

George W. Bush Presidential Library

Collection: Counsel's Office, White House

Series: Kavanaugh, Brett - Subject Files

Folder Title: FEC (Federal Election
Committee) Matter [2]

Withdrawn/Redacted Material

The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Letter	Matter Under Review (MUR) 5194 [with Attachments] - From: Brett Kavanaugh	41	05/02/2001	P3/b3;
002	Draft	Matter Under Review (MUR) 5194 - From: Richard Brown	1	05/03/2001	P5;
003	Letter	MUR 5206 [with Attachments] - To: Alberto Gonzales - From: Jeff Jordan	81	06/01/2001	P3/b3;

COLLECTION TITLE:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

FEC (Federal Election Committee) Matter [2]

FRC ID:

9122

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

STATEMENT OF DESIGNATION OF COUNSEL

MUR 5194

NAME OF COUNSEL: Brett M. Kavanaugh

FIRM: _____

ADDRESS: The White House

Room 128 OEOB

Washington, DC 20502

TELEPHONE: (202) 456-7984

FAX: (~~408~~) 202-456-1647

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5-2-01
Date

Brett M. Kavanaugh
Signature

RESPONDENT'S NAME: President Bush

ADDRESS: The White House

Washington, DC 20500

TELEPHONE: HOME(_____) _____

BUSINESS(_____) _____

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)	(b)(3) STATUTE(S)
Letter	Matter Under Review (MUR) 5194 [with Attachments] - From: Brett Kavanaugh	41	05/02/2001	P3/b3;	2 USC 437g(a)(4)(b) 2 USC 437g(a)(12)(A)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

FEC (Federal Election Committee) Matter [2]

FRC ID:

9122

OA Num.:

341

NARA Num.:

237

FOIA IDs and Segments:

2018-0016-P

2017-0345-F

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING COMPLAINTS FILED WITH THE
FEDERAL ELECTION COMMISSION

999 E Street, NW
Washington, D.C. 20463
FAX (202) 219-3923

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of the General Counsel, where they are assigned a MUR (Matter Under Review) number and forwarded to the Central Enforcement Docket ("CED") for processing. Within five days of receipt of the complaint, the Commission shall notify all respondents referenced in the complaint, in writing, that the complaint has been filed, and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received. The respondents shall then have 15 days to demonstrate, in writing, that no action should be taken against them in response to the complaint. If additional time is needed in which to respond to the complaint, the respondents may request an extension of time. The request must be in writing and demonstrate good cause as to why an extension should be granted. Please be advised that not all requests are granted.

After the response period has elapsed, cases are prioritized and maintained in CED. Cases warranting the use of Commission resources are assigned as staff become available. Cases not warranting the use of Commission resources are dismissed.

If a case is assigned to a staff person, the Office of the General Counsel shall report to the Commission, making recommendations based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent. The report may recommend that the Commission: (a) find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act of 1971, as amended, (hereinafter "the Act"); or (b) find no reason to believe that the complaint sets forth a possible violation of the Act and, accordingly, close the file.

If, by an affirmative vote of four Commissioners, the Commission determines that there is reason to believe that a respondent has committed or is about to commit a violation of the Act, the Office of the General Counsel shall open an investigation into the matter. During the investigation, the Commission has the power to subpoena documents, to subpoena individuals to appear for deposition, and to order written answers to interrogatories. A respondent may be contacted more than once by the Commission during this phase.

If during this period of investigation, a respondent indicates a desire to enter into conciliation, the Office of the General Counsel may recommend that the Commission enter into conciliation prior to a finding of probable cause to believe that a violation has been committed. Conciliation is an attempt to correct or prevent a violation of the Act by informal methods of



FEDERAL ELECTION COMMISSION
Washington, DC, 20463

COMMITMENT TO SUBMIT MATTER TO ADR PROGRAM

I have read the material describing the Federal Election Commission's (FEC) Alternative Dispute Resolution (ADR) program and request that my case be considered for it. In the event that my case is accepted and determined to be appropriate for ADR, I agree:

- 1) to engage in the FEC's ADR program as described in the brochure enclosed with the complaint notification letter;
- 2) to participate in, and try to negotiate a settlement of my case and, if unsuccessful to engage in mediation with the aim of achieving a mutually acceptable resolution; and
- 3) to waive the Statute of Limitations provisions governing my case as long as it is being processed in the FEC's ADR program.

I understand that I will be advised by the FEC of its determination regarding my case's appropriateness for ADR and, if selected, given time to prepare for negotiations with a representative of the FEC and to arrange a mutually agreeable time to meet and discuss the case.

Date

Signature

Respondents Name: _____

Address: _____

Home Phone: _____

Business Phone: _____

Fax Number: _____

THE WHITE HOUSE
WASHINGTON

Facsimile
Cover Sheet

Date: _____
Time: _____

To: Paul Colburn
Fax: 305-8524
From: Brett Kavanaugh

Number of Pages: _____

Message:

Paul: As time is running on this, it
may be necessary to seek an extension
once you determine who should handle. Apologies
for the FAX transmission problems.

Confidentiality Notice

The document accompanying this telecopy transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone to arrange for return of the original documents to us.



U.S. Department of Justice
Civil Division, Federal Programs Branch

Via First-Class Mail
P.O. Box 883, Rm. 940
Washington, D.C. 20044

Via Overnight Delivery
901 E St., N.W., Rm. 940
Washington, D.C. 20004

Richard R. Brown
Senior Counsel

Tel: (202) 514-5751
Fax: (202) 616-8202

TELEFACSIMILE TRANSMITTAL COVER SHEET

DATE:

----- 05/02/01 -----

TO:

BRETT KAVANAUGH, Assoc. Counsel to the President

White House Counsel' Office
(202) 456-2632 (voice)

FAX NUMBER:

(202) 456-1647

FROM:

RICHARD R. BROWN, FED. PROGRAMS BRANCH

VOICE NO. (202) 514-5751

FAX NO. (202) 616-8202

THERE ARE A TOTAL OF 3 PAGES INCLUDING THE COVER PAGE IN THIS TRANSMISSION.

MESSAGE: RE: Federal Election Comm. Matter Under Review 5194
Mr. Kavanaugh: Per the voice mail left you by Paul Colborn of DOJ, attached are: 1. The Designation of Counsel Form that needs to be submitted to the FEC; and 2. a letter requesting an enlargement of time through June 1, 2001, to respond to the complaint. The Designation of Counsel form must be submitted before the FEC will act on the request for enlargement.

If DOJ is to file the letter seeking the enlargement, please have the completed designation of counsel form delivered to me, and I will include it with the request letter.

WARNING: The information contained in this facsimile message is confidential and is intended only for the use of the addressee. If you are not the addressee or the agent or employee of the addressee, you are hereby notified that any duplication or distribution of this communication is unauthorized. If you have received this message in error, please notify us at once.

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Draft	Matter Under Review (MUR) 5194 - From: Richard Brown	1	05/03/2001	P5;

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

FEC (Federal Election Committee) Matter [2]

FRC ID:

9122

OA Num.:

341

NARA Num.:

237

FOIA IDs and Segments:

2018-0016-P

2017-0345-F

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.



U.S. Department of Justice
Civil Division, Federal Programs Branch

Via First-Class Mail
P.O. Box 883, Rm. 940
Washington, D.C. 20044

Via Overnight Delivery
901 E St., N.W., Rm. 940
Washington, D.C. 20004

Richard R. Brown
Senior Counsel

Tel: (202) 514-5751
Fax: (202) 616-8202

May 3, 2001

VIA TELEFAX TO (202) 219-3923 & U.S. MAIL

Alva E. Smith, Paralegal
Enforcement Division
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

DRAFT

RE: MATTER UNDER REVIEW (MUR) 5194

Dear Ms. Smith:

I write on behalf of the President of the United States, George W. Bush, who has been identified by the Federal Election Commission ("FEC") as a respondent in this MUR. I am requesting an enlargement of time, through and including June 1, 2001, in which to file a response to the complaint at issue in this MUR. Your letter to the President enclosing the complaint was received at the White House on *****, so that the 15-day period for filing a response with the FEC would ordinarily expire on *****. This matter was referred to the Civil Division on May 2, 2001.

The requested enlargement of time is necessary to allow counsel sufficient time to analyze the allegations of the complaint and prepare an appropriate response. Because the FEC is prohibited from identifying the persons named as respondents in this MUR, counsel must first independently attempt to determine which, if any, additional individuals serving in the Executive Branch may also be respondents. In addition, counsel must also assess the scope of the complaint, determine which federal agency (or agencies) should be consulted, and coordinate any response with appropriate Executive Branch agencies and officials. This task will be especially complex given the complaint in this matter, since the complaint itself names only Representative DeLay and the National Republican Congressional Committee and does not make any specific allegation against the President.

Please contact me if you have any questions regarding this matter.

Very truly yours,

RICHARD R. BROWN

DRAFT

STATEMENT OF DESIGNATION OF COUNSEL

MUR 5194

NAME OF COUNSEL: STUART E. SCHIFFER
Acting Assistant Attorney General

DENNIS G. LINDER
Branch Director
(202) 514-3314

THEODORE C. HIRT
Assistant Branch Director
(202) 514-4785

RICHARD R. BROWN (contact person)
Senior Counsel
(202) 514-5751

ADDRESS: U.S. Department of Justice
Federal Program Branch
Room 940
P.O. Box 883
Washington, D.C. 20044

TELEPHONE: (202) 514-5751
TELEFAX: (202) 616-8202

The above-named individuals are hereby designated as my counsel and are authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

Signature

NAME: President GEORGE W. BUSH

ADDRESS: The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

TELEPHONE: (202) 456-1414

Withdrawal Marker

The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)	(b)(3) STATUTE(S)
Letter	MUR 5206 [with Attachments] - To: Alberto Gonzales - From: Jeff Jordan	81	06/01/2001	P3/b3;	2 USC 437g(a)(4)(b)

2 USC
437g(a)(12)(A)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Counsel's Office, White House

SERIES:

Kavanaugh, Brett - Subject Files

FOLDER TITLE:

FEC (Federal Election Committee) Matter [2]

FRC ID:

9122

OA Num.:

341

NARA Num.:

237

FOIA IDs and Segments:

2018-0016-P

2017-0345-F

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

- A. Closed by Executive Order 13526 governing access to national security information.
- B. Closed by statute or by the agency which originated the document.
- C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Records Not Subject to FOIA

Court Sealed - The document is withheld under a court seal and is not subject to the Freedom of Information Act.

DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING COMPLAINTS FILED WITH THE
FEDERAL ELECTION COMMISSION

999 E Street, NW
Washington, D.C. 20463
FAX (202) 219-3923

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of the General Counsel, where they are assigned a MUR (Matter Under Review) number and forwarded to the Central Enforcement Docket ("CED") for processing. Within five days of receipt of the complaint, the Commission shall notify all respondents referenced in the complaint, in writing, that the complaint has been filed, and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received. The respondents shall then have 15 days to demonstrate, in writing, that no action should be taken against them in response to the complaint. If additional time is needed in which to respond to the complaint, the respondents may request an extension of time. The request must be in writing and demonstrate good cause as to why an extension should be granted. Please be advised that not all requests are granted.

After the response period has elapsed, cases are prioritized and maintained in CED. Cases warranting the use of Commission resources are assigned as staff become available. Cases not warranting the use of Commission resources are dismissed.

If a case is assigned to a staff person, the Office of the General Counsel shall report to the Commission, making recommendations based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent. The report may recommend that the Commission: (a) find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act of 1971, as amended, (hereinafter "the Act"); or (b) find no reason to believe that the complaint sets forth a possible violation of the Act and, accordingly, close the file.

If, by an affirmative vote of four Commissioners, the Commission determines that there is reason to believe that a respondent has committed or is about to commit a violation of the Act, the Office of the General Counsel shall open an investigation into the matter. During the investigation, the Commission has the power to subpoena documents, to subpoena individuals to appear for deposition, and to order written answers to interrogatories. A respondent may be contacted more than once by the Commission during this phase.

If during this period of investigation, a respondent indicates a desire to enter into conciliation, the Office of the General Counsel may recommend that the Commission enter into conciliation prior to a finding of probable cause to believe that a violation has been committed. Conciliation is an attempt to correct or prevent a violation of the Act by informal methods of

conference and persuasion. Most often, the result of conciliation is an agreement signed by the Commission and the respondent. The Conciliation Agreement must be adopted by four votes of the Commission in order to become final. After signature by the Commission and the respondent, the Conciliation Agreement is made public within 30 days of the closing of the entire file.

If the investigation warrants, and no conciliation agreement has been entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent of his/her intent to recommend that the Commission proceed to a vote on probable cause to believe that a violation of the Act has been committed or is about to be committed. The General Counsel shall send the respondent a brief setting forth his/her position on the legal and factual issues of the case. A response brief stating respondent's position on the issues may be submitted within 15 days of receipt of the General Counsel's Brief. Both briefs are then filed with the Commission Secretary and considered by the Commission. Thereafter, if the Commission determines, by an affirmative vote of four Commissioners, that there is probable cause to believe that a violation of the Act has been committed or is about to be committed, the Commission must conciliate with the respondent for a period of at least 30 days, but not more than 90 days. If the Commission is unable to correct or prevent any violation through conciliation, the Office of the General Counsel may recommend that the Commission file a civil suit to enforce the Act against the respondent. Therefore, the Commission may, upon the affirmative vote of four Commissioners, institute civil action for relief in the United States District Court.

See 2 U.S.C. § 437g and 11 C.F.R. Part III.

May 1996