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December 19, 2017

Senator Cory A. Booker  
United States Senate  
Washington, DC

Re: Your letter of December 13, 2017

Dear Senator Booker:

Thank you for your letter of December 13, 2017. I am happy to provide this response.

First, I fully stand by my answers to Senator Feinstein's questions about the 1990 card mailing. I played no role whatsoever in drafting the card, providing counsel on the card, deciding to mail the card, or identifying those who would receive the card. That mailing was the subject of an extensive investigation by the Justice Department. Because I was not involved, I was not named as a defendant in the civil action filed by the Justice Department. In fact, I did not know about the mailing of the card, its contents, or its recipients until after it had been mailed.

Your questions appear to be based upon notes made by Mr. Gerald Hebert 27 years ago of conversations he had with other persons and not me. In fact, I do not recall ever meeting Mr. Hebert until he recently traveled to North Carolina and was present at a hearing in federal court. Mr. Hebert was never in any meetings with me during the course of the 1990 campaign or the Department of Justice's subsequent investigation. Mr. Hebert could have no personal knowledge of any such meetings, and the individual who was responsible for the card mailing has publicly stated that he did so on his own without first consulting me. When I first saw the language on the card after it had been mailed and was advised as to whom it had been mailed, I was appalled. I immediately recommended that the Helms Committee cancel their 1990 ballot security program which they did. I then spent the next several months working with the Justice Department to resolve the matter with a consent decree.

1. **Paragraph 15 of the DOJ Complaint describes a meeting on "October 16 or 17, 1990" with officials from the Helms campaign where "the 1990 ballot security program was discussed." The complaint goes on to state that several named defendants "and an attorney who had been involved in the past ballot security efforts on behalf of Senator Helms and/or the Defendant North Carolina Republican Party." According to Gerald Hebert, a former DOJ prosecutor, you are the attorney.**

- a. **Are you the "attorney" referred to in paragraph 15 of the complaint?**

I do not know, but several weeks before the election, I participated in a short meeting with persons who wanted to be hired to do a ballot security program for the Helms Committee in 1990. During that meeting, I told them there was no reason for them to do a card mailing in 1990 because North Carolina law had been changed and returned cards could not be used to challenge voters. There was no discussion about the content of any hypothetical card that might be mailed or the persons who might be mailed a hypothetical card. I also told them they might decide to attempt to use returned cards in a recount. However, at the time of this meeting I was doubtful of the utility of any card mailing, even in a recount, because of the change in North Carolina law.

2. **According to contemporaneous notes of Mr. Hebert, you provided counsel at the 1990 meeting on whether to send postcards as part of the campaign's so-called "ballot security" measures. You said, "Look we can't do what we did in '84 because in '84 we sent all these postcards and we could use them to challenge voters at the polls, but we can't do that anymore because the legislature fixed it in '85. We'll only use it if there's a post-election challenge, a recount."**

- a. **To the best of your recollection, do Mr. Hebert's notes reflect what you stated at the meeting in question?**

I do not recall ever being in a meeting with Mr. Hebert during the course of the campaign or the subsequent investigation. I do not agree with his characterizations of my statements or the case.

- b. **If your recollection of your statements at this meeting do not match Mr. Hebert's notes, please detail your recollection of what you said at this meeting.**

Please see my answers above.

- c. **Do you have any contemporaneous notes that support your recollection of what happened at that meeting?**

I do not have any contemporaneous notes.

- d. **If you do have such notes, will you provide them to me and to the Senate Judiciary Committee?**

N/A

- e. **Did you provide any other counsel regarding the use of postcards at the October 1990 meeting described in paragraph 15 of the DOJ complaint?**

Please see my answers above.

- f. **If the answer to 2e is “yes,” please describe the counsel you provided to campaign officials and whether you were a part of other meetings.**

N/A

- g. **Please provide a detailed timeline of when you first became aware that the 1990 Helms for Senate Committee sent more than 100,000 postcards to mainly African-American voters suggesting that they were ineligible to vote and if they voted it could lead to criminal prosecution.**

Please see my answers above.

3. **You served as legal counsel to the 1990 Helms for Senate Committee. Please describe your role.**

- a. **What matters did you provide counsel on?**

I did not work on the 1990 campaign on a daily basis, but may have been called through the course of the campaign about minor FEC compliance issues. I was not hired to design or manage a ballot security program. Other than being called to provide legal advice on the card mailing after it was mailed, I cannot recall any other specific matters on which I provided advice.

- b. **Did the 1990 campaign make any decisions that potentially had major legal implications where you did not provide counsel? If so, please list what decisions.**

I am sure that any decision by the Helms Committee could have had legal implications. I do not know, nor can I list, all the decisions the campaign made about which I was not asked for advice. The only major decision about which I was consulted was the card mailing—after it had already been mailed.

- c. **Did you ever provide tactical, strategic, or political advice in addition to the legal advice you provided?**

No.

- d. **Did you ever provide counsel or advice with respect to political advertisements used in the 1990 campaign? If so, please identify the advertisements and the role you played.**

No.

**You also served as legal counsel to the 1984 Helms for Senate Committee. That campaign was especially known for its appeals to racial fears and prejudices. In fact, the court that you are nominated to sit on once referenced the 1984 campaign as one that “unmistakably appeal[ed] to the same racial fears and prejudices” as “the crude cartoons and pamphlets of the outright white supremacy campaigning of the 1890’s[.]” Given this, please answer the following questions:**

**4. You served as legal counsel to the 1984 Helms for Senate Committee. Please describe your role.**

**a. What matters did you provided counsel on?**

I recall that I was involved in FEC compliance issues. I also represented the Helms Committee in the case of *Hendon v. State Board of Elections* and managed a ballot security program. There were no complaints about the legality of the 1984 mailings, which asked voters to support Senator Helms. In 1984, there was a copyright dispute about the Helms Committee using the “Look for the Union Label” song in one of its commercials. I recall being involved in resolving this dispute after the commercial was aired. I did not advise the Helms Committee about this commercial before it was run.

**b. Did the 1984 campaign make any decisions that potentially had major legal implications where you did not provide counsel? If so, please list what decisions.**

I am sure that any decision by the Helms Committee could have had legal implications. I do not know, nor can I list, all the decisions the campaign made about which I was not asked for advice. My role in the campaign is described above.

**c. Did you ever provide tactical, strategic, or political advice in addition to the legal advice you provided?**

No.

**d. Did you ever provide counsel or advice with respect to political advertisements used in the 1984 campaign? If so, please identify the advertisements and the role you played.**

Other than assisting to resolve a dispute about the “Union Label” song, I did not provide any advice on these issues.

**5. According to notes of a former DOJ official, you provided counsel at the 1990 meeting on whether to send postcards as part of the campaign’s so-called “ballot**

security” measures. You said, “Look we can’t do what we did in ‘84 because in ‘84 we sent all these postcards and we could use them to challenge voters at the polls, but we can’t do that anymore because the legislature fixed it in ‘85. We’ll only use it if there’s a postelection challenge, a recount.”

- a. Did you provide any counsel regarding the mailing of postcards in the 1984 campaign? If so, what counsel did you provide to the campaign?

Please see my answers above.

- b. Given that postcards were mailed to voters during the 1984 campaign, were you ever concerned that similar postcards would be mailed in the 1990 campaign? If so, what actions did you take to stop the mailing of the postcards? Why were the postcards in the 1990 campaign still sent out?

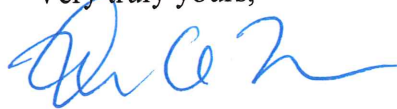
As previously explained, in the 1990 campaign I was not aware of the card mailing until after it had been mailed.

6. The 1984 Helms for Senate Committee clearly used race as a tool to divide voters and win the election.

- a. Did the use of race in the 1984 campaign make you think twice about serving as legal counsel to the 1990 Helms for Senate Committee? If so, why did you serve as legal counsel to the campaign? If not, why were you not concerned?

The Helms Committee was a client of my firm long before I joined the firm in 1983. I am completely opposed to using race to divide people. I have never done anything in my life to use race to divide people.

Very truly yours,



Thomas A. Farr

cc: Senator Richard Burr  
Senator Thom Tillis