MR. BOPP: If you -- the way we need to
3 handle this is not to ask it during the deposition, but
4 if you just make a list, give us a list in writing, and
5 we will do -- we will produce those as promptly as we
6 can, assuming they're not objectionable.

7 MS. SEALANDER: Is it all right if we make a
8 list on a piece of paper here today and hand it to you
9 on your way out the door?

10 MR. BOPP: Anything that's in writing, I'll
11 be happy to respond to.

12 MS. SEALANDER: Handwriting, however -- all
13 right.

14 MR. BOPP: I trust I can read your writing, I
15 don't know about Harry's, but --

16 MS. SEALANDER: I will make the list.

17 MR. SUMMERS: Maybe you've been able to see
18 some of my writing here.

19 Q (By Mr. Summers) Was the 2002 voter -- strike that.

20 Where was the 2002 voter's guide distributed?

21 A Online. And beyond that, I don't remember.

22 Q Was there a hard copy version of the 2004 voter's

23 guide?

24 A I don't remember.

25 Q Did CCL do anything beyond putting the 2002 voter's

1 guide on its web site to transmit the 2002 voter's

2 guide to persons outside of CCL?

3 A No.

4 Q Did CCL do anything beyond what you've described to

5 make persons outside of CCL aware that 2002 voter's

6 guide was available on the web site?

7 A We mentioned it in publications.

8 Q Which publications?

9 A The email which was then called the issues summary

10 would have mentioned it.

11 Q How often does that -- how often did that email -- how

12 often was that email sent?

13 A Daily.

14 Q So roughly how many emails mentioned the 2002 voter's

15 guide?

16 A I don't know.

17 Q Were the emails mentioning it sent prior to the --

18 prior to the November, 2002, elections?

19 A Yes.

20 Q Is there any other way in which the availability of the

21 2002 voter's guide was made known to those outside CCL,

22 other than the emails you've described?

23 A We may have sent a press release to the media

24 indicating that we produced a voter's guide.

25 Q Did you -- did CCL mention that the 2002 voter's guide

1 existed in any print publications?

2 A We probably mentioned it in a item -- in a printed
3 publication called The Record.

4 Q Please describe The Record?

5 A It's a four page newsletter that is sent to our
6 supporters.

7 Q How often was that sent in 2002?

8 A It was -- it changed over the years in frequency, it
9 was either monthly at that time or every other month.

10 Q Can you think of any other ways in which CCL made those
11 outside of CCL aware of the 2002 voter's guide?

12 A No.

13 Q Did CCL use the same methods you've described for the
14 2002 voter's guide in making people aware of the 2004
15 voter's guide being available on CCL's web site?

16 A Yes.

17 Q In 2002, did CCL encourage people outside of CCL to
18 print and distribute the voter's guide from the web
19 site?

20 A Yes.

21 Q And did that occur in 2004 also?

22 A Yes.

23 Q Did CCL encourage people to print and distribute the
24 voter guides through the same methods that it made
25 persons outside CCL aware that they existed through the

1 same media?

2 A Repeat the question.

3 Q Did CCL encourage people to print and distribute the

4 2002 and 2004 voter's guides through the same media

5 that you've said it used to make people aware that the

6 voter's guides existed on its web site?

7 A Yes.

8 Q Can you think of any other ways in which CCL made

9 people outside of CCL aware of the existence of the

10 voter's guides in 2002 and 2004?

11 A No.

12 Q Okay. You've mentioned -- you've described how CCL is

13 considering becoming more active in working to elect

14 good candidates; correct?

15 A Yes.

16 Q Does it plan to endorse candidates in the future?

17 A No.

18 Q How does it plan to become more active in working to

19 elect good candidates?

20 A The CCL?

21 Q Yes.

22 A It doesn't, if what you mean by the question is

23 endorsement.

24 Q How does CCL plan to become more active in working to

25 elect good candidates other than endorsement?

1 A Repeat the question.

2 Q How does CCL plan to become more active in pursuing its
3 purpose of working to elect good candidates other than
4 endorsement?

5 A It doesn't have any other plans.

6 Q What is it considering doing in order to become more
7 active in that area?

8 A Nothing beyond what I've indicated with respect to the
9 voter's guide.

10 Q You described earlier that CCL was, and correct me if
11 I'm not getting it right, CCL was reviewing the current
12 requirements for organizations engaged in political
13 activity. Can you explain a little more what the
14 purpose of that -- of that review is if you are not
15 considering becoming more active in pursuing the goal
16 of electing good candidates?

17 A Can you repeat or rephrase the question? I'm not sure
18 I understand it.

19 Q What is the purpose of CCL's review of current
20 requirements about political activity that you've
21 described?

- 22 A To practice good citizenship and maintain its
23 operations within the parameters of the law and
24 regulations related to our activities.
- 25 Q Has CCL ever stated that it is considering endorsing

1 state and local candidates in the future?

2 A We may have indicated such a thing in relationship to
3 the formation of the political action committee of the
4 Christian Civic League, which is the Christian Action
5 League.

6 Q Has CCL ever stated that it is considering endorsing
7 federal candidates including in connection with the
8 political action committee that you mentioned?

9 A No.

10 Q And I take it there are no plans to endorse federal
11 candidates by CCL?

12 A None, no.

13 Q CCL has a worldwide web site; correct?

14 A Yes.

15 Q And is the address www.cclmaine.org?

16 A It is.

17 Q And the statements on that site are statements of CCL;
18 right?

19 A Yes.

20 Q Please describe generally what activities CCL does to
21 achieve its purposes?

22 A Repeat the question.

23 Q Please describe generally what activities CCL does to

24 achieve its purposes?

25 (Mr. Bopp and the witness confer.)

1 THE WITNESS: Repeat it.

2 Q (By Mr. Summers) What does CCL do, day to day, what
3 does CCL do?

4 A CCL exists to enact good laws and provide for their
5 impartial enforcement.

6 Q I understand the purposes of CCL, you've described, but
7 what does it actually do, what does the staff of CCL do
8 day to day in order to pursue those purposes?

9 A They come to work. They review daily newspapers. They
10 receive and track contributions. They write opinion
11 and commentary. The staff is responsive to my leading
12 which is responsive to the board's direction.

13 Q Anything else?

14 A No.

15 Q How does CCL communicate with the public?

16 A Through its web site. Through its newspaper. Through
17 media interviews.

18 Q Does it also communicate through email?

19 A Yes.

20 Q How often does it -- please describe how it does that?

21 A It has an online email -- it has an email that it

22 produces three times a week called The Record.

23 Q Is that the same Record as is also created as a print

24 publication?

25 A Different -- same name, different publication.

1 Q Is there any content in common?

2 A Yes.

3 Q How much is in common?

4 A We started the newspaper three months ago. What was

5 the -- percentage, is that what you said?

6 Q Yes.

7 A Less than 20 percent.

8 Q How often is the print version distributed?

9 A Monthly.

10 Q How many people is it currently distributed to, the

11 print version?

12 A 5,000.

13 Q And how many -- how many recipients are there of the

14 email version of The Record?

15 A 3,000.

16 Q Does CCL have a radio program?

17 A No.

18 Q Does CCL prepare any audio commentary for distribution?

19 A No.

20 Q Do you prepare any audio commentary for distribution?

21 A Yes.

22 Q Please describe that?

23 A I produce a daily two minute commentary program called

24 Faith Matters in Maine for the CEL, Christian Education

25 League.

1 Q And what -- what is the basic content of that

2 commentary?

3 A It addresses political, cultural, moral issues and

4 occasionally discusses candidates or politicians,

5 elected officials and their positions on issues.

6 Q I believe you mentioned that CCL speaks with media;

7 correct?

8 A Yes.

9 Q Does CCL appear in press articles?

10 A Yes.

11 Q Are you quoted in press articles?

12 A Yes.

13 Q Does that happen often?

14 A Yes.

15 Q Have you published columns in newspapers?

16 A Yes.

17 Q How many columns have you published in newspapers since

18 the beginning of 2004?

19 A A dozen.

20 Q Has CCL run radio or TV ads?

21 A Has -- I can't speak for all the way back to the

22 beginning of radio and television, but in my tenure,

23 yes.

24 Q Please describe those in your tenure?

25 A We've advertised on Christian radio stations for

1 events, banquets that we have annually.

2 We've not done any television advertising.

3 Q Have there been any other radio ads other than the ones

4 you've described by CCL?

5 A Right. Not that I remember.

6 Q Has the Christian Education League placed any radio or

7 TV ads during your tenure?

8 A No.

9 Q Okay. Has CCL published advertisements in newspapers

10 other than its own newspaper?

11 A I -- print advertisements.

12 Q When I say advertisement, I include things that discuss

13 policy or political matters -- same question.

14 A Oh, so --

15 Q So the question is has CCL placed any advertisements in

16 newspapers other than its own newspaper?

17 A No.

18 Q Has it placed any advertisements on web sites other

19 than its own web site?

20 A I don't -- I don't think so.

21 Q Who would know?

22 A The question again was has it placed -- repeat the

23 question.

24 Q Has it placed any advertisements on web sites other

25 than its own web site?

1 A No.

2 Q Has it distributed written materials other than The
3 Record that you've described?

4 A Yes.

5 Q Please describe those?

6 A Books on various subjects related to the mission of the
7 League. Fliers. Publications related to various
8 events and issues.

9 Q In what physical form -- what physical form have those
10 materials taken, brochures?

11 A Brochures, books, magazines.

12 Q Any others?

13 A Well, electronic -- electronic media, emails, pdf
14 documents that people can download off the web site.

15 Q Anything else?

16 A No.

17 Q Has CCL used phone banks in your tenure?

18 A No.

19 Q Has it used billboards in your tenure?

20 A Well, that would get me in jail since they're illegal
21 in Maine. No.

22 Q Have CCL representatives appeared on television or

23 radio shows?

24 A Who?

25 Q Have representatives of CCL appeared on television or

1 radio shows?

2 A Yes.

3 Q Please describe those appearances?

4 A We have a lobbyist who is interviewed regularly. I'm

5 interviewed regularly by radio and television stations

6 on issues.

7 Q What is the lobbyist's name?

8 A Tim Russell.

9 Q How often do you appear on television or radio shows?

10 A How often, I've done hundreds of media interviews of

11 various kinds.

12 Q And Mr. Russell?

13 A He's been with us two years, he has done -- probably

14 he's done hundreds, I've done thousands by this time.

15 Q Is that -- have you appeared on national television and

16 radio shows?

17 A Yes.

18 Q And also on local television radio shows?

19 A Yes.

20 Q Has Mr. Russell appeared on national television or

21 radio shows?

22 A Yes.

23 Q And he's appeared on local television radio shows I

24 take it?

25 A Yes.

1 Q Has any other representative of CCL appeared on

2 television or radio shows in your tenure?

3 A Yes.

4 Q Who is that?

5 A The president of our board, Dallas Henry.

6 Q Anyone else?

7 A No.

8 Q CCL does create advertisements as I've described to

9 communicate its policy views to the public; correct?

10 A Clarify what you mean by advertisements.

11 Q CCL creates public communications to tell the public

12 what it thinks about policy issues; correct?

13 A Yes.

14 Q Who creates those advertisements?

15 A I do. And I have staff who work on those --

16 Q Which staff?

17 A -- items.

18 Q Sorry.

19 A That's it.

20 Q Which staff work on those now?

21 A I have a gentleman named Fritz Spencer on my staff who

22 does writing. I have a young lady named Leslie Gower
23 who works on graphics. And occasionally, we work with
24 a firm outside of the Christian Civic League on various
25 things.

1 Q What's the name of that firm?

2 A Design 4 Marketing.

3 Q Where are they located?

4 A Florida.

5 Q Which city in Florida?

6 A Tampa.

7 Q And could you spell the surnames of the two people

8 you've named for the court reporter?

9 A The surname, you mean --

10 Q The last name? Fritz and --

11 A Fritz Spencer and Leslie Gower, G-O-W-E-R.

12 Q And is that Spencer with a C or an S?

13 A C.

14 Q Does anyone else work on CCL's ads?

15 A No.

16 Q When did CCL become aware that a federal constitutional

17 amendment about marriage was under consideration in

18 Congress?

19 A Years ago.

20 Q Do you recall which year?

21 A No.

22 Q Could it have been in 2004?

23 A Congress, yes.

24 Q Could it have been later than 2004?

25 A No.

1 Q Could it have been earlier than 2004?

2 A I don't know.

3 Q CCL has spoken publicly about such a proposed

4 amendment; correct?

5 A Yes.

6 Q Did it do so in 2004?

7 A Yes.

8 Q Okay. In those public communications -- strike that.

9 Would you describe those public communications in 2004

10 as grass roots lobbying?

11 A Yes.

12 Q Who at CCL made the decision to do that activity in

13 2004?

14 A Me.

15 Q All right. I'd like to explore some of the ways in

16 which CCL has communicated on that issue since 2004.

17 Has CCL used the internet to communicate about that

18 issue since 2004?

19 A Yes.

20 Q Can you briefly describe those efforts using the

21 internet?

22 A We've written about the federal marriage amendment in
23 The Record that I mentioned before. And I believe --
24 and in 2004, there was an effort to influence our
25 senators on this -- on the federal marriage amendment.

1 Q Can you describe that effort in more detail?

2 A We designed a church bulletin insert, and we had a
3 young lady make phone calls and encourage citizens to
4 contact our senators and urge them to support the
5 federal marriage amendment.

6 Q The -- how was the church insert distributed?

7 A We mailed copies if they were requested, and we made
8 them available as printouts off of our web site.

9 Q How many were distributed by CCL?

10 A Yeah, I -- I have no idea. I don't know.

11 Q How many calls did the young lady you've described make
12 in 2004?

13 A I don't know.

14 Q Can you think of any other ways in which CCL
15 communicated its view in 2004 on that issue?

16 A No.

17 Q Did CCL organize public protests about the issue, by
18 which I mean encouraging people to gather together
19 physically to express a view about the federal marriage
20 amendment?

21 A I don't remember.

22 Q Did CCL distribute brochures other than the church

23 inserts that you've mentioned in 2004 about the issue?

24 A Not that I recall.

25 Q Okay.

1 MR. SUMMERS: I'd like to mark another

2 exhibit. Off the record.

3 (Recess at 10:56 a.m., to 11:03 a.m., after which the

4 following proceedings transpired.)

5 MR. SUMMERS: I'd like to have another

6 exhibit marked.

7 (Heath Deposition Exhibit Number 4 was marked for

8 identification.)

9 Q (By Mr. Summers) Show you what's been marked as

10 Exhibit 4, which appears to be a copy of a March 1,

11 2004, column called Coalition for Marriage, which says

12 it was published in the Portland Press Herald on that

13 date. Do you recognize this column?

14 A Yes.

15 Q Is that a column that you wrote?

16 A Yes.

17 Q Was it published in that newspaper on that date?

18 A Yes.

19 Q Do you think that this column was effective in

20 conveying CCL's message about the issue of gay

21 marriage?

22 A Yes.

23 Q Can you recall any other columns that you -- that CCL

24 published in the print press in 2004 about the gay

25 marriage issue?

1 A No.

2 Q Were any CCL personnel quoted in news pieces in 2004 on
3 the gay marriage issue?

4 A Yes.

5 Q Can you describe that?

6 A I'm sure that I was quoted and probably Tim Russell was
7 quoted.

8 Q How many press pieces would you say you and Tim Russell
9 were quoted in in 2004 on that issue?

10 A I have -- I don't know.

11 Q Was it more than 10?

12 A Yes.

13 Q More than 50?

14 A I don't know.

15 Q Okay.

16 MR. SUMMERS: I'd like to mark another
17 exhibit.

18 (Heath Deposition Exhibit Number 5 was marked for
19 identification.)

20 Q (By Mr. Summers) Please review what's been marked as
21 Exhibit Number 5, which is a reprint of an article

22 dated July 13, 2004, from the Portland Press Herald.

23 Please turn to the second page and find the

24 paragraph which begins executive director Michael

25 Heath, which is in the bottom half. And please review

1 that paragraph and the following two paragraphs.

2 Are those three paragraphs an accurate account of
3 what CCL and its members were doing at that time with
4 regard to the federal marriage -- excuse me, federal
5 marriage amendment?

6 A Yes.

7 Q Did you speak with the reporter of -- who wrote this
8 article --

9 A Yes.

10 Q -- on this issue? In the article, you're quoted as
11 saying that your members have been calling and emailing
12 their senators; correct?

13 A Yes.

14 Q How did CCL get its members to do that?

15 A We assigned a full-time staffer to make phone calls and
16 provide bulletin -- church bulletin inserts to churches
17 that were responsive.

18 Q So it used the methods that you described earlier?

19 A Yes.

20 Q Did it use any other methods to encourage supporters to
21 contact the senators?

22 A No.

23 Q Were those effective ways of achieving your goals?

24 A Yes.

25 Q The article also says that you wrote a column that

1 appeared in this same paper the preceding week which

2 would have still been in July; correct?

3 A Yeah. Yes.

4 Q Is it correct that that column was published the

5 preceding week before this article, or is it the one

6 from March that I believe we've marked as Exhibit 4?

7 A I don't remember.

8 Q It's possible there was more than one column?

9 A It's possible.

10 Q Okay. Did any CCL representative appear on any radio

11 or TV shows in 2004 on this issue?

12 A I don't remember.

13 Q Did CCL place any print advertisements or

14 communications on this issue in 2004?

15 A No.

16 MR. SUMMERS: I'd like to mark another

17 exhibit.

18 (Heath Deposition Exhibit Number 6 was marked for

19 identification.)

20 Q (By Mr. Summers) Please review what's been marked as

21 Exhibit 6, which is an undated one page document with

22 the heading, A Politician Fears Man?

23 A Yes. We published this, and I had forgotten about it.

24 Q Where was this published?

25 A I believe it was published in the Kennebec Journal,

1 which is a daily newspaper in Augusta.

2 Q Anywhere else that you can recall?

3 A No.

4 Q When was it published?

5 A I don't remember.

6 Q Do you think it was in 2004?

7 A I do.

8 Q What was the purpose of the advertisement?

9 A To support marriage and to point people to our online
10 voter's guide.

11 Q And what's the link between supporting marriage and
12 pointing them to the online voter's guide?

13 A In general, it's -- it was political. The ad was
14 political, and the ad must -- I don't know exactly when
15 it ran, but it must have run prior to the election, and
16 so we decided to include mention of our voter's guide.

17 Q In 2004? The election in 2004?

18 A As I said, I think so, but I can't remember.

19 Q Okay. Is it that you wanted voters to bear in mind
20 your position on this issue when they were voting?

21 A Yes.

22 Q And part of that would have been the information listed

23 in the voter's guide about different candidates and

24 their positions on this issue?

25 A Yes.

1 Q Who created this ad?

2 A This ad was created by Design 4.

3 Q And that's the firm in Florida that you mentioned

4 earlier?

5 A Yes.

6 Q Do you think this ad was effective in conveying CCL's

7 position on this issue?

8 A Yes.

9 Q Did CCL use direct mail in 2004 other than the church

10 inserts that you've described on this issue?

11 A We may have mailed our membership -- mailed our

12 supporters and our membership.

13 Q Roughly what was the size of your membership in 2004?

14 A 2,500.

15 Q And what roughly is the size of your membership today?

16 A Same.

17 Q And was it the same in 2005?

18 A And I'm -- we -- membership -- we define membership so

19 that actual membership is 300. Around 300,

20 approximately, 300 members of CCL.

21 Q You say you've designed it, can you explain what that

22 means?

23 A Well, a member. We have approximately 300 members.

24 Q And the other people --

25 A Are supporters.

1 Q Supporters. How do you define a member for CCL?

2 A A member pays annual dues and signs a form that we
3 provide to them. We maintain the form in our files.

4 They only have to sign it once. And then they have to
5 pay their dues annually.

6 Q Just generally, what does the form involve?

7 A It's a doctrinal statement, a religious doctrinal
8 statement.

9 Q And how are the supporters -- the supporters don't sign
10 that form?

11 A That is correct.

12 Q That is, the people who are not members? But they are
13 people who have given money to the organization?

14 A Maybe. Some have, some haven't.

15 Q Okay. Are some of the members -- strike that. What
16 types of entities are your members, individuals,
17 churches?

18 A Individuals and churches.

19 Q Any other types?

20 A Not that we identify, not that we keep track of.

21 Q So it's possible there's another type?

22 A Well, it's not possible there's another type that we

23 keep track of.

24 Q But if you're not sure -- if you're not sure that it's

25 only individuals and churches, isn't it possible

1 there's some other type of member such as another

2 501(c)(4) organization?

3 A Yes, but we wouldn't recognize them in membership as
4 another (c)(4) organization, we would recognize -- they
5 would come in as an individual member or a family
6 member or a church member. There's no business member.
7 There's no 501(c)(4) member.

8 Q How does someone get on your list of supporters, the
9 larger list?

10 A Variety of ways. They have involved themselves in a
11 campaign perhaps. They have indicated to me personally
12 that they would like to be on our mailing list.

13 They have indicated such to a board member. They
14 have been on the list for -- two -- I think it's two
15 years.

16 Actually, let me correct that. The number I gave
17 you, which is 2,500, references only those who have
18 given any money in the last two years and have made a
19 donation in the last two years. We have a much larger
20 list that we don't use that we never mail to, but we
21 maintain those names and addresses.

22 Q What do you do with the larger list?

23 A Nothing. It sits there.

24 Q Do you have a sense of how large that list is?

25 A 8,000, approximately.

1 Q And to get on that list, what are the likely ways other
2 than the ones you've described?

3 A Well, they indicated some interest in our mission or
4 were entered for the reasons I've mentioned. And then
5 they become part of the group, the inactive group above
6 2,500 by not contributing, by not making a contribution
7 for two years.

8 Q But it's only the medium size list of roughly 2,500
9 that receives the mailings; correct?

10 A Yes.

11 Q So why do you maintain the larger list?

12 A We may decide to use it at some point. We may decide
13 to communicate with that list.

14 Q Has CCL run any radio or TV ads about the federal
15 marriage amendment from 2004 until today?

16 A Not that I recall.

17 Q Okay. Can you think of any other ways that CCL has
18 spoken publicly about the federal marriage amendment
19 from 2004 until today other than what we've discussed?

20 A No.

21 Q Okay.

22 MR. SUMMERS: I'd like to mark another
23 exhibit.
24 (Heath Deposition Exhibit Number 7 was marked for
25 identification.)

1 Q (By Mr. Summers) I'll show you what's been marked as
2 Exhibit 7, which is the complaint in this lawsuit,
3 which it says was verified by you on March 28, 2006.

4 And you -- if you'd turn to Paragraph 11, please,
5 which I believe is on Page 3. That paragraph says that
6 CCL plans to run the radio ad that's attached as
7 Exhibit A to the complaint; is that correct?

8 A Yes.

9 Q And that ad is called Crossroads; correct?

10 A Yes.

11 Q Is it still CCL's plan today to run that radio ad?

12 A Yes.

13 Q When did CCL decide to run a broadcast ad about the
14 federal marriage amendment this year?

15 A We decided to run the ad a couple of weeks ago.

16 Q Who first had the idea for CCL to run such an ad?

17 A We were contacted by the organization that we associate
18 with called Focus on the Family, Colorado Springs,
19 Colorado.

20 And the -- it was suggested that this would be an
21 appropriate grass roots lobbying, appropriate and

22 effective grass roots lobbying effort. I agreed. And

23 I communicated my agreement with them.

24 Q Who at Focus on the Family did you communicate with

25 about it?

1 A I believe it was John Paulton.

2 Q Could you spell that last name?

3 A P-A-U-L-T-O-N.

4 Q Did you talk to anybody else at Focus on the Family

5 about it?

6 A No.

7 Q So Focus on the Family sent the text of the ad to CCL a

8 couple weeks ago?

9 A No. The Focus on the Family developed the text of the

10 ad after learning of my agreement or learning of my --

11 after I responded to them.

12 Q So when they first contacted you, what did they

13 communicate?

14 A They communicated that this would be an appropriate

15 grass roots lobbying activity.

16 Q And then you indicated your agreement, and then at some

17 later point, they sent back the ad text, proposed ad

18 text?

19 A Yes.

20 Q I see. Do you know who drafted that text?

21 A I don't.

22 Q Okay. Do you know who was involved in drafting it?

23 A I don't.

24 Q Can you explain what you mean by appropriate grass

25 roots lobbying effort?

1 A Well, the federal marriage amendment is due to be voted
2 in July, and -- in Congress. And it is appropriate to,
3 given the stand of Senators Snowe and Collins, for
4 citizens to be advised of that fact, and to be urged to
5 contact Senators Snowe and Collins, and urge them to
6 vote in the affirmative for the federal marriage
7 amendment. And that should happen -- that should start
8 happening soon and continue into July or toward July or
9 toward the vote.

10 Q Why does it have to start soon?

11 A Well, because these things take -- campaigns take time
12 to work their way through the grass roots networks, and
13 so it's good to get people thinking about, talking
14 about, and contacting political figures like Senators
15 Snowe and Collins as they're moving toward the vote.

16 Q So when you say appropriate, what does that -- what
17 does that include?

18 A Can you --

19 Q What is the ad trying to do?

20 A It is encouraging the listener to contact their
21 senator.

22 Q Does it have any other purpose?

23 A No.

24 Q Do you know where Focus on the Family got the idea for

25 these ads?

1 A No.

2 Q Do you know if they're sending them to other states for
3 use in other states?

4 A I don't know.

5 Q Do you know if they've sent them for use by other
6 groups in Maine?

7 A I don't know.

8 Q In your discussion with Focus on the Family about this
9 ad, did you discuss the -- did you discuss campaign
10 finance regulation?

11 A Can you rephrase the question?

12 Q In your discussion with Focus on the Family about this
13 ad, was there any discussion of campaign finance
14 regulation?

15 A Can you be more specific about campaign finance
16 regulation?

17 Q Yes. Was there any discussion of the electioneering
18 communication regulation and federal law?

19 A Yes.

20 Q Can you describe that?

21 A That it's -- that this is prohibited speech or prior --

22 within a certain window before an election, and Maine's
23 primary is in June, early June. And so our desire to
24 run the ad consistent -- in -- to run the ad at a time
25 that makes sense in order to influence Senators Snowe

1 and Collins with respect to a pending vote scheduled
2 for July is interfered with by the -- by the blackout
3 period 30 days prior to June. So that was -- that was
4 presented by Focus in good faith indicating that this
5 is the way it is.

6 Q So Focus brought you the idea, and in bringing you the
7 idea, they also mentioned there was this legal issue as
8 well?

9 A Yes.

10 Q So that's something that came from them?

11 A Yes.

12 Q So they suggested that you run the ad even though there
13 was this legal issue?

14 A Yes. No. I mean they didn't encourage us to do
15 something illegal, they advised -- they advised us of
16 the law. And they said that the -- and they suggested
17 that the grass roots advertising would be helpful in
18 influencing senators.

19 Q Did they suggest any way that you could run the ad
20 during the period you've described and not face a legal
21 problem?

22 A They -- they said that we should contact them if we
23 want to run the ad. And then we were -- we were put in
24 touch with counsel who is counsel for Focus on the
25 Family and for us. And here we are.

1 Q Can you think of anything else that Focus on the Family

2 told you during those discussions about running the ad?

3 A No.

4 Q Just to finish up this topic, did they -- did Focus on

5 the Family offer you any funding to assist with running

6 the ad?

7 A No.

8 Q Did they offer you any other kind of assistance other

9 than supplying a text for the ad?

10 A No.

11 Q You mentioned that they offered to put you in touch

12 with counsel?

13 A Uh-huh.

14 Q Correct?

15 A Uh-huh.

16 Q Can you think of any other -- were there any other

17 names they gave you of persons who might be of

18 assistance in connection with running the ad?

19 A Can you rephrase the question?

20 Q Did they offer to put you in touch with anyone else

21 other than counsel with regard to the ad?

22 A No.

23 Q Did they offer you a list of potential funders of the

24 ad?

25 A No.

1 Q Did they offer you any assistance in producing the ad?

2 A They researched the buy, the schedule.

3 Q The buy here in Maine?

4 A Yes.

5 Q And what -- can you describe more about that research?

6 A I have not seen the detail. The buy is planned for

7 radio stations in Portland and Augusta. And we

8 don't -- we haven't decided on a final cost for the

9 buy, but they have produced some -- they've produced

10 some information related to overall costs, but I have

11 not had an opportunity to review it.

12 Q But you have that information?

13 A I don't have it here.

14 Q I understand. But CCL has that information?

15 A I don't know if we have it in our offices yet. I don't

16 know.

17 Q But Focus on the Family has indicated that they will

18 provide it?

19 A Yes.

20 Q But the money to run the ad is planned to come solely

21 from CCL?

22 A Yes.

23 Q Has the actual recording of the ad been created?

24 A No.

25 Q Do you have specific plans to create it?

1 A We have not gotten to the point of making those plans.

2 Q How much money has CCL spent so far on the ad?

3 A Nothing.

4 Q Nothing. The complaint in Paragraph 11 describes a

5 specific period that CCL plans to run the Crossroads

6 ad, and I believe it indicates that CCL plans to start

7 running the ad on May 10; is that correct?

8 A Uh-huh.

9 Q Why start running the ad on May 10, if the vote may not

10 be until you said July?

11 A Uh-huh.

12 Q Why start running the ad on May 10?

13 A Well, it's an appropriate time to start introducing the

14 upcoming vote and to encourage our members and the

15 public to contact Senators Snowe and Collins and take a

16 position.

17 Q Do you know how often the ad is planned to run on the

18 two -- in the two markets that you described?

19 A I don't.

20 Q Do you know how many stations the ad is planned to run

21 on in those two markets?

22 A I don't.

23 Q Are those decisions that you will make at a later time?

24 A Yes.

25 Q Will anyone else be involved in making those decisions?

1 A I'll be responsible for the decision, but I will
2 consult with the board president perhaps. Well,
3 definitely, and -- at least him.

4 Q Will you consult Focus on the Family?

5 A I don't know.

6 Q Will you consult anyone else?

7 A No.

8 Q So you haven't spoken -- CCL has not spoken with any
9 radio stations yet about running the ad?

10 A No.

11 Q But the information about where the ad will run is
12 coming from Focus on the Family?

13 A The proposal is coming -- is coming from them.

14 Q I understand. Will CCL stop running the ad once the
15 vote that is -- that may occur in Congress on the
16 marriage amendment happens?

17 A Yes. But Congress does all kinds of things. So you
18 say the vote, the vote on what, so --

19 Q The vote referenced in the Crossroads ad?

20 A Yes.

21 Q If the vote is postponed, will CCL postpone running the

22 ad?

23 A I don't know.

24 Q We're almost ready to break for lunch, so just one or

25 two things.

1 Do you know how much CCL plans to spend to

2 broadcast Crossroads?

3 A No.

4 Q Does CCL currently have the funds to do it?

5 A No. But we have -- I have one donor who has committed

6 the funds if -- they've committed the funds, but I

7 haven't decided whether I will go to that donor to

8 fulfill that commitment or not.

9 Q The donor has pledged to cover whatever the cost is, or

10 is there a specific number?

11 A Donor was unclear, but my interpretation of it is that

12 they would cover the entire buy, if necessary.

13 Q Okay.

14 A They may.

15 Q Okay.

16 MR. SUMMERS: I think that's all I have for

17 now, we can go to lunch. Thank you.

18 (Recess at 11:40 a.m., to 1:30 p.m., after which the

19 following proceedings transpired.)

20 Q (By Mr. Summers) Mr. Heath, when we broke for lunch,

21 we were talking about the interactions that CCL has had

22 with Focus on the Family about the Crossroads ad.

23 Before we leave that topic, I want to make sure

24 I've heard everything about those interactions. Maybe

25 the best way to do that is to start with the first

1 contact that you had with Mr. Paulton?

2 A Uh-huh.

3 Q And ask you to describe everything that was said in
4 that contact?

5 A Uh-huh. First let me say that I got something wrong in
6 the morning, and that was the expected time when the
7 Congress will take up the -- will vote on the -- I said
8 July. And it's June. And that was just a -- I just --
9 I wasn't thinking right.

10 So it's John -- it was -- came to me in the form
11 of an email that was a broadcast email to myself and
12 all my colleagues in the country who work at the state
13 level in organizations called Family Policy Councils.
14 And I was -- I responded to that email with an email
15 and said that I was -- said that I was interested.

16 Q What did the initial email say?

17 A Nothing different from what I indicated in the morning.
18 It discussed the upcoming vote and the suggestion that
19 advertising would be appropriate to encourage grass
20 roots activism, appropriate and helpful, but
21 nevertheless, barred during this window. It mentioned

22 that as well. And sought a response from Family Policy

23 Councils that were interested in doing such

24 advertising.

25 Q How many recipients were there for that email?

1 A I don't know exactly, but in excess of 30.

2 Q And in various states?

3 A Yes.

4 Q Do you know if there are any others in Maine?

5 A There are not.

6 Q There are not. And can you think of anything else that
7 that email said?

8 A I can't.

9 Q And in your response, you said your response indicated
10 an interest, what else did you say in your response?

11 A It was very short, I said I'm interested.

12 Q What happened next?

13 A We were -- we were in contact with John, and then
14 counsel became involved because of the aspect of the
15 email having to do with the blackout period. And then
16 we proceeded toward the development of script and
17 research regarding the buy and began our plan, began
18 our planning.

19 Q Did you then have a number of interactions with
20 Mr. Paulton?

21 A No.

22 Q How many would you say?

23 A Just that original email, a response to that email, and

24 then I have a staff, and my -- they were involved. And

25 we consulted with counsel, and we consulted with Focus,

1 and leading up to.

2 Q Who else on your staff was involved in any dealing with

3 Mr. Paulton?

4 A Nobody.

5 Q How were they involved in the process then?

6 A They got involved later as it -- as it became clear

7 that we were going to have to -- as this process began

8 related to the blackout period, producing documents,

9 preparing documents, getting that material together.

10 Q What else did Mr. Paulton tell you about the

11 electioneering communications period that you've

12 described?

13 A Nothing.

14 Q All he said was this is a problem?

15 A I never spoke with him orally. I -- just email.

16 Q Right. What did he tell you in any form about --

17 A Just the email, just that original email.

18 Q Did he mention that there might be a court case about

19 it?

20 A I don't remember if that was contained in the email or

21 not.

22 Q Did he say that at any point? Did he tell you that at

23 any point?

24 A No.

25 Q By email or otherwise?

1 A I don't know.

2 Q So you only had communications with Mr. Paulton on this
3 issue by email?

4 A In the initial phase, yes.

5 Q Well, when did the initial phase end and a later phase
6 begin?

7 A We received the email. I responded to the email in the
8 affirmative. I don't remember how many days lapsed,
9 but then I spoke with counsel in reference to the
10 blackout aspect of the original email.

11 And then script development was ongoing at Focus.

12 This of course happened in the last two weeks, I
13 believe. And that -- and shortly after that staff
14 became involved.

15 Q So in that later phase, did you speak orally with
16 Mr. Paulton?

17 A No.

18 Q Still only by email?

19 A I had no further need for correspondence with
20 Mr. Paulton.

21 Q So after -- after you replied by email expressing

22 interest?

23 A Uh-huh.

24 Q You're saying you had no further correspondence with

25 Mr. Paulton?

1 A Correct.

2 Q Did Mr. Paulton communicate with anyone else at CCL?

3 A I don't know.

4 Q But at some point a text of the Crossroads ad arrived

5 at CCL?

6 A Uh-huh.

7 Q Do you remember when that was?

8 A I don't remember exactly.

9 Q Do you remember from whom that text came?

10 A I don't know.

11 Q But it was someone at Focus on the Family?

12 A Yes.

13 Q And someone at CCL received it?

14 A My operations director, Natalie Torgeson, was involved

15 at that point.

16 Q Did anything come with the text of the ad at that

17 point?

18 A I don't know.

19 Q Were there any other communications from Focus on the

20 Family about the ad after that?

21 A I don't know because those communications may or may

22 not have happened between my operations director and

23 Focus.

24 Q And what is her full name?

25 A Natalie Torgeson.

60

1 Q Torgeson, can you spell the last name?

2 A T-O-R-G-E-S-O-N.

3 Q Thank you. Has -- have there been any communications
4 with Focus on the Family between the time the ad was --
5 arrived at CCL and today?

6 A No.

7 Q Is it possible there were communications between
8 someone else at CCL and Focus on the Family during that
9 time?

10 A No.

11 Q Are you aware of any other versions of the Crossroads
12 ad that CCL has received?

13 A No.

14 Q Did anyone at CCL express a view about the text of the
15 Crossroads ad after it was received to Focus on the
16 Family?

17 A No.

18 Q Did anyone at CCL express a view on the ad to anyone
19 else other than counsel?

20 A Repeat the question.

21 Q Did anyone at CCL say anything else about the ad to

22 someone other than Focus on the Family or counsel?

23 A I don't know.

24 Q Did you discuss the text of the ad with anyone else

25 outside CCL or counsel?

1 A No.

2 Q Did Focus on the Family offer to help with the
3 recording of the ad?

4 A No.

5 Q I want to talk briefly about the timing to make sure I
6 have that correct.

7 I believe you've -- you've said that CCL believes
8 May 10 is an appropriate time to begin running the ad;
9 correct?

10 A Yes.

11 Q Would April 10th also be an appropriate time to begin
12 running the ad?

13 A No.

14 Q Why not?

15 A It's too soon.

16 Q Too soon for what?

17 A Well, given the fact that the vote is coming in June,
18 it's most appropriate to run it beginning in May.

19 Q And so I believe you've indicated that Focus on the
20 Family told you that May 10 would be an appropriate
21 date? Did I have that correct?

22 A I don't recall saying that. They may have recommended

23 that. I'm not certain.

24 Q You're not sure who came up with the May 10th date?

25 A People discussed the email that was sent by Focus on

1 the Family, made a suggestion in reference to the
2 June -- the upcoming June vote on the FMA, and
3 discussions ensued about what would be an appropriate
4 date to begin. And May 10 was settled on.

5 Q So would June 15th be an appropriate date?

6 A June 15th?

7 Q 15th to run the ad?

8 A Not if the vote is June 1st.

9 Q But if the vote were to be postponed until July,

10 when -- let's say the vote was postponed until

11 July 15th, when do you think would be an appropriate

12 day to start running the ad?

13 A I would have to consider the circumstances.

14 Q And if the vote is postponed until July 15th, do you

15 have any plan to run the ad on a different start date,

16 different than May 10th?

17 A No.

18 Q If the vote were to be held on the last day of July,

19 would you -- do you have any plan to start the ad on a

20 different date?

21 A No, I don't -- I don't have such a plan at this time.

22 Q Would that be appropriate to make later the start date

23 if the vote -- if you knew the vote were to occur on

24 the last day in July?

25 A Maybe.

1 Q What factors would go into that decision?

2 A Not -- realities in Washington, D.C., decisions that
3 may or may not be made that I can't predict at this
4 time. Or we're basing our time table now on a decision
5 to hold a vote that was made by a high ranking official
6 who has authority in the matter of setting the date.

7 And what that individual may choose to do or not
8 do, I can't predict. And for what reasons he would
9 choose to do those things, I can't predict. And so
10 what we might choose to do with respect to grass roots
11 lobbying related to Senators Snowe and Collins and
12 timing, I can't predict.

13 Q The current plan is to start running the ad less than a
14 month before the scheduled vote; correct?

15 A Uh-huh.

16 Q You've indicated that starting in advance of that --

17 A Uh-huh.

18 Q -- would not be effective in your view?

19 A Uh-huh.

20 Q Correct? So if the vote were to be moved to the end of
21 July, wouldn't it be appropriate to start running the

22 ad at the beginning of July?

23 A Repeat the question.

24 Q If the vote were to be moved until the end of July,

25 wouldn't it be appropriate to start running the ad at

1 the beginning of July?

2 A Maybe.

3 Q Is there any reason the analysis would be different if

4 that one month period were the month of July versus the

5 current one month period of May 10 through June 5?

6 A Sure.

7 Q What's different?

8 A I don't know what could develop related to the timing.

9 Q So you can't think of any reason why it would be

10 different today?

11 A Rephrase the question.

12 Q You can't think of any reason why the analysis about

13 when to run the ad would be different; correct?

14 A I still don't --

15 Q We've put -- we've proposed two periods, right, one is

16 the current period in let's say the month before the

17 scheduled vote in June; correct?

18 A Uh-huh.

19 Q I'm proposing another period, if the vote were to be

20 postponed until the end of July?

21 A Uh-huh.

22 Q And my question is, why wouldn't it be appropriate,
23 just as appropriate for you to start running the
24 Crossroads ad at the beginning of July because that
25 would be about the same distance before the

1 beginning -- before the vote?

2 A Well, it may or may not be appropriate to do that.

3 Q So you have no plans to change the start date for the

4 ad running based on a postponement of the vote if that

5 were to occur?

6 A None. I have no plans to change the date.

7 Q Is it possible that you would change the date?

8 A Yes.

9 Q Okay. Can you think -- strike that. Did anyone at

10 Focus on the Family give you any other information that

11 we haven't discussed about the Crossroads ad from the

12 initial contact until today?

13 A No.

14 Q Did they give you any other information about the

15 timing of the Crossroads ad, the timing that it would

16 be run that we haven't discussed?

17 A No.

18 Q Did they give you any other information about how the

19 ad would be created that we haven't discussed?

20 A No.

21 Q You've mentioned a potential donor to get CCL the funds

22 to run the ad, how did that donor learn about the ad?

23 A I told him about it.

24 Q When were those discussions?

25 A I told him about it this morning.

1 Q Did you discuss it with this potential donor before
2 today?

3 A No.

4 Q Please describe those discussions?

5 A It was over breakfast, and we were discussing the case.

6 And the donor offered to -- made a not a detailed

7 commitment with respect to an amount, but made a

8 commitment to be helpful.

9 Q Did the donor say anything else about being helpful?

10 A I --

11 Q Did the donor say any specific way in which the donor

12 might be helpful in running the ad?

13 A No.

14 Q Did you ask the donor to do anything specifically?

15 A No, I didn't even ask for a donation.

16 Q You didn't mention a specific amount?

17 A We discussed -- we discussed what such a campaign might

18 cost because I don't have -- I haven't -- I don't have

19 detailed information regarding that information. But

20 that was -- that was what we discussed.

21 Q Did you discuss the purpose of running the ad?

22 A Yes.

23 Q What did you tell the donor the purpose of running the

24 ad was?

25 A To influence Senator Snowe and Senator Collins to vote

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1 yes for the -- to support the federal marriage

2 amendment.

3 Q Did you mention any other reasons for running the ad?

4 A We discussed this case, and the fact that it's

5 happening and shared with them what this case is about.

6 Q Did you -- what was the donor's reaction to that?

7 A They were interested.

8 Q Interested in what way?

9 A Interested in the case, interested in the grass roots

10 lobbying, interested in the federal marriage amendment,

11 interested in the Christian Civic League.

12 Q So if I understand, you did discuss a specific amount

13 of money that might be needed to run the ad?

14 A No.

15 Q Did you discuss a range of figures?

16 A Yes.

17 Q What was that range of figures?

18 A We've since learned because we have more detailed

19 information that we were inaccurate maybe, but five to

20 \$10,000.

21 Q You've referred to earlier information, where did that

22 information come from?

23 A Focus on the Family research regarding the buy.

24 Q Okay.

25 A Which --

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1 Q And how much did that research indicate that the buy
2 would cost?

3 A \$3,500.

4 Q I see. And did the new research come from Focus on the
5 Family also?

6 A Yes.

7 Q And when did that new research come?

8 A I found out about it this morning.

9 Q Okay.

10 A I got that particular detail this morning, of \$3,500.

11 Q Okay. Who was at the -- this meeting this morning with
12 you and the donor?

13 A Counsel.

14 Q Counsel. Anyone else?

15 A No.

16 Q Has this donor ever given money to CCL in the past?

17 A Yes.

18 Q Please describe those donations in terms of time and
19 amount?

20 A I -- they've donated to the League a number of times.

21 And I don't know the exact times or amounts. They're

22 in writing, but I don't have them committed to memory.

23 Q Did it start more than five years ago, their donations?

24 A Yes.

25 Q Okay. Did you and the donor discuss a time frame for

1 determining whether the donor will support the running

2 of the ad?

3 A No.

4 Q Do you plan to be in touch about the ad in the future?

5 A I haven't decided.

6 Q Do you have other potential donors --

7 A Yes.

8 Q -- to support the ad?

9 A Yes.

10 Q How many?

11 A Probably possibilities, 1,500.

12 Q 1,500 donors?

13 A Possibilities, if I decide to direct mail and tell them

14 about the possibility, invite them to donate.

15 Q Would that be direct mail to people on your supporters

16 list that you've described?

17 A Yes.

18 Q Is there any other -- do you have any other donor in

19 mind who would be a large donor similar to the donor

20 you met with today?

21 A Yes.

22 Q And how many -- how many other large donors do you have

23 in mind who might support the ad?

24 A At least a half dozen.

25 Q Have you had any discussions with any of those --

1 A No.

2 Q -- persons? Just a few more on this area. In order to

3 start running the ad on May 10, when would CCL need to

4 have the funding?

5 A The -- a few days before the start date.

6 Q Would that include the funding for recording the ad?

7 A No.

8 Q Is the recording of the ad included within the figure

9 you gave earlier of the range?

10 A No. No, it isn't.

11 Q Do you have an estimate for how much it would cost to

12 record the ad, to create the recording of the ad?

13 A No.

14 Q Did you discuss with your potential donor this morning

15 assisting with that production of the ad cost?

16 A No.

17 Q Have you discussed the funding of the recording and

18 production of the ad with anyone?

19 A No.

20 Q How do you plan to run the ad -- strike that. What

21 plans do you have to have the ad recorded?

22 A At this point, none.

23 Q Do you know when the ad would have to be recorded in

24 order to be run on May 10?

25 A No.

1 Q Who was the donor from this morning?

2 MR. BOPP: I object and instruct the witness

3 not to answer the identity of the donor, potential

4 donor -- well, both a donor and a potential donor in

5 this case.

6 Q (By Mr. Summers) Was the -- is that potential donor

7 from this morning an individual or not an individual?

8 An individual person or -- sorry, strike that. I was

9 caught between two forces. Let me --

10 MR. BOPP: Your mind and her mind.

11 MR. SUMMERS: Let me rephrase that.

12 Q (By Mr. Summers) Would the potential donation that you

13 have described from your meeting, your meeting this

14 morning, be a donation of individual funds or funds

15 from an organization?

16 A I don't know.

17 Q Was the individual you met with this morning

18 representing an organization in that meeting?

19 A No.

20 Q Okay. Have that individual's donations in the past

21 been donations of personal funds or donations of funds

22 from an organization?

23 A I don't know.

24 Q Is an organization's name listed in your records along

25 with the donations that have been given in the past?

1 A I don't know.

2 Q So it may be that only the individual's name is listed
3 in your records of donations from the past by -- from
4 that donor?

5 A It may be.

6 Q Okay. Is that donor -- is that potential donor a
7 resident of Maine?

8 A Yes.

9 Q What are the names of the other I believe you said six
10 potential major donors?

11 MR. BOPP: And we object to identification of
12 any donors and instruct the witness not to answer.

13 Q (By Mr. Summers) Are those other six potential major
14 donors persons who have donated funds to CCL in the
15 past?

16 A Yes.

17 Q And were their donations in the past donations of
18 personal funds or organizational funds?

19 A Both.

20 Q For the donors who gave organizational funds, were they
21 corporate funds?

22 A I don't know.

23 Q Who would know?

24 A They would.

25 Q Anyone else?

1 A I don't know.

2 Q Are you saying no one at CCL knows?

3 A Right.

4 Q Okay. You've mentioned that CCL doesn't have right now

5 the funds to run this ad, has CCL had a shortage of

6 operating funds in 2006?

7 A Yes.

8 Q Has CCL curtailed any of its normal activities in 2006?

9 A Yes.

10 Q Generally speaking, what has it done to curtail

11 activities?

12 A I've been forced to cut the hours of some staff members

13 and make changes in benefit plans.

14 Q Anything else?

15 A No.

16 Q Can you describe in some more detail the shortage of

17 funds in 2006?

18 A Donations are not being made at the level that we

19 anticipated. I do not know the reason.

20 Q Have you made other efforts to make up for the

21 shortfall?

22 A Can you rephrase the question?

23 Q Have you tried to raise more funds to compensate for

24 the lack of funds in 2006?

25 A Yes.

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1 Q What have you done to do that?

2 A Notified our supporters in writing of our challenge

3 through both email and written, printed letters.

4 Q And when did you do that?

5 A A couple of months ago. Ongoing.

6 Q Do you think running the Crossroads ad on the radio

7 will affect the election of Senator Snowe, primary

8 election?

9 A No. She doesn't have an opponent that I know of.

10 Q Do you think it might affect her election in a way

11 other than the ultimate outcome?

12 A I have no idea. I don't know.

13 Q Is it a concern of yours that it might affect the

14 election in some way other than the ultimate outcome?

15 A Rephrase the question.

16 Q Do you have a view about whether it will affect the

17 election of Senator Snowe in some way other than what

18 if she loses?

19 A No.

20 Q All right. Do you have any current plans to run ads on

21 radio or TV about the federal marriage amendment other

22 than the Crossroads ad?

23 A No.

24 Q Do you have any plans to run ads on radio or TV about

25 anything other than the Crossroads ad?

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1 A No.

2 Q Do you have any plans to communicate about the federal
3 marriage amendment through nonbroadcast media during
4 the same period that you plan to run the Crossroads ad?

5 A Maybe. Strike that. Yes. We will write about it in
6 our house organs, the email and the print newspaper.

7 Q The Record newspaper?

8 A The Record newspaper, yes.

9 Q Will you communicate in any other way about it during
10 that period?

11 A We will do interviews with reporters.

12 Q Do you have plans to place any print ads about the
13 issue during that period?

14 A No.

15 Q Do you have plans to send communications to your
16 supporters about it during that period?

17 A Yes.

18 Q Please describe those plans?

19 A The email and the monthly Record which goes to our
20 supporters.

21 Q Okay. Can you think of any other plans to communicate

22 about the marriage amendment during that period other

23 than what you've discussed?

24 A No.

25 Q All right. Do you have plans to communicate about the

76

1 issue through nonbroadcast media after the period you

2 plan to run the Crossroads ad?

3 A No.

4 Q No plans?

5 A Oh, you said nonbroadcast?

6 Q Right, nonbroadcast?

7 A Yes.

8 Q Please describe those plans?

9 A Information for our supporters following the progress

10 of the federal marriage amendment.

11 Q And would it be the same types of media that you just

12 described?

13 A Yes.

14 Q Other than broadcast?

15 A Yes.

16 Q Has CCL run any ads in the past in any media that have

17 identified a federal candidate other than the ones

18 we've discussed today?

19 A Repeat the first part of the question.

20 Q Has CCL run any ads in the past in any media that have

21 identified a federal candidate other than what we've

22 discussed today?

23 A I don't know.

24 Q Well, maybe it will help to break it down by media.

25 Has CCL in the past ever run any radio or TV ads that

1 have identified a federal candidate?

2 A I don't know. I don't know.

3 Q Has it ever placed a print ad that has identified a
4 federal candidate before now?

5 A Well, we have already seen one.

6 Q Anything else beside the one we've seen?

7 A Not that I recall.

8 MS. SEALANDER: Let's go off the record.

9 (Discussion had off the record, after which the
10 following proceedings transpired.)

11 MR. BOPP: Back on the record. That is not
12 proper for you to challenge the witness on the record
13 or off the record. So we're back on the record, let's
14 just -- and Harry is the deponent -- or he's doing the
15 deposition.

16 MS. SEALANDER: Jim, we're getting an awful
17 lot of I don't know to questions that were outlined in
18 30(b)(6), and you designated this man. He's been
19 designated as the person to answer.

20 MR. BOPP: There isn't corporate records that
21 go back to 1886.

22 MS. SEALANDER: This morning he had no
23 trouble saying during my tenure, the answer is such and
24 such, that's a reasonable qualifier to put on. What's
25 happening right now is we're getting a whole bunch of I

1 don't know because I think he's interpreting the
2 question in a way that Harry doesn't intend it, and
3 we're not going to get through this any time --

4 MR. BOPP: Then Harry is to ask the question.
5 And when -- and it's a perfectly appropriate answer for
6 him to say that he doesn't know. And there are no
7 records that would ever indicate that since 1886, they
8 have run radio ads. So that is a perfectly appropriate
9 answer.

10 And you are not to challenge this witness on -- go
11 off the record and raise your voice and challenge this
12 witness. That's improper. Honestly. So we're back on
13 the record --

14 MS. SEALANDER: I wanted to make sure that he
15 was testifying truthfully because I know --

16 MR. BOPP: He is testifying truthfully.

17 MS. SEALANDER: I know he's trying to, and I
18 wanted to make sure that we -- that he was
19 understanding the questions that Harry was asking and
20 that everybody was understanding everybody because it
21 sounded to me as if we were getting awfully

22 inconsistent answers. So that is why I raised this
23 point.

24 MR. BOPP: Okay. Colleen --

25 MS. SEALANDER: I have no problem doing it on

1 the record.

2 MR. BOPP: Colleen, that is simply improper
3 for you to challenge the witness on whether or not he
4 is answering truthfully or not. So let's resume.

5 Q (By Mr. Summers) Let me direct your attention to
6 what's been marked as Exhibit 7, which is the
7 complaint, if you have a copy. Do you see it? I think
8 it's that one.

9 A Yes.

10 Q And Paragraph 16. Please review Paragraph 16 just
11 briefly.

12 MR. BOPP: By the way, in light of that
13 colloquy, let me make clear that the time period of
14 this deposition is since January 1, 2004. It is not
15 for the history of the world.

16 And that all questions -- I object to any question
17 that is directed at time period prior to January 1,
18 2004, because it's not part of the notice for the
19 period of time in which he is to be prepared to answer
20 questions.

21 If we can make that a continuing objection, then I

22 won't object to whenever he says, has CCL ever run a
23 radio ad. Can we stipulate to that, or do you want me
24 to object?

25 MS. SEALANDER: I think that's an excellent

1 example about why I -- I just wanted to make sure that
2 the witness understood the questions that I thought
3 Harry was asking and was understanding them in the way
4 that Harry meant them.

5 MR. BOPP: Do we agree to the time period,
6 January 1, 2004, or do I have to object?

7 MR. SUMMERS: You're asking do we agree that
8 you can have a standing objection?

9 MS. SEALANDER: I think you're right the
10 deposition notice specifies 2004. Nobody has any
11 problem with that. There are occasions when
12 understand -- the answers to questions regarding the
13 time period from then forward is helpful to go back a
14 few years. I don't think that in the course of this
15 deposition, Harry has pushed that envelope too much.

16 If I -- I think you should -- I mean, I think he
17 can endeavor to continue to try, to the extent that you
18 think that he's not done that, he can try harder.

19 I think you ought to say something if you have a
20 problem, say something about it, but I think there's
21 times when going beyond before 2004 is entirely

22 appropriate in a contextual manner. I think you would

23 think so if you were sitting in Harry's chair, too.

24 MR. SUMMERS: In general, I'm not, or maybe

25 never, I'm not talking about 1900, I'm talking about

1 during the witness's tenure at CCL. Obviously, if you

2 have --

3 THE WITNESS: That was not clear to me. And
4 that's why I said I don't know because what I heard you
5 asking was has the CCL Maine ever, that's what I heard.

6 And so in my mind, I was thinking I don't know.

7 Q (By Mr. Summers) I understand. But would your answer
8 change if it had been specified during your tenure,
9 because --

10 A Yes.

11 Q It would?

12 A Yes.

13 MS. SEALANDER: Perhaps we ought to go back
14 and do some questions, I wouldn't want to go back to
15 the beginning.

16 Q (By Mr. Summers) I would interpret ever to include
17 your tenure plus more. So if you didn't recall
18 anything ever, that would mean you didn't recall
19 anything during your tenure because your tenure is a
20 small --

21 MR. BOPP: We're not going to argue about

22 these questions. Let's just go back in the proper

23 order here and with that clarification.

24 Q (By Mr. Summers) Okay. During your tenure at CCL, has

25 CCL run any radio or TV ads that identified federal

1 candidates?

2 A None that I recall in addition to the print

3 advertisement that has already been discussed.

4 Q And that's my next question is whether CCL during your

5 tenure has run any other print advertisements

6 identifying federal candidates?

7 A None that I recall.

8 Q Okay. Now directing your attention to what's been

9 marked as Exhibit 7, a complaint, Paragraph 16. Have

10 you had a chance to look at Paragraph 16?

11 A Yes.

12 Q Paragraph 16 says that CCL plans to run materially

13 similar ads after mid June on a range of other issues;

14 correct?

15 A Uh-huh. Uh-huh.

16 Q Is that a correct statement of CCL's plans today?

17 A Yes.

18 Q Can you describe those plans?

19 A No.

20 Q Why not?

21 A Because it's not beyond a simple plan or intention to

22 do that.

23 Q Does -- is Paragraph 16 a complete statement of CCL's

24 current plans to do that, in other words, is there

25 anything more than what's in Paragraph 16?

1 A Can you rephrase the question?

2 Q Is there any specific issue you can tell me that CCL
3 plans to run a radio or TV ad on in the future other
4 than the Crossroads ad?

5 A No. We have no other script written. We have no other
6 issues selected for future campaigns.

7 Q Does CCL have plans to run such ads in any other media
8 other than radio or TV in the future?

9 A Such as?

10 Q Such as what media?

11 A Yes.

12 Q Newspapers?

13 A No.

14 Q Okay. CCL has spoken publicly about Senator Snowe in
15 the past; correct?

16 A Yes.

17 Q Please describe generally what CCL has discussed about
18 Senator Snowe?

19 A We've been critical of the senator's position on
20 marriage. We've been critical of the senator's
21 position on partial birth abortion. That's all that I

22 can recall.

23 Q I'm talking about during your tenure of course?

24 A Right.

25 Q You can't recall any other issues that you've discussed

1 Senator Snowe?

2 A I can't.

3 Q You can't. During your tenure, has CCL ever expressed
4 a view about Senator Snowe's candidacy for any office?

5 A No.

6 Q Okay.

7 MR. SUMMERS: I'm going to mark another
8 document.

9 (Heath Deposition Exhibit Number 8 was marked for
10 identification.)

11 Q (By Mr. Summers) I'll show you what's been marked as
12 Exhibit 8, a document headed The Record, and dated
13 February 23, 2005. Do you recognize this document?

14 A I do.

15 Q What is it?

16 A It's an article that appeared in our -- on our web
17 site. And I think it's still there.

18 Q Did it appear on or about the date that's listed,
19 February 23, 2005?

20 A Uh-huh.

21 Q I'd like to direct you to the -- really the first

22 paragraph which is the introductory material on the
23 first page. And if you would, I'd like to ask you to
24 read aloud the last three sentences of that paragraph,
25 the sentence starting Representative Duprey is?

1 A Representative Duprey is the courageous third term
2 legislator who is the State House's most faithful
3 defender of traditional marriage. Here, Representative
4 Duprey announces for the first time that he is willing
5 to run against Senator Olympia Snowe in next year's
6 Republican primary. The Record is proud to be the
7 first publication in Maine to provide you with this
8 information.

9 Q This basically says CCL's proud to tell the public that
10 Representative Duprey was quote, willing, unquote, to
11 run against Senator Snowe in the 2006 Republican
12 primary; right?

13 A Uh-huh.

14 Q Okay. So I take it from this that CCL would rather see
15 a Republican senate candidate whose positions were
16 closer to its own than Senator Snowe's are; is that
17 correct?

18 A Yes.

19 Q Has CCL spoken publicly on any other occasions about
20 potential primary challengers to Senator Snowe, other
21 than this?

22 A Not that I recall.

23 Q CCL has no federal separate segregated fund or PAC;

24 correct?

25 A Yes.

1 Q And CCL has currently two Maine state political action

2 committees; correct?

3 A Technically, one, depending on how you define that

4 because we register two PACs with the Ethics

5 Commission, but they're incorporated under one

6 incorporation.

7 Q And what are the names of those for the record?

8 A Christian Action League and Coalition for Marriage.

9 Q And you say they're incorporated as one, can you

10 explain what that means?

11 A Well, the way my lawyer explained it is that Coalition

12 for Marriage is a d/b/a for the Christian Action

13 League.

14 Q And why is there a separate registered PAC entity?

15 A To comply with state ethics rules regarding a petition

16 drive that we ran last year.

17 Q And so I take it CFM was created in order to pursue

18 that project?

19 A Correct. Yes.

20 Q All right. What's involved in setting up and running a

21 state PAC in Maine?

22 A Registration with the State Ethics Commission which
23 includes the filing of a form, which requires certain
24 information, all of which I can't -- I would have to
25 see the form to familiarize myself with the detail that

1 they request.

2 And then the filing of reports on a regular basis
3 with the Ethics Commission indicating what the PAC's
4 activities have been, expenditures and income.

5 Q Are there requirements about maintaining records?

6 A I'm not sure. I know that there's a requirement about
7 presenting information. I do not know about
8 requirements regarding the maintenance of records.

9 Q And by presenting information, you mean reporting the
10 financial information to the state?

11 A Yes.

12 Q And is that information about contributions received
13 and expenditures made?

14 A Yes.

15 Q Any other information?

16 A No.

17 Q Is there anything else that from your perspective is
18 involved in running these PACs?

19 A Can you rephrase the question?

20 Q I'm looking for your sense of what work is required to
21 run and maintain the state PACs, what does CCL have to

22 do?

23 A A lot in the case of the Coalition for Marriage.

24 Q How so?

25 A People's veto drive.

1 Q Right.

2 A Well, I mean, the PAC is the entity that does the work,
3 so let me rephrase my answer. The PAC does -- did the
4 work on the petition drive last year, the Coalition for
5 Marriage work. The Christian Civic League of Maine did
6 not do that work.

7 Q Okay. And in general, what work was that that was done
8 that CFM did?

9 A It was the gathering of signatures, the fund raising
10 related to supporting the field team that made that
11 happen. The coordination of 2,000 volunteers --

12 Q Okay.

13 A -- statewide. All of the operational matters related
14 to fielding and leading and managing such a campaign.

15 Q Okay. In running -- in running the PACs, one thing you
16 have to do is to disclose the identities of your
17 donors; correct?

18 A Yes.

19 Q And you've done that at least in the case of CFM;
20 correct?

21 A Yes.

22 Q Have you also done that with CAL?

23 A Yes.

24 Q All right. And those disclosures are public records in

25 Maine; correct?

1 A Yes.

2 Q Have you or any of your donors ever faced any kind of
3 harassment as a result of those disclosures to the
4 state?

5 A I don't know.

6 Q You're not aware of any harassment that you or the
7 donors have faced as a result of those disclosures?

8 A I cannot prove that harassment or vandalism has taken
9 place as a result of those disclosures. However,
10 harassment and destruction of property has taken
11 place --

12 Q Has taken place?

13 A -- at times related to our work on these issues.

14 Q Okay. Is CAL a corporation?

15 A Yes.

16 Q It's a Maine corporation?

17 A Yes.

18 Q And CFM is not a separate --

19 A I'm sorry, you said CAL?

20 Q Yes.

21 A I was thinking -- yes, CAL, Christian Action League,

22 yes.

23 Q Yes. It's a corporation?

24 A Yes.

25 Q And it's distinct from CCL?

1 A Yes.

2 Q Is CAL a Maine corporation?

3 A Yes.

4 Q Is it tax exempt?

5 A I don't know.

6 Q Do you know what kind of corporation is it?

7 A I don't know.

8 Q Okay. When was it founded?

9 A I'm not sure of the exact year, but I believe just a

10 few years ago. Since 2000.

11 Q All right.

12 MR. SUMMERS: I'm going to mark an exhibit.

13 (Heath Deposition Exhibit Number 9 was marked for

14 identification.)

15 Q (By Mr. Summers) I'll show you what's been marked as

16 Exhibit 9, which says that it's a registration for

17 political action committees for Christian Action

18 League, do you recognize this?

19 A Yes. I recognize the form.

20 Q And what is it?

21 A It's the registration for the Christian Action League

22 with the Ethics Commission of the state of Maine.

23 Q Directing your attention to the second page, Section 5,

24 Part B, it lists a date of origin/incorporation of

25 April, 1999. Is that correct for the beginning of CAL

1 as far as you know?

2 A Yes.

3 Q Okay. You were executive director at the time CAL was

4 set up; correct?

5 A Yes.

6 Q Why did CCL decide to set up CAL?

7 A To get involved with in a -- politics, potentially

8 endorsements or direct opposition of candidates during

9 elections.

10 Q So the statement in Section 6 of this document, which

11 is entitled statement of support or opposition, is that

12 a correct statement of the purpose of CAL?

13 A It's incomplete, should be amended.

14 Q What else does CAL do?

15 A Well, right now, it is -- it is not doing much, but we

16 are discussing supporting or opposing candidates for

17 state.

18 Q State candidates, also --

19 A Legislature.

20 Q -- federal candidates?

21 A No.

22 Q There's no plan to endorse or oppose federal candidates

23 by CAL?

24 A No.

25 Q Do you direct CAL's activities?

1 A Yes.

2 Q What have CAL's activities been between 1999 and today
3 generally speaking?

4 A The most activity came last year -- strike that. The
5 Christian Action League was very active in 2000 on a
6 state matter related to gay rights. And then again in
7 2004 on a state matter involving the same issue.

8 In 2004, the Christian Action League was involved
9 through its d/b/a, the Coalition for Marriage. Same
10 corporation both times, same issue both times.

11 Q Okay.

12 A D/b/a in 2004.

13 Q Is there anything else that CAL has done since 1999
14 other than what you've described?

15 A No.

16 MR. SUMMERS: I want to mark another exhibit.
17 (Heath Deposition Exhibit Number 10 was marked for
18 identification.)

19 Q (By Mr. Summers) I'll show you what's been marked as
20 Exhibit 10, which is the responses of CCL to the FEC's
21 interrogatories served earlier this week, and I direct

22 your attention to the second page, Interrogatory 1, the
23 answer at the bottom.

24 I take it -- let me ask, is this a correct
25 statement of the activities of CCL -- CAL?

1 A Yes.

2 Q Did CAL do anything prior to 2004?

3 A Did CAL?

4 Q Yes.

5 A In 2000 --

6 Q Prior, between 1999 and the end of 2003?

7 A Yeah. We worked in 2000 on a state ballot issue

8 related to gay rights through the PAC.

9 Q Briefly, what was that issue?

10 A The legislature put gay rights on the ballot, and we

11 led the opposition.

12 Q Has CCL -- PAC -- strike that. Has CAL done anything

13 other than what you've described?

14 A Not that I recall.

15 Q Has it ever supported or opposed candidates from 1999

16 until today?

17 A No.

18 MR. BOPP: By the way, now that we're on the

19 interrogatories, I want to advise you all that with

20 respect to Interrogatory Number 9, which has an Exhibit

21 B attached, that Exhibit B is attached in error.

22 Exhibit B is not responsive to Interrogatory Number 9.

23 And that was a mistake made in our office.

24 MR. SUMMERS: Okay. While we're on that,

25 there's no other answer listed for Interrogatory 9, so

1 obviously we're interested in an answer of

2 Interrogatory 9.

3 MR. BOPP: There's the guy that can answer it

4 right here.

5 MR. SUMMERS: We'd still like an answer to

6 the interrogatory itself.

7 MR. BOPP: But given the expedition, I

8 thought rather than amend, you know, the interrogatory

9 answers, I would tell you right now, and you can ask

10 whatever you want to ask.

11 MR. SUMMERS: We will get to that.

12 Q (By Mr. Summers) Generally speaking, how has CAL

13 communicated with the public?

14 A Can you be more specific?

15 Q What media has CAL used to --

16 A The internet, in the form of a web site. Email. I'm

17 assuming in answering your question since you mentioned

18 CAL and since CFM is a d/b/a, you're referring to both?

19 Q We'll actually get to CFM in a minute.

20 A You're referring only to CAL?

21 Q Yes, just CAL?

22 A Ask the question again.

23 Q What methods has CAL used to communicate with the

24 public?

25 A I can't think of any except -- except for 2000, when

1 we -- when we were engaged in leading the opposition to
2 that particular ballot initiative. In that case, we
3 employed internet, print media. Since I wasn't charged
4 with preparing for 2000 in the --

5 Q I understand.

6 A I don't remember the specific ways that the CAL
7 communicated.

8 Q CAL has a presence on the web site of CCL; correct?

9 A Limited, I believe. It's mentioned, I'm sure.

10 Q Can you think of any other ways that CAL has
11 communicated?

12 A No.

13 Q It hasn't sent its own emails except for --

14 A No.

15 Q It hasn't placed -- has it placed ads in newspapers?

16 A No.

17 Q Has it run broadcast ads during your tenure?

18 A It may have in 2000 related to that specific ballot
19 measure.

20 Q All right. Let's talk about CFM.

21 MR. SUMMERS: Let me mark another exhibit,

22 actually.

23 (Heath Deposition Exhibit Number 11 was marked for

24 identification.)

25 Q (By Mr. Summers) Show you what's been marked as

1 Exhibit 11, do you recognize -- I should say, it's a
2 registration for a political action committees for
3 Coalition for Marriage, dated February 27, 2006, as
4 received by the Commission on Governmental and Election
5 Practices. Do you recognize this document?

6 A Uh-huh. Yes.

7 Q What is this?

8 A It's a registration for a political action committee
9 with the Commission on Governmental Ethics and Election
10 Practices.

11 Q And this is for the Coalition for Marriage that we've
12 discussed; correct?

13 A Yes.

14 Q Do you direct CFM's activities?

15 A Yes.

16 Q What have those activities been?

17 A The Coalition for Marriage was formed in the spring of
18 2005 in response to the decision of our legislature to
19 add sexual orientation to the Human Rights Act. And
20 the Coalition for Marriage led a people's veto of that
21 law, which -- the result of which was an election in

22 November of 2005, and that we lost -- that we lost.

23 Q You say an election, do you mean a measure that was on

24 the ballot for people to vote on?

25 A Yes.

1 Q Okay. I take it CFM communicated with the public quite

2 a bit during 2005?

3 A Yes.

4 Q Did it have a web site?

5 A Yes.

6 Q Was that www.coalitionformarriage.net?

7 A Yes.

8 Q Did CFM send emails during 2005 about the ballot

9 measure and the petition drive?

10 A Yes.

11 Q Was the internet an important method of building

12 support for that campaign in 2005?

13 A Yes.

14 Q Did CFM run radio and TV ads during 2005 for that

15 campaign?

16 A Yes.

17 Q Okay.

18 MR. SUMMERS: I'll mark another exhibit.

19 (Heath Deposition Exhibit Number 12 was marked for

20 identification.)

21 Q (By Mr. Summers) I'll show you what's been marked as

22 Exhibit 12, which is a reprint of an article from the
23 Morning Sentinel dated April 27, 2005, with the
24 headline, Civic League Head Expects Large Turnout for
25 Anti Gay Rights Rally.

1 Please look at the second page at the top, the
2 first paragraph?

3 A Uh-huh.

4 Q Is that paragraph a correct statement of some of --
5 well, strike that. That paragraph says that CCL was
6 running radio ads; correct?

7 A Uh-huh.

8 Q Were those -- were those ads actually being run by CFM
9 in April, 2005?

10 A I think they were.

11 Q It's correct that those radio ads were being run?

12 A I believe -- I believe they were.

13 Q Can you describe those ads?

14 A A lobsterman named Dan Riley recorded a spot, and they
15 were aired as -- I believe the story is accurate with
16 regard to the number of times they were aired, seven to
17 800 times.

18 And they -- I don't recall the script, exactly
19 what the -- what it asked for. I remember the general
20 subject matter being as described here.

21 Q Did it name -- did the script name any candidates?

22 A No.

23 Q And you ran TV ads as well; correct?

24 A Later, I believe.

25 Q Do you know when those ran?

1 A In the fall of 2005.

2 Q Just prior to the November ballot vote?

3 A Yes.

4 Q What did those ads say?

5 A They were an appeal to the public to vote yes on that

6 ballot measure.

7 Q Did those ads name any candidates?

8 A No. No.

9 Q What other ways has CFM communicated with the public

10 other than what we've discussed?

11 A None that I can think of.

12 Q Has CFM placed any newspaper ads?

13 A Yes.

14 Q Can you describe those?

15 A We ran many large ads at about the same time this radio

16 advertising campaign was running in the spring of 2005

17 mentioning the rally and encouraging people to commit

18 to gather signatures for the petition drive.

19 Q Can you think of any other -- anything else about the

20 newspaper ads that you ran, what -- sorry. Strike

21 that. What newspapers did they run in?

22 A I don't know all the papers they ran in, but I know
23 they ran in the Portland Press Herald, the Kennebec
24 Journal, I think in the Bangor Daily News. And they
25 may have run in the Waterville Sentinel also.

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1 Q Did --

2 A No, go ahead.

3 Q Did you speak often with the press about the ballot
4 initiative?

5 A Yes.

6 Q And were your comments published in the press?

7 A Yes.

8 Q And did you speak with the broadcast media about the
9 ballot issue?

10 A Yes.

11 Q And were those comments broadcast?

12 A Yes.

13 Q Did that include the national media?

14 A Yes.

15 Q The CFM web site even today contains a number of
16 documents that appear to be newspaper ads?

17 A Uh-huh.

18 Q Were those in fact newspaper ads?

19 A Yes.

20 Q That were -- and those were placed in the newspapers as
21 you've described?

22 A Yes. I was describing a different set of -- a
23 different print advertising campaign that ran in the
24 spring. The ads that you're referencing were developed
25 for the fall campaign. And those were placed on the

1 web site as pdf -- as downloadable files that people
2 were encouraged to place in their own local weekly and
3 daily newspapers. I have no way of knowing how many of
4 those were run, could have been none, could have
5 been -- I have no way of knowing.

6 Q What other methods did -- strike that. You mentioned a
7 rally?

8 A Uh-huh.

9 Q Can you describe the rallies that CFM put together for
10 this effort in 2005?

11 A We organized a rally for the State House steps in I
12 think it was -- it's mentioned there, March, I guess,
13 that attracted over 500 people and addressed the recent
14 passage of the gay rights law and responded to that by
15 encouraging citizens to sign up to become petition
16 circulators. And 2,000 of them did that.

17 Q What other rallies did you hold as part of the CFM
18 effort in 2005?

19 A Well, rallies.

20 Q Or any public gathering of that nature?

21 A None.

22 Q What methods did CFM use to persuade people to come to
23 the rally?

24 A The full page ads. The radio advertisements mentioned
25 the rally, I think. Email mention on the web site.

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1 Direct mail. Phoning, but not phone banking, just
2 informal grass roots voluntary phoning.

3 Q Was that by the woman you mentioned earlier or --

4 A No.

5 Q Who was -- please describe the phoning?

6 A We worked with a group called the Maine Grass Roots
7 Coalition, and they did phoning. And they made direct
8 contact, personal appeals to people.

9 Q Was it a shared effort between CFM and Maine Grass
10 Roots Coalition to do that phoning?

11 A They did most of the work. We provided funding to them
12 to do that and to coordinate and organize the signature
13 gathering.

14 Q And you mentioned direct mail, can you describe what
15 you did in direct mail with CFM?

16 A There were a number of mailings that went out to donors
17 and potential donors inviting them to participate. I
18 cannot remember -- I cannot remember any of them
19 specifically.

20 We had a group of people numbering around 20 to 30
21 who were in my orbit, and beyond them, there were many

22 more as you can imagine with 2,000 people active. And
23 there was a number of -- there was mailing and phoning
24 and solicitation ongoing at a number of levels in a
25 number of different ways.

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1 Q Are there any other ways in which CFM communicated its
2 views on the ballot initiative in 2005?

3 A None that I can think of.

4 Q CFM reported the contributions it received in 2005 to
5 the state of Maine; correct?

6 A Uh-huh.

7 Q And I take it those reports are accurate as far as you
8 know?

9 A Yes.

10 Q Did CFM receive any money from business corporations in
11 2005?

12 A I don't know.

13 Q Okay.

14 MR. SUMMERS: This might be a good place for
15 a break. Does that sound good?

16 (Recess at 2:56 p.m., to 3:06 p.m., after which the
17 following proceedings transpired.)

18 Q (By Mr. Summers) Mr. Heath, has CCL considered during
19 your tenure setting up a federal PAC?

20 A No.

21 Q Why not?

22 A We're -- I'm taking it slow.

23 Q Can you explain?

24 A Getting involved with candidate politics in the form of

25 express endorsements or in the form of endorsements or

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1 direct opposition is -- has appeared to me to be
2 complicated, not just with respect to regulations, but
3 with respect to the theological perspectives of our
4 supporters. So I'm taking my time.

5 Q Do you have concerns about the -- those issues with the
6 state PACs that you have?

7 A Yes. Some -- some of the same issues on the
8 theological side, yes. But with respect to regulations
9 and rules and funding on the federal side with federal
10 candidates and PACs and activity, I don't have enough
11 information yet.

12 Q Have you talked about possibly setting up a federal PAC
13 during your tenure with anyone else?

14 A No.

15 Q What are the sources of CCL's funding?

16 A CCL. Churches and individual contributors.

17 Q Anything else?

18 A The -- we just started accepting advertising for our
19 print Record so we do have advertising income now.

20 Q Is that -- strike that. The complaint in this case
21 that you verified says that CCL does not qualify for

22 the exception for qualified nonprofit corporations

23 under the federal law. Do you recall verifying that as

24 a factual --

25 MR. BOPP: That is not a fact. That is a

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1 legal -- I object to the question.

2 MR. SUMMERS: We'll bring him to the
3 complaint then.

4 Q (By Mr. Summers) I'll ask you to take a look at the
5 complaint which is Exhibit 7, and please turn to
6 Paragraph 22?

7 A Okay.

8 Q Okay. Please read Paragraph 22. I'm asking for the
9 factual basis for the statements in Paragraph 22 as to
10 why CCL does not qualify for the exception for
11 qualified nonprofit corporations?

12 MR. BOPP: Well, I'd object because that
13 would be based upon the legal requirements. So he
14 cannot be expected to know the legal requirements that,
15 you know, are encompassed within that determination.

16 Q (By Mr. Summers) Let me direct you to the
17 interrogatory responses, which are Exhibit 10. Exhibit
18 10 which are the interrogatory responses CCL served
19 earlier this week, and Interrogatory 4, response is on
20 Page 5. Okay. The first full paragraph on Page 5, do
21 you see that?

22 A Uh-huh.

23 Q Is it correct that CCL has offered books and materials

24 in exchange for a suggested donation?

25 A Yes.

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1 Q Please describe how that -- how that works?

2 A Well, we were in receipt of over 400 books entitled How

3 Now Shall We Live some years ago, I don't know if it's

4 been since 2004, but it may have been. And --

5 Q Who wrote that?

6 A Charles Colson.

7 Q Go on.

8 A And those books -- I'm hesitating because that

9 particular campaign may have been a Christian Education

10 League activity, CEL, instead of CCLM. The CCLM has a

11 literature table when I speak, and we provide books to

12 people who sign up to become members or supporters, we

13 provide them for the donation or for the -- for their

14 first donation or their dues, whatever, depends. It

15 may be dues or it may be just a donation for support,

16 and we would provide books.

17 Q So does CCL or possibly the Education League say if you

18 make a donation of a certain amount, we will give you a

19 copy of this book or this material?

20 A Yes.

21 Q Is there any other -- any other materials that are

22 offered in exchange for donations by CCL?

23 A Occasionally.

24 Q What are those?

25 A We're working on a project now that would involve a DVD

1 for -- we will probably make those available not for
2 donation, but for sale. People would give us a certain
3 amount, and we would provide the product.

4 Q When you -- what you've described, offering the books
5 and other materials at your meetings, is that a CCL
6 activity?

7 A Yes.

8 Q And so what CEL activity might involve this kind of
9 transaction?

10 A I mentioned one, that book project that we provided to
11 churches.

12 Q All right. Anything else?

13 A Nothing that I can think of.

14 Q All right. Now coming back to CCL activities, other
15 than the books and materials offered in exchange for
16 the suggested donations at the meetings, are there any
17 other ways in which CCL provides books and materials to
18 supporters that generates income to or that generates
19 funds for CCL?

20 A No.

21 Q In the same paragraph on Page 5 of the interrogatory

22 responses, there's a reference to events such as
23 banquets which are likewise providing goods and
24 services or are advertising or promotional activity.

25 Can you describe -- is that any different from

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1 what we just talked about, or is that the same thing by

2 CCL?

3 A The banquets are different from my speaking

4 engagements. We hold an annual banquet, and we invite

5 people to sponsor tables. Occasionally we will provide

6 a book or CD or some goods related to their

7 contribution.

8 Q Is that sentence describing anything other than that?

9 A No.

10 Q At the end of the paragraph, there's a reference to

11 advertising revenue from The Record; correct?

12 A Yes.

13 Q Is that the revenue that you mentioned earlier that you

14 had just recently started to --

15 A Yes.

16 Q -- create? When did The Record begin receiving

17 advertising revenue?

18 A Three months ago.

19 Q Before that period, before 2006, had The Record ever

20 received such advertising revenue?

21 A Yes.

22 Q Please describe that during your tenure?

23 A None during my tenure.

24 Q So during your tenure, The Record has not received?

25 Have you -- has CCL during your tenure received any

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1 other advertising revenue aside from what The Record
2 decided to do three months ago?

3 A No.

4 MR. SUMMERS: I'm going to mark another
5 exhibit.

6 (Heath Deposition Exhibit Number 13 was marked for
7 identification.)

8 Q (By Mr. Summers) Please review what's been marked as
9 Exhibit 13 which is a series of invoices produced by
10 CCL to the Commission earlier this week with dates
11 ranging from late January, 2006, to March, 2006?

12 A Uh-huh.

13 Q Do you recognize these?

14 A Yes.

15 Q Are those invoices for The Record's advertising?

16 A Uh-huh.

17 Q And this is the advertising that you just discussed?

18 A Uh-huh.

19 Q Correct? Can you tell me which of these invoices
20 reflect money from business corporations?

21 A I don't know which are business corporations and which

22 aren't.

23 Q I take it that zero invoices do not generate any income

24 for CCL?

25 A Zero invoices may or may not be related to donations.

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1 Q So please explain what that means?

2 A Some ads that have zero invoices are thank yous that we

3 just might give to a potential -- an advertiser, a

4 church, an individual or a business. Some are zeros

5 that are part -- that are part of an advertising series

6 where we don't invoice this month, but we're going to

7 invoice next month or the month after because they've

8 made a commitment over a period of months.

9 Q So the thank yous you've described to an individual,

10 what would that look like as far as the ad text?

11 A Whatever they want it to look like.

12 Q Can you give me an example of what people typically --

13 A Look through here.

14 Q -- create?

15 A Well, there's one ad here which is listed as a zero,

16 it's invoice number 171, which would be invoice number

17 171, top right, which has a zero value. The newspaper

18 ad itself has a retail value of \$56, but we didn't

19 charge anything as a thank you to this particular

20 individual for donation.

21 Q And what did that ad text actually say?

22 A Well, this individual chose to advertise a particular
23 ministry of which he was fond -- that he was fond of.
24 And so we put an ad in for him advertising that
25 particular -- it happened to be a retreat center.

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1 Q Is it really whatever the donor would like to put in

2 there?

3 A As long as it's consistent with our mission values.

4 Q Do donors sometimes create ads that thanks CCL for its

5 work?

6 A Well, not yet, but I hope so.

7 Q Do donors sometimes create ads that are in the nature

8 of tributes to people they admire?

9 A That's another good idea.

10 Q Can you describe any other -- any other -- please

11 describe other types of things that people put in their

12 ads?

13 A Well, one -- this top one here, he advertises his car

14 dealership.

15 Q What does that ad say?

16 A Buy a car from me, his company, full page, basically.

17 I mean that's not exactly what it says, but that's what

18 it -- that's what it tries to get people to do.

19 Q Is it possible that none of the -- that none of these

20 ads are for business corporations?

21 A Is it possible, yes. Is it likely, no, because this

22 particular ad for the car company, I'm not a lawyer, so
23 when you say business corporation, I can't -- I don't
24 know whether he has a business corporation. I know
25 it's a business. But I don't know what his corporate

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1 status is or anything like that.

2 Q I mean a for profit corporation?

3 A I would assume, but it's an assumption on my part, that

4 this particular ad for the Linnehan family business is

5 such an ad, but it's an assumption on my part because

6 we don't keep track of that.

7 Q Does The Record have any policy about offering the

8 courtesy advertisements?

9 A Can you elaborate on the question?

10 Q Who is entitled to a courtesy advertisement?

11 A We developed some broad guidelines, but I have

12 authorized my advertising director to use her

13 discretion in those decisions.

14 Q How much revenue has advertising in The Record created

15 for CCL in 2006?

16 A It would be an estimate, but pretty close, I would say,

17 not in excess of \$3,000.

18 Q How much of that came from individual human beings?

19 A Probably at least two-thirds of it, I'm guessing. But

20 I don't know because I'd have to review the -- all the

21 ads and the income that came in from those ads.

22 Q Did some of it come from churches?

23 A Yes.

24 Q How much came from churches?

25 A I don't know. I don't know.

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1 Q Did some come from other nonprofit groups that are not
2 churches like CCL itself?

3 A Not that I -- not that I recall.

4 Q Does CCL do anything else other than what we've
5 discussed that you regard as business activity?

6 A No.

7 Q Okay. I'd like to direct your attention back to the
8 interrogatory responses, which I believe were marked as
9 Exhibit 10. And that same Page 5, now the last
10 paragraph on Page 5, a statement about halfway down in
11 that paragraph, the sentence beginning, however, 11
12 CFR, and the statement, the second half of that
13 sentence which states, CCL may have received
14 contributions from nonprofit corporations who may have
15 received contributions from business corporations.

16 Do you see that?

17 A Yes.

18 Q Can you please explain the factual basis for that?

19 A Well, we don't keep track of the corporate status of
20 donors. So it's accurate for us to say we may have
21 received contributions. We receive somewhere between

22 10 and 20,000 contributions a year.

23 And so we may have received contributions for

24 business corporations, may have received -- so that's

25 the factual basis.

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1 Q Can you think of any examples of a donation from a
2 nonprofit that you suspect may have received money from
3 a business corporation?

4 A There's -- in the Exhibit B, which has been mentioned
5 as not responsive to interrogatory whatever, I don't
6 remember the question, there's the International Reform
7 Federation is listed there.

8 And I -- they may be a nonprofit corporation, says
9 they are in our notation here. And they may have
10 received contributions from a business corporation. I
11 can't say they did or didn't.

12 Q In the next sentence of the same paragraph of the
13 interrogatories, there's a statement that the Christian
14 Education League does receive donations from business
15 corporations. Is that correct?

16 A Yes.

17 Q How much in donations from business corporations has
18 the Education League received in 2006?

19 A I don't know.

20 Q How would you find out?

21 A I would have to review each individual contribution,

22 and if I saw a name that looked like a business, I
23 would then have to confirm or deny that it is -- was
24 actually a business by I assume contacting the
25 business. And that would be how it would have to be

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1 done.

2 Q Is that the same answer for 2005?

3 A Are you referencing something here?

4 Q Has the Education League -- did the Education League

5 receive donations from business corporations in 2005?

6 A Yes.

7 Q And how much did it receive in 2005?

8 A I don't know.

9 Q Would you have to go through the same process you've

10 just described for 2005?

11 A Yes.

12 Q And in 2004, did the Education League receive donations

13 from business corporations?

14 A Yes.

15 Q How much?

16 A I don't know.

17 Q And would you have to go through the same process to

18 find out?

19 A Yes.

20 Q Okay. Is it possible because you've said that you --

21 if I understand -- if I understand you, that you aren't

22 sure exactly what the Education League has received in
23 2006 from business corporations, is it possible that it
24 has not actually received any money from business
25 corporations in 2006?

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1 A Business corporations. Is it possible, I don't know.

2 I would have to review the contributor list for 2006 to
3 give an answer.

4 Q So if you -- then if you don't know as you sit here
5 right now, then it's possible; correct?

6 A It's possible that we did not, possible, yes.

7 Q The same sentence in the response to Interrogatory
8 Number 4 that talks about the Education League also
9 mentions the sharing and allocating of expenses between
10 CCL and the Education League?

11 A Uh-huh.

12 Q Please explain generally how that works?

13 A The CEL is bound by (c)(3), 501(c)(3) rules to only
14 fund certain activity. And that activity, some of its
15 funds are provided to the Christian Civic League of
16 Maine in the form of grants that fund appropriate
17 (c)(3) activity. That's -- and then some of the funds
18 in the CEL are directly expended by the CEL by that
19 corporation.

20 Q Okay. The CEL and the CCL share staff; correct?

21 A The CCL is the only entity that has staff. And the

22 staff of the CCL is -- keeps track of hours and related
23 to projects that the grants from the CEL are funding.
24 And that's how -- that's one way that that relationship
25 works.

1 The CCL also provides the staff for CEL activities
2 directly, and the CEL pays for that.

3 Q So does the -- I'm trying to understand. Does the CEL
4 finance activities of the CCL?

5 A It funds only activities that it -- that its board,
6 which is a separate entity, determines are appropriate
7 (c)(3) activities. And the CCL submits paperwork
8 consistent that indicate that detail -- that detail
9 that activity.

10 Q And that's sometimes activity of CCL that is funded
11 that way?

12 A Yes.

13 Q All right. Okay. I'd like to direct your attention to
14 the response to Interrogatory Number 7, same exhibit,
15 and Exhibit A to the responses. The Exhibit A lists
16 donations over \$1,000 to CCL in the time period 2004
17 through March of 2006; correct?

18 A Yes.

19 Q And are these donations by individual human beings?

20 A Some are, some aren't.

21 Q What else -- what other kinds of entities are they

22 from?

23 A Churches. Perhaps some nonprofit corporations, perhaps

24 some -- what you're calling -- perhaps some businesses.

25 Q Do you know for certain that any are businesses?

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1 A I don't.

2 Q Do you know for certain that any are individual human
3 beings?

4 A Yes.

5 Q How many are individual human beings?

6 A I don't know.

7 Q The third column is headed fund code; correct?

8 A Uh-huh.

9 Q Can you explain the meaning of the entries under fund
10 code?

11 A Well, this is a code that's produced by our operations
12 director and is used I assume by her in her work with
13 our accounting firm that does the -- that does the --
14 not audit, but the review of our finances every year.

15 Q Can you explain what the entries mean, though? For
16 instance, what does SPLG mean?

17 A I believe that means special gift. I think wills,
18 probably self-explanatory. Miscellaneous. CHBD would
19 be I assume again church budget. I would need to
20 confirm that. AP204, I don't know. EOYG, I don't
21 know.

22 Q RCPT?

23 A I don't know.

24 Q SPDS?

25 A Don't know.

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1 Q All right. Since January 1, 2004, CCL has received
2 donations from other nonprofit corporations; correct?

3 A Yes.

4 Q And since that time, it's received donations from
5 churches; correct?

6 A Yes.

7 Q Has it received donations from other 501(c)(4)
8 organizations since that time?

9 A I don't know.

10 Q What other types of organizations do you know that CCL
11 has gotten donations from during that time?

12 A Rephrase the question.

13 Q Do you know that CCL has received donations from any
14 other type of organization since January, 2004?

15 A I don't know.

16 MR. SUMMERS: I'm going to mark one exhibit.

17 I believe it may be the last exhibit. Is that

18 encouraging?

19 (Heath Deposition Exhibit Number 14 was marked for

20 identification.)

21 Q (By Mr. Summers) I'll show you what's been marked as

22 Exhibit 14, which is a Form 990 of the Internal Revenue
23 Service which states that it's for fiscal year 2004 for
24 Christian Civic League of Maine, Inc. Do you recognize
25 this?

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1 A Uh-huh.

2 Q Please turn to Page 6. What is this document?

3 A Form 990.

4 Q Is it a Form 990 that CCL filed for fiscal year 2004?

5 A Yes.

6 Q On Page 6, there are entries for Line 93A and 103A, do
7 you see those?

8 A Uh-huh.

9 Q The entry for 93A on Page 6 says program service
10 revenue along with other income; correct?

11 A Uh-huh.

12 Q What is that?

13 A I believe that that would be income that came from a
14 convention we had that year, our banquet. It's
15 referenced as a banquet in other documents.

16 Q And what income related to the banquet, what was that?

17 A Could have been donations. It could have been what
18 people paid us to get in.

19 Q Ticket prices?

20 A Ticket type of thing. But I don't recall exactly what
21 it was that year.

22 Q Is there anything else it could have been?

23 A Not that I can think of.

24 Q For 103A, the description is, provide the League with

25 the capital necessary to fund its operations. What was

121

1 that?

2 A I don't know.

3 Q You were the person who signed this form on behalf of

4 CCL; correct?

5 A Yes.

6 Q All right. Turning back once again to the

7 interrogatories, which you should have in front of you,

8 which are Exhibit 10. And please look at Exhibit 9 --

9 I'm sorry, Interrogatory 9, and Exhibit B, which has

10 been deleted from the response to Interrogatory 9. Do

11 you see Interrogatory 9?

12 A Uh-huh.

13 Q What is the answer to Interrogatory 9?

14 A Zero.

15 Q Please explain.

16 A No individual has pledged to contribute in excess of

17 \$1,000 to CCL to pay for CCL's campaign for passage of

18 the federal Marriage Protection Amendment Act, not one.

19 Q I understand.

20 MR. SUMMERS: I think that's all I have.

21 Jim, do you have any questions you'd like to ask?

22 MR. BOPP: Yes.

23 EXAMINATION

24 BY MR. BOPP:

25 Q Turn to Page 5, please, again.

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1 MR. SUMMERS: Page 5 of?

2 Q (By Mr. Bopp) The interrogatory answers. You were
3 asked about banquets?

4 A Uh-huh.

5 Q And with respect to people buying tables, you mentioned
6 that they might be provided goods and services like
7 books or other premiums?

8 A Uh-huh.

9 Q Okay. Aren't they also provided meals?

10 A Yes.

11 Q Okay. And meals would be a good or service that
12 resulted in income to the corporation?

13 A Yes.

14 Q Okay.

15 MR. BOPP: No further questions.

16 MS. SEALANDER: We had talked earlier about a
17 list.

18 MR. BOPP: Are we done?

19 MS. SEALANDER: But I want to do this on the
20 record because I'm giving you the only copy of this. I
21 want to just read to you the things that we've listed.

22 MR. BOPP: Okay, sure.

23 MS. SEALANDER: So the first thing is the

24 2004 voter's guide.

25 And second thing is the radio buy information that

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1 Focus on the Family produced which I believe he
2 indicated that he may have, but in any event, I believe
3 they have, and at this point they're sort of acting as
4 the agent.

5 Number three, email from Focus on the Family, the
6 initial email that was sent to you from Focus on the
7 Family asking whether you wanted to do an advertising
8 campaign on the amendment. You described it as being
9 sent to the Family Policy Councils.

10 Number four, you indicated that you responded by
11 email. So we would like that email response.

12 Number 5, you indicated there have been
13 communications between Natalie Torgeson and Focus on
14 the Family regarding the script. We'd like any
15 documents related to that.

16 Number 6. There's only two more. Number 6 is
17 copies of the print version of The Record for the last
18 three months that contain paid advertising.

19 And Number 7 is all invoices that weren't produced
20 earlier that relate to paid advertising in The Record.
21 You indicated at deposition that you thought there were

22 about \$3,000 worth. My quick math said we didn't have

23 that much here. If there's others, we'd like those.

24 If there's not, there's not.

25 MR. BOPP: All right. We'll do this as

1 quickly as possible subject to --

2 MS. SEALANDER: Maybe we can get this
3 tomorrow?

4 MR. BOPP: We'll try, subject to any
5 objections, if we have any. I don't know that we do,
6 but we will --

7 MS. SEALANDER: Can you read all of that?

8 MR. BOPP: Yes, thank you. Yes. I think I
9 know what you're saying. And we'll do that as quickly
10 as possible, hopefully tomorrow, but we will see.

11 MS. SEALANDER: We're all done.

12 (At 3:52 p.m., the foregoing proceedings were
13 concluded.)

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CERTIFICATE

I, Cindy Packard, a Notary Public in and for the State of Maine, hereby certify that the within-named deponent was sworn to testify the truth, the whole truth, and nothing but the truth in the aforementioned cause of action.

I further certify that this deposition was stenographically reported by me and later reduced to print through Computer-Aided Transcription, and the foregoing is a full and true record of the testimony given by the deponent.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

IN WITNESS WHEREOF I subscribe my hand this ____ of _____, 2006.
Dated at Falmouth, Maine.

22

23

Notary Public

24

My Commission Expires
November 9, 2008

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