



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

THIS IS THE END OF FILM # 2127

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Prepared Interim Audit Report. Comments on prepared Interim Audit

Report. Interim Audit Report. Proposed Final Audit Report, Comments

on proposed Final Audit Report. Routing Slips, File Indices.

Internal Memos, Withdrawn Reports, Prepared Conciliation Materials.

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

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- |                                     |                                                           |                                     |                                                  |
|-------------------------------------|-----------------------------------------------------------|-------------------------------------|--------------------------------------------------|
| <input type="checkbox"/>            | (1) Classified Information                                | <input type="checkbox"/>            | (6) Personal privacy                             |
| <input checked="" type="checkbox"/> | (2) Internal rules and practices                          | <input checked="" type="checkbox"/> | (7) Investigatory files                          |
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| <input type="checkbox"/>            | (4) Trade secrets and commercial or financial information | <input type="checkbox"/>            | (9) Well information (geographic or geophysical) |
| <input checked="" type="checkbox"/> | (5) Internal Documents                                    |                                     |                                                  |

Signed *Robert AB*  
Date 10/28/80

REC 9-21-77

G. D'ANDRELOT BELIN  
 WILSON T. POPE  
 RICHARD G. LOCKWOOD  
 JEFFREY H. WARR  
 JOHN M. FERRY  
 WILL J. HANCO  
 JAMES C. BRIGMAN  
 ROBERT M. GAMBILL  
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 WELD S. HERRIWAY  
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 JOHN R. WALKER  
 KENNETH LAURINCH  
 ROBERT S. FRANK, JR.  
 DONALD L. CONNORS  
 KENNETH F. BURNES  
 BOARDMAN LLOYD  
 ALLEN M. BONNERMERE  
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 ALICE HUGH SCOTT  
 JAMES A. McDANIEL

**CHOATE, HALL & STEWART**

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 CHARLES F. CHOATE, SEC  
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 JOHN L. HALL  
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 HALL & STEWART  
 1904-1927

OF COUNSEL  
 JOHN DARR, JR.  
 NATHANIEL T. DEWEE

LEWIS G. POLLOCK  
 JOHN M. COLEMAN  
 STEPHEN K. FOCO

October 23, 1986

36 OCT 27 P12:00

RECEIVED  
 GENERAL COUNSEL

VIA FEDERAL EXPRESS

Robert Raich, Esq.  
 Federal Election Commission  
 999E Street, N.W.  
 Washington, DC 20463

Re: MUR2127-Atkins For Congress Committee

Dear Mr. Raich:

On behalf of the Atkins For Congress Committee, please allow me to say that I am gratified at the decision of the Federal Election Commission to take no further action with respect to the above-identified matter.

While I am gratified by that decision, however, in fairness to the Atkins For Congress Committee and all those who have been involved with the Committee and with Congressman Atkins, both during the 1984 campaign and in the subsequent efforts to retire the 1984 campaign indebtedness, I find it necessary to make the following observations:

1. For reasons set forth in my previous correspondence, I continue to believe that the Committee did not violate the relevant statutory provisions by treating the loan guarantees as attributable in part to the primary campaign and in part attributable to the general election. In my

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Robert Raich, Esq.  
October 23, 1986  
Page 2

view, the test which we employed--identification based upon the actual use to which the loan proceeds were put--is a more meaningful way of addressing this highly technical question than is reliance upon the form of the documentation used by the Bank to document the loan guarantees.

- 8 7 0 4 0 5 2 4 8 3 3
2. The record should also be clear as to the relative insignificance of the amounts as to which it is asserted that a violation occurred. The asserted total of the excess guarantees came to \$2,726.75 in a campaign which involved the raising and expenditure of over a million dollars in campaign funds. As noted above, I think the Committee was correct in its allocation of the guarantee amounts, but even if it was not, this is an extremely minor violation in the context of the total amount raised, the environment of an intensely-contested campaign, and the fact that this was Congressman Atkins' initial campaign for federal office, with the result that Committee officials had to learn every aspect of federal campaign financing for the first time.
  3. Finally, in fairness I should note that Mr. Richard C. Butt, the current Treasurer of the Committee, did not hold that office during the campaign. I point this out simply because the Commission's findings mention Mr. Butt personally, and it is my belief that the record should be clear in this regard.

I think that the above are important matters for the record, but they should not be taken as in any way undermining the principal purpose of this letter, which is to express my appreciation to you and to the Federal Election Commission for the consideration and fairness which you have shown throughout this proceeding.

Sincerely yours,



Michael A. Austin

MAA:tag

5050a

RLM



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

October 1, 1986

Michael A. Austin, Esquire  
Choate, Hall & Stewart  
Exchange Place  
53 State Street  
Boston, Massachusetts 02109

RE: MUR 2127  
The Atkins for Congress  
Committee and Richard  
Butt, as treasurer

Dear Mr. Austin:

On June 6, 1986, the Commission found reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated provisions of the Federal Election Campaign Act of 1971, as amended. This letter is to advise you that after conducting an investigation, the Commission voted on September 30, 1986 to take no further action and to close the file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele  
General Counsel

*Lawrence M. Noble (RLM)*

BY: Lawrence M. Noble  
Deputy General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
The Atkins for Congress Committee ) MUR 2127  
and Richard Butt, as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of September 30, 1986, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2127:

1. Reject the recommendations contained in the General Counsel's report dated September 18, 1986.
2. Let the reason to believe finding remain on the record.
3. Close the file.

Commissioners Aikens, Elliott, Harris, Josefiak, and McGarry voted affirmatively for the decision; Commissioner McDonald was not present.

Attest:

10-1-86

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission

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**SENSITIVE**

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
The Atkins for Congress	)	MUR 2127
Committee and Richard	)	
Butt, as treasurer	)	

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 COMMISSION SECRETARY

**GENERAL COUNSEL'S REPORT**

**A. BACKGROUND**

On June 6, 1986, the Commission found reason to believe The Atkins for Congress Committee (the "Committee") and Richard Butt, as treasurer, (the "respondents") violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions in the form of loan guarantees. (On that date the Commission also found reason to believe the respondents excepted excessive contributions with respect to designated contributions, but determined to take no further action with regard to that issue). On three occasions, the respondents submitted written replies to the Commission (Attachment 1). In their replies, the respondents urge the Commission to take no further action, arguing that the loan guarantees were for two discrete primary election and general election loans, not for one general election loan. This issue is discussed more fully below. The respondents have also requested conciliation prior to a finding of probable cause (Attachment 1, p. 15).

**B. FACTUAL AND LEGAL ANALYSIS**

No political committee may knowingly accept a contribution in violation of the provisions in Section 441a of the Act. 2 U.S.C. § 441a(f). No person may contribute more than \$1,000 per

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election to a candidate and his authorized political committees.  
2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution.  
11 C.F.R. § 100.7(a)(1)(i). A loan guarantor is deemed to have  
contributed that portion of the total amount of the loan for  
which he or she agreed to be liable in a written instrument.  
11 C.F.R. § 100.7(a)(1)(i)(C). If that agreement does not  
stipulate the portion of the loan for which each guarantor is  
liable, the loan is considered a loan by each guarantor in the  
same proportion to the unpaid balance that each guarantor bears  
to the total number of guarantors. Id.

On October 22, 1984, the candidate received a \$75,000 loan  
from Arlington Trust Company for use in his congressional  
campaign. That loan was guaranteed by 82 individuals. Because  
no written agreement stipulates the portion of the loan for which  
each guarantor was liable, each guarantor is considered to have  
contributed \$914.63 with regard to the loan guarantee. The  
guarantees, when combined with the direct contributions of six  
individuals, created excessive contributions by those  
individuals.<sup>1/</sup> The excessive portions of the contributions  
varied in amount from \$14.63 to \$914.63, and totaled \$1,939.53.<sup>2/</sup>

<sup>1/</sup>Henry Atkins, Nancy Atkins, Edmund Beard, Mary Jane Powell,  
Melinda Roberts, and Catherina Rose.

<sup>2/</sup>The number of excessive contributors and the amounts of the  
excessive contributions differ from those in the First General  
Counsel's Report. The earlier figures reflected computations  
performed by the Audit Division based upon the assumption that  
the amount of each guarantee was \$1,000. In fact, the  
outstanding loan balance divided by the total number of  
guarantors indicates that each guarantee was only \$914.63.

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The Committee has made numerous efforts to reduce or eliminate the liability of these guarantors. Most recently, on June 30, 1986, the remaining balance on the loan was refinanced using the candidate's house as collateral, rather than the individual guarantees.

The respondents urge the Commission to consider the guarantees as contributions in connection with a \$25,000 loan for the primary election and a \$50,000 loan for the general election, rather than as contributions in connection with a \$75,000 loan for the general election. The practical effect of such a determination would be to lower the excessive contributions from a total of \$1,939.53 involving six guarantors to a total of \$719.52 involving two guarantors. They base this claim on the history of the loan.

On September 10, 1984, the candidate received a \$25,000 unguaranteed loan for use in his campaign. The primary election occurred September 18, 1984. On October 22, 1984, the candidate signed the note for a new \$75,000 loan for use in his campaign. (Attachment 2, p. 1) According to the bank's "Information Sheet," the new loan's terms were to "Pay off on \$25,000.00 loan dated 9/10/84 and additional funds of \$50,000.00." (Attachment 2, p. 2) This new \$75,000 loan was the one for which the Committee obtained the 82 guarantors. Because the \$75,000 loan represented in part a refinancing of the \$25,000 pre-primary loan and not a "new" \$25,000 loan, respondents argue that the guarantees with regard to that portion of the loan should be considered

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contributions to the primary rather than the general election. Despite this refinancing of the \$25,000 loan, the General Counsel's Office believes the guarantees for the full \$75,000 should be attributed entirely to the general election campaign. The guarantees were made well after the primary election, and it was only when the guarantees were made that they became "anything of value" (i.e., a contribution) to the Committee.

In contrast, the respondents urge the Commission to focus on the flow of funds rather than the date actual of the guarantees. In support of their position, the respondents state that in the context of a state court collection proceeding against a guarantor, the portion of the guarantee supporting the \$25,000 pre-guarantee advance would have a lower priority than the portion of the guarantee supporting the \$50,000 post-guarantee advance. Apparently, in the event of a guarantor's insolvency, the portion of the guarantee supporting the \$50,000 advance would have the same priority as the guarantor's debts to other creditors, but the portion of the guarantee supporting the \$25,000 advance would be payable only after satisfaction of the guarantor's other debts. The respondents admit, however, that the guarantees were enforceable to the full extent of the \$75,000 loan.

This Office believes that the priority of various portions of a guarantee in a state court collection proceeding is not the determining factor here. In determining the amount of a contribution in the form of a loan guarantee, the Act focuses on the time the guarantee is made, not on the guarantor's ability to

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pay in the event of default. This is because a contribution is "anything of value," and a loan guarantee becomes a thing of value at the time it is made because it allows the debtor to obtain the loan. In addition, other differences exist between the state law treatment of these guarantees and their significance under the Act. For example, in a state court collection action each guarantor would be liable for up to the full amount of his or her guarantee, but under the Act, the guarantors for this loan are considered to have contributed only the amount of the unpaid balance divided by the total number of guarantors. Consequently, because the guarantees were made after the primary and were made for the entire \$75,000, this Office believes the Committee accepted excessive contributions totaling \$1,939.53 in the form of loan guarantees from six individuals.

C. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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**D. RECOMMENDATIONS**

1. Approve the attached conciliation agreement.
2. Approve and send the attached letter.

Charles N. Steele  
General Counsel

9/18/86  
Date

BY: Lawrence M. Noble (LZ)  
Lawrence M. Noble  
Deputy General Counsel

**Attachments**

1. Responses to reason to believe findings
2. Loan documents
3. Proposed conciliation agreement
4. Letter

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Flaich

21 Winthrop Street  
Concord, MA 01742  
July 2, 1986

Ms. Joan D. Aikens, Chairman  
The Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Chairman Aikens:

Enclosed is the response of the Atkins for Congress  
Committee to the Federal Election Commission's MUR #2127.  
I hope that you find it meets all of your concerns and  
adequately demonstrates that no further action should be  
taken against me and the Committee.

If you have any further questions, please do not  
hesitate to contact me at the address above, the  
Committee address, or by phone at (617) 369-8256 evenings  
or (617) 570-6507 days. Thank you for your assistance.

Sincerely yours,

*Richard C. Butt*  
Richard C. Butt  
Treasurer  
Atkins for Congress  
Committee

Enclosure

16 JUL 2 P5:13

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At. 1, p. 1

**BEFORE THE FEDERAL ELECTION COMMISSION**

**MEMORANDUM SUBMITTED BY THE  
ATKINS FOR CONGRESS COMMITTEE  
IN RESPONSE TO  
MUR #2127 OF THE  
FEDERAL ELECTION COMMISSION**

**Richard C. Butt  
Treasurer  
Atkins for Congress  
Committee  
P.O. Box 487  
Concord, MA 01742  
(617) 369-8256**

*Att. 1, p. 2*

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page one

**BEFORE THE FEDERAL ELECTION COMMISSION**

**MEMORANDUM SUBMITTED BY THE  
ATKINS FOR CONGRESS COMMITTEE  
IN RESPONSE TO  
MUR # 2127 OF THE  
FEDERAL ELECTION COMMISSION**

This memorandum is submitted on behalf of the Atkins for Congress Committee (Atkins Committee), the authorized 1984 congressional campaign committee of Congressman Chester G. Atkins. The Atkins Committee received a copy of the Federal Election Commission's (Commission) MUR #2127 on June 14, 1986. The Atkins Committee was given an opportunity to respond in writing to the MUR within fifteen days of its receipt. After phone conversations with Mr. Robert Raich of the Commission, he indicated that this filing would be timely if received by July 2, 1986. The Atkins Committee wishes to submit the following factual materials in response to the points raised in the MUR.

*At. 1, p. 3*

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page two

I. Loan Guarantees

The Commission found reason to believe that the Atkins Committee accepted excessive contributions with respect to loan guarantees made by fourteen individuals during the course of the 1984 general election campaign.

Response. First, the Commission fails to note that the \$75,000 loan was over collateralized when it was procured. The loan in question was for \$75,000 and was guaranteed by 82 separate individuals, each of whom guaranteed between \$900 and \$1,000. Thus, the loan of \$75,000 was collateralized in the amount of \$81,560.00. Therefore, the actual obligation of any individual guarantor could easily have been less than what they actually guaranteed.

It cannot be arbitrarily determined by either the Atkins Committee or the Commission just how the over collateralization might affect the obligation of any single individual. It is just as possible to conclude the fourteen individuals noted by the Commission were NOT providing excessive contributions since their alleged excessive contributions totaled only \$2,726.75 and the over collateralization was \$6,560.00.

The Commission's own letter to the fourteen individuals suggests the problem clearly. For example, a letter to Ms. Martha DeWar, one of the individuals allegedly making excessive contributions, received from the Commission stated in part,

At. 1, p. 4

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page three

"Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id. Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan."

Following this logic, Ms. DeWar would not have made an excessive contribution because she only contributed \$20.00 in cash during the general election.

Second, the loan in question was actually a \$25,000 loan made during the primary which was then refinanced and added to a \$50,000 loan made during the general election. The situation of potential excess contribution by the fourteen guarantors would not have been an issue had the Atkins Committee's understanding of the debt being a \$25,000 primary debt and a \$50,000 general debt been accepted rather than our being informed by the Audit team that the \$75,000 in total had to be considered a general debt.

The \$25,000 loaned in the primary was spent for the purpose of purchasing media for the primary election. At the time, the bank did not ask for guarantors for the loan. When the Atkins Committee sought to borrow an additional \$50,000 after the primary to purchase media for the general election, the bank asked that the \$25,000 be consolidated into a new \$75,000 loan with individual guarantors. Accordingly, \$25,000 worth of guarantors should have

At. 1, p. 5

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page four

been designated for the primary and not the general election. Under these circumstances, it is clearly possible that no excessive contributions took place.

Third, the Commission, in its interim audit report, suggested four possible alternatives to reduce the liability of each contributor to within the contribution limit for the general election and to reduce the amount of collateral to the amount of the loan. The Atkins Committee, acting in good faith and at the suggestion of the Commission and its Audit Division, undertook not only one but three of the methods suggested in the Interim Audit Report (II., A., Recommendation, a., c. and d.).

The Atkins Committee did repay \$5,000.00 in principal on the loan, more than a sufficient amount to insure that none of the guarantors were in a position of excess contribution (\$2,726.75 was the amount of potential excess contribution). (Recommendation, A.)

The Atkins Committee, at the suggestion of the Commission provided new instructions to the bank to reduce the loan guarantees to the amount of the actual loan and to take into account the reduction in the principal of the loan. The resulting changes in the obligation of each individual guarantor was reported to the bank and the Commission in the Atkins Committee's ammendment of January 31, 1986. This, again, insures that there

At. 1, p. 6

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page five

is no situation of excess contribution by any of the fourteen individuals in question. (Recommendation, c.)

As of June 30, 1986, the loan in question with the Arlington Trust Company has been refinanced with another and the collateral guaranteeing the loan is now the home of Congressman Atkins. Thus, all the remaining guarantors have been released from their obligation/contribution to the Atkins Committee in the form of a loan guarantee. This action complies with the third suggestion of the Commission in its Interim Audit Report. (Recommendation, d.).

Fourth, the MUR #2127, General Counsel's Factual and Legal Analysis, Summary of Allegations, B. states in part,

"The Audit Division reports that the Committee's partial repayment of the loan, has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation."

The Atkins Committee cannot understand how the Audit Division might determine that this action has reduced the obligation of only seven of the fourteen guarantors in question. It is clear from the actions undertaken by the Atkins Committee as described above in point three that this is not the case.

Fifth, the Commission has indicated to the fourteen individual loan guarantors that,

"the Commission determined to take no further action and closed its file as it pertains to you."

At. 1, p. 7

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page six

This finding and the small amount of possible excess contribution (\$2,726.75) would seem to indicate a similar finding in relation to the Atkins Committee would be appropriate.

Sixth, the citation of Massachusetts state law with regard to banking procedures is not relevant to the discussion of whether excessive contributions have been received and should be stricken from the public record.

Conclusion. Based on the above factual material, it is the opinion of the Atkins Committee that it has acted in good faith to meet the requests and needs of the Commission in this matter. In addition, based on the above, a clear conclusion cannot be reached that would, in fact, establish that there were excessive contributions made by the fourteen individuals in question. Based upon the representations of the above material and the Atkins Committee's response to the Commission's Interim Audit Report, we believe no further action on the part of the Commission is required.

At. 1, p. 8

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page seven

II. Designated Contributions

The Commission found that five individuals in the primary and two in the general election made excessive contributions. The Commission decided to take no further action.

Response. Though no further action is to be taken, the Atkins Committee is compelled to reply to the General Counsel's Factual and Legal Analysis on several points and strongly objects to several of the Commission's statements.

First, the Commission stated at page one of MUR #2127 that,

"The Final Audit Report states that before the primary election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit..."

The Final Audit Report, dated January 13, 1986 makes no such statement or reference.

Second, the Commission stated that Linda Hartke, one of the excessive contributors, never produced her check. The Atkins Committee's files indicate that there was no request made in writing or verbally which asked for the cancelled check of Linda Hartke. The Audit team had available to them, at request, photocopies of all of the checks deposited in the Atkins Committee's account and those copies are still available to the Commission. The Commission's inaccurate statement of facts should be corrected before the MUR is released.

At. 1, p. 9

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page eight

Third, and finally, the Commission's reference that,

"despite the fact that Hartke was the Committee's  
spokesperson during the audit and is Atkin's  
Administrative Assistant,"

is totally irrelevant to the argument and material presented.  
The current position of any previous contributor is completely  
irrelevant to the issue at hand, and, in light of the factual  
misstatement noted in the prior paragraph, should be stricken.

CONCLUSION

We believe this memorandum demonstrates that no additional  
action should be taken against me or the Atkins Committee.

Respectfully,

/s/ Richard C. Butt  
Richard C. Butt  
Treasurer  
Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742  
(617) 369-8256

At. 1, p. 10

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CCC#1110

CHARLES P. CHOATE, JR.  
1899-1987  
JOHN L. HALL  
1898-1980  
RALPH A. STEWART  
1904-1988

Raich

OF COUNSEL  
JOHN DAVIS, JR.  
NATHANIEL T. DENTON

LEWIS G. FALLOCH  
JOHN M. COCHRAN  
STEPHEN K. FORD

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GENERAL INVESTMENT

# CHOATE, HALL & STEWART

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- CAROL E. HENNING
- BRYANT F. HENNING
- FRANK E. FORTER, JR.
- JOHN R. WALKER
- KENNETH LAURENCE
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- DONALD L. COCHRAN
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- DEANMAN LLOYD
- ALLEN M. BOWEN
- EDWARD F. HENRI, JR.
- F. DAVID DASHOW, JR.
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- ROBERT G. DASH
- LARRY C. HENNA
- MYRA J. GREEN
- JOHN A. MARAS
- MITCHELL E. KAPLAN
- JAMES S. McDONALD
- JOHN R. GOSWAMER
- AMOS HUBB SNEY
- JAMES A. McDONALD

July 31, 1986

Robert Raich, Esq.  
Federal Election Commission  
Washington, D. C. 20463

Re: MUR 2127

Dear Mr. Raich:

I am writing, in accordance with our recent telephone conversation, to expand upon the position of the Atkins for Congress Committee, as set forth in its letter of July 2, with respect to the allocation of loans made to Congressman Atkins and guaranteed by eighty-two individual guarantors, as between Congressman Atkins' 1984 primary campaign, and the campaign in the general election of that year.

As you will recall, Arlington Trust Company extended a loan in the amount of \$25,000 to Congressman and Mrs. Atkins on September 10, 1984. The proceeds of this loan were advanced to the Atkins for Congress Committee and were expended in the course of the primary campaign, for the purchase of television advertising time prior to and for the primary election.

On October 22, 1984, Arlington Trust Company advanced an additional \$50,000. The proceeds of this loan were used in the general election campaign, for the purchase of television advertising time prior to and for the general election.

As a matter of housekeeping, and as is the customary practice of banks in situations such as this, at the time of the

At. 1/1 p. 11

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Robert Raich, Esq.  
July 31, 1986  
Page 2

second advance the two loans were consolidated into a single promissory note, in the amount of \$75,000. If this is considered a guaranteed loan for purposes of the general election, each of the eighty-two guarantors could be considered to have made a guarantee of his or her pro-rata share of that amount, \$914.63, for general election purposes. However, it is the view of the Committee that it is inappropriate to treat the loan in that fashion, and that despite the consolidation of the two loans into a single note, they retained their separate identity and should be treated as such.

First, it is clear that the execution of a single note was simply, as noted above, a matter of bank housekeeping. I am enclosing a copy of a letter from J. Richard Murphy, Senior Vice-President of the bank, to Congressman Atkins dated April 16, 1985 in which Mr. Murphy notes the separateness of the two advances and the maintenance of separate records by the bank with respect to the two advances.

Second, as I indicated in our telephone conversation; under Massachusetts law the consolidation of the advances into a single note would not have affected their separate identities. In an enforcement action, there would have been important respects in which the bank's rights and the rights of creditors of the guarantors would have differed as between the two portions of the guarantee. Under Massachusetts General Laws Chapter 109A, Section 3, the term "fair consideration" is defined. Fair consideration is given for an obligation "When such obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property or obligation obtained." A guarantor, at the time of executing his guarantee, did so only for the purpose of obtaining for the Atkins for Congress Committee the benefit of the new \$50,000 advance. With respect to the outstanding advance, there was no consideration for the guarantor's guarantee. This is not to say that the guarantee would have been unenforceable against the guarantor to that extent; however, had it become necessary to enforce the guarantee, and had the guarantor been unable to satisfy the guarantee, the bank would have been on a quite different footing, vis-a-vis creditors of the guarantor, with respect to the two pieces of the guarantee. The portion of the guarantee which was not given for "fair consideration" could have potentially been preferential, and it is certainly likely that other creditors of a guarantor would have asserted this defense in an attempt to have that portion of the guarantee set aside.

Accordingly, it is the view of the Atkins for Congress Committee that the guarantees should retain their separate character for purposes of the Federal election laws, just as they

At. 11 p. 12

87040524853

Robert Raich, Esq.  
July 31, 1986  
Page 3

did for relevant enforceability provisions under Massachusetts law. This would result in each guarantor's pro-rata share of the guarantee for purposes of the general election being only \$609.76, and would eliminate the excess contribution problem for all but two of the guarantors, both of whom are family members. Additionally, the amounts of the excess guarantees would be significantly reduced, to an aggregate of less than \$1,000. It would be the earnest hope of the Atkins for Congress Committee that under the circumstances, a finding of no further action could be recommended to the Commission. The Committee certainly feels that such a finding would be appropriate.

Thank you very much for your consideration of the positions set forth by the Committee in this letter. You will understand, of course, that by submission of this letter the Committee does not intend to waive its position on other issues raised in this proceeding, as previously set forth.

Sincerely yours,



Michael A. Austin

MAA:bgt

87040529854

At. 1, p. 13

# Arlington Trust

LAWRENCE MASSACHUSETTS 01842

April 16, 1985

Representative Chester G. Atkins  
Mrs. Cory Atkins  
1540 Monument Street  
Concord, MA 01742

Dear Representative and Mrs. Atkins:

In response to your request of this date that we furnish copies of all documents (applications, approvals, notes, correspondence and any other material) in our file, enclosed is a copy of your note as executed. I understand that you are in possession of copies of all guaranties to said note, so therefore I have not included an additional set.

Please note that the note dated October 22, 1984 in the amount of \$75,000 represents the total of two advances. One, in the amount of \$25,000 was advanced on September 10, 1984 and the second, in the amount of \$50,000 was advanced on October 22, 1984.

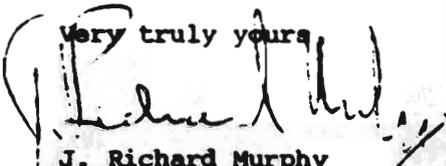
The opening dates for each of the accounts you listed are stated below:

General	#003-3715	4-11-84
Primary	#087-8111	2-14-85
Escrow	#003-3723	4-11-84
Money Market	#096-5383	6-8-84

Additionally, as regards the escrow account #003-3723, our records indicate that there never was a deposit made to that account and therefore a statement has never been generated for that account.

In the event that you need independent verification of all of the above facts, please feel free to contact our auditing department.

Very truly yours,

  
J. Richard Murphy  
Senior Vice President

JRM:lfh

At. 1, p. 14

87040624855

Congressman  
CHESTER G. ATKINS  
5th District, Massachusetts

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

*North*  
FEB  
HAND DELIVERED  
26 SEP 12 11:01  
GCC # 1994

September 11, 1986

BY FEDERAL EXPRESS

Robert Raich, Esq.  
Federal Election Commission  
999 E Street N.W.  
Washington, D. C. 20463

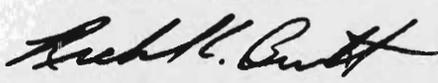
Re: MUR 2127

Dear Mr. Raich:

Pursuant to the conversation which you had with our counsel, Michael A. Austin, yesterday, the Atkins for Congress Committee hereby indicates its desire to enter into negotiations directed towards reaching a pre-probable cause conciliation agreement with respect to the matters set forth in Chairman Aikens' letter of June 11, 1986, in accordance with the provisions of 11 CFR Section 111.18(d). The Committee hereby designates Michael A. Austin of the firm of Choate, Hall & Stewart, Exchange Place, 53 State Street, Boston, Massachusetts 02109 as its counsel for purposes of that proceeding. Mr. Austin will be forwarding a supplemental statement of the Committee's position with regard to these matters within the next few days.

Thank you very much for your cooperation.

Sincerely yours,



Richard C. Butt  
Treasurer, Atkins for Congress  
Committee

RCB:km

*At. 1, p. 15*

87040524856

16 SEP 12 P 3: 35

G.I. #

DEMAND NOTE

89170

Lawrence, Massachusetts, October 22, 1984

75,000.00

FOR VALUE RECEIVED ON DEMAND, the undersigned (jointly and severally, if more than one) pay to the order of ARLINGTON TRUST COMPANY at said Bank

PAID

SEVENTY FIVE THOUSAND AND 00/100

OCT 22 1984 Dollars

with interest from the date hereof on the unpaid balance from time to time outstanding

Check appropriate box and complete item -

at the rate of ..... per centum per annum; or

ARLINGTON TRUST CO.

at .0... per centum per annum over the Arlington Trust Company Base Rate for commercial loans from time to time in effect at said Bank; provided however that the interest rate thereon shall in no event be less than ..... per centum per annum.

Such interest to be payable monthly in arrears.

This note may at any time or from time to time be secured.

The undersigned will pay on demand all costs of collection and reasonable attorneys' fees paid or incurred by the holder in enforcing this note on any default.

Any deposits or other sums at any time credited by or due from the holder to any of the undersigned, or any indorser or guarantor hereof, and any securities or other property of any of the undersigned, or any such indorser or guarantor, in the possession of the holder, may at any and all times be held and treated as security for the payment of the liabilities hereunder; and the holder may apply or set off such deposits or other sums, at any time, and without notice to the undersigned or to any such indorser or guarantor, against any of such liabilities, whether or not the same have matured, and whether or not other collateral is available to the holder. In addition to all other rights the holder shall have the rights and remedies of a secured party under the Uniform Commercial Code of Massachusetts in any jurisdiction in which enforcement is sought.

No delay or omission on the part of the holder in exercising any right hereunder shall operate as a waiver of such right or of any other right of such holder, nor shall any delay, omission or waiver on any one occasion be deemed a bar to or waiver of the same or any other right on any future occasion. Every one of the undersigned and every indorser or guarantor of this note regardless of the time, order or place of signing waives presentment, demand, protest and notices of every kind and assents to any one or more extensions or postponements of the time of payment or any other indulgence, to any substitutions, exchanges or releases of collateral if at any time there be available to the holder collateral for this note, and to the additions or releases of any other parties or persons primarily or secondarily liable.

The proceeds of the loan represented by this note may be paid to any one or more of the undersigned.

All rights and obligations hereunder shall be governed by the law of the Commonwealth of Massachusetts and this note shall be deemed to be under seal.

c/o Atkins for Congress

Address: P. O. Box 487, Concord, Mass. 01742

*[Signature]*  
Chester G. Atkins

Witness

*[Signature]*

344-3m-9/83-9

At. 2, p. 1

BUSINESS TYPE 2/2

FOR CREDIT FOLDER AND NOTE TELLER

DATE	OFFICE	OFFICER
10/22/84	Mn	JRM/DJM

NAME Chester G. Atkins

ADDRESS c/o Atkins for Congress, P. O. Box 487, Concord, Mass.

AMOUNT 75,000.00 TERM Demand RATE Prime Pl. ASST. NO.

PURPOSE Campaign Purposes

ENDORSE, CO-OWNER OR SIGNATOR

REPAYMENT AGREEMENT

COLLATERAL ENVELOPES

RECEIVED/DATE

COLLATERAL TO COME

SPECIAL INSTRUCTIONS OR TERMS: Pay off on \$25,000.00 loan dated 9/10/84 and additional funds of \$50,000.00 Treasurer's check #418838

*(Bill for not due)*

COMMENT FOR FILE

APPROVED BY [Signature]

At. 2, p. 2

87040524858



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Michael A. Austin, Esquire  
Choate, Hall & Stewart  
Exchange Place  
53 State Street  
Boston, Massachusetts 02109

RE: MUR 2127  
The Atkins for Congress  
Committee and Richard  
Butt, as treasurer

Dear Mr. Austin:

On June 6, 1986, the Commission found reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f). At your request, the Commission determined on , 1986, to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele  
General Counsel

By: Lawrence M. Noble  
Deputy General Counsel

Enclosure  
Conciliation Agreement

At. 4

87040524859

Congressman  
CHESTER G. ATKINS  
5th District, Massachusetts

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

RECEIVED AT THE FEC  
**HAND DELIVERED**  
86 SEP 12 P 1: 01  
GCC # 1994

September 11, 1986

BY FEDERAL EXPRESS

Robert Raich, Esq.  
Federal Election Commission  
999 E Street N.W.  
Washington, D. C. 20463

Re: MUR 2127

Dear Mr. Raich:

Pursuant to the conversation which you had with our counsel, Michael A. Austin, yesterday, the Atkins for Congress Committee hereby indicates its desire to enter into negotiations directed towards reaching a pre-probable cause conciliation agreement with respect to the matters set forth in Chairman Aikens' letter of June 11, 1986, in accordance with the provisions of 11 CFR Section 111.18(d). The Committee hereby designates Michael A. Austin of the firm of Choate, Hall & Stewart, Exchange Place, 53 State Street, Boston, Massachusetts 02109 as its counsel for purposes of that proceeding. Mr. Austin will be forwarding a supplemental statement of the Committee's position with regard to these matters within the next few days.

Thank you very much for your cooperation.

Sincerely yours,



Richard C. Butt  
Treasurer, Atkins for Congress  
Committee

RCB: km

36 SEP 12 P 3: 35

RECEIVED  
GENERAL INVESTIGATIVE  
DIVISION

87040624360

000#1170

CHARLES F. CHOATE, JR.  
1899-1997  
JOHN L. HALL  
1899-1990  
RALPH A. STEWART  
1904-1991

# CHOATE, HALL & STEWART

EXCHANGE PLACE  
53 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 227-5020

TELEFOPIRE (617) 227-7555

TELEX 289074

OF COUNSEL:  
JOHN DANTA, JR.  
NATHANIEL F. DENTON

LEWIS G. FALLOCH  
JOHN M. CORNISH  
STEPHEN E. POSE

96 AUG 4 P 4: 06

RECEIVED  
GENERAL COUNSEL

G. D'ANDELOF BELIN  
WILMOT I. POSE  
RHODS G. LOCKWOOD  
JEFFREY H. WADE  
JOHN M. FISHER  
WILL U. HANSEN  
JAMES C. HEIGHAM  
ROBERT M. GARDNER  
ANDREW L. NICHOLS  
TRAYN FLEMING-SMITH  
MARE A. NICHOLSON  
WELD S. HENSHAW  
MARION H. FREMONT-SMITH  
CAROL B. HERWITZ  
BRENTON P. ROBERTS  
FRANK B. PORTER, JR.  
JOHN H. WALKER  
KENNETH LAURENCE  
ROBERT S. FRANK, JR.  
DONALD L. CONNORS  
KENNETH F. BURNES  
BOARDMAN LLOYD  
ALLEN M. BOHRERMEIER  
EDWARD F. HINES, JR.  
F. DAVIS DASSON, JR.  
JEFFREY L. BRIDY  
JOSEPH E. O'LEARY  
PAUL W. ALLENSON  
THOMAS F. MAFFEI  
GORDON E. SILVER  
PETER A. FINE  
MICHAEL A. AUSTIN  
ROBERT ESTERSON  
SAMUEL B. DRUSHIN  
HOWARD J. LEVITAN  
ROBERT G. DAIN  
LARRY C. KENNA  
MYRA J. GREEN  
JOHN A. NADAN  
MITCHELL H. NAPLAN  
JAMES S. McDONALD  
JOHN R. OSHENACKER  
AMOS HOUS SCOTT  
JAMES A. McQUINN

July 31, 1986

Robert Raich, Esq.  
Federal Election Commission  
Washington, D. C. 20463

Re: MUR 2127

Dear Mr. Raich:

I am writing, in accordance with our recent telephone conversation, to expand upon the position of the Atkins for Congress Committee, as set forth in its letter of July 2, with respect to the allocation of loans made to Congressman Atkins and guaranteed by eighty-two individual guarantors, as between Congressman Atkins' 1984 primary campaign, and the campaign in the general election of that year.

As you will recall, Arlington Trust Company extended a loan in the amount of \$25,000 to Congressman and Mrs. Atkins on September 10, 1984. The proceeds of this loan were advanced to the Atkins for Congress Committee and were expended in the course of the primary campaign, for the purchase of television advertising time prior to and for the primary election.

On October 22, 1984, Arlington Trust Company advanced an additional \$50,000. The proceeds of this loan were used in the general election campaign, for the purchase of television advertising time prior to and for the general election.

As a matter of housekeeping, and as is the customary practice of banks in situations such as this, at the time of the

87040524851

Robert Raich, Esq.  
July 31, 1986  
Page 2

second advance the two loans were consolidated into a single promissory note, in the amount of \$75,000. If this is considered a guaranteed loan for purposes of the general election, each of the eighty-two guarantors could be considered to have made a guarantee of his or her pro-rata share of that amount, \$914.63, for general election purposes. However, it is the view of the Committee that it is inappropriate to treat the loan in that fashion, and that despite the consolidation of the two loans into a single note, they retained their separate identity and should be treated as such.

First, it is clear that the execution of a single note was simply, as noted above, a matter of bank housekeeping. I am enclosing a copy of a letter from J. Richard Murphy, Senior Vice-President of the bank, to Congressman Atkins dated April 16, 1985 in which Mr. Murphy notes the separateness of the two advances and the maintenance of separate records by the bank with respect to the two advances.

Second, as I indicated in our telephone conversation, under Massachusetts law the consolidation of the advances into a single note would not have affected their separate identities. In an enforcement action, there would have been important respects in which the bank's rights and the rights of creditors of the guarantors would have differed as between the two portions of the guarantee. Under Massachusetts General Laws Chapter 109A, Section 3, the term "fair consideration" is defined. Fair consideration is given for an obligation "When such obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property or obligation obtained." A guarantor, at the time of executing his guarantee, did so only for the purpose of obtaining for the Atkins for Congress Committee the benefit of the new \$50,000 advance. With respect to the outstanding advance, there was no consideration for the guarantor's guarantee. This is not to say that the guarantee would have been unenforceable against the guarantor to that extent; however, had it become necessary to enforce the guarantee, and had the guarantor been unable to satisfy the guarantee, the bank would have been on a quite different footing, vis-a-vis creditors of the guarantor, with respect to the two pieces of the guarantee. The portion of the guarantee which was not given for "fair consideration" could have potentially been preferential, and it is certainly likely that other creditors of a guarantor would have asserted this defense in an attempt to have that portion of the guarantee set aside.

Accordingly, it is the view of the Atkins for Congress Committee that the guarantees should retain their separate character for purposes of the Federal election laws, just as they

87040524862

Robert Raich, Esq.  
July 31, 1986  
Page 3

did for relevant enforceability provisions under Massachusetts law. This would result in each guarantor's pro-rata share of the guarantee for purposes of the general election being only \$609.76, and would eliminate the excess contribution problem for all but two of the guarantors, both of whom are family members. Additionally, the amounts of the excess guarantees would be significantly reduced, to an aggregate of less than \$1,000. It would be the earnest hope of the Atkins for Congress Committee that under the circumstances, a finding of no further action could be recommended to the Commission. The Committee certainly feels that such a finding would be appropriate.

Thank you very much for your consideration of the positions set forth by the Committee in this letter. You will understand, of course, that by submission of this letter the Committee does not intend to waive its position on other issues raised in this proceeding, as previously set forth.

Sincerely yours,



Michael A. Austin

MAA:bgt

87040524863

# Arlington Trust

company

LAWRENCE, MASSACHUSETTS 01842

April 16, 1985

Representative Chester G. Atkins  
Mrs. Cory Atkins  
1540 Monument Street  
Concord, MA 01742

Dear Representative and Mrs. Atkins:

In response to your request of this date that we furnish copies of all documents (applications, approvals, notes, correspondence and any other material) in our file, enclosed is a copy of your note as executed. I understand that you are in possession of copies of all guaranties to said note, so therefore I have not included an additional set.

Please note that the note dated October 22, 1984 in the amount of \$75,000 represents the total of two advances. One, in the amount of \$25,000 was advanced on September 10, 1984 and the second, in the amount of \$50,000 was advanced on October 22, 1984.

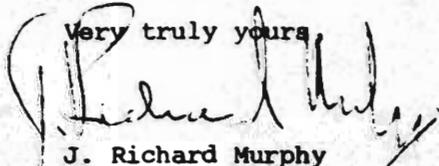
The opening dates for each of the accounts you listed are stated below:

General	#003-3715	4-11-84
Primary	#087-8111	2-14-85
Escrow	#003-3723	4-11-84
Money Market	#096-5383	6-8-84

Additionally, as regards the escrow account #003-3723, our records indicate that there never was a deposit made to that account and therefore a statement has never been generated for that account.

In the event that you need independent verification of all of the above facts, please feel free to contact our auditing department.

Very truly yours,

  
J. Richard Murphy  
Senior Vice President

JRM:lfh

87040524864



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 8, 1986

Elizabeth S. May  
50 West Bare Hill Road  
Harvard, Massachusetts 01451

RE: MUR 2127

Dear Ms. May:

This replies to your letter to Chairman Joan Aikens dated June 19, 1986. You expressed concern that you may be misinformed about how to designate contributions for particular elections, and you requested a statement explaining the regulations.

If you contribute prior to the date of the primary election and there is no specific designation on your check or in another document, your contribution will be presumed to be for the primary election. If you contribute after the date of the primary election and there is no specific designation, your contribution will be presumed to be for the general election. In order to alter these presumptions, you must specifically designate, on the check or in another document, that you wish the contribution to go to the primary election or the general election. See 11 C.F.R. § 110.1(a).

Note that there are both primary election and general election campaigns. Because a designation simply for "election campaign" (as you wrote on your check to The Atkins for Congress Committee) can be interpreted as referring to either the primary election or the general election, it is necessary for you to indicate unambiguously the election for which you intend a contribution to be used.

I hope this eliminates any confusion you may have had concerning this matter.

Sincerely,

Charles N. Steele  
General Counsel

BY: Lawrence M. Noble  
Deputy General Counsel

87040324865

GCC859

21 Winthrop Street  
Concord, MA 01742  
July 2, 1986

Ms. Joan D. Aikens, Chairman  
The Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Dear Chairman Aikens:

Enclosed is the response of the Atkins for Congress  
Committee to the Federal Election Commission's MUR #2127.  
I hope that you find it meets all of your concerns and  
adequately demonstrates that no further action should be  
taken against me and the Committee.

If you have any further questions, please do not  
hesitate to contact me at the address above, the  
Committee address, or by phone at (617) 369-8256 evenings  
or (617) 570-6507 days. Thank you for your assistance.

Sincerely yours,

*Richard C. Butt*  
Richard C. Butt  
Treasurer  
Atkins for Congress  
Committee

Enclosure

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OFFICE OF THE  
GENERAL COUNSEL

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**BEFORE THE FEDERAL ELECTION COMMISSION**

**MEMORANDUM SUBMITTED BY THE  
ATKINS FOR CONGRESS COMMITTEE  
IN RESPONSE TO  
MUR #2127 OF THE  
FEDERAL ELECTION COMMISSION**

87040524867

**Richard C. Butt  
Treasurer  
Atkins for Congress  
Committee  
P.O. Box 487  
Concord, MA 01742  
(617) 369-8256**

BEFORE THE FEDERAL ELECTION COMMISSION

MEMORANDUM SUBMITTED BY THE  
ATKINS FOR CONGRESS COMMITTEE  
IN RESPONSE TO  
MUR # 2127 OF THE  
FEDERAL ELECTION COMMISSION

This memorandum is submitted on behalf of the Atkins for Congress Committee (Atkins Committee), the authorized 1984 congressional campaign committee of Congressman Chester G. Atkins. The Atkins Committee received a copy of the Federal Election Commission's (Commission) MUR #2127 on June 14, 1986. The Atkins Committee was given an opportunity to respond in writing to the MUR within fifteen days of its receipt. After phone conversations with Mr. Robert Raich of the Commission, he indicated that this filing would be timely if received by July 2, 1986. The Atkins Committee wishes to submit the following factual materials in response to the points raised in the MUR.

87040524858

page two

I. Loan Guarantees

The Commission found reason to believe that the Atkins Committee accepted excessive contributions with respect to loan guarantees made by fourteen individuals during the course of the 1984 general election campaign.

Response. First, the Commission fails to note that the \$75,000 loan was over collateralized when it was procured. The loan in question was for \$75,000 and was guaranteed by 82 separate individuals, each of whom guaranteed between \$900 and \$1,000. Thus, the loan of \$75,000 was collateralized in the amount of \$81,560.00. Therefore, the actual obligation of any individual guarantor could easily have been less than what they actually guaranteed.

It cannot be arbitrarily determined by either the Atkins Committee or the Commission just how the over collateralization might affect the obligation of any single individual. It is just as possible to conclude the fourteen individuals noted by the Commission were NOT providing excessive contributions since their alleged excessive contributions totaled only \$2,726.75 and the over collateralization was \$6,560.00.

The Commission's own letter to the fourteen individuals suggests the problem clearly. For example, a letter to Ms. Martha DeWar, one of the individuals allegedly making excessive contributions, received from the Commission stated in part,

R 7 0 4 0 5 2 4 8 6 9

"Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id. Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan."

Following this logic, Ms. DeWar would not have made an excessive contribution because she only contributed \$20.00 in cash during the general election.

Second, the loan in question was actually a \$25,000 loan made during the primary which was then refinanced and added to a \$50,000 loan made during the general election. The situation of potential excess contribution by the fourteen guarantors would not have been an issue had the Atkins Committee's understanding of the debt being a \$25,000 primary debt and a \$50,000 general debt been accepted rather than our being informed by the Audit team that the \$75,000 in total had to be considered a general debt.

The \$25,000 loaned in the primary was spent for the purpose of purchasing media for the primary election. At the time, the bank did not ask for guarantors for the loan. When the Atkins Committee sought to borrow an additional \$50,000 after the primary to purchase media for the general election, the bank asked that the \$25,000 be consolidated into a new \$75,000 loan with individual guarantors. Accordingly, \$25,000 worth of guarantors should have

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page four

been designated for the primary and not the general election. Under these circumstances, it is clearly possible that no excessive contributions took place.

Third, the Commission, in its interim audit report, suggested four possible alternatives to reduce the liability of each contributor to within the contribution limit for the general election and to reduce the amount of collateral to the amount of the loan. The Atkins Committee, acting in good faith and at the suggestion of the Commission and its Audit Division, undertook not only one but three of the methods suggested in the Interim Audit Report (II., A., Recommendation, a., c. and d.).

The Atkins Committee did repay \$5,000.00 in principal on the loan, more than a sufficient amount to insure that none of the guarantors were in a position of excess contribution (\$2,726.75 was the amount of potential excess contribution). (Recommendation, A.)

The Atkins Committee, at the suggestion of the Commission provided new instructions to the bank to reduce the loan guarantees to the amount of the actual loan and to take into account the reduction in the principal of the loan. The resulting changes in the obligation of each individual guarantor was reported to the bank and the Commission in the Atkins Committee's ammendment of January 31, 1986. This, again, insures that there

87040524871

page five

is no situation of excess contribution by any of the fourteen individuals in question. (Recommendation, c.)

As of June 30, 1986, the loan in question with the Arlington Trust Company has been refinanced with another and the collateral guaranteeing the loan is now the home of Congressman Atkins. Thus, all the remaining guarantors have been released from their obligation/contribution to the Atkins Committee in the form of a loan guarantee. This action complies with the third suggestion of the Commission in its Interim Audit Report. (Recommendation, d.).

Fourth, the MUR #2127, General Counsel's Factual and Legal Analysis, Summary of Allegations, B. states in part,

"The Audit Division reports that the Committee's partial repayment of the loan, has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation."

The Atkins Committee cannot understand how the Audit Division might determine that this action has reduced the obligation of only seven of the fourteen guarantors in question. It is clear from the actions undertaken by the Atkins Committee as described above in point three that this is not the case.

Fifth, the Commission has indicated to the fourteen individual loan guarantors that,

"the Commission determined to take no further action and closed its file as it pertains to you."

87040624872

page six

This finding and the small amount of possible excess contribution (\$2,726.75) would seem to indicate a similar finding in relation to the Atkins Committee would be appropriate.

Sixth, the citation of Massachusetts state law with regard to banking procedures is not relevant to the discussion of whether excessive contributions have been received and should be stricken from the public record.

Conclusion. Based on the above factual material, it is the opinion of the Atkins Committee that it has acted in good faith to meet the requests and needs of the Commission in this matter. In addition, based on the above, a clear conclusion cannot be reached that would, in fact, establish that there were excessive contributions made by the fourteen individuals in question. Based upon the representations of the above material and the Atkins Committee's response to the Commission's Interim Audit Report, we believe no further action on the part of the Commission is required.

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page seven

II. Designated Contributions

The Commission found that five individuals in the primary and two in the general election made excessive contributions. The Commission decided to take no further action.

Response. Though no further action is to be taken, the Atkins Committee is compelled to reply to the General Counsel's Factual and Legal Analysis on several points and strongly objects to several of the Commission's statements.

First, the Commission stated at page one of MUR #2127 that,

"The Final Audit Report states that before the primary election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit..."

The Final Audit Report, dated January 13, 1986 makes no such statement or reference.

Second, the Commission stated that Linda Hartke, one of the excessive contributors, never produced her check. The Atkins Committee's files indicate that there was no request made in writing or verbally which asked for the cancelled check of Linda Hartke. The Audit team had available to them, at request, photocopies of all of the checks deposited in the Atkins Committee's account and those copies are still available to the Commission. The Commission's inaccurate statement of facts should be corrected before the MUR is released.

87040624874

*MUR Raich*

50 West Bare Hill Rd.  
Harvard Ma 01451  
June 19, 1986

The Honorable Joan D. Aikens  
Federal Election Commission  
Washington DC 20463

Dear Chairman Aikens:

In your letter of June 11, 1986, you stated that the Commission found reason to believe that I violated 2 U. S. C. para 441a (a) (1) (A) of the Federal Election Campaign Act.

I gather that the Commission reached this decision because I contributed \$1,000 to the primary campaign of Congressman Atkins and another \$1,000 which I intended for the election campaign. Contrary to my intention, the staff determined that my second contribution is attributable to the primary.

In my mind the second \$1,000 was clearly intended for the election campaign and I so indicated to the recipient. I explained this intention in my letter of September 23, 1985. This letter was considered "a non-contemporaneous designation." The fact is that I did indicate my intention quite clearly on the check itself dated September 12, 1984. I enclose a xerox copy of the cancelled check which says "election campaign" in my own handwriting.

You say that the file will be made a part of the public record within 30 days after this matter has been closed. I trust that my explanation will remove any doubt of my real intention and that my name will not appear as one who has violated either the letter or the spirit of this law.

May I say as a loyal supporter of the work of the Federal Election Commission that it is very difficult for contributors away from Washington to obtain clear indications of how the law is to be enforced. I asked not only this time but often before exactly what the law allows and how it will be enforced. Evidently I was not fully informed about how to indicate my intention in a way that would not be misunderstood. I suggest a clear statement of the rules for the benefit of local contributors to avoid unintentional misunderstanding and to protect the Congressmen who depend on local contributors. I should be glad to receive such a statement at this time.

Cordially, *Elizabeth S. May*  
Elizabeth S. May

Copies: Robert Raich, attorney  
Congressman Chester Atkins

87040524875

36 JUN 23 11:17

RECEIVED  
GENERAL COUNSEL

2 05 ELIZABETH & MAY 7 5500 898 15589 1881  
Sept 12 1904

PAY TO THE ORDER OF Atkin for Comm. Committee \$ 1,000<sup>00</sup>  
One thousand and <sup>00</sup>/<sub>100</sub> DOLLARS

BayBank | Harvard Trust

BayBank Harvard Trust Company  
Cambridge, Massachusetts

Elect. Campaign

Elizabeth S. May

⑈0000⑈00000⑈

87040624876

50 West Bare Hill Rd.  
Harvard Ma 01451  
June 19, 1986  
JUN 20 4: 22

The Honorable Joan D. Aikens  
Federal Election Commission  
Washington DC 20463

Dear Chairman Aikens:

In your letter of June 11, 1986, you stated that the Commission found reason to believe that I violated 2 U. S. C. para 441a of the Federal Election Campaign Act.

I gather that the Commission reached this decision because I contributed \$1,000 to the primary campaign of Congressman Atkins and another \$1,000 which I intended for the election campaign. Contrary to my intention, the staff determined that my second contribution is attributable to the primary.

In my mind the second \$1,000 was clearly intended for the election campaign and I so indicated to the recipient. I explained this intention in my letter of September 23, 1985. This letter was considered "a non-contemporaneous designation." The fact is that I did indicate my intention quite clearly on the check itself dated September 12, 1984. I enclose a xerox copy of the cancelled check which says "election campaign" in my own handwriting.

You say that the file will be made a part of the public record within 30 days after this matter has been closed. I trust that my explanation will remove any doubt of my real intention and that my name will not appear as one who has violated either the letter or the spirit of this law.

May I say as a loyal supporter of the work of the Federal Election Commission that it is very difficult for contributors away from Washington to obtain clear indications of how the law is to be enforced. I asked not only this time but often before exactly what the law allows and how it will be enforced. Evidently I was not fully informed about how to indicate my intention in a way that would not be misunderstood. I suggest a clear statement of the rules for the benefit of local contributors to avoid unintentional misunderstanding and to protect the Congressmen who depend on local contributors. I should be glad to receive such a statement at this time.

Cordially,  
*Elizabeth S. May*  
Elizabeth S. May

Copies: Robert Raich, attorney  
Congressman Chester Atkins

87040524977

JUN 20 11: 44  
RECEIVED  
GENERAL COUNSEL

1 05 ELIZABETH S. MAY 7 5900 555 15555 1041 1881

Sept 21 1881

PAY TO THE ORDER OF

Atkin for Campaign Committee \$ 1,000 <sup>00</sup>/<sub>100</sub>

One thousand and <sup>00</sup>/<sub>100</sub> : DOLLARS

BayBank | Harvard Trust

BayBank Harvard Trust Company  
Cambridge, Massachusetts

Electon Campaign

Elizabeth S. May

⑈000010000⑈

87040524878



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM TO: *Raich*  
FROM: The Docket  
SUBJECT: Returned Letters  
DATE: 6-18-86

The following letter MUR2127 was returned.  
Please write a memo to the file and advise us on what  
you want to do. If you wish to resend the letter,  
please have the envelope(s) and green card(s) made.

Thanks

87040524990

FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Official Business  
Penalty for Private Use \$300



OFFICE OF THE  
GENERAL COUNSEL

JUN 17 10:48

Ms. Anita Smith  
54 Frediford Lane  
Cambridge, Massachusetts 02138



Postage and Fees Paid  
Federal Election Commission

*Aitens*

JUN 17 10:20

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**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

June 11, 1986

Mr. Richard Butt, Treasurer  
The Atkins for Congress Committee  
P.O. Box 487  
Concord, Massachusetts 01742

RE: MUR 2127  
The Atkins for Congress  
Committee and  
Richard Butt, as  
treasurer

Dear Mr. Butt:

On June 6, 1986, the Federal Election Commission found reason to believe that The Atkins for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f) by accepting certain excessive contributions and excessive loan guarantees. After considering the circumstances of this matter, the Commission determined to take no further action with respect to the designated contributions. The Commission, however, will proceed with an investigation concerning the loan guarantees. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Federal Election Campaign Act of 1971, as amended, you have an opportunity to demonstrate that no additional action should be taken against you and the Committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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recommending declining that pre-probable cause conciliation be pursued. The Office of the Genral Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cuase have been mailed to the respondent.

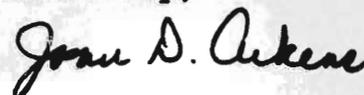
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel is not authorized to give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Joan D. Aikens  
Chairman

Enclosures

General Counsel's Factual and Legal Analysis  
Procedures  
Designation of Counsel Statement

87040524983



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Catherine Rouse  
17 Davis Road  
Belmont, MA 02172

RE: MUR 2127  
Catherine Rouse

Dear Ms. Rouse:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

97040524994



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Gina Rossano  
88 Weston Avenue  
Braintree, MA 02184

RE: MUR 2127  
Gina Rossano

Dear Ms. Rossano:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524885



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 11, 1986

Melinda Roberts  
17 Timber Lane Way  
Wayland, MA 01778

RE: MUR 2127  
Melinda Roberts

Dear Ms. Roberts:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Mary Jane Powell  
31 Cheever Circle  
Andover, MA 01810

RE: MUR 2127  
Mary Jane Powell

Dear Ms. Powell:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524887



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Patricia P. McGovern  
74 Saunders Street  
Lawrence, MA 01841

RE: MUR 2127  
Patricia P. McGovern

Dear Ms. McGovern:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524898



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Marilyn M. Hartke  
119 Fairbank Road  
Sudbury, MA 01776

RE: MUR 2127  
Marilyn M. Hartke

Dear Ms. Hartke:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524899



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

John B. French, Esquire  
Weston Road  
P. O. Box 303  
Lincoln Center, MA 01773

RE: MUR 2127  
John B. French

Dear Mr. French:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524890



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Martha DiNatale  
R34 Lancaster Street  
Leominster, MA 01453

RE: MUR 2127  
Martha DiNatale

Dear Ms. DiNatale:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524891



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Martha E. DeWar  
602 Union Avenue  
Framingham, MA 01701

RE: MUR 2127  
Martha E. DeWar

Dear Ms. DeWar:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*  
Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524892



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Paul Edmund Beard  
88 Weston Avenue  
Braintree, MA 02184

RE: MUR 2127  
Paul Edmund Beard

Dear Mr. Beard:

On June 5, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524893



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Henry A. Atkins  
Old Sandwich Road  
Plymouth, MA 02360

RE: MUR 2127  
Henry A. Atkins

Dear Mr. Atkins:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

97040524894



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Virginia M. Allan  
780 Concord Road  
Sudbury, MA 01776

RE: MUR 2127  
Virginia M. Allan

Dear Ms. Allan:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040324895



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

David Turcotte  
26 Grove Street  
Lowell, MA 01853

RE: MUR 2127  
David Turcotte

Dear Mr. Turcotte:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*  
Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

8704052496



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Ms. Linda J. Hartke  
26 Hancock Street, #4  
Boston, Massachusetts 02124

REF: MUR 2127  
Linda J. Hartke

Dear Ms. Hartke:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524897



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Mr. Stan Rosenberg  
164 Columbia Drive  
Amherst, Massachusetts 01002

REF: MUR 2127  
Stan Rosenberg

Dear Mr. Rosenberg:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*  
Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524398



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Ms. Anita Smith  
54 Frediford Lane  
Cambridge, Massachusetts 02138

REF: MUR 2127  
Anita Smith

Dear Ms. Smith:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524899



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Mr. Peter Cove  
333 Beacon Street  
Boston, Massachusetts 02166

RE: MUR 2127  
Peter Cove

Dear Mr. Cove:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524900



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Ms. Elizabeth May  
Box 142, Route 3  
Harvard, Massachusetts 01451

RE: MUR 2127  
Elizabeth May

Dear Ms. May:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524901



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Mr. Melvin Scovell  
133 Collins Road  
Waban, Massachusetts 02168

RE: MUR 2127  
Melvin Scovell

Dear Mr. Scovell:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524902



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Mr. John M. Connors, Jr.  
c/o Hill, Holiday, Connors & Cosmopolos, Inc.  
John Hancock Tower  
200 Clarendon Street  
Boston, Massachusetts 02116

RE: MUR 2127  
John M. Connors, Jr.

Dear Mr. Connors, Jr.

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*

Joan D. Aikens  
Chairman

Enclosure

Legal and Factual Analysis

87040524903



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1986

Nancy W. Atkins  
9 Brimmer Street  
Boston, MA 02108

RE: MUR 2127  
Nancy W. Atkins

Dear Ms. Atkins:

On June 6, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

*Joan D. Aikens*  
Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

87040524904

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

The Atkins for Congress Committee and )

Richard Butt, as treasurer )

Melvin Scovell )

Elizabeth May )

Peter Cove )

Anita Smith )

John Connors, Jr. )

Linda Hartke )

Stan Rosenberg )

Virginia Allen )

Henry Atkins )

Nancy Atkins )

Paul Beard )

Martha DeWar )

Martha DiNatale )

John French )

Marilyn Hartke )

Patricia McGovern )

Mary Jane Powell )

Melinda Roberts )

Gina Rossano )

Catherina Rouse )

David Turcotte )

MUR 2127

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 6, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2127:

1. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions and, take no further action with respect to this violation.
2. Find reason to believe that Melvin Scovell, Elizabeth May, Peter Cove, Anita Smith, John Connors, Jr., Linda Hartke, and Stan Rosenberg violated 2 U.S.C. § 441a(a)(1)(A), take no further action, and close the file with respect to them.

(continued)

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3. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees.
4. Find reason to believe that Virginia Allen, Henry Atkins, Nancy Atkins, Paul Beard, Martha DeWar, Martha DiNatale, John French, Marilyn Hartke, Patricia McGovern, Mary Jane Powell, Melinda Roberts, Gina Rossano, Catherina Rouse, and David Turcotte violated 2 U.S.C. § 441a(a) (1)(A), take no further action, and close the file with respect to them.
5. Approve the Legal and Factual Analyses, as recommended in the First General Counsel's Report signed May 30, 1986.
6. Approve and send the letters attached to the First General Counsel's Report signed May 30, 1986.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald and McGarry voted affirmatively for this decision.

Attest:

6-6-86

Date

Cheryl A. Fleming  
for Marjorie W. Emmons  
Secretary of the Commission

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RECEIVED  
FEDERAL ELECTION COMMISSION OF THE FEC  
999 E Street, N.W. COMMISSION SECRETARY  
Washington, D.C. 20463

**SENSITIVE**

20 MAY 30 P 3: 53

**FIRST GENERAL COUNSEL'S REPORT**

Date and Time of Transmittal  
BY OGC To The Commission \_\_\_\_\_

MUR 2127  
Staff Member:  
Robert Raich

SOURCE OF MUR:

I N T E R N A L L Y G E N E R A T E D

RESPONDENTS' NAMES:

The Atkins for Congress Committee and  
Richard Butt, as treasurer  
Melvin Scovell  
Elizabeth May  
Peter Cove  
Anita Smith  
John Connors, Jr.  
Linda Hartke  
Stan Rosenberg  
Virginia Allen  
Henry Atkins  
Nancy Atkins  
Paul Beard  
Martha DeWar  
Martha DiNatale  
John French  
Marilyn Hartke  
Patricia McGovern  
Mary Jane Powell  
Melinda Roberts  
Gina Rossano  
Catherina Rouse  
David Turcotte

RELEVANT STATUTES:

2 U.S.C. §§ 441a(a)(1)(A) and 441a(f)  
11 C.F.R. §§ 110.1(a)(2),  
102.9(e), and 100.7(a)(1)(i)

INTERNAL REPORTS

CHECKED:

Index of Disclosure Documents, 1983-84  
Index of Disclosure Documents, 1985-86  
Amended Statements of Organization  
MUR 1637  
MUR 1588

FEDERAL AGENCIES

CHECKED:

None

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**GENERATION OF MATTER**

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report (Attachment 1) covering the period from February 10, 1984 through December 31, 1984.

**SUMMARY OF ALLEGATIONS**

**A. Designated Contributions**

The Final Audit Report states that before the primary election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). A list of those five persons and the amount of their excessive contributions follows:

Melvin Scovell	\$ 25
Elizabeth May	1000
Peter Cove	75
Anita Smith	200
John Connors, Jr.	<u>35</u>
TOTAL	\$1,335

These monies were either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced copies of letters from the five contributors. (Attachment 1, pps. 6-10) The letters are all dated September 23, 1985, and each recites that the excessive portion of the contribution was intended for the general election. The primary election was in September, 1984.

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In addition, after the primary election the Committee received excessive contributions from two individuals, Linda Hartke and Stan Rosenberg. The excessive portions of those contributions were \$650 and \$300, respectively. In response to the Audit Division's recommendation, the Committee produced copies of letters from the two contributors. (Attachment 1, pps. 12-13) Both letters are undated, and each recites that the excessive portion of the contribution was intended for the primary election. (The Committee had outstanding obligations from the primary campaign.) The letter from Linda Hartke contains only a blank space where it purports to quote the instruction she made on her contribution check. The Committee never produced the check--despite the fact that Hartke was the Committee's spokesperson during the audit and is Atkin's Administrative Assistant.

B. Loan Guarantees

According to the Audit Division, during the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors. The guarantees varied in amount from \$900 to \$1,000. The guarantees, when combined with the direct contributions of 14 individuals,<sup>1/</sup> created excessive contributions by those individuals. The excessive portions of the contributions varied in amount from \$15 to \$1,000, and totaled \$2,726.75.

<sup>1/</sup> Those 14 individuals are: Virginia Allen, Henry Atkins, Nancy Atkins, Paul Beard, Martha DeWar, Martha Dinatale, John French, Marilyn Hartke, Patricia McGovern, Mary Jane Powell, Melinda Roberts, Gina Rossano, Catherina Rouse, and David Turcotte.

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The Audit Division reports that the Committee's partial repayment of the loan has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation. In addition, on May 10, 1985, the Committee asked the lending bank to reduce the amounts of the guarantees for various guarantors, including the guarantees for each of the 14 guarantors who made excessive contributions. (Attachment 1, pps. 14-16). The reduced guarantees would lower the contributions for each of the 14 excessive contributors to within the contribution limitation. However, on October 1, 1985, the bank responded that it had no objection to the reduced guarantees, but Massachusetts law required a written consent from each of the 82 guarantors, and a few had not yet consented. (Attachment 1, p. 17)

**FACTUAL AND LEGAL ANALYSIS**

**A. Designated Contributions**

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). No political committee may knowingly accept an excessive contribution. 2 U.S.C. § 441a(f).

According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that

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such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R.

§ 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR 1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees that designated pre-primary contributions to the general election. Moreover, the Commission recently closed the file after finding reason to believe against a recipient committee that designated post-primary contributions to the

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primary election. See MUR 1588 (Fenwick).

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions, and take no further action. The General Counsel's Office also recommends that the Commission find reason to believe Melvin Scovell, Elizabeth May, Peter Cove, Anita Smith, John Connors, Jr., Linda Hartke, and Stan Rosenberg violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amounts of their excessive contributions, take no further action and close the file with respect to these respondents.

B. Loan Guarantees

A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1).

The 14 guarantors made excessive contributions by contributing, in the form of loan guarantees, more than \$1,000, in violation of 2 U.S.C. § 441a(a)(1)(A). The Committee accepted those excessive contributions, in violation of 2 U.S.C. 441a(f). The partial repayment by the Committee and the attempt to reduce the amounts of the guarantees would be merely mitigating circumstances. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees. The General Counsel's Office also recommends that the Commission find

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reason to believe Virginia Allen, Henry Atkins, Nancy Atkins, Paul Beard, Martha DeWar, Martha Dinatale, John French, Marilyn Hartke, Patricia McGovern, Mary Jane Powell, Melinda Roberts, Gina Rossano, Catherina Rouse, and David Turcotte violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amounts of their excessive contributions, take no further action, and close the file with respect to these respondents.

**RECOMMENDATIONS**

1. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions and, take no further action with respect to this violation.
2. Find reason to believe that Melvin Scovell, Elizabeth May, Peter Cove, Anita Smith, John Connors, Jr., Linda Hartke, and Stan Rosenberg violated 2 U.S.C. § 441a(a)(1)(A), take no further action, and close the file with respect to them.
3. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees.
4. Find reason to believe that Virginia Allen, Henry Atkins, Nancy Atkins, Paul Beard, Martha DeWar, Martha DiNatale, John French, Marilyn Hartke, Patricia McGovern, Mary Jane Powell, Melinda Roberts, Gina Rossano, Catherina Rouse, and David Turcotte violated

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U.S.C. § 441a(a)(1)(A), take no further action, and close the file with respect to them.

5. Approve the attached Legal and Factual Analyses.
6. Approve and send the attached letters.

Charles N. Steele  
General Counsel

May 30, 1986  
Date

BY:

Kenneth A. Gross  
Kenneth A. Gross  
Associate General Counsel

**Attachments**

1. Referral from Audit Division
2. Letters to respondents
3. Legal and Factual Analyses

87040524914



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

A85-12

January 13, 1986

MEMORANDUM

TO: CHARLES N. STEELE  
GENERAL COUNSEL

THROUGH: JOHN C. SURINA  
STAFF DIRECTOR

FROM: ROBERT J. COSTA  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: ATKINS FOR CONGRESS COMMITTEE

*JS*  
*RC*

On January 10, 1986, the Commission approved the final audit report of the Audit Division on the Atkins for Congress Committee. Attached as Exhibit A is a matter noted in the final audit report which the Commission also voted to refer to your office for review and consideration.

Should you have any questions regarding the matter addressed in this report, please contact Tom Nurthen or John Mamone at 376-5320.

Attachment as stated

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Att. 1, p. 1

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Contributions from Individuals in Excess of the Limitations

The Act provides at 2 U.S.C. § 441a(a)(1)(A) that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

In addition, 11 C.F.R. § 100.7(a)(1)(i)(C) states, in part, that a loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement.

The Audit staff performed testing to insure that the \$1,000 contribution limitation for individuals was not exceeded. Apparent excessive contributions were noted with respect to both the primary and general election campaigns as discussed below.

1. Primary Election

Five individuals appear to have contributed \$1,335 in excess of the contribution limitation. Of those, two contributions (excessive portions \$1,025), were received prior to the primary election but deposited directly into the Committee's general election account.\* The remaining three contributions (excessive portions \$310), were deposited into the primary election account, then transferred to the general election account prior to the date of the primary election. The Committee did not attempt to obtain written verification from the five individuals that the contributions were intended for the general election.

2. General Election

The Audit staff identified 14 individuals whose loan guarantees and contributions exceeded the contribution limitation by \$2,726.75.

In addition, two individuals made contributions to the general election which exceeded the contribution limitation by \$950.

The Committee was given a schedule of the apparent excessive contributions at the conclusion of the audit fieldwork.

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\*/ The Committee maintained separate checking accounts for primary and general election activity.

AH.1, p. 2

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With respect to 1. and 2. above, the Audit staff recommended that the Committee present evidence which demonstrates that the contributions are not in excess of the limitations, or refund the excessive portions of the contributions to the appropriate contributors and provide photocopies (both front and back) of the negotiated refund checks along with copies of the relevant bank statements.

With respect to the loan guarantors noted in 2. the Audit staff recommended that the Committee reduce the liability of each endorser to within the contribution limitation through one of the following alternatives:

- a. Repay sufficient principal plus interest so that the balance of the loan for which each endorser is liable will not exceed \$1,000 when aggregated with other contributions made by the endorsers;
- b. Obtain additional endorsers so that the endorsements when aggregated with contributions made by the endorsers will not exceed the limitation;
- c. Collateralize the loan in an amount sufficient to reduce the endorsements and contributions to within the limitation; or
- d. Replace the individual excessive endorsement amounts with the candidate's endorsement for the remaining amount of the loan.

On September 26, 1985, the Committee submitted its response to the interim audit report. With respect to 1., the Committee provided copies of (apparent form) letters, signed by the contributors and dated September 23, 1985. The letters all state that the excessive contributions were intended to be deposited in the Committee's account for the purposes of the general election.

With respect to 2., the Committee provided copies of signed but undated letters from the two contributors. In both instances the contributors state it was their intention that the excessive portions were contributions for the primary election. Further, one contributor indicated that she "marked on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and, in this case, primary

Att. 1, p. 3

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election debts and obligations.\*\*/ The other contributor indicated he instructed the Committee that the contribution was intended for the primary election. (see Attachment 1).

It should be noted that neither a copy of the one contributor's canceled check, nor a copy of the other contributor's instruction concerning the contributions were submitted with the Committee's response.

With respect to the loan guarantors noted in 2., the Committee provided evidence which indicated that they repaid \$5,000 on the loan to reduce the outstanding principal to \$70,000. The loan payment reduces the amount of each individual's guarantee by \$61.30 \*\*/ and results in 7 individuals (contributions) now being within the limitation.

In an attempt to resolve the excessive portion of the contributions, the Committee petitioned the bank to reduce the amount of the guarantees for the 14 individuals who contributed in excess of the limitation by an amount sufficient to bring the 14 contributors within the limitation. Subsequent to the \$5,000 loan payment and the reduction of the amount of the guarantee, the loan balance (\$70,000) would be secured by individual guarantees totaling \$75,000.\*\*\*/

On October 1, 1985, the bank notified the Committee that it has no objection to the changes. However, the bank stated that established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan (see Attachment 2, page 4 of 4). The bank further stated that it has contacted all of the guarantors to obtain their consent and most have replied.

It is our opinion that the Committee has not complied with the interim audit report recommendation since its attempt to resolve this matter is incomplete and 7 contributors (excessive portion \$2,092.75) are still in excess of the limitation (see Attachment 3).

#### Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for further action.

\*/ This contributor is the Administrative Assistant to the Congressman, Treasurer of his former state senate committee, and Committee spokesperson during the audit. Furthermore, the letter from this contributor appears to be altered by an omission of a phrase/terms concerning the annotation on her original check.

\*\*/ For those individuals who guaranteed the loan for \$1,000.

\*\*\*/ The original loan for \$75,000 was secured by 82 individual guarantees totaling \$81,565.

Att. 1, p. 4

87040524919

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

You reported five contributions in the primary election which appeared to be in excess of the \$1,000.00 limit per individual.

In each case, the contribution or portion of the contribution in excess was deposited directly or transferred into the general election account. You will find attached signed statements from each of the five contributors indicating their intentions that the excessive portion of their contributions prior to the primary election were to be deposited in the Atkins for Congress Committee's general election account.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Scovell  
May  
Cove  
Smith  
Connors

97040624920

ATTACHMENT I  
P. 00F9

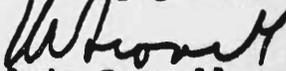
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made in the amount of \$25.00 on June 30, 1984 was intended to be deposited in the Committee's account for purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made to the Committee on April 4, 1984.

Sincerely yours,

  
Melvin Scovell

Address: 133 COLLINS RD  
WARREN MA 02168

87040524921

Att. 1, p. 6

September 23, 1985

ATTACHMENT I  
P. 30F9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$1,000.00 on September 13, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contributions totalling the maximum amount of \$1,000.00 for the primary election had been made previously (deposited 4/2/84, 6/5/84, 6/5/84).

Sincerely yours,

*Elizabeth S. May*  
Elizabeth May

Address: Box 148 Route 3  
Concord MA 01742

870440624922

Att. 1, p. 7

ATTACHMENT I  
P. 4 OF 9

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

Of the \$1,000.00 contribution I made to the Committee on September 13, 1984, \$925.00 was intended for use by the Committee for the primary election and \$75.00 was intended for general election purposes. Previously, on July 19, 1984, I had contributed \$75.00 towards the primary election. This insures that I contributed the maximum amount of \$1,000.00 towards the primary election and \$75.00 towards the general election.

Sincerely yours,



Peter Cove

Address: 333 BARKEN ST.  
BOSTON

Att. 1, p. 8

87040524923

ATTACHMENT I  
P. 50F9

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$200.00 on May 11, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on April 4, 1984.

Sincerely yours,

Anita Smith  
Anita Smith

Address: 54 Fred. Carl Lane  
Cambridge, MA 02138

87040524924

Att. 1, p. 9

ATTACHMENT I  
P. 6 of 9

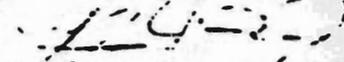
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$35.00 on July 31, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on May 7, 1984.

Sincerely yours,



John M. Connors, Jr.

Address: TRAVELERS TRUST  
37 STATE STREET  
PROVIDENCE, RHODE ISLAND  
02903

87040524925

AH.1, p. 10

ATTACHMENT I

P. 7 of 9

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

With regard to two apparent excessive contributions in the general election, I am attaching letters from the two individuals involved which are meant to indicate their intentions that the excessive portion of their contributions were intended to be used by the Committee for primary election purposes.

As you are aware, after the primary election, activity in the primary election bank account was terminated and all primary activity (receipts and expenditures) were and still are handled through the general election bank account, as is customary and allowable under FEC regulations.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Hartke  
Rosenberg

87040524926

Att. 1, p. 11

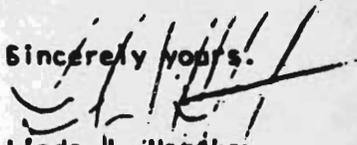
ATTACHMENT J  
P. 8 of 9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions when I wrote a check in the amount of \$1,650.00 on November 7, 1984 made payable to the Atkins for Congress Committee. I marked " on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and in this case primary election debts and obligations. The balance of the check, \$1,000.00 was intended as a maximum contribution for the general election.

Sincerely yours.

  
Linda J. Harcke  
26 Hancock Street, #4  
Boston, MA 02124

Att. 1, p. 12

87040524927

ATTACHMENT I

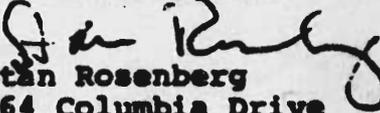
P. 9 of 9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions and instructions to the Committee at the time I wrote a check in the amount of \$300.00 on September 30, 1984. This check was intended to be a contribution to the Committee's primary election efforts and in this case to be applied to primary election debts and obligations. Subsequently, I contributed the maximum amount of \$1,000.00 to the Committee's general election efforts.

Sincerely yours,

  
Stan Rosenberg  
164 Columbia Drive  
Amherst, MA 01002

87040524928

Att. 1, p. 13

The Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742  
May 10, 1985

Mr. Robert J. DeLuca,  
Senior Vice President  
Arlington Trust Company  
Lawrence, MA 01842

Dear Mr. DeLuca:

Let me first say thank you for your kind assistance in providing The Atkins for Congress Committee with superior service and generous amounts of your time.

One of the remaining items the Federal Election Commission asked that we attempt to straighten out is the fact that we are in effect "over guaranteed" for the \$75,000.00 loan. Attached you will find a list of the 82 individuals who have guaranteed the note, the amount they had previously guaranteed, the current guarantee which the Committee asks you to reduce each person to and the amount of the change. This will bring the guarantee to \$75,000.00 and solve any problems we might have. We will report these changes in forthcoming reports with the Federal Election Commission.

If you have any further questions, please do not hesitate to call me at: (202) 225-3411. Again, thank you.

Sincerely yours, /

Linda J. Hartke

Enclosures  
cc: J. Richard Murphy

87040524929

87040524930

<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current guarantee</u>	<u>Change</u>
ABRAMS, Herve A.	\$ 1,000.00	\$ 1,000.00	\$ 0.00
ALLAN, Deborah C.	1,000.00	1,000.00	0.00
ALLAN, R. Scott	1,000.00	1,000.00	0.00
ALLAN, Virginia M.	1,000.00	980.00	- 20.00
ARENA, Annamaria Maria	1,000.00	1,000.00	0.00
ARENA, Arcangelina	1,000.00	1,000.00	0.00
ARENA, John J., Jr.	1,000.00	1,000.00	0.00
ARENA, Mary Jean	1,000.00	1,000.00	0.00
ARENA-MURPHY, Sandra M.	1,000.00	1,000.00	0.00
ATKINS, Henry H.	1,000.00	0.00	- 1,000.00
ATKINS, Karkilie W.	1,000.00	1,000.00	0.00
ATKINS, Nancy W.	1,000.00	0.00	- 1,000.00
ATKINS, Timothy	1,000.00	0.00	- 1,000.00
BARBARO, Jimmy	1,000.00	1,000.00	0.00
BARBARO, Marilyn	1,000.00	1,000.00	0.00
BEARD, Edmund	1,000.00	700.00	- 300.00
BRATHWAITE, Brenda J.	1,000.00	1,000.00	0.00
BRATHWAITE, Leon	1,000.00	1,000.00	0.00
BRANQUINHO, Maria	1,000.00	900.00	- 100.00
BUCHONIS, Raymond J.	1,000.00	1,000.00	0.00
BUCKLEY, Daniel P.	1,000.00	1,000.00	0.00
BUCKLEY, Gloria L.	950.00	950.00	0.00
BUCKLEY, John J., Jr.	900.00	900.00	0.00
BUCKLEY, Margaret J.	920.00	920.00	0.00
BYRNS, Patty	1,000.00	1,000.00	0.00
CAMPANA, Edmund	1,000.00	1,000.00	0.00
CAMPANA, Frances	1,000.00	1,000.00	0.00
CAMPANA, Marion	1,000.00	1,000.00	0.00
CATALDO, Carla C.	1,000.00	1,000.00	0.00
COFFIN, Charles W.	1,000.00	1,000.00	0.00
CONLON, Walter N.	1,000.00	1,000.00	0.00
DALTON, Peter	1,000.00	1,000.00	0.00
DEWAR, Martha E.	1,000.00	960.00	- 40.00
DINATALE, Louis, Jr.	1,000.00	1,000.00	0.00
DINATALE, Louis, Sr.	1,000.00	1,000.00	0.00
DINATALE, Martha	1,000.00	900.00	- 100.00
DINATALE, MaryAnn J.	1,000.00	1,000.00	0.00
FRENCH, John B.	1,000.00	500.00	- 500.00
HARTKE, Carolyn S.	1,000.00	1,000.00	0.00
HARTKE, Janet S.	1,000.00	500.00	- 500.00
HARTKE, Jerome L.	1,000.00	1,000.00	0.00
HARTKE, Marilyn M.	1,000.00	900.00	- 100.00
HEFFERNAN, Mary E.	1,000.00	1,000.00	0.00
HOBBS, Caroline A.	1,000.00	1,000.00	0.00
HOBBS, Dean S.	1,000.00	1,000.00	0.00
HOBBS, Kenneth A.	1,000.00	1,000.00	0.00
KELAKOS, Thomas	1,000.00	500.00	- 500.00
KING, Edward J.	1,000.00	1,000.00	0.00
KING, Eleanor B.	1,000.00	1,000.00	0.00
KING, James B.	1,000.00	1,000.00	0.00
KING, Sean C.	1,000.00	1,000.00	0.00
KNOX, Jill	1,000.00	1,000.00	0.00

sls 965.  
7-96

sls 965  
7-96

<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current <sup>2</sup> guarantee</u>	<u>Change</u>
MANISCALCO, Gina	\$ 1,000.00	\$ 1,000.00	\$ 0.00
MASSE, Robert S.	1,000.00	1,000.00	0.00
MCGOVERN, Patricia M.	1,000.00	900.00	- 100.00
MCGOVERN, Phyllis	1,000.00	1,000.00	0.00
MILLER, Gayle	1,000.00	1,000.00	0.00
MURPHY, Gary P.	1,000.00	1,000.00	0.00
NELMS, Keith J.	1,000.00	1,000.00	0.00
O'BRIEN, John D., Jr.	1,000.00	1,000.00	0.00
PETERSON, Jeffrey J.	990.00	990.00	0.00
POWELL, Marin	1,000.00	1,000.00	0.00
POWELL, Mary Jane	1,000.00	600.00	- 400.00
PYREZ, Stephen J.	900.00	900.00	0.00
ROBERTS, Melinda	1,000.00	600.00	- 400.00
ROOSEVELT, Ann M.	1,000.00	800.00	- 200.00
ROSSANO, Gina	1,000.00	900.00	- 100.00
ROSSANO, Jutta U.	1,000.00	1,000.00	0.00
ROUSE, Alice M.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Sr.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Jr.	1,000.00	1,000.00	0.00
ROUSE, Catherine	1,000.00	900.00	- 100.00
STELLA, George	1,000.00	1,000.00	0.00
STELLA, Kathleen	1,000.00	1,000.00	0.00
STEVENS, Kenneth R.	1,000.00	1,000.00	0.00
SULLIVAN, Arthur C., Jr.	900.00	900.00	0.00
SULLIVAN, Esther R.	1,000.00	1,000.00	0.00
SULLIVAN, Gail F.	1,000.00	1,000.00	0.00
TURCOTTE, David A.	1,000.00	900.00	- 100.00
TWOMEY, Beth	1,000.00	1,000.00	0.00
TWOMEY, Jennifer	1,000.00	1,000.00	0.00
WALLAGA, Sharon	1,000.00	1,000.00	0.00
total	<u>\$81,560.00</u>	<u>\$75,000.00</u>	

5  
2  
11/25

*[Handwritten signature]*

NOTES:

<sup>1</sup> Guarantees provided to Arlington Trust, Co. for original loan of October 22, 1984.

<sup>2</sup> Guaratees as amended effective May 10, 1985.

87040524931

# Arlington Trust company

LAWRENCE, MASSACHUSETTS 01842

ATTACHMENT 2

P. 4 of 4

October 1, 1985

Congressman Chester G. Atkins  
1429 Longworth House Office Building  
Washington, D.C. 20515

Attention: Ms. Linda J. Martke

Dear Linda:

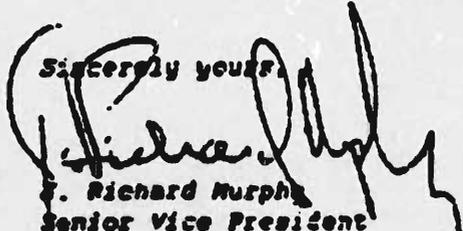
The Committee's letter of May 10, 1985 was received and the Arlington Trust Company is making every effort to comply with your wishes.

The bank has no objection to these changes: the reduction of the guaranteed amount to \$75,000.00 (which was the amount of the loan) and the reduction to 79 guarantors from 82.

Established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan. We have contacted all of the guarantors to obtain their consent and most have replied. However, there are a few who have not yet replied and you can be assured we are working with due haste to secure their consent. Any assistance you can provide in obtaining these final few letters of consent would be greatly appreciated.

Please be assured that we will provide you with written notice as soon as we have obtained the consent of all guarantors for the changes you have requested.

Sincerely yours,

  
F. Richard Murphy  
Senior Vice President

JRM:ldh

DELIVERED BY  
LINDA MARTKE 10/1/85

INSERED IN CUTE'S RESPONSE

Att. 1, p. 17

87040524932

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Virginia M. Allen	10/22/84 12/20/84	\$1,000.00* 20.00	\$ 20.00	(61.30)	-0-
Henry H. Atkins	10/22/84 10/31/84 11/2/84	1,000.00* 250.00 250.00	500.00	(61.30)	\$ 438.70
Marcy W. Atkins	10/22/84 11/19/84	1,000.00* 1,000.00	1,000.00	(61.30)	938.70
Imun Beard	10/22/84 10/26/84	1,000.00* 150.00	150.00	(61.30)	88.70
Martha E. Dewar	10/22/84 10/31/84 12/20/84	1,000.00* 10.00 10.00	20.00	(61.30)	-0-
Martha DiNatale	10/26/84 3/10/85	15.00 1,000.00*	15.00	(61.30)	-0-
John B. French	10/22/84 11/9/84	1,000.00* 25.00	25.00	(61.30)	-0-

Continued

Att. 1, p. 18

8 7 0 4 0 5 2 4 9 3 3

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Marilyn Martke	10/22/84 12/20/84	\$1,000.00* 25.00	\$ 25.00	(61.30)	\$ -0-
Mary Jane Powell	9/30/84 10/22/84 10/26/84	250.00 1,000.00* 100.00	350.00	(61.30)	288.70
Me da Roberts	11/2/84 11/8/84	351.75 1,000.00*	351.75	(61.30)	290.45
Gene Rossano	10/22/84 10/26/84	1,000.00* 50.00	50.00	(61.30)	-0-
Catherina Rouse	10/16/84 10/22/84	100.00 1,000.00*	100.00	(61.30)	38.70
David Turcotte	10/22/84 11/21/84	1,000.00* 70.00	70.00	(61.30)	8.70
Patricia McGovern	10/22/84 11/21/84	1,000.00* 50.00	50.00	(61.30)	-0-
<b>Total</b>			<b>\$2,726.75</b>		<b>\$2,092.65</b>

\* Portion of loan guaranteed by the contributor, date listed is that on which guarantees were signed by the contributor.

Att. 1, p. 19

8 7 0 4 0 6 2 4 9 3 4



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mr. Richard Butt, Treasurer  
The Atkins for Congress Committee  
P.O. Box 487  
Concord, Massachusetts 01742

RE: MUR 2127  
The Atkins for Congress  
Committee and  
Richard Butt, as  
treasurer

Dear Mr. Butt:

On , 1986, the Federal Election Commission found reason to believe that The Atkins for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f) by accepting certain excessive contributions and excessive loan guarantees. After considering the circumstances of this matter, the Commission determined to take no further action with respect to the designated contributions. The Commission, however, will proceed with an investigation concerning the loan guarantees. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Federal Election Campaign Act of 1971, as amended, you have an opportunity to demonstrate that no additional action should be taken against you and the Committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

Att. 2, p. 1

87040524935

recommending declining that pre-probable cause conciliation be pursued. The Office of the Genral Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cuase have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel is not authorized to give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosures

General Counsel's Factual and Legal Analysis  
Procedures  
Designation of Counsel Statement

Att. 2, p. 2

87040524936



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Mr. Melvin Scovell  
133 Collins Road  
Waban, Massachusetts 02168

RE: MUR 2127  
Melvin Scovell

Dear Mr. Scovell:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 3

87040524937



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Ms. Elizabeth May  
Box 142, Route 3  
Harvard, Massachusetts 01451

RE: MUR 2127  
Elizabeth May

Dear Ms. May:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 4

87040524938



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Mr. Peter Cove  
333 Beacon Street  
Boston, Massachusetts 02166

RE: MUR 2127  
Peter Cove

Dear Mr. Cover

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 5

87040624939



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Ms. Anita Smith  
54 Frediford Lane  
Cambridge, Massachusetts 02138

REF: MUR 2127  
Anita Smith

Dear Ms. Smith:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within 10 days of your receipt of this letter.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that contributions to candidates in excess of \$1,000 per election are in violation of the Act and that non-contemporaneous designations of contributions to a different election do not legitimize otherwise excessive contributions. You should take immediate steps to insure that this activity does not occur in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 6

87040524940



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mr. Stan Rosenberg  
164 Columbia Drive  
Amherst, Massachusetts 01002

REF: MUR 2127  
Stan Rosenberg

Dear Mr. Rosenberg:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, A 7

87040524941



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Ms. Linda J. Hartke  
26 Hancock Street, #4  
Boston, Massachusetts 02124

REF: MUR 2127  
Linda J. Hartke

Dear Ms. Hartke:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 8

87040524942



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Mr. John M. Connors, Jr.  
c/o Hill, Holiday, Connors & Cosmopolos, Inc.  
John Hancock Tower  
200 Clarendon Street  
Boston, Massachusetts 02116

RE: MUR 2127  
John M. Connors, Jr.

Dear Mr. Connors, Jr.

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure

Legal and Factual Analysis

Att. 2, p. 9

87040524943



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Virginia M. Allan  
780 Concord Road  
Sudbury, MA 01776

RE: MUR 2127  
Virginia M. Allan

Dear Ms. Allan:

On , 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed.

The Commission reminds you that loan guarantees are contributions under the Act. You should take immediate steps to insure that guaranteeing a loan does not cause you to make an excessive contribution in the future.

If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 10

87040524944



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Henry A. Atkins  
Old Sandwich Road  
Plymouth, MA 02360

RE: MUR 2127  
Henry A. Atkins

Dear Mr. Atkins:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 11

87040524945



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Nancy W. Atkins  
9 Brimmer Street  
Boston, MA 02108

RE: MUR 2127  
Mary W. Atkins

Dear Ms. Atkins:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, P. 1/2

87040624946



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Paul Edmund Beard  
88 Weston Avenue  
Braintree, MA 02184

RE: MUR 2127  
Paul Edmund Beard

Dear Mr. Beard:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 13

87040524947



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Martha E. DeWar  
602 Union Avenue  
Framingham, MA 01701

RE: MUR 2127  
Martha E. DeWar

Dear Ms. DeWar:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 14

87040524948



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Martha DiNatale  
R34 Lancaster Street  
Leominster, MA 01453

RE: MUR 2127  
Martha DiNatale

Dear Ms. DiNatale:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 15

87040524949



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

John B. French, Esquire  
Weston Road  
P. O. Box 303  
Lincoln Center, MA 01773

RE: MUR 2127  
John B. French

Dear Mr. French:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 16

97040524950



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Marilyn M. Hartke  
119 Fairbank Road  
Sudbury, MA 01776

RE: MUR 2127  
Marilyn M. Hartke

Dear Ms. Hartke:

On , 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 17

87040524951



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Patricia P. McGovern  
74 Saunders Street  
Lawrence, MA 01841

RE: MUR 2127  
Patricia P. McGovern

Dear Ms. McGovern:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 18

87040524952



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Mary Jane Powell  
31 Cheever Circle  
Andover, MA 01810

RE: MUR 2127  
Mary Jane Powell

Dear Ms. Powell:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 19

87040524953



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Melinda Roberts  
17 Timber Lane Way  
Wayland, MA 01778

RE: MUR 2127  
Melinda Roberts

Dear Ms. Roberts:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 20

97040624954



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Gina Rossano  
88 Weston Avenue  
Braintree, MA 02184

RE: MUR 2127  
Gina Rossano

Dear Ms. Rossano:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 21

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Catherine Rouse  
17 Davis Road  
Belmont, MA 02172

RE: MUR 2127  
Catherine Rouse

Dear Ms. Rouse:

On , 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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If you have any questions, please direct them to Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

AH. 2, p. 22

87040524956



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

David Turcotte  
26 Grove Street  
Lowell, MA 01853

RE: MUR 2127  
David Turcotte

Dear Mr. Turcotte:

On \_\_\_\_\_, 1986, the Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission determined to take no further action and closed its file as it pertains to you. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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Sincerely,

Joan D. Aikens  
Chairman

Enclosure  
Legal and Factual Analysis

Att. 2, p. 23

87040524957

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FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENTS The Atkins for Congress Committee and Richard Butt,  
as treasurer

SUMMARY OF ALLEGATIONS

A. Designated Contributions

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The Final Audit Report states that before the primary election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). A list of those five persons and the amount of their excessive contributions follows:

Melvin Scovell	\$	25
Elizabeth May		1000
Peter Cove		75
Anita Smith		200
John Connors, Jr.		<u>35</u>
TOTAL		\$1,335

These monies were either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced copies of letters from the five contributors.

Att. 3, p.1

The letters are all dated September 23, 1985, and each recites that the excessive portion of the contribution was intended for the general election. The primary election was in September, 1984.

In addition, after the primary election the Committee received excessive contributions from two individuals, Linda Hartke and Stan Rosenberg. The excessive portions of those contributions were \$650 and \$300, respectively. In response to the Audit Division's recommendation, the Committee produced copies of letters from the two contributors. Both letters are undated, and each recites that the excessive portion of the contribution was intended for the primary election. (The Committee had outstanding obligations from the primary campaign.) The letter from Linda Hartke contains only a blank space where it purports to quote the instruction she made on her contribution check. The Committee never produced the check--despite the fact that Hartke was the Committee's spokesperson during the audit and is Atkin's Administrative Assistant.

B. Loan Guarantees

According to the Audit Division, during the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors. The guarantees varied in amount from \$900 to \$1,000. The guarantees when combined with the direct contributions of 14 individuals created excessive contributions by those individuals. The excessive portions of the contributions varied in amount from \$15 to \$1,000, and totaled \$2,726.75.

Att. 3, p. 2

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The Audit Division reports that the Committee's partial repayment of the loan, has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation. In addition, on May 10, 1985, the Committee asked the lending bank to reduce the amounts of the guarantees for various guarantors, including the guarantees for each of the 14 guarantors who made excessive contributions. The reduced guarantees would lower the contributions for each of the 14 excessive contributors to within the contribution limitation. However, on October 1, 1985, the bank responded that it had no objection to the reduced guarantees, but Massachusetts law required a written consent from each of the 82 guarantors, and a few had not yet consented.

FACTUAL BASIS AND LEGAL ANALYSIS

A. Designated Contributions

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). No political committee may knowingly accept an excessive contribution. 2 U.S.C. § 441a(f).

According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the

Att. 3, p. 3

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contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR 1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees that designated pre-primary contributions to the general election. Moreover, the Commission recently closed the file after finding reason to believe against a recipient

Att. 3, p. 4

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committee that designated post-primary contributions to the primary election. See MUR 1588 (Fenwick).

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions, and take no further action.

B. Loan Guarantees

A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). The 14 guarantors made excessive contributions by contributing more than \$1,000, in violation of 2 U.S.C. § 441a(a)(1)(A). The Committee accepted those excessive contributions, in violation of 2 U.S.C. § 441a(f). The partial repayment by the Committee and the attempt to reduce the amounts of the guarantees would be merely mitigating circumstances.

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees.

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Att. 3, p. 5

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Melvin Scovell

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that before the primary election, The Atkins for Congress Committee (the "Committee") received direct contributions from Melvin Scovell exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). Scovell exceeded the limit by \$25. The excessive portion of the contributions was either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit report, the Committee produced a copy of a letter from Scovell. The letter is dated September 23, 1985, and recites that the excessive portion of the contributions was intended for the general election. The primary election was in September, 1984.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

Att. 3, p. 6

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegler), MUR 1696 (Sarbanes) and MUR

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Att-3, p. 7

1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Melvin Scovell violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amount of his excessive contribution, take no further action and close the file with regard to him.

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Att. i, p. 8

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Elizabeth May

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that before the primary election, The Atkins for Congress Committee (the "Committee") received direct contributions from Elizabeth May exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). May exceeded the limit by \$1,000. The excessive portion of the contributions was either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced a copy of a letter from May. The letter is dated September 23, 1985, and recites that the excessive portion of the contributions was intended for the general election. The primary election was in September 1984.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

Att. 3, p. 9

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR

Att. 3, p. 10

1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Elizabeth May violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amount of her excessive contribution, take no further action and close the file with regard to her.

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Att. 3, p. 11

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Peter Cove

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that before the primary election, The Atkins for Congress Committee (the "Committee") received direct contributions from Peter Cove exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). Cove exceeded the limit by \$75. The excessive portion of the contributions was either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced a copy of a letter from Cove. The letter is dated September 23, 1985, and recites that the excessive portion of the contributions was intended for the general election. The primary election was in September, 1984.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

AH. 3, p. 12

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR

Att. 3, p. 13

1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Peter Cove violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amount of his contribution, take no further action and close the file with regard to him.

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Att. 3, p. 14

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Anita Smith

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that before the primary election, The Atkins for Congress Committee (the "Committee") received direct contributions from Anita Smith exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). Smith exceeded the limit by \$200. The excessive portion of the contributions was either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced a copy of a letter from Smith. The letter is dated September 23, 1985, and recites that the excessive portion of the contributions was intended for the general election. The primary election was in September, 1984.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

Att. 3, p. 15

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR 1637 (Kennedy), the Commission found reason to believe and

Att. 3, p. 16

subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Anita Smith violated 2 U.S.C. § 441a(a)(1)(A), and in light of the relatively small amount of her excessive contribution, take no further action and close the file with regard to her.

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Att. 3, p. 17

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT: John Connors, Jr.

**SUMMARY OF ALLEGATIONS**

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that before the primary election, The Atkins for Congress Committee (the "Committee") received direct contributions from John Connors, Jr. exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). Connors exceeded the limit by \$35. The excessive portion of the contributions was either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced a copy of a letter from Connors. The letter is dated September 23, 1985, and recites that the excessive portion of the contributions was intended for the general election. The primary election was in September, 1984.

**FACTUAL BASIS AND LEGAL ANALYSIS**

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

Att. 3, p. 18

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR

Att. 3, p. 19

1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe John Connors, Jr. violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amount of his excessive contribution, take no further action and close the file with regard to him.

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Att. 3, p. 20

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Linda Hartke

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the Genral Counsel following Commission approval of a Final Audit Report.

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The Final Audit Report states that after the primary election the Committee received an excessive contribution from Linda Hartke. The excessive portion of that contribution was \$650. In response to the Audit Division's recommendation, the Committee produced a copy of a letter from Hartke. It is undated, and recites that the excessive portion of the contribution was intended for the primary election. (The Committee had outstanding obligations from the primary campaign). The letter contains only a blank space where it purports to quote the instruction Hartke made on her contribution check. The Committee never produced the check-- despite the fact that Hartke was the Committee's spokesperson during the audit and is Atkin's Administrative Assistant.

\*FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

Att. 5, p. 21

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According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegler), MUR 1696 (Sarbanes) and MUR

Att. 3, p. 22

1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees that designated pre-primary contributions to the general election. Moreover, the Commission recently closed the file after finding reason to believe against a recipient committee that designated post-primary contributions to the primary election. See MUR 1588 (Fenwick). Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Linda Hartke violated 2 U.S.C. § 441a(a)(1)(A), and, in light of the relatively small amount of her excessive contribution, take no further action and close the file with regard to her.

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Att. 3, p. 23

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Stan Rosenberg

SUMMARY ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report.

The Final Audit Report states that after the primary election the Committee received excessive contributions from Stan Rosenberg. The excessive portion of the contributions was \$300. In response to the Audit Division's recommendation, the Committee produced a copy of a letter from Rosenberg. The letter is undated, and recites that the excessive portion of the contributions was intended for the primary election. (The Committee had outstanding obligations from the primary campaign.)

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A).

According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that

Att. 3, p. 24

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such written designations must be contemporaneous with the contribution. Although 11 C.F.R. § 102.9(e) (which requires separate accounting to distinguish between primary and general election contributions received before the primary) refers to "contributions . . . designated by the candidate or his or her authorized committee(s) for use in connection with the general election," this phrase should not be construed as permission for the recipient committee to assign contributions to a particular election. Such independent designation by the Committee could contravene the contributor's intent as well as the rules for designated and undesignated contributions at 11 C.F.R. § 110.1(a)(2).

The Commission has supported the view that despite the confusing language of 11 C.F.R. § 102.9(e), this regulation should not be interpreted to mean that the recipient can determine election designations. However, in application, the Commission has declined to proceed against a recipient committee which had accepted contributions for the primary or general election in a manner that ensured compliance with 2 U.S.C. § 441a. In MUR 1648 (Riegle), MUR 1696 (Sarbanes) and MUR 1637 (Kennedy), the Commission found reason to believe and subsequently, based on 11 C.F.R. § 102.9(e), closed the file rather than finding probable cause against the recipient candidate committees that designated pre-primary contributions to the general election. Moreover, the Commission recently closed the file after finding reason to believe against a recipient

Att. 5, p. 25

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committee that designated post-primary contributions to the primary election. See MUR 1588 (Fenwick). Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Stan Rosenberg violated 2 U.S.C.

§ 461a(a)(1)(A), and, in light of the relatively small amount of his excessive contribution, take no further action and close the file with regard to him.

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Att. 3, p. 26

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

NUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Virginia Allen

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 27

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Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Henry Atkins

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 29

87040524987

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Nancy Atkins

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 31

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Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 32

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Paul Beard

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 33

8704052491

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

87040524992

Att. 3, p. 34

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Martha DeWar

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 25

87040624993

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan:

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

87040524994

Att. 3, p. 36

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Martha DiNatale

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 37

87040524993

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

87040524996

Att. 3, p. 38

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT John French

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 39

87040524997

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 40

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Marilyn Hartke

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 41

97040524999

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

87040525000

Att. 3, p. 42

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Patricia McGovern

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 43

87040525001

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

87040525002

Att. 3, p. 44

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Mary Jane Powell

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 45

87040625003

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 46

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Melinda Roberts

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 47

87040525005

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 48

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Gina Rossano

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 49

87040525007

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 50

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT Catherina Rouse

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att-3, p. 51

97040525009

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

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Att. 3, p. 52

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENT David Turcotte

SUMMARY OF ALLEGATIONS

This matter was referred to the Office of the General Counsel following Commission approval of a Final Audit Report of The Atkins for Congress Committee (the "Committee").

According to the Audit Division, during 1984 the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors, one of whom was the Respondent. The Respondent's guarantee, when combined with Respondent's direct contributions, created an excessive contribution by the Respondent.

FACTUAL BASIS AND LEGAL ANALYSIS

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i). Each guarantor is deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Id. If such agreement does not stipulate the portion of the loan for which each guarantor is liable, a guarantee is considered a loan by each guarantor in the same proportion to the unpaid balance that each guarantor has to the total number of guarantors. Id.

Att. 3, p. 53

87040525011

Because Respondent was one of 82 guarantors for a \$75,000 loan, Respondent is considered to have contributed \$914.63 by guaranteeing the loan.

Respondent made an excessive contribution by contributing more than \$1,000 in the form of direct contributions and a loan guarantee. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe Respondent violated 2 U.S.C. § 441a(a)(1)(A). The General Counsel's Office also recommends that the Commission take no further action and close the file with respect to Respondent.

37040525012

Att. 3, p. 54



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RD-8

April 10, 1986

MEMORANDUM

**TO:** CHARLES N. STEELE  
GENERAL COUNSEL

**ATTENTION:** ROBERT RAICH

**FROM:** LEE GARRITY  
COMPLIANCE ANALYST  
COMPLIANCE BRANCH, REPORTS ANALYSIS DIVISION

**SUBJECT:** MUR 2127

Please review the attached Informational Notice which is to be sent to the Atkins for Congress Committee for the 1985 Year End Report. Any comments which you may have should be forwarded to RAD by 10:00 a.m. on Monday, April 14, 1986. Thank you.

COMMENTS:

Sincerely,

*Lee Garrity*  
 Lee Garrity  
 Reports Analyst  
 Reports Analysis Division

Attachment

87040625013

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

The Atkins for Congress Committee,  
et al.

)  
)  
)  
)

MUR 2127

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of April 1, 1986, do hereby certify that the Commission decided by a vote of 4-2 to return the March 20, 1986, report on MUR 2127 to the Office of General Counsel with a request that it be rewritten to provide for the following:

1. A finding of reason to believe against the seven individual contributors dealt with in Section A of the report, but take no further action and close the file with respect to these individuals.
2. A finding of reason to believe against the fourteen loan guarantors noted under Section B of the report, but take no further action and close the file with respect to them.

Commsisioners Elliott, Harris, McDonald, and McGarry voted affirmatively for the decision; Commissioners Aikens and Josefiak dissented.

Attest:

4-3-86

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission

87040625014

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Date and Time of Transmittal \_\_\_\_\_  
BY OGC To The Commission \_\_\_\_\_

MUR 2127  
Staff Member:  
Robert Raich

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS' NAMES: The Atkins for Congress Committee and  
Richard Butt, as treasurer  
Melvin Scovell  
Elizabeth May  
Peter Cove  
Anita Smith  
John Connors, Jr.  
Linda Hartke  
Stan Rosenberg

RELEVANT STATUTES: 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f)  
11 C.F.R. §§ 110.1(a)(2),  
102.9(e), and 100.7(a)(1)(i)

INTERNAL REPORTS  
CHECKED: Index of Disclosure Documents, 1983-84  
Index of Disclosure Documents, 1985-86  
Amended Statements of Organization  
MUR 1637  
MUR 1588

FEDERAL AGENCIES  
CHECKED: None

GENERATION OF MATTER

This matter was referred to the Office of the General  
Counsel following Commission approval of a Final Audit Report.  
(Attachment 1).

SUMMARY OF ALLEGATIONS

A. Designated Contributions

The Final Audit Report states that before the primary

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election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). A list of those five persons and the amount of their excessive contributions follows:

Melvin Scovell	\$ 25
Elizabeth May	1000
Peter Cove	75
Anita Smith	200
John Connors, Jr.	<u>35</u>
TOTAL	\$1,335

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These monies were either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced copies of letters from the five contributors. (Attachment 1, pps. 6-10) The letters are all dated September 23, 1985, and each recites that the excessive portion of the contribution was intended for the general election. The primary election was in September, 1984.

In addition, after the primary election the Committee received excessive contributions from two individuals, Linda Hartke and Stan Rosenberg. The excessive portions of those contributions were \$650 and \$300, respectively. In response to the Audit Division's recommendation, the Committee produced

copies of letters from the two contributors. (Attachment 1, pps. 12-13) Both letters are undated, and each recites that the excessive portion of the contribution was intended for the primary election. (The Committee had outstanding obligations from the primary campaign.) The letter from Linda Hartke contains only a blank space where it purports to quote the instruction she made on her contribution check. The Committee never produced the check--despite the fact that Hartke was the Committee's spokesperson during the audit and is Atkin's Administrative Assistant.

B. Loan Guarantees

According to the Audit Division, during the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors. The guarantees varied in amount from \$900 to \$1,000. The guarantees, when combined with the direct contributions of 14 individuals, created excessive contributions by those individuals. The excessive portions of the contributions varied in amount from \$15 to \$1,000, and totaled \$2,726.75.

The Audit Division reports that the Committee's partial repayment of the loan has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation. In addition, on May 10, 1985, the Committee asked the lending bank to reduce the amounts of the guarantees for various guarantors, including the guarantees for each of the 14 guarantors who made excessive contributions. (Attachment 1, pps. 14-16)

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The reduced guarantees would lower the contributions for each of the 14 excessive contributors to within the contribution limitation. However, on October 1, 1985, the bank responded that it had no objection to the reduced guarantees, but Massachusetts law required a written consent from each of the 82 guarantors, and a few had not yet consented. (Attachment 1, p. 17)

**FACTUAL AND LEGAL ANALYSIS**

**A. Designated Contributions**

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). No political committee may knowingly accept an excessive contribution. 2 U.S.C. § 441a(f).

According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the contribution. However, the language of 11 C.F.R. § 102.9(e) permits a candidate or committee to designate contributions received before the primary election for use in the general election so long as an "acceptable accounting method" is used (such as maintaining separate accounts for each election, which the Atkins Committee did).

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Despite the lack of contemporaneous communications, the Commission, on three occasions, has declined to proceed after finding reason to believe against recipient committees that designated pre-primary contributions to the general election. See MUR 1696 (Sarbanes), MUR 1648 (Riegle), and MUR 1637 (Kennedy). The Commission did so because of the language of 11 C.F.R. § 102.9(e). Although the language of § 102.9(e) refers only to situations where a recipient committee designates pre-primary contributions to the general election, the Commission recently closed the file after finding reason to believe against a recipient committee that designated post-primary contributions to the primary election. See MUR 1588 (Fenwick).

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions, and take no further action. Pursuant to the Commission's recent decisions, this Office will make no recommendations regarding the seven contributors until after receiving the Committee's response.

B. Loan Guarantees

A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1).

The 14 guarantors made excessive contributions by contributing, in the form of loan guarantees, more than \$1,000, in violation of 2 U.S.C. § 441a(a)(1)(A). The Committee accepted

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those excessive contributions, in violation of 2 U.S.C. 441a(f). The partial repayment by the Committee and the attempt to reduce the amounts of the guarantees would be merely mitigating circumstances. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees. In accord with the Commission's recent decisions, this Office will make appropriate recommendations concerning the 14 guarantors after receiving the Committee's response.

**RECOMMENDATIONS**

1. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions, and take no further action.
2. Find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees.
3. Approve and send the attached letter and Legal and Factual Analysis.

Charles N. Steele  
General Counsel

BY:   
Kenneth A. Gross  
Associate General Counsel

March 20, 1986  
Date

**Attachments**

1. Referral from Audit Division
2. Letter to respondents
3. Legal and Factual Analysis

87040325020



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

A85-12

January 13, 1986

MEMORANDUM

TO: CHARLES N. STEELE  
GENERAL COUNSEL

THROUGH: JOHN C. SURINA  
STAFF DIRECTOR

FROM: ROBERT J. COSTA  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: ATKINS FOR CONGRESS COMMITTEE

On January 10, 1986, the Commission approved the final audit report of the Audit Division on the Atkins for Congress Committee. Attached as Exhibit A is a matter noted in the final audit report which the Commission also voted to refer to your office for review and consideration.

Should you have any questions regarding the matter addressed in this report, please contact Tom Nurthen or John Mamone at 376-5320.

Attachment as stated

Att. 1, p. 1

87040525021

Contributions from Individuals in Excess of the Limitations

The Act provides at 2 U.S.C. § 441a(a)(1)(A) that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

In addition, 11 C.F.R. § 100.7(a)(1)(i)(C) states, in part, that a loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement.

The Audit staff performed testing to insure that the \$1,000 contribution limitation for individuals was not exceeded. Apparent excessive contributions were noted with respect to both the primary and general election campaigns as discussed below.

1. Primary Election

Five individuals appear to have contributed \$1,335 in excess of the contribution limitation. Of those, two contributions (excessive portions \$1,025), were received prior to the primary election but deposited directly into the Committee's general election account.\*/ The remaining three contributions (excessive portions \$310), were deposited into the primary election account, then transferred to the general election account prior to the date of the primary election. The Committee did not attempt to obtain written verification from the five individuals that the contributions were intended for the general election.

2. General Election

The Audit staff identified 14 individuals whose loan guarantees and contributions exceeded the contribution limitation by \$2,726.75.

In addition, two individuals made contributions to the general election which exceeded the contribution limitation by \$950.

The Committee was given a schedule of the apparent excessive contributions at the conclusion of the audit fieldwork.

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\*/ The Committee maintained separate checking accounts for primary and general election activity.

87040625022

With respect to 1. and 2. above, the Audit staff recommended that the Committee present evidence which demonstrates that the contributions are not in excess of the limitations, or refund the excessive portions of the contributions to the appropriate contributors and provide photocopies (both front and back) of the negotiated refund checks along with copies of the relevant bank statements.

With respect to the loan guarantors noted in 2. the Audit staff recommended that the Committee reduce the liability of each endorser to within the contribution limitation through one of the following alternatives:

a. Repay sufficient principal plus interest so that the balance of the loan for which each endorser is liable will not exceed \$1,000 when aggregated with other contributions made by the endorsers;

b. Obtain additional endorsers so that the endorsements when aggregated with contributions made by the endorsers will not exceed the limitation;

c. Collateralize the loan in an amount sufficient to reduce the endorsements and contributions to within the limitation; or

d. Replace the individual excessive endorsement amounts with the candidate's endorsement for the remaining amount of the loan.

On September 26, 1985, the Committee submitted its response to the interim audit report. With respect to 1., the Committee provided copies of (apparent form) letters, signed by the contributors and dated September 23, 1985. The letters all state that the excessive contributions were intended to be deposited in the Committee's account for the purposes of the general election.

With respect to 2., the Committee provided copies of signed but undated letters from the two contributors. In both instances the contributors state it was their intention that the excessive portions were contributions for the primary election. Further, one contributor indicated that she "marked on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and, in this case, primary

Att. 1, p. 3

37040525023

election debts and obligations.\*\*/ The other contributor indicated he instructed the Committee that the contribution was intended for the primary election. (see Attachment 1).

It should be noted that neither a copy of the one contributor's canceled check, nor a copy of the other contributor's instruction concerning the contributions were submitted with the Committee's response.

With respect to the loan guarantors noted in 2., the Committee provided evidence which indicated that they repaid \$5,000 on the loan to reduce the outstanding principal to \$70,000. The loan payment reduces the amount of each individual's guarantee by \$61.30 \*\*/ and results in 7 individuals (contributions) now being within the limitation.

In an attempt to resolve the excessive portion of the contributions, the Committee petitioned the bank to reduce the amount of the guarantees for the 14 individuals who contributed in excess of the limitation by an amount sufficient to bring the 14 contributors within the limitation. Subsequent to the \$5,000 loan payment and the reduction of the amount of the guarantee, the loan balance (\$70,000) would be secured by individual guarantees totaling \$75,000.\*\*\*/

On October 1, 1985, the bank notified the Committee that it has no objection to the changes. However, the bank stated that established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan (see Attachment 2, page 4 of 4). The bank further stated that it has contacted all of the guarantors to obtain their consent and most have replied.

It is our opinion that the Committee has not complied with the interim audit report recommendation since its attempt to resolve this matter is incomplete and 7 contributors (excessive portion \$2,092.75) are still in excess of the limitation (see Attachment 3).

#### Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for further action.

\*/ This contributor is the Administrative Assistant to the Congressman, Treasurer of his former state senate committee, and Committee spokesperson during the audit. Furthermore, the letter from this contributor appears to be altered by an omission of a phrase/term concerning the annotation on her original check.

\*\*/ For those individuals who guaranteed the loan for \$1,000.

\*\*\*/ The original loan for \$75,000 was secured by 82 individual guarantees totaling \$81,565.

Att. 1, p. 4

97040625024

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

You reported five contributions in the primary election which appeared to be in excess of the \$1,000.00 limit per individual.

In each case, the contribution or portion of the contribution in excess was deposited directly or transferred into the general election account. You will find attached signed statements from each of the five contributors indicating their intentions that the excessive portion of their contributions prior to the primary election were to be deposited in the Atkins for Congress Committee's general election account.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Scovell  
May  
Cove  
Smith  
Connors

97040625025

ATTACHMENT I  
p. 2 of 9

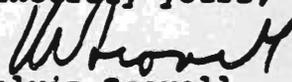
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made in the amount of \$25.00 on June 30, 1984 was intended to be deposited in the Committee's account for purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made to the Committee on April 4, 1984.

Sincerely yours,

  
Melvin Scovell

Address: 133 COLLINS RD  
WARREN MA 02168

AH.1, p. 6

87040525026

September 23, 1985

ATTACHMENT I  
P. 3 of 9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$1,000.00 on September 13, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contributions totalling the maximum amount of \$1,000.00 for the primary election had been made previously (deposited 4/2/84, 6/5/84, 6/5/84).

Sincerely yours,

*Elizabeth S. May*  
Elizabeth May

Address: Box 142 Route 3  
Concord MA 01742

87040525027

Att. 1, p. 7

ATTACHMENT I  
P. 4 OF 9

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

Of the \$1,000.00 contribution I made to the Committee on September 13, 1984, \$925.00 was intended for use by the Committee for the primary election and \$75.00 was intended for general election purposes. Previously, on July 19, 1984, I had contributed \$75.00 towards the primary election. This insures that I contributed the maximum amount of \$1,000.00 towards the primary election and \$75.00 towards the general election.

Sincerely yours,



Peter Cove

Address: 333 BARKER ST.  
BOSTON

Att. 1, p. 8

87040525028

ATTACHMENT I  
P. 50F9

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$200.00 on May 11, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on April 4, 1984.

Sincerely yours,

Anita Smith  
Anita Smith

Address: 54 Fred. Ford Lane  
Cambridge, MA 02138

87040525029

Att. 1, p. 9

ATTACHMENT I  
P. 6 of 9

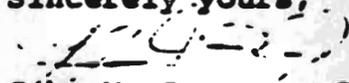
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$35.00 on July 31, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on May 7, 1984.

Sincerely yours,



John M. Connors, Jr.

Address: TRAVELERS TRUST  
27 WASHINGTON STREET  
CONCORD, MA 01742  
TRAVELERS TRUST COMPANY INC

Att. 1, p. 10

87040625030

ATTACHMENT I  
P. 7 of 9

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

With regard to two apparent excessive contributions in the general election, I am attaching letters from the two individuals involved which are meant to indicate their intentions that the excessive portion of their contributions were intended to be used by the Committee for primary election purposes.

As you are aware, after the primary election, activity in the primary election bank account was terminated and all primary activity (receipts and expenditures) were and still are handled through the general election bank account, as is customary and allowable under FEC regulations.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Hartke  
Rosenberg

Att. 1, p. 11

87040625031

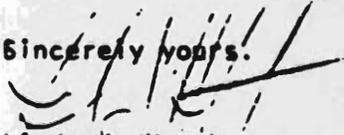
ATTACHMENT J  
P. 8 of 9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions when I wrote a check in the amount of \$1,650.00 on November 7, 1984 made payable to the Atkins for Congress Committee. I marked " " on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and in this case primary election debts and obligations. The balance of the check, \$1,000.00 was intended as a maximum contribution for the general election.

Sincerely yours,

  
Linda J. Hartke  
26 Hancock Street, #4  
Boston, MA 02124

Att. 1, p. 12

97040625032

ATTACHMENT I

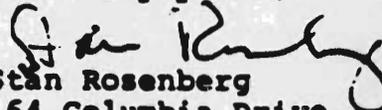
P. 909

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions and instructions to the Committee at the time I wrote a check in the amount of \$300.00 on September 30, 1984. This check was intended to be a contribution to the Committee's primary election efforts and in this case to be applied to primary election debts and obligations. Subsequently, I contributed the maximum amount of \$1,000.00 to the Committee's general election efforts.

Sincerely yours,

  
Stan Rosenberg  
164 Columbia Drive  
Amherst, MA 01002

87040525033

Att. 1, p. 13

ATTACHMENT 2  
P. 1 of 4

The Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742  
May 10, 1985

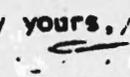
Mr. Robert J. DeLuca,  
Senior Vice President  
Arlington Trust Company  
Lawrence, MA 01842

Dear Mr. DeLuca:

Let me first say thank you for your kind assistance in providing The Atkins for Congress Committee with superior service and generous amounts of your time.

One of the remaining items the Federal Election Commission asked that we attempt to straighten out is the fact that we are in effect "over guaranteed" for the \$75,000.00 loan. Attached you will find a list of the 82 individuals who have guaranteed the note, the amount they had previously guaranteed, the current guarantee which the Committee asks you to reduce each person to and the amount of the change. This will bring the guarantee to \$75,000.00 and solve any problems we might have. We will report these changes in forthcoming reports with the Federal Election Commission.

If you have any further questions, please do not hesitate to call me at: (202) 225-3411. Again, thank you.

Sincerely yours,  


Linda J. Hartke

Enclosures  
cc: J. Richard Murphy

Att. 1, p. 14

87040625034

87040525035

<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current guarantee</u> <sup>2</sup>	<u>Change</u>
ABRAMS, Herve A.	\$ 1,000.00	\$ 1,000.00	\$ 0.00
ALLAN, Deborah C.	1,000.00	1,000.00	0.00
ALLAN, R. Scott	1,000.00	1,000.00	0.00
ALLAN, Virginia M.	1,000.00	980.00	- 20.00
ARENA, Annamaria Maria	1,000.00	1,000.00	0.00
ARENA, Arcangelina	1,000.00	1,000.00	0.00
ARENA, John J., Jr.	1,000.00	1,000.00	0.00
ARENA, Mary Jean	1,000.00	1,000.00	0.00
ARENA-MURPHY, Sandra M.	1,000.00	1,000.00	0.00
ATKINS, Henry H.	1,000.00	0.00	- 1,000.00
ATKINS, Karkillie W.	1,000.00	1,000.00	0.00
ATKINS, Nancy W.	1,000.00	0.00	- 1,000.00
ATKINS, Timothy	1,000.00	0.00	- 1,000.00
BARBARO, Jimmy	1,000.00	1,000.00	0.00
BARBARO, Marilyn	1,000.00	1,000.00	0.00
BEARD, Edmund	1,000.00	700.00	- 300.00
BATHWAITE, Brenda J.	1,000.00	1,000.00	0.00
BATHWAITE, Leon	1,000.00	1,000.00	0.00
BRANQUINHO, Maria	1,000.00	900.00	- 100.00
BUCHONIS, Raymond J.	1,000.00	1,000.00	0.00
BUCKLEY, Daniel P.	1,000.00	1,000.00	0.00
BUCKLEY, Gloria L.	950.00	950.00	0.00
BUCKLEY, John J., Jr.	900.00	900.00	0.00
BUCKLEY, Margaret J.	920.00	920.00	0.00
BYRNS, Patty	1,000.00	1,000.00	0.00
CAMPANA, Edmund	1,000.00	1,000.00	0.00
CAMPANA, Frances	1,000.00	1,000.00	0.00
CAMPANA, Marion	1,000.00	1,000.00	0.00
CATALDO, Carla C.	1,000.00	1,000.00	0.00
COFFIN, Charles W.	1,000.00	1,000.00	0.00
CONLON, Walter N.	1,000.00	1,000.00	0.00
DALTON, Peter	1,000.00	1,000.00	0.00
DEWAR, Martha E.	1,000.00	960.00	- 40.00
DINATALE, Louis, Jr.	1,000.00	1,000.00	0.00
DINATALE, Louis, Sr.	1,000.00	1,000.00	0.00
DINATALE, Martha	1,000.00	900.00	- 100.00
DINATALE, MaryAnn J.	1,000.00	1,000.00	0.00
FRENCH, John R.	1,000.00	500.00	- 500.00
HARTKE, Carolyn S.	1,000.00	1,000.00	0.00
HARTKE, Janet S.	1,000.00	500.00	- 500.00
HARTKE, Jerome L.	1,000.00	1,000.00	0.00
HARTKE, Marilyn M.	1,000.00	900.00	- 100.00
HEFFERNAN, Mary E.	1,000.00	1,000.00	0.00
HOBBS, Caroline A.	1,000.00	1,000.00	0.00
HOBBS, Dean S.	1,000.00	1,000.00	0.00
HOBBS, Kenneth A.	1,000.00	1,000.00	0.00
KELAKOS, Thomas	1,000.00	500.00	- 500.00
KING, Edward J.	1,000.00	1,000.00	0.00
KING, Eleanor B.	1,000.00	1,000.00	0.00
KING, James B.	1,000.00	1,000.00	0.00
KING, Sean C.	1,000.00	1,000.00	0.00
KNOX, Jill	1,000.00	1,000.00	0.00

955  
7-96

955  
7-96

<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current <sup>2</sup> guarantee</u>	<u>Change</u>
MANISCALCO, Gina	\$ 1,000.00	\$ 1,000.00	\$ 0.00
MASSE, Robert S.	1,000.00	1,000.00	0.00
MCGOVERN, Patricia M.	1,000.00	900.00	- 100.00
MCGOVERN, Phyllis	1,000.00	1,000.00	0.00
MILLER, Gayle	1,000.00	1,000.00	0.00
MURPHY, Gary P.	1,500.00	1,000.00	0.00
NELMS, Keith J.	1,000.00	1,000.00	0.00
O'BRIEN, John D., Jr.	1,000.00	1,000.00	0.00
PETERSON, Jeffrey J.	990.00	990.00	0.00
POWELL, Marin	1,000.00	1,000.00	0.00
POWELL, Mary Jane	1,000.00	600.00	- 400.00
PYREZ, Stephen J.	900.00	900.00	0.00
ROBERTS, Melinda	1,000.00	600.00	- 400.00
ROOSEVELT, Ann M.	1,000.00	800.00	- 200.00
ROSSANO, Gina	1,000.00	900.00	- 100.00
ROSSANO, Jutta U.	1,000.00	1,000.00	0.00
ROUSE, Alice M.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Sr.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Jr.	1,000.00	1,000.00	0.00
ROUSE, Catherine	1,000.00	900.00	- 100.00
STELLA, George	1,000.00	1,000.00	0.00
STELLA, Kathleen	1,000.00	1,000.00	0.00
STEVENS, Kenneth R.	1,000.00	1,000.00	0.00
SULLIVAN, Arthur C., Jr.	900.00	900.00	0.00
SULLIVAN, Esther R.	1,000.00	1,000.00	0.00
SULLIVAN, Gail F.	1,000.00	1,000.00	0.00
TURCOTTE, David A.	1,000.00	900.00	- 100.00
TWOMEY, Beth	1,000.00	1,000.00	0.00
TWOMEY, Jennifer	1,000.00	1,000.00	0.00
WALLAGA, Sharon	1,000.00	1,000.00	0.00

total

\$81,560.00

\$75,000.00

5  
11-1-85

*[Handwritten signature]*

NOTES:

<sup>1</sup> Guarantees provided to Arlington Trust, Co. for original loan of October 22, 1984.

<sup>2</sup> Guarantees as amended effective May 10, 1985.

87040625036

**Arlington Trust**  
company

LAWRENCE, MASSACHUSETTS 01842

ATTACHMENT 2

P. 4 OF 4

October 1, 1985

Congressman Chester G. Atkins  
1429 Longworth House Office Building  
Washington, D.C. 20515

Attention: Ms. Linda J. Martke

Dear Linda:

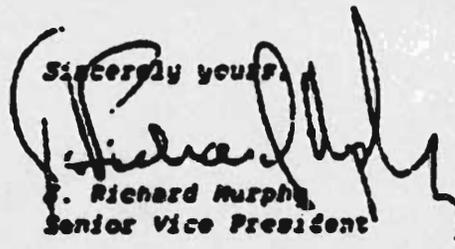
The Committee's letter of May 10, 1985 was received and the Arlington Trust Company is making every effort to comply with your wishes.

The bank has no objection to these changes: the reduction of the guaranteed amount to \$75,000.00 (which was the amount of the loan) and the reduction to 79 guarantors from 82.

Established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan. We have contacted all of the guarantors to obtain their consent and most have replied. However, there are a few who have not yet replied and you can be assured we are working with due haste to secure their consent. Any assistance you can provide in obtaining these final few letters of consent would be greatly appreciated.

Please be assured that we will provide you with written notice as soon as we have obtained the consent of all guarantors for the changes you have requested.

Sincerely yours,



F. Richard Murphy  
Senior Vice President

JRN:12H

DELIVERED BY  
LINDA MARTKE 10/1/85

INSERED IN CITE'S RESPONSE

Att. 1, p. 17

87040525037

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Virginia M. Allen	10/22/84	\$1,000.00*	\$ 20.00	(61.30)	-0-
	12/20/84	20.00			
Henry H. Atkins	10/22/84	1,000.00*	500.00	(61.30)	\$ 438.70
	10/31/84	250.00			
	11/2/84	250.00			
Henry H. Atkins	10/22/84	1,000.00*	1,000.00	(61.30)	938.70
	11/19/84	1,000.00			
Edward Beard	10/22/84	1,000.00*	150.00	(61.30)	88.70
	10/26/84	150.00			
Artha B. Dewar	10/22/84	1,000.00*	20.00	(61.30)	-0-
	10/31/84	10.00			
	12/20/84	10.00			
Artha DiNatale	10/26/84	15.00	15.00	(61.30)	-0-
	3/10/85	1,000.00*			
John B. French	10/22/84	1,000.00*	25.00	(61.30)	-0-
	11/9/84	25.00			

Continued

Att. 1, p. 18

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Marilyn Hartke	10/22/84 12/20/84	\$1,000.00* 25.00	\$ 25.00	(61.30)	\$ -0-
Mary Jane Powell	9/30/84 10/22/84 10/26/84	250.00 1,000.00* 100.00	350.00	(61.30)	288.70
V da Roberts	11/2/84 11/8/84	351.75 1,000.00*	351.75	(61.30)	290.45
Anna Rossano	10/22/84 10/26/84	1,000.00* 50.00	50.00	(61.30)	-0-
Catherina Rouse	10/16/84 10/22/84	100.00 1,000.00*	100.00	(61.30)	38.70
David Turcotte	10/22/84 11/21/84	1,000.00* 70.00	70.00	(61.30)	8.70
Patricia McGovern	10/22/84 11/21/84	1,000.00* 50.00	50.00	(61.30)	-0-
<b>Total</b>			<b>\$2,726.75</b>		<b>\$2,092.65</b>

\* Portion of loan guaranteed by the contributor, date listed is that on which guarantees were signed by the contributor.

Att. 1, p. 19

8 7 0 4 0 5 2 5 0 3 9

87040525040



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Mr. Richard Butt, Treasurer  
The Atkins for Congress Committee  
P.O. Box 487  
Concord, Massachusetts 01742

RE: MUR 2127  
The Atkins for Congress  
Committee and  
Richard Butt, as  
treasurer

Dear Mr. Butt:

On , 1986, the Federal Election Commission found reason to believe that The Atkins for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f) by accepting certain designated contributions and loan guarantees. However, after considering the circumstances of this matter, the Commission determined to take no further action with respect to the designated contributions. The General Counsel's Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Federal Election Campaign Act of 1971, as amended, you have an opportunity to demonstrate that no additional action should be taken against you and the Committee. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against your committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

97040625041  
Att. 2, p. 1

recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel is not authorized to give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Robert Raich, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Joan D. Aikens  
Chairman

Enclosures

General Counsel's Factual and Legal Analysis  
Procedures  
Designation of Counsel Statement

ATT. 4 P. 2

87040525042

FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2127

STAFF MEMBER & TEL. NO.  
Robert Raich, (202) 376-8200

RESPONDENTS The Atkins for Congress Committee and Richard Butt,  
as treasurer

SUMMARY OF ALLEGATIONS

A. Designated Contributions

87040425043  
The Final Audit Report states that before the primary election, the Atkins for Congress Committee (the "Committee") received direct contributions from five persons exceeding the \$1,000 limit imposed by 2 U.S.C. § 441a(a)(1)(A). A list of those five persons and the amount of their excessive contributions follows:

Melvin Scovell	\$	25
Elizabeth May		1000
Peter Cove		75
Anita Smith		200
John Connors, Jr.		<u>35</u>
TOTAL		\$1,335

These monies were either deposited directly into the Committee's general election account or deposited into the primary election account and then transferred into the general election account before the primary election. In response to the Audit Division's recommendation in the Interim Audit Report, the Committee produced copies of letters from the five contributors.

Att. 3, p.1

The letters are all dated September 23, 1985, and each recites that the excessive portion of the contribution was intended for the general election. The primary election was in September, 1984.

In addition, after the primary election the Committee received excessive contributions from two individuals, Linda Hartke and Stan Rosenberg. The excessive portions of those contributions were \$650 and \$300, respectively. In response to the Audit Division's recommendation, the Committee produced copies of letters from the two contributors. Both letters are undated, and each recites that the excessive portion of the contribution was intended for the primary election. (The Committee had outstanding obligations from the primary campaign.) The letter from Linda Hartke contains only a blank space where it purports to quote the instruction she made on her contribution check. The Committee never produced the check--despite the fact that Hartke was the Committee's spokesperson during the audit and is Atkin's Administrative Assistant.

B. Loan Guarantees

According to the Audit Division, during the general election campaign, the Committee received a \$75,000 loan guaranteed by 82 guarantors. The guarantees varied in amount from \$900 to \$1,000. The guarantees when combined with the direct contributions of 14 individuals created excessive contributions by those individuals. The excessive portions of the contributions varied in amount from \$15 to \$1,000, and totaled \$2,726.75.

ATT. 3, P. 2

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The Audit Division reports that the Committee's partial repayment of the loan has reduced the contributions of seven of the 14 guarantors so that they fall within the \$1,000 contribution limitation. In addition, on May 10, 1985, the Committee asked the lending bank to reduce the amounts of the guarantees for various guarantors, including the guarantees for each of the 14 guarantors who made excessive contributions. The reduced guarantees would lower the contributions for each of the 14 excessive contributors to within the contribution limitation. However, on October 1, 1985, the bank responded that it had no objection to the reduced guarantees, but Massachusetts law required a written consent from each of the 82 guarantors, and a few had not yet consented.

FACTUAL BASIS AND LEGAL ANALYSIS

A. Designated Contributions

No individual may contribute more than \$1,000 per election to a candidate and his authorized committees. 2 U.S.C. § 441a(a)(1)(A). No political committee may knowingly accept an excessive contribution. 2 U.S.C. § 441a(f).

According to 11 C.F.R. § 110.1(a), a contribution is attributable to the primary election if made before the primary election and attributable to the general election if made after the primary election; that presumption is altered only if the contribution is designated in writing for a particular election by the contributor. The Commission has taken the position that such written designations must be contemporaneous with the

Att. 3, p. 3

contribution. However, the language of 11 C.F.R. § 102.9(e) permits a candidate or committee to designate contributions received before the primary election for use in the general election so long as an "acceptable accounting method" is used (such as maintaining separate accounts for each election, which the Atkins Committee did).

Despite the lack of contemporaneous communications, the Commission on three occasions has declined to proceed after finding reason to believe against recipient committees that designated pre-primary contributions to the general election. See MUR 1696 (Sarbanes), MUR 1648 (Riegle), and MUR 1637 (Kennedy). The Commission did so because of the language of 11 C.F.R. § 102.9(e). Although the language of § 102.9(e) refers only to situations where a recipient committee designates pre-primary contributions to the general election, the Commission recently closed the file after finding reason to believe against a recipient committee that designated post-primary contributions to the primary election. See MUR 1588 (Fenwick).

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe that The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the designated contributions, and take no further action.

B. Loan Guarantees

A loan guarantee is a contribution. 11 C.F.R. § 100.7(a)(1)(i).

Att. 3, p. 4

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The 14 guarantors made excessive contributions by contributing more than \$1,000, in violation of 2 U.S.C. § 441a(a)(1)(A). The Committee accepted those excessive contributions, in violation of 2 U.S.C. § 441a(f). The partial repayment by the Committee and the attempt to reduce the amounts of the guarantees would be merely mitigating circumstances.

Accordingly, the General Counsel's Office recommends that the Commission find reason to believe The Atkins for Congress Committee and Richard Butt, as treasurer, violated 2 U.S.C. § 441a(f) with respect to the loan guarantees.

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Att. 3, p. 5

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Raich

RECEIVED  
OFFICE OF THE  
GENERAL COUNSEL



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

36 JAN 28 P12: 08

January 24, 1986

A85-12

MEMORANDUM

TO: FRED EILAND  
PRESS OFFICER

FROM: ROBERT J. COSTA *RJC*  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: PUBLIC ISSUANCE OF FINAL AUDIT REPORT -  
ATKINS FOR CONGRESS COMMITTEE

Attached please find a copy of the final audit report of Atkins for Congress Committee which was approved by the Commission on January 10, 1986.

Informational copies of the report have been received by all parties involved and the report may be released to the public.

Attachment as stated

cc: FEC Library  
RAD  
Press Office  
Office of General Counsel

87040525048



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

A85-12

REPORT OF THE AUDIT DIVISION  
ON THE  
ATKINS FOR CONGRESS COMMITTEE

I. Background

A. Overview

This report is based on an audit of the Atkins for Congress Committee ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to Section 438(b) of Title 2 of the United States Code which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

The Committee registered with the Clerk of the House of Representatives on February 10, 1984. The Committee maintained its headquarters in Concord, Massachusetts. The audit covered the period from February 10, 1984, the inception date of the Committee, through December 31, 1984, the closing date for the latest report filed at the time of the audit. The Committee reported a cash balance on February 10, 1984 of \$-0-; total receipts of \$858,660.23; total expenditures of \$860,444.27; and a cash balance on December 31, 1984 of \$4,683.38. <sup>1/</sup>

This audit report is based on documents and work papers which support each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to the Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the Committee during the period covered by the audit was Ms. Patricia McGovern.

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<sup>1/</sup> The reported totals do not calculate correctly due to mathematical errors.

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C. Scope

The audit included such tests as verification of total reported receipts and expenditures and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances.

II. Audit Findings and Recommendations

A. Omission of Disclosure Information - Loans

Section 431(8)(A)(i) of Title 2, United States Code states, in part, that the term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

Section 434(b)(3)(E) of Title 2, United States Code states that each report shall disclose the identification of each person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan.

The Committee failed to disclose 82 guarantors of a \$75,000 bank loan obtained by the Candidate on behalf of the Committee. The amount guaranteed in each case did not exceed \$1,000.

The Audit staff recommended that the Committee amend its reports to disclose the guarantors of the \$75,000 loan.

On September 26, 1985, the Committee submitted a comprehensive amendment which disclosed the guarantors of the loan.

Recommendation

The Audit staff recommends no further action on this matter.

B. Misstatement of Financial Activity

Section 434(b)(2) of Title 2, United States Code states, in part, that each report shall disclose the total amount of all receipts for the reporting period and the calendar year.

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During the audit, it was noted that the Committee understated its receipts by \$14,232.33 (net) for the period February 10, 1984 through December 31, 1984. The understatement was caused by the Committee's failure to report contributions from individuals, interest earned, contributions in-kind, and transfers from political/other committees. Contributor checks returned by the bank for insufficient funds and math discrepancies also contributed to the understatement.

The auditors provided schedules detailing all unreported and improperly reported items to Committee officials at the conclusion of the audit fieldwork.

In the interim report, it was recommended that the Committee amend its reports to disclose accurately its financial activity.

On September 26, 1985, the Committee submitted a comprehensive amendment which disclosed its financial activity as required.

Recommendation

The Audit staff recommends no further action on this matter.

C. Itemization of Contributions from Political Committees

Under 2 U.S.C. § 434(b)(3)(B), each report shall disclose the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

In addition, 11 C.F.R. § 104.3(a)(4)(ii) requires disclosure of the identification of all committees (including political committees and committees which do not qualify as political committees under the Act).

The Committee's contribution records were reviewed to determine whether all contributions from committees were itemized on the Committee's disclosure reports. It was noted that 15 contributions from committees totaling \$4,175.00 (75% of the dollar amount of contributions from committees) were not reported as required. Of these, 12 contributions were itemized as contributions from the individuals who signed the checks or from the candidate whose campaign committee made the contribution. The Committee failed to report the remaining three contributions. A schedule of the discrepancies noted above was given to the Committee at the conclusion of the audit fieldwork.

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The Audit staff recommended that the Committee amend its reports to itemize the 15 contributions from committees.

On September 26, 1985, the Committee submitted a comprehensive amendment which properly itemized the contributions from committees.

Recommendation

The Audit staff recommends no further action on this matter.

D. Reporting of Debts and Obligations

Section 434(b) (8) of Title 2, United States Code requires each report filed by the treasurer of a political committee to disclose the amount and nature of outstanding debts and obligations owed by the committee.

Section 104.11(a) of Title 11, Code of Federal Regulations states, in part, that debts and obligations shall be continuously reported until extinguished. In addition, 11 C.F.R. § 104.11(b) states, in part, that debts of \$500 or less shall be reported no later than 60 days after the obligation is incurred. Debts in excess of \$500 shall be reported at the time of the transaction.

During the audit, it was noted that the Committee did not properly report seven debts totaling \$24,771.29. These debts (greater than \$500 each) were not reported when incurred but were properly disclosed on all subsequent reports.

In addition, seventeen other debts, totaling \$13,479.28, were disclosed when incurred and continuously reported on all subsequent debt schedules, however final payments on these 17 debts were not reflected on the debts and obligations schedules of the respective disclosure reports. It should be noted that the final payments were properly reported on the itemized disbursements schedules (Schedule B).

The Committee was advised of the reporting requirements for debts and obligations. Further, a schedule of the debts was given to the Committee at the conclusion of the audit fieldwork.

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Recommendation

Although in certain instances the aforementioned transactions were either not reported in a timely manner or not reflected on the proper reporting schedule, in view of the fact that all transactions were eventually reported and adequate supporting documentation maintained, it is the recommendation of the Audit staff that no further action is necessary.

B. Matter Referred to the Office of General Counsel

A matter noted during the audit was referred to the Commission's Office of General Counsel.

87040625053

AR-86-2



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

A85-12

January 13, 1986

MEMORANDUM

TO: CHARLES N. STEELE  
GENERAL COUNSEL

THROUGH: JOHN C. SURINA  
STAFF DIRECTOR

FROM: ROBERT J. COSTA  
ASSISTANT STAFF DIRECTOR  
AUDIT DIVISION

SUBJECT: ATKINS FOR CONGRESS COMMITTEE

On January 10, 1986, the Commission approved the final audit report of the Audit Division on the Atkins for Congress Committee. Attached as Exhibit A is a matter noted in the final audit report which the Commission also voted to refer to your office for review and consideration.

Should you have any questions regarding the matter addressed in this report, please contact Tom Nurthen or John Mamone at 376-5320.

Attachment as stated

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Contributions from Individuals in Excess of the Limitations

The Act provides at 2 U.S.C. § 441a(a)(1)(A) that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

In addition, 11 C.F.R. § 100.7(a)(1)(i)(C) states, in part, that a loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement.

The Audit staff performed testing to insure that the \$1,000 contribution limitation for individuals was not exceeded. Apparent excessive contributions were noted with respect to both the primary and general election campaigns as discussed below.

1. Primary Election

Five individuals appear to have contributed \$1,335 in excess of the contribution limitation. Of those, two contributions (excessive portions \$1,025), were received prior to the primary election but deposited directly into the Committee's general election account.\* The remaining three contributions (excessive portions \$310), were deposited into the primary election account, then transferred to the general election account prior to the date of the primary election. The Committee did not attempt to obtain written verification from the five individuals that the contributions were intended for the general election.

2. General Election

The Audit staff identified 14 individuals whose loan guarantees and contributions exceeded the contribution limitation by \$2,726.75.

In addition, two individuals made contributions to the general election which exceeded the contribution limitation by \$950.

The Committee was given a schedule of the apparent excessive contributions at the conclusion of the audit fieldwork.

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\*/ The Committee maintained separate checking accounts for primary and general election activity.

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With respect to 1. and 2. above, the Audit staff recommended that the Committee present evidence which demonstrates that the contributions are not in excess of the limitations, or refund the excessive portions of the contributions to the appropriate contributors and provide photocopies (both front and back) of the negotiated refund checks along with copies of the relevant bank statements.

With respect to the loan guarantors noted in 2. the Audit staff recommended that the Committee reduce the liability of each endorser to within the contribution limitation through one of the following alternatives:

- a. Repay sufficient principal plus interest so that the balance of the loan for which each endorser is liable will not exceed \$1,000 when aggregated with other contributions made by the endorsers;
- b. Obtain additional endorsers so that the endorsements when aggregated with contributions made by the endorsers will not exceed the limitation;
- c. Collateralize the loan in an amount sufficient to reduce the endorsements and contributions to within the limitation; or
- d. Replace the individual excessive endorsement amounts with the candidate's endorsement for the remaining amount of the loan.

On September 26, 1985, the Committee submitted its response to the interim audit report. With respect to 1., the Committee provided copies of (apparent form) letters, signed by the contributors and dated September 23, 1985. The letters all state that the excessive contributions were intended to be deposited in the Committee's account for the purposes of the general election.

With respect to 2., the Committee provided copies of signed but undated letters from the two contributors. In both instances the contributors state it was their intention that the excessive portions were contributions for the primary election. Further, one contributor indicated that she "marked on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and, in this case, primary

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election debts and obligations.\*\*/ The other contributor indicated he instructed the Committee that the contribution was intended for the primary election. (see Attachment 1).

It should be noted that neither a copy of the one contributor's canceled check, nor a copy of the other contributor's instruction concerning the contributions were submitted with the Committee's response.

With respect to the loan guarantors noted in 2., the Committee provided evidence which indicated that they repaid \$5,000 on the loan to reduce the outstanding principal to \$70,000. The loan payment reduces the amount of each individual's guarantee by \$61.30 \*\*/ and results in 7 individuals (contributions) now being within the limitation.

In an attempt to resolve the excessive portion of the contributions, the Committee petitioned the bank to reduce the amount of the guarantees for the 14 individuals who contributed in excess of the limitation by an amount sufficient to bring the 14 contributors within the limitation. Subsequent to the \$5,000 loan payment and the reduction of the amount of the guarantee, the loan balance (\$70,000) would be secured by individual guarantees totaling \$75,000.\*\*\*/

On October 1, 1985, the bank notified the Committee that it has no objection to the changes. However, the bank stated that established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan (see Attachment 2, page 4 of 4). The bank further stated that it has contacted all of the guarantors to obtain their consent and most have replied.

It is our opinion that the Committee has not complied with the interim audit report recommendation since its attempt to resolve this matter is incomplete and 7 contributors (excessive portion \$2,092.75) are still in excess of the limitation (see Attachment 3).

#### Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel for further action.

\*/ This contributor is the Administrative Assistant to the Congressman, Treasurer of his former state senate committee, and Committee spokesperson during the audit. Furthermore, the letter from this contributor appears to be altered by an omission of a phase/term concerning the annotation on her original check.

\*\*/ For those individuals who guaranteed the loan for \$1,000.

\*\*\*/ The original loan for \$75,000 was secured by 82 individual guarantees totaling \$81,565.

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Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

You reported five contributions in the primary election which appeared to be in excess of the \$1,000.00 limit per individual.

In each case, the contribution or portion of the contribution in excess was deposited directly or transferred into the general election account. You will find attached signed statements from each of the five contributors indicating their intentions that the excessive portion of their contributions prior to the primary election were to be deposited in the Atkins for Congress Committee's general election account.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Scovell  
May  
Cove  
Smith  
Connors

87040625058

ATTACHMENT I  
P. 2 of 9

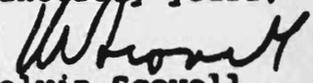
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made in the amount of \$25.00 on June 30, 1984 was intended to be deposited in the Committee's account for purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made to the Committee on April 4, 1984.

Sincerely yours,

  
Melvin Scovell

Address: 133 COLLINS RD  
WARREN MA 02168

87040525059

September 23, 1985

ATTACHMENT I  
P. 30F9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$1,000.00 on September 13, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contributions totalling the maximum amount of \$1,000.00 for the primary election had been made previously (deposited 4/2/84, 6/5/84, 6/5/84).

Sincerely yours,

*Elizabeth S. May*  
Elizabeth May

Address: Box 148 Route 3  
Concord MA 01751

87040625060

ATTACHMENT I

P. 4 OF 9

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

Of the \$1,000.00 contribution I made to the Committee on September 13, 1984, \$925.00 was intended for use by the Committee for the primary election and \$75.00 was intended for general election purposes. Previously, on July 19, 1984, I had contributed \$75.00 towards the primary election. This insures that I contributed the maximum amount of \$1,000.00 towards the primary election and \$75.00 towards the general election.

Sincerely yours,



Peter Cove

Address: 333 Beacon St.  
BOSTON

87040625061

ATTACHMENT I  
P. 3099

September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$200.00 on May 11, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on April 4, 1984.

Sincerely yours,

Anita Smith  
Anita Smith

Address: 54 Freda Park Lane  
Cambridge, MA 02138

87040525062

ATTACHMENT I  
P. 6059

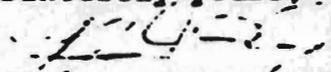
September 23, 1985

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

The contribution I made to the Committee in the amount of \$35.00 on July 31, 1984 was intended to be deposited in the Committee's account for the purposes of the general election. My contribution of the maximum amount of \$1,000.00 for the primary election was made on May 7, 1984.

Sincerely yours,

  
John M. Connors, Jr.

Address: TRAVELERS TRUST  
95 WATERBURY STREET  
WATERBURY, CT 06702  
WATERBURY TRAVELERS TRUST INC

87040625063

ATTACHMENT I  
P. 7 of 9

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Friends:

With regard to two apparent excessive contributions in the general election, I am attaching letters from the two individuals involved which are meant to indicate their intentions that the excessive portion of their contributions were intended to be used by the Committee for primary election purposes.

As you are aware, after the primary election, activity in the primary election bank account was terminated and all primary activity (receipts and expenditures) were and still are handled through the general election bank account, as is customary and allowable under FEC regulations.

Sincerely yours,



Richard Butt  
Treasurer  
Atkins for Congress Committee

Attachments: Hartke  
Rosenberg

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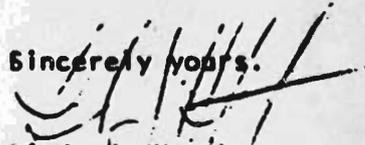
ATTACHMENT J  
P. 8 of 9

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions when I wrote a check in the amount of \$1,650.00 on November 7, 1984 made payable to the Atkins for Congress Committee. I marked " on the check indicating my wish that \$650.00 was a contribution for the Committee primary election efforts and in this case primary election debts and obligations. The balance of the check, \$1,000.00 was intended as a maximum contribution for the general election.

Sincerely yours,

  
Linda J. Hartke  
26 Hancock Street, #4  
Boston, MA 02124

87040625055

ATTACHMENT I

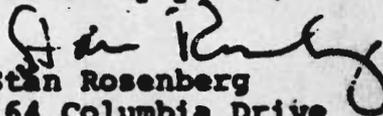
P. 9059

Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742

Dear Friends:

This letter is to confirm my intentions and instructions to the Committee at the time I wrote a check in the amount of \$300.00 on September 30, 1984. This check was intended to be a contribution to the Committee's primary election efforts and in this case to be applied to primary election debts and obligations. Subsequently, I contributed the maximum amount of \$1,000.00 to the Committee's general election efforts.

Sincerely yours,

  
Stan Rosenberg  
164 Columbia Drive  
Amherst, MA 01002

87040325056

The Atkins for Congress Committee  
P.O. Box 487  
Concord, MA 01742  
May 10, 1985

Mr. Robert J. DeLuca,  
Senior Vice President  
Arlington Trust Company  
Lawrence, MA 01842

Dear Mr. DeLuca:

Let me first say thank you for your kind assistance in providing The Atkins for Congress Committee with superior service and generous amounts of your time.

One of the remaining items the Federal Election Commission asked that we attempt to straighten out is the fact that we are in effect "over guaranteed" for the \$75,000.00 loan. Attached you will find a list of the 82 individuals who have guaranteed the note, the amount they had previously guaranteed, the current guarantee which the Committee asks you to reduce each person to and the amount of the change. This will bring the guarantee to \$75,000.00 and solve any problems we might have. We will report these changes in forthcoming reports with the Federal Election Commission.

If you have any further questions, please do not hesitate to call me at: (202) 225-3411. Again, thank you.

Sincerely yours, /

Linda J. Hartke

Enclosures  
cc: J. Richard Murphy

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<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current guarantee<sup>2</sup></u>	<u>Change</u>
ABRAMS, Herve A.	\$ 1,000.00	\$ 1,000.00	\$ 0.00
ALLAN, Deborah C.	1,000.00	1,000.00	0.00
ALLAN, R. Scott	1,000.00	1,000.00	0.00
ALLAN, Virginia M.	1,000.00	980.00	- 20.00
ARENA, Annamaria Maria	1,000.00	1,000.00	0.00
ARENA, Arcangelina	1,000.00	1,000.00	0.00
ARENA, John J., Jr.	1,000.00	1,000.00	0.00
ARENA, Mary Jean	1,000.00	1,000.00	0.00
ARENA-MURPHY, Sandra M.	1,000.00	1,000.00	0.00
ATKINS, Henry H.	1,000.00	0.00	- 1,000.00
ATKINS, Karkilie W.	1,000.00	1,000.00	0.00
ATKINS, Nancy W.	1,000.00	0.00	- 1,000.00
ATKINS, Timothy	1,000.00	0.00	- 1,000.00
BARBARO, Jimmy	1,000.00	1,000.00	0.00
BARBARO, Marilyn	1,000.00	1,000.00	0.00
BEARD, Edmund	1,000.00	700.00	- 300.00
BRATHWAITE, Brenda J.	1,000.00	1,000.00	0.00
BRATHWAITE, Leon	1,000.00	1,000.00	0.00
BRANQUINHO, Maria	1,000.00	900.00	- 100.00
BUCHONIS, Raymond J.	1,000.00	1,000.00	0.00
BUCKLEY, Daniel P.	1,000.00	1,000.00	0.00
BUCKLEY, Gloria L.	950.00	950.00	0.00
BUCKLEY, John J., Jr.	900.00	900.00	0.00
BUCKLEY, Margaret J.	920.00	920.00	0.00
BYRNS, Patty	1,000.00	1,000.00	0.00
CAMPANA, Edmund	1,000.00	1,000.00	0.00
CAMPANA, Frances	1,000.00	1,000.00	0.00
CAMPANA, Marion	1,000.00	1,000.00	0.00
CATALDO, Carla C.	1,000.00	1,000.00	0.00
COFFIN, Charles W.	1,000.00	1,000.00	0.00
CONLON, Walter N.	1,000.00	1,000.00	0.00
DALTON, Peter	1,000.00	1,000.00	0.00
DEWAR, Martha E.	1,000.00	960.00	- 40.00
DINATALE, Louis, Jr.	1,000.00	1,000.00	0.00
DINATALE, Louis, Sr.	1,000.00	1,000.00	0.00
DINATALE, Martha	1,000.00	900.00	- 100.00
DINATALE, MaryAnn J.	1,000.00	1,000.00	0.00
FRENCH, John B.	1,000.00	500.00	- 500.00
HARTKE, Carolyn S.	1,000.00	1,000.00	0.00
HARTKE, Janet S.	1,000.00	500.00	- 500.00
HARTKE, Jerome L.	1,000.00	1,000.00	0.00
HARTKE, Marilyn M.	1,000.00	900.00	- 100.00
HEFFERNAN, Mary E.	1,000.00	1,000.00	0.00
HOBBS, Caroline A.	1,000.00	1,000.00	0.00
HOBBS, Dean S.	1,000.00	1,000.00	0.00
HOBBS, Kenneth A.	1,000.00	1,000.00	0.00
KELAKOS, Thomas	1,000.00	500.00	- 500.00
KING, Edward J.	1,000.00	1,000.00	0.00
KING, Eleanor B.	1,000.00	1,000.00	0.00
KING, James B.	1,000.00	1,000.00	0.00
KING, Sean C.	1,000.00	1,000.00	0.00
KNOX, Jill	1,000.00	1,000.00	0.00

sls 965.  
7-46

sls 965  
7-46

<u>Name</u>	<u>Amount previously guaranteed</u>	<u>Current <sup>2</sup> guarantee</u>	<u>Change</u>
MANISCALCO, Gina	\$ 1,000.00	\$ 1,000.00	\$ 0.00
MASSE, Robert S.	1,000.00	1,000.00	0.00
MCGOVERN, Patricia M.	1,000.00	900.00	- 100.00
MCGOVERN, Phyllis	1,000.00	1,000.00	0.00
MILLER, Gayle	1,000.00	1,000.00	0.00
MURPHY, Gary P.	1,000.00	1,000.00	0.00
NELMS, Keith J.	1,000.00	1,000.00	0.00
O'BRIEN, John D., Jr.	1,000.00	1,000.00	0.00
PETERSON, Jeffrey J.	990.00	990.00	0.00
POWELL, Marin	1,000.00	1,000.00	0.00
POWELL, Mary Jane	1,000.00	600.00	- 400.00
PYREZ, Stephen J.	900.00	900.00	0.00
ROBERTS, Melinda	1,000.00	600.00	- 400.00
ROOSEVELT, Ann M.	1,000.00	800.00	- 200.00
ROSSANO, Gina	1,000.00	900.00	- 100.00
ROSSANO, Jutta U.	1,000.00	1,000.00	0.00
ROUSE, Alice M.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Sr.	1,000.00	1,000.00	0.00
ROUSE, Arthur, Jr.	1,000.00	1,000.00	0.00
ROUSE, Catherine	1,000.00	900.00	- 100.00
STELLA, George	1,000.00	1,000.00	0.00
STELLA, Kathleen	1,000.00	1,000.00	0.00
STEVENS, Kenneth R.	1,000.00	1,000.00	0.00
SULLIVAN, Arthur C., Jr.	900.00	900.00	0.00
SULLIVAN, Esther R.	1,000.00	1,000.00	0.00
SULLIVAN, Gail F.	1,000.00	1,000.00	0.00
TURCOTTE, David A.	1,000.00	900.00	- 100.00
TWOMEY, Beth	1,000.00	1,000.00	0.00
TWOMEY, Jennifer	1,000.00	1,000.00	0.00
WALLAGA, Sharon	1,000.00	1,000.00	0.00

total

\$81,560.00  
5  
7  
11-4-85

\$75,000.00

*Handwritten signature*

NOTES:

- <sup>1</sup> Guarantees provided to Arlington Trust, Co. for original loan of October 22, 1984.
- <sup>2</sup> Guaratees as amended effective May 10, 1985.

87040525069

**Arlington Trust**  
company

LAWRENCE, MASSACHUSETTS 01842

ATTACHMENT 2  
P. 4 of 4

October 1, 1985

Congressman Chester G. Atkins  
1429 Langworth House Office Building  
Washington, D.C. 20515

Attention: Ms. Linda J. Martke

Dear Linda:

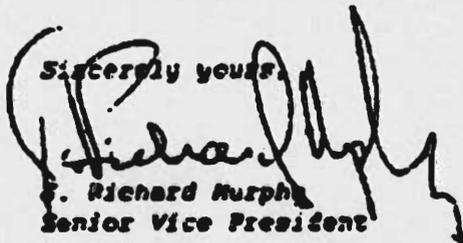
The Committee's letter of May 10, 1983 was received and the Arlington Trust Company is making every effort to comply with your wishes.

The bank has no objection to these changes: the reduction of the guaranteed amount to \$75,000.00 (which was the amount of the loan) and the reduction to 79 guarantors from 82.

Established case law in Massachusetts regarding suretyship leads financial institutions to obtain the written consent of all guarantors on a loan before making any change in the terms of the loan. We have contacted all of the guarantors to obtain their consent and most have replied. However, there are a few who have not yet replied and you can be assured we are working with due haste to secure their consent. Any assistance you can provide in obtaining these final few letters of consent would be greatly appreciated.

Please be assured that we will provide you with written notice as soon as we have obtained the consent of all guarantors for the changes you have requested.

Sincerely yours,



F. Richard Murphy  
Senior Vice President

JRW:12h

87040525070

DELIVERED BY  
LINDA MARTKE 10/1/85



INSERTED IN CUTE'S RESPONSE

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Virginia M. Allen	10/22/84 12/20/84	\$1,000.00* 20.00	\$ 20.00	(61.30)	-0-
Henry H. Atkins	10/22/84 10/31/84 11/2/84	1,000.00* 250.00 250.00	500.00	(61.30)	\$ 438.70
Marcy W. Atkins	10/22/84 11/19/84	1,000.00* 1,000.00	1,000.00	(61.30)	938.70
Edmund Beard	10/22/84 10/26/84	1,000.00* 150.00	150.00	(61.30)	88.70
Martha E. Dewar	10/22/84 10/31/84 12/20/84	1,000.00* 10.00 10.00	20.00	(61.30)	-0-
Martha DiNatale	10/26/84 3/10/85	15.00 1,000.00*	15.00	(61.30)	-0-
John B. French	10/22/84 11/9/84	1,000.00* 25.00	25.00	(61.30)	-0-

Continued

8 7 0 4 0 5 2 5 0 7 1

Apparent Excessive Contributions

<u>Name Contributor</u>	<u>Date of Contribution</u>	<u>Amount of Contribution</u>	<u>Excessive Portion</u>	<u>Effect of Principal Payment on Individual Guarantee</u>	<u>Excessive Portion of Contribution after Principal Payment</u>
Marilyn Hartke	10/22/84 12/20/84	\$1,000.00* 25.00	\$ 25.00	(61.30)	\$ -0-
Mary Jane Powell	9/30/84 10/22/84 10/26/84	250.00 1,000.00* 100.00	350.00	(61.30)	288.70
Ma da Roberts	11/2/84 11/8/84	351.75 1,000.00*	351.75	(61.30)	290.45
Gina Rossano	10/22/84 10/26/84	1,000.00* 50.00	50.00	(61.30)	-0-
Catherina Rouse	10/16/84 10/22/84	100.00 1,000.00*	100.00	(61.30)	38.70
David Turcotte	10/22/84 11/21/84	1,000.00* 70.00	70.00	(61.30)	8.70
Patricia McGovern	10/22/84 11/21/84	1,000.00* 50.00	50.00	(61.30)	-0-
<b>Total</b>			<b>\$2,726.75</b>		<b>\$2,092.65</b>

\* Portion of loan guaranteed by the contributor, date listed is that on which guarantees were signed by the contributor.

8 7 0 4 0 5 2 5 0 7 2



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2127

Date Filmed 1/30/87 Camera No. --- 2

Cameraman AS

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