



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20543

THIS IS THE END OF TAP # 2138

Date Filmed 1/30/87 Camera No. --- 2

Cameraman AS

87040625074

Routing Card

Info re civil penalty; corroboration agreement

objection sheets

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):

- (1) Classified Information
- (2) Internal rules and practices
- (3) Exempted by other statute
- (4) Trade secrets and commercial or financial information
- (5) Internal Documents
- (6) Personal privacy
- (7) Investigatory files
- (8) Banking Information
- (9) Well Information (geographic or geophysical)

87040625075

Signed J. Barr
Date 10/10/86 1/20/87

Handwritten notes:
10/20/87
10/20/87



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 5, 1986

David S. Osman
Nighswander, Martin & Mitchell, P.A.
One Mill Plaza
Laconia, New Hampshire 03246

RE: MUR 2138
John Muehlke Sr.
Marjorie Muehlke

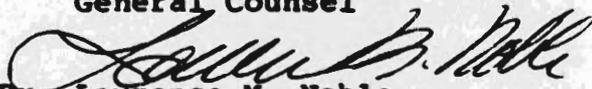
Dear Mr. Osman:

On August 12, 1986, the Commission accepted the conciliation agreement signed by you on behalf of your clients, John Muehlke, Sr. and Marjorie Muehlke in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 5, 1986

John Muehlke, Jr.
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr.,
Treasurer

Dear Mr. Muehlke:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within thirty days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within 10 days.

Should you have any questions, please contact Shelley Garr the staff member assigned to this matter.

Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

87040525077



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Muehlke, Jr.
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr.,
Treasurer

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Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

Law 9/4/86

Secy 9/2/86

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David S. Osman
Nighswander, Martin & Mitchell, P.A.
One Mill Plaza
Laconia, New Hampshire 03246

RE: MUR 2138
John Muehlke Sr.
Marjorie Muehlke

Dear Mr. Osman:

On August 12, 1986, the Commission accepted the conciliation agreement signed by you on behalf of your clients, John Muehlke, Sr. and Marjorie Muehlke in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

rec 9/2/86

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Muehlke for Congress Committee)	MUR 2138
John Muehlke, Jr., Treasurer)	
)	
Marjorie Muehlke)	
John Muehlke, Sr.)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Marjorie Muehlke and John Muehlke, Sr., (hereinafter "the Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr., was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984 \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports filed on July 18, 1985, disclosed a \$100 contribution by Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(a)(1)(A) an individual is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

VI. By contributing \$10,100 and \$10,000, respectively, to the Muehlke for Congress Committee, Marjorie Muehlke and John Muehlke Sr. violated 2 U.S.C. § 441a(a)(1)(A). The respondents contend that they did not knowingly and/or willfully violate 2 U.S.C. § 441a(a)(1)(A).

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VII. Respondents will each pay a civil penalty to the Treasurer of the United States in the amount of Two Hundred Fifty Dollars (\$250) pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: *Lawrence M. Noble*
Lawrence M. Noble
Deputy General Counsel

9/5/86
Date

FOR THE RESPONDENTS:

Paul A. Quinn, Esq
for John Muehlke, Jr +
Margaret Muehlke

6/24/86
Date

(603) 524-4121
1 Mill Plaza
Worcester, N.H. 03246

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Marjorie Muehlke) MUR 2138
John Muehlke, Sr.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of August 12, 1986, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2138:

1. Accept the conciliation agreement submitted of behalf of John Muehlke, Sr., and Marjorie Muehlke, as recommended in the FEC General Counsel's report dated August 1, 1986.
2. Close the file.
3. Approve and send the letters attached to the General Counsel's report dated August 1, 1986.

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

Attest:

8-12-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Marjorie Muehlke
John Muehlke, Sr.

)
)
)
)

MUR 2136 36

GENERAL COUNSEL'S REPORT

SENSITIVE

I. BACKGROUND

Attached is a conciliation agreement which has been signed by counsel for John Muehlke, Sr. and Marjorie Muehlke (Attachment I).

The attached agreement contains two changes from the agreement originally approved by the Commission. More specifically, the changes are as follows:

1)

2)

Respondents have expressed their wish that this matter be resolved and have acknowledged that a violation occurred, although they claim that "there was never any intention to deceive, circumvent, or otherwise violate the law." The violation resulted from respondents' actions in providing collateral for two loans. Respondents contend that it was never their intention to contribute to a political campaign. Rather, the loans, which were endorsed by the candidate, were meant to be used for personal living expenses and subsistence of the candidate and his family. In view of this mitigating

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circumstance, the Office of General Counsel recommends that the Commission accept this conciliation agreement in settlement of this matter and close the file.

II. RECOMMENDATION

The Office of General Counsel recommends that the Commission:

- 1) Accept this agreement in settlement of this matter as it pertains to John Muehlke, Sr. and Marjorie Muehlke;
- 2) Close the file; and
- 3) Approve and send the attached letters.

Charles N. Steele
General Counsel

Date

8/1/88

BY:



Lawrence M. Noble
Deputy General Counsel

Attachments

1. Response and Conciliation Agreement
2. Proposed letter

87040625086

**NIGHTSWANDER,
MARTIN &
MITCHELL, P.A.**
Attorneys at Law

One Mill Plaza, Laconia, New Hampshire 03246 • Telephone: [603] 524-4121

RECEIVED BY THE FEC
JUN 27 1986
WILLARD G. MARTIN, JR.
DAVID S. OSBORN
ALEXANDRA T. BREED
MARGARET A. DEMOS
LINDA G. PECK
MITCHELL B. JEAN
STEPHEN R. KAIN
JOHN A. ROGERS
PETER B. HANCE

OF COUNSEL
ARTHUR H. NIGHTSWANDER
WILLIAM S. LORD
DAVID L. KENT

June 24, 1986

36 JUN 27 P 2: 52

RECEIVED
JUN 27 1986

87040625097

Ms. Shelley Carr
Federal Election Commission
Washington, DC 20463

RE: MUR 2138
Muehike for Congress Committee
John Muehike, Jr., Treasurer
Our File #T26,765/2563

Dear Ms. Carr:

Thank you very much for your continued cooperation.

I am enclosing a Conciliation Agreement which I have modified in paragraph VI. and paragraph VII.

I

I have also dated and initialed those changes.

Would you kindly bring this matter to the Commission's attention and if it is acceptable to them, I would appreciate it if Mr. Gross would sign on behalf of the Commission or have someone else with authority do so and forward the agreement and this fully executed form to me.

I am assuming that the checks should be made payable to the order of the U.S. Treasury. Please advise if the checks should be made out differently.

T(1)

Ms. Shelley Garr
June 24, 1986
Page 2

I hope that the Commission understands that Marjorie Muehlke and John Muehlke, Sr. sincerely wish to resolve this matter in the spirit of compromise as they appreciate that a technical violation has occurred but wish to make it clear that there was never any intention to deceive, circumvent, or otherwise violate the law.

Very truly yours,



David S. Osman

DSO/lsp

Enclosure

cc: John Muehlke, Sr.
Marjorie Muehlke

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Muehlke for Congress Committee))
John Muehlke, Jr., Treasurer))
Marjorie Muehlke))
John Muehlke, Sr.))

MUR 2138

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Marjorie Muehlke and John Muehlke, Sr., (hereinafter "the Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr., was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

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6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports filed on July 18, 1985, disclosed a \$100 contribution by Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(a)(1)(A) an individual is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

VI. By contributing \$10,100 and \$10,000, respectively, to the Muehlke for Congress Committee, Marjorie Muehlke and John Muehlke Sr. violated 2 U.S.C. § 441a(a)(1)(A). The respondents contend that they did not knowingly and/or willfully violate 2 U.S.C. § 441a(a)(1)(A).

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VII. Respondents will each pay a civil penalty to the Treasurer of the United States in the amount _____ pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

87040525091

oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

**Charles M. Steele
General Counsel**

BY:

Kenneth A. Gross
Associate General Counsel

Date

FOR THE RESPONDENTS:

Paul A. Quinn, Esq
*for John Mochlke, Jr +
Margaret Mochlke*

6/24/86
Date

(603) 524-4121

1 Mill Plaza

Woronia, N.H. 03246

87040625092



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David S. Osman
Nighswander, Martin & Mitchell, P.A.
One Mill Plaza
Laconia, New Hampshire 03246

RE: MUR 2138
John Muehlke Sr.
Marjorie Muehlke

Dear Mr. Osman:

On , 1986, the Commission accepted the conciliation agreement signed by you on behalf of your clients, John Muehlke, Sr. and Marjorie Muehlke in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

87040525093



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Muehlke, Jr.
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr.,
Treasurer

Dear Mr. Muehlke:

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Should you have any questions, please contact Shelley Garr the staff member assigned to this matter.

Sincerely,

Charles N. Steele
General Counsel

BY: Lawrence M. Noble
Deputy General Counsel

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CC# 851
AIO: 54

86 JUL 1

June 17, 1986
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei Taiwan

Shelley Garr
Federal Election Commission
Washington, D.C. 20463
U.S.A.

86 JUL 1 P2: 35

GENERAL COUNCIL

Dear Ms. Garr:

Enclosed are my forms covering the period January 1 to June 30, 1986. This is the final set of reports and the last letter I will be sending to you, since all payments have been made and neither I nor the committee owe anything, nor is anything owed to us. All payments have been out of my own pocket. The 2 principal items during this reporting period are -- payment by me out of personal funds on May 9, 1986 -- payment by me out of personal funds on May 26, 1986.

Since I am not a lawyer and am not too familiar with your forms, I have made a best effort to supply all the info you need; the material has been entered in pencil so, if there is need for alternations (I don't think there will be), you are hereby authorized to change my data as required.

Since this letter and the enclosed form constitute my final official report to you, please do me the favor of passing copies of this letter and the forms to the Office of the Clerk, U.S. House of Representatives.

Thank you for your assistance last year, when I was in the U.S., in clarifying reporting requirements.

Sincerely,

John Muehike, Jr.
John Muehike, Jr.

Enclosures: For 1/1 to 6/30/86:
FEC form 3 (3/80)
Schedule A
Schedule B
Schedule C
Detailed summary page

87040625095

June 17, 1986
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei Taiwan

Shelley Garr
Federal Election Commission
Washington, D.C. 20463
U.S.A.

Dear Ms. Garr:

Enclosed are my forms covering the period January 1 to June 30, 1986. This is the final set of reports and the last letter I will be sending to you, since all payments have been made and neither I nor the committee owe anything, nor is anything owed to us. All payments have been out of my own pocket. The 2 principal items during this reporting period are

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Sincerely,

John Muehlke, Jr.
John Muehlke, Jr.

Enclosures: For 1/1 to 6/30/86:
FEC form 3 (3/80)
Schedule A
Schedule B
Schedule C
Detailed summary page

87040525096

REPORTS OF RECEIPTS AND DISBURSEMENTS
For Authorized Committee

(Summary Page)

ALIGN AREA ALIGN AREA

1. Name of Committee (in Full) MUEHLKE for CONGRESS 2. FEC Identification Number C00190561
 Address (Number and Street) A. I. T. HSIN YI ROAD 3. Is this Report an Amendment? YES NO
 City, State and Zip Code TAIPEI, TAIWAN Check if address is different than previously reported.

TYPE OF REPORT

April 15 Quarterly Report Twelfth day report preceding _____ (Type of Election)
 July 15 Quarterly Report election on _____ in the State of _____
 October 15 Quarterly Report Thirtieth day report following the General Election on _____
 January 31 Year End Report _____ in the State of _____
 July 31 Mid Year Report (Non-election Year Only) Termination Report

This report contains activity for - Primary Election General Election Special Election Runoff Election

SUMMARY		COLUMN A	COLUMN B
5. Covering Period <u>1/1/86</u> through <u>6/30/86</u>		This Period	Calendar Year-to-Date
6. Net Contributions (other than loans)			
→ (a) Total Contributions (other than loans) (From Line 11 (a))		\$21,501.05	
(b) Total Contribution Refunds (from Line 20 (d))			
→ (c) Net Contributions (other than loans) (subtract Line 6 (b) from 6 (a))			
7. Net Operating Expenditures	{ MAIL → 16.54 INTEREST → 1286.25 PRINCIPAL → 19,997.99 FINE → 500.00 }	(\$21,501.05 or just \$16.54 total)	Mail
→ (a) Total Operating Expenditures (from Line 17)			
(b) Total Offsets to Operating Expenditures (from Line 14)			
(c) Net Operating Expenditures (Subtract Line 7 (b) from 7 (a))		(\$21,501.05 or just \$16.54 total)	Mail
8. Cash on Hand at Close of Reporting Period (from Line 27)		0	
9. Debts and Obligations Owed TO The Committee (Itemize all on Schedule C or Schedule D)		0	
10. Debts and Obligations Owed BY The Committee (Itemize all on Schedule C or Schedule D)		0	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

For further information, contact:
 Federal Election Commission
 Toll Free 800-424-9630
 Local 202-523-4068

JOHN MUEHLKE, JR.

Type or Print Name of Treasurer

John Muehlke, Jr. June 17, 1986
 SIGNATURE OF TREASURER DATE

NOTE: Submission of false erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

--	--	--	--	--	--	--	--	--	--

FEC FORM 3 (3/80)

SCHEDULE A.

ITEMIZED RECEIPTS

Page _____ of _____ for
LINE NUMBER _____
 (Use separate schedule(s) for each
 category of the Detailed
 Summary Page)

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)
MUEHLKE FOR CONGRESS

A. Full Name, Mailing Address and ZIP Code [Myself] JOHN MUEHLKE, JR. A.I.T., TAIPEI TAIWAN	Name of Employer American Institute in Taiwan	Date (month, day, year) 1/1/86	Amount of Each Receipt This Period \$21,801.05 OUT OF POCKET
	Occupation Science Officer	6/30/86	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	Aggregate Year-to-Date-\$		

SUBTOTAL of Receipts This Page (optional) **\$21,801.05**

TOTAL This Period (last page this line number only)

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SCHEDULE B

ITEMIZED DISBURSEMENTS

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

MUEHLKE for CONGRESS

87040625100

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
POST OFFICE	MAIL Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	1/1/86 → 6/30/86	16.84
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
FEC, Washington, D.C. 20463	FINE Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	5/13/86	\$ 500.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
LACONIA SAVINGS BANK LACONIA NH 03246	Interest Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	1/1/86 → 6/30/86	\$ 669.24
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
??	Principal Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	4/28/86	\$ 9,997.99
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
VILLAGE BANK GILFORD NH 03246	Interest Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	1/1/86 → 6/30/86	\$ 617.01
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
??	Principal Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):	4/28/86	\$ 10,000.00
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
	Disbursement for: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		
SUBTOTAL of Disbursements This Page (optional)			\$21,801.08
TOTAL This Period (last page this line number only)			

Name of Committee (in Full) MUEHLKE for CONGRESS			
A. Full Name, Mailing Address and ZIP Code of Loan Source LACONIA SAVINGS BANK LACONIA, NH 03246	Original Amount of Loan \$10,000	Cumulative Payment To Date \$10,000 (Principal) + all interest	Balance Outstanding at Close of This Period 0
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): Personal			
Terms: Date Incurred 10/11/84 Date Due _____ Interest Rate 11 % (apr) <input checked="" type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code Marjorie Muehlke R.7 LACONIA NH 03246	Name of Employer Unemployed		
	Occupation teacher		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
B. Full Name, Mailing Address and ZIP Code of Loan Source VILLAGE BANK + TRUST GILFORD, NH 03246			
		Original Amount of Loan \$10,000	Cumulative Payment To Date \$10,000 (principal) + all interest
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify): Personal			
Terms: Date Incurred 10/19/84 Date Due _____ Interest Rate 11.15 % (apr) <input checked="" type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code JOHN MUEHLKE, SR. R.7 LACONIA NH 03246	Name of Employer Retired		
	Occupation Engineer		
	Amount Guaranteed Outstanding: \$		
2. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
3. Full Name, Mailing Address and ZIP Code	Name of Employer		
	Occupation		
	Amount Guaranteed Outstanding: \$		
SUBTOTALS This Period This Page (optional)			0
TOTALS This Period (last page in this line only)			
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

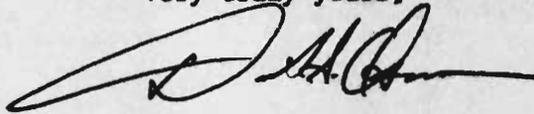
87040525101

Ms. Shelley Garr
June 24, 1986
Page 2

I hope that the Commission understands that Marjorie Muehlke and John Muehlke, Sr. sincerely wish to resolve this matter in the spirit of compromise as they appreciate that a technical violation has occurred but wish to make it clear that there was never any intention to deceive, circumvent, or otherwise violate the law.

It is in the best interest of the Commission and the respondents.

Very truly yours,



David S. Osman

DSO/lap

Enclosure

cc: John Muehlke, Sr.
Marjorie Muehlke

87040525103



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1986

John Muehlke, Jr,
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress
Committee
John Muehlke, Jr.

Dear Mr. Muehlke:

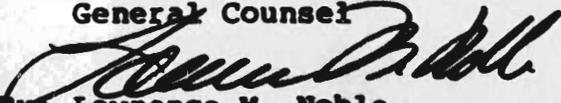
On June 19, 1986, the Commission accepted the conciliation agreement signed by you, and a civil penalty in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to the Muehlke for Congress Committee and you, as treasurer, and it will become a part of the public record within thirty days after this matter has been closed with respect to all other respondents involved. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

87040325104



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Muehlke, Jr.,
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress
Committee
John Muehlke, Jr.

Dear Mr. Muehlke:

On June 19, 1986, the Commission accepted the conciliation agreement signed by you, and a civil penalty in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to the Muehlke for Congress Committee and you, as treasurer, and it will become a part of the public record within thirty days after this matter has been closed with respect to all other respondents involved. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

seg
9/20/86

Ran
6/20/86

87040525105

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Muehlke for Congress Committee) MUR 2138
John Muehlke, Jr., Treasurer)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 19, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2138:

1. Accept the conciliation agreement in settlement of this matter as it pertains to the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer, as recommended in the General Counsel's Report signed June 16, 1986.
2. Close the file as it pertains to the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer.
3. Approve and send the letter attached to the General Counsel's Report signed June 16, 1986.

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

Attest:

6-19-86
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary: Tues., 6-17-86, 10:43
Circulated on 48 hour tally basis: Tues., 6-17-86, 4:00
Deadline for vote: Thurs., 6-19-86, 4:00

87040525106



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

OFFICE OF THE
COMMISSIONER

SENSITIVE

36 JUN 19 All : 30

June 19, 1986

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Lawrence M. Noble *[Signature]*
Deputy General Counsel

SUBJECT: General Counsel's Report in MUR 2138 circulated on
June 17, 1986 -- Errata

Since submission of this report it has come to the attention of this Office that a recommendation regarding the closing of the file was inadvertently omitted from this report. Attached is a corrected copy of this General Counsel's Report for MUR 2138.

87040625107

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Muehlke for Congress Committee) MUR 2138
John Muehlke, Jr., Treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by John Muehlke, Jr., treasurer of the Muehlke for Congress Committee (Attachment I). Also enclosed was Mr. Muehlke's check representing his payment of the civil penalty.

The attached agreement contains no changes from the agreement originally approved by the Commission.

II. RECOMMENDATION

The Office of General Counsel recommends that the Commission:

- 1) Accept this agreement in settlement of this matter as it pertains to the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer;
- 2) Close the file as it pertains to the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer; and
- 3) Approve and send the attached letter.

Charles N. Steele
General Counsel

Date June 19, 1986

BY: Lawrence M. Noble
Deputy General Counsel

Attachment
Conciliation Agreement and
Proposed Letter

87040425108

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
COMMISSION SECRETARY

SENSITIVE

In the Matter of)
Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)

MUR 2138 AIO: 43
JUN 17

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by John Muehlke, Jr., treasurer of the Muehlke for Congress Committee (Attachment I.). Also enclosed was Mr. Muehlke's check representing his payment of the civil penalty.

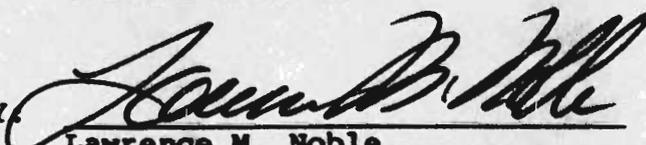
The attached agreement contains no changes from the agreement originally approved by the Commission.

II. RECOMMENDATION

The Office of General Counsel recommends that the Commission accept this agreement in settlement of this matter as it pertains to the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer, and approve and send the attached letter.

Charles N. Steele
General Counsel

June 16, 1986
Date

BY: 
Lawrence M. Noble
Deputy General Counsel

87040625109

GCCH-569
3 MAY 22 12:35

May 13, 1986
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

Ms. Shelley Garr
Federal Election Commission
Washington, D.C. 20463

Dear Ms. Garr:

I have received a letter dated May 5, 1986 from Charles N. Steele,
General Counsel, and Kenneth A. Gross, Associate General
Counsel, RE: MUR MUR 2138 Muehlke for Congress Committee.

Enclosed is a signed copy of the conciliation agreement

Sincerely,

John Muehlke, Jr.
John Muehlke, Jr.

36 MAY 27 13:41

GENERAL COUNSEL

FEDERAL ELECTION COMMISSION

87040525110

IC)

BEFORE THE FEDERAL ELECTION COMMISSION

6 MAY 22 12:35

In the Matter of)	
)	
Muehlke for Congress Committee)	MUR 2138
John Muehlke, Jr., Treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Muehlke for Congress Committee, and John Muehlke, Jr., as treasurer, (hereinafter "the Respondents") violated 2 U.S.C. § 441a(f).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

87040625111

2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr. was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984, \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports, filed on July 18, 1985, disclosed a \$100 contribution from Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(f), a candidate or political committee is prohibited from accepting contributions from any person in excess of \$1,000 with respect to any federal election. By knowingly accepting \$9,000 in excessive contributions from John Muehlke, Sr. and \$9,100 in excessive contributions from Dr. Marjorie Muehlke, respondents are in violation of 2 U.S.C. § 441a(f).

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VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of Five Hundred Dollars (\$500) pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY:

Kenneth A. Gross
Associate General Counsel

Date

FOR THE RESPONDENTS:

John M. ... Jr.

May 13, 1986
Date

87040625114



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

John Muehlke, Jr.,
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

RE: MUR 2138
Muehlke for Congress
Committee
John Muehlke, Jr.

Dear Mr. Muehlke:

On , 1986, the Commission accepted the conciliation agreement signed by you, and a civil penalty in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to the Muehlke for Congress Committee and you, as treasurer, and it will become a part of the public record within thirty days after this matter has been closed with respect to all other respondents involved. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing within 10 days.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
Conciliation Agreement

87040525115

BEFORE THE FEDERAL ELECTION COMMISSION

86 MAY 22 P12: 35

In the Matter of)

Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)

MUR 2138

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Muehlke for Congress Committee, and John Muehlke, Jr., as treasurer, (hereinafter "the Respondents") violated 2 U.S.C. § 441a(f).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr. was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984, \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports, filed on July 18, 1985, disclosed a \$100 contribution from Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(f), a candidate or political committee is prohibited from accepting contributions from any person in excess of \$1,000 with respect to any federal election. By knowingly accepting \$9,000 in excessive contributions from John Muehlke, Sr. and \$9,100 in excessive contributions from Dr. Marjorie Muehlke, respondents are in violation of 2 U.S.C. § 441a(f).

R 7 0 4 0 5 2 5 1 1 7

VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of Five Hundred Dollars (\$500) pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

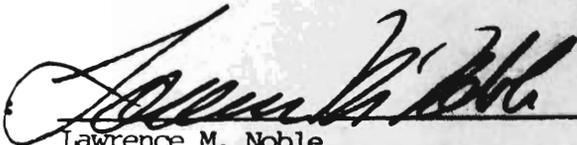
X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

87040525118

oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: 
Lawrence M. Noble
Deputy General Counsel

6/23/86
Date

FOR THE RESPONDENTS:



May 13, 1986
Date

87040625119

RECEIVED AT THE FEC
GCCA-569
86 MAY 22 P12:35

May 13, 1986
American Institute in Taiwan
Hsin Yi Road, Section 3
Taipei, Taiwan

Ms. Shelley Garr
Federal Election Commission
Washington, D.C. 20463

Dear Ms. Garr:

I have received a letter dated May 5, 1986 from Charles N. Steele,
General Counsel, and Kenneth A. Gross, Associate General
Counsel, RE: MUR MUR 2138 Muehlke for Congress Committee.

Enclosed is a signed copy of the conciliation agreement

Sincerely,

John Muehlke, Jr.
John Muehlke, Jr.

86 MAY 27 P 3: 41

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

87040625120

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)

MUR 2138

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Muehlke for Congress Committee, and John Muehlke, Jr., as treasurer, (hereinafter "the Respondents") violated 2 U.S.C. § 441a(f).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

87040525122

oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

**Charles N. Steele
General Counsel**

BY:

**Kenneth A. Gross
Associate General Counsel**

Date

FOR THE RESPONDENTS:

Date

87040625123

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)

MUR 2138

Marjorie Muehlke)
John Muehlke, Sr.)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Marjorie Muehlke and John Muehlke, Sr., (hereinafter "the Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

87040525124

2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr., was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984 \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports filed on July 18, 1985, disclosed a \$100 contribution by Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(a)(1)(A) an individual is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

VI. By contributing \$10,100 and \$10,000, respectively, to the Muehlke for Congress Committee, Marjorie Muehlke and John Muehlke Sr. violated 2 U.S.C. § 441a(a)(1)(A).

87040525125

VII. Respondents will each pay a civil penalty to the Treasurer of the United States in the amount of _____ pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY:

Kenneth A. Gross
Associate General Counsel

Date

FOR THE RESPONDENTS:

Date

87040625127



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

David S. Osman
Nighswander, Martin, Kidder, and
Mitchell, P.A.
One Mill Plaza
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Osman:

On January 29, 1986, the Commission found reason to believe that your clients, Marjorie Muehlke and John Muehlke, Sr., violated 2 U.S.C. § 441a(a)(1)(A). At your request, the Commission determined on April 29 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 your clients 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 Shelley Garr, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

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T. J. S. / 5/1/86

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

John Muehlke, Jr.
American Institute in Taiwan
Hsin Yi Road
Taipei, Taiwan

RE: MUR MUR 2138
Muehlke for Congress
Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Commission found reason to believe that the Muehlke for Congress Committee and you, as treasurer, violated 2 U.S.C. 441a(f). At your request, the Commission determined on April 29, 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. (The Commission acknowledges your change of address and potential delays in mailing.) If you have any questions or suggestions for changes in the agreement, please contact Shelley Garr, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

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5/5/86

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

John Muehlke, Sr.
Marjorie Muehlke

)
)
)
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)
)
)

MUR 2138

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of April 29, 1986, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2138:

1. Enter into conciliation with the Muehlke for Congress Committee and John Muehlke, Jr., as Treasurer, Marjorie Muehlke, and John Muehlke,

2.



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

Attest:

5-1-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

FILED
FEB
SECRETARY

In the Matter of)
Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)
John Muehlke, Sr.)
Marjorie Muehlke)

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SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 29, 1986, the Commission determined there was reason to believe that the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer, violated 2 U.S.C. § 441a(f) by receiving two bank loans which were secured with collateral from family members of John Muehlke Jr., the candidate. The first loan was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The second bank loan was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr. On the same date the Commission also determined that both Marjorie Muehlke and John Muehlke, Sr. violated 2 U.S.C. § 441a(a)(1)(A) by making excessive contributions to the Muehlke for Congress Committee.

On February 25, 1986, and March 11, 1986, the Commission received responses from counsel for Marjorie Muehlke and John Muehlke, Sr., and from John Muehlke, Jr., respectively, requesting that they enter into pre-probable cause conciliation. (Attachments I & II).

II. LEGAL ANALYSIS

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living

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expenses while the remaining \$1,000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(f), a candidate, political committee, or officer of a political committee is prohibited from knowingly accepting any contribution or making any expenditure in excess of \$1,000.^{1/}

Further, pursuant to 2 U.S.C. § 441a(a)(1)(A) an individual is prohibited from making contributions to any candidate and his authorized political committee with respect to any election for federal office which, in the aggregate, exceed \$1,000.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

Attached for the Commission's review are two proposed conciliation agreements which the Office of General Counsel recommends that the Commission approve.

^{1/} The Muehlke for Congress Committee reported the receipt of a \$9,000 apparent excessive contribution from John G. H. Muehlke, Sr., and \$9,100 in apparent excessive contributions from Dr. Marjorie Muehlke (including a \$100 contribution in September, 1984, and the \$10,000 loan guarantee in October, 1984).

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A. Muehlke for Congress Committee and John Muehlke, Jr., as Treasurer

The first agreement, with respect to the John Muehlke for Congress Committee and John Muehlke, Jr., as treasurer, provides

on;

The 2 U.S.C. § 441a(f) violation involves John Muehlke Jr.'s receipt of two \$10,000 bank loans which were endorsed by Mr. Muehlke but which were secured with collateral from family members. The result is the receipt of \$18,000 in excessive contributions. Although Mr. Muehlke contends that he was unaware that the acceptance of collateral for loans, to be used for personal living expenses and subsistence of the candidate and his family and not for the purpose of influencing a federal election, was in violation of the Act, he acknowledges the error and "is willing to accept all responsibility for this matter and sign as quickly as possible a conciliation agreement."

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B. Marjorie Muehlke and John Muehlke, Sr.

The second conciliation agreement involves Marjorie Muehlke and John Muehlke, Sr.

In a response received on February 25, 1986, counsel for both Marjorie Muehlke and John Muehlke, Sr. explained

that it was not his clients' intent to violate the law. He concluded that although they were aware of the \$1,000 contribution limit to the Muehlke for Congress Committee they believed that by providing security for loans obtained by John Muehlke for personal living expenses they were not engaging in direct loans and therefore, believed they were not in violation of the Act.

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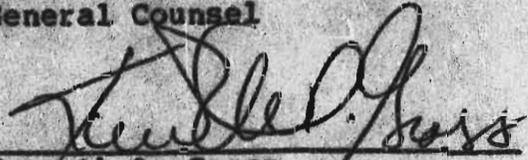
IV. RECOMMENDATION

1. Enter into conciliation with the Muehlke for Congress Committee and John Muehlke Jr., as treasurer, Marjorie Muehlke, and John Muehlke, Sr.
2. Approve the attached proposed conciliation agreements.

3. Approve and send the attached letters.

Charles N. Steele
General Counsel

April 21, 1986
Date

BY: 
Kenneth A. Gross
Associate General Counsel

Attachments:

1. Proposed Conciliation Agreements
2. Letters to Respondents

87040525136

622#9819

WILLARD G. MARTIN, JR.
BRADLEY F. KIDDER
WALTER L. MITCHELL
DAVID S. SOFMAN
ALEXANDRA T. BREED
DAVID L. HARRIGAN
JAMES L. BURKE
MARGARET A. DEMOS
LUNDA G. PECK
MITCHELL B. JEAN
STEPHEN R. KAIN

OF COUNSEL
ARTHUR H. NIGHSWANDER
WILLIAM S. LORD
DAVID L. KENT

**NIGHSWANDER,
MARTIN,
KIDDER &
MITCHELL, P.A.**
Attorneys at Law

One Mill Plaza, Laconia, New Hampshire 03246 • Telephone: [603] 524-4121

February 20, 1986

Ms. Shelley Garr
Federal Election Commission
Washington, DC 20463

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Ms. Garr:

Thank you for the courtesy extended to me during our telephone conversation of February 18, 1986. I am enclosing statements of designation of Counsel signed by John Muehlke, Sr. and his daughter, Marjorie Muehlke.

If there has been some type of technical violation, it is my clients' position that there was no intent to violate the law and it is hoped that some pre-probable cause conciliation can be negotiated without prejudice to my clients or to the Federal Election Commission.

My clients have advised me that in the fall of 1984 John Muehlke, Jr. (Marjorie's brother and John, Sr.'s son) was running for Congress as an Independent. On October 11 and October 20, Marjorie Muehlke and John Muehlke agreed to provide security for loans John Muehlke, Jr. was trying to obtain from a bank. Marjorie Muehlke and John Muehlke were aware that they were restricted in the amount they could donate to the campaign. For that reason, they did not give or donate the \$10,000.00 to him, nor did they engage in direct loans to John, Jr. They merely provided the securities. John Muehlke, Jr. is obligated to the bank, not to Marjorie Muehlke or John G. Muehlke.

One very important reason that we seek to expedite this matter with as little involvement as possible is because Mr. Muehlke is over 80 years old and has had a heart operation.

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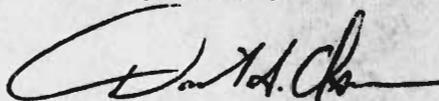
Ms. Shelley Garr,
Federal Election Commission
February 20, 1986
Page 2

Would you please let me know what I can do to assist an early and expeditious resolution of this matter.

I will be pleased to cooperate with you in any way I can.

Thank you for your cooperation.

Very truly yours,



David S. Osman

DSO/lap

cc: Ms. Marjorie S. Muehlke
Mr. John G. Muehlke

Enclosures

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I(2)

STATEMENT OF DESIGNATION OF COUNSEL

MUR # 2138

NAME OF COUNSEL: David Osman

ADDRESS: Nightsworld Law Office
1 Mill Plaza
Kaona, N.H. 03246

TELEPHONE: 603-524-4121

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

19 Feb. 1986
Date

Marjorie S. Muehlke
Signature

RESPONDENT'S NAME: Marjorie S. Muehlke

ADDRESS: RT 7 Box 233
Gilford, N.H. 03246

HOME PHONE: 603-524-9507

BUSINESS PHONE: _____

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STATEMENT OF DESIGNATION OF COUNSEL

MUR #2138

NAME OF COUNSEL: Margaret A. Demer

ADDRESS: Highway under Martin Kildee & Mitchell, P.A.

One Mill Plaza
Laconia, N.H. 03246

TELEPHONE: 603-524-4121

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

Feb 11, 1986
Date

John Muehlke, Sr.
Signature

RESPONDENT'S NAME: JOHN MUEHLKE

ADDRESS: RD 7 Box 233
LACONIA, N.H.
03246

HOME PHONE: 603 524 9507

BUSINESS PHONE: _____

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FEC
ACC # 9947
06 MAR 11 12:05

re: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

February 28, 1986
American Institute in Taiwan
Hsin Yi Road
Taipei, Taiwan
011-886-2-709-2000 ext 289 (ofce)
011-886-2-861-6551 (home)

Ms. Shelley Garr
Staff Member
Federal Election Commission
Washington, D.C. 20463
(202) 523-4143

26 MAR 11 11 18 AM '86

Dear Ms. Garr:

I just received the February 6, 1986 letter from Chairman Joan..
D. Aikens which was sent to my old address - Box 595, Moultonboro,
New Hampshire 03254.

I do wish to enter into conciliation on this matter. I do not have
enough money to hire a lawyer and, therefore, cannot be represented
by counsel. I am not a lawyer and do not know what the acts
relevant to this case say. However, it does appear to me that,
based on everything I have heard from the FEC and received from
you in the mail, I did unknowingly commit a violation of some
kind by accepting two excessive contributions.

Most of the facts in your Summary of Allegations appear to be true.
However, on page 2 of Ms. Aikens' letter you state that the law
prohibits a candidate from "knowingly accepting" an excessive
contribution. At no time did I or any member of my committee
deliberately and knowingly violate any law; at the time we all felt
that there was nothing wrong in proceeding the way we did. However,
I do not want to belabor this point and am willing to accept all
responsibility for this matter and sign as quickly as possible a
conciliation agreement.

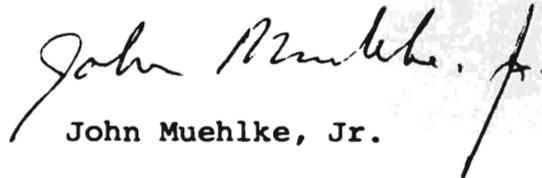
Another point: I consider Dr. Marjorie Muehlke to have given
me a grand total of \$1,000 in contributions, not \$900 or \$1,100.
Also, my father, John Muehlke, Sr., contributed a grand total
of \$1,000. The excess in each case of \$9,000 is entirely my
responsibility - not theirs - and I hope that, particularly at this
time, you will communicate with me on this. My father is 80 years
old and recently was admitted to the Lakes Region Hospital in
Laconia, New Hampshire with a bad cold and related heart problems.

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I do not wish disputes over minor points to delay a quick conciliation, however. It took the February 6 letter 21 days to get here, so any quibbling about small points back and forth could drag on for months. I would rather finalize this matter now.

I hope that the FEC will take into consideration in setting the terms and possible fine connected with the conciliation agreement the fact that, while my financial situation is beginning to look up, I still have some way to go. I know have a grand total of \$4303.31 in checking accounts. I own no property and I still owe \$900 to the bank on a second-hand Buick, 1977 station wagon. It will cost me about \$1200 to bring my family here to Taiwan; I cannot afford to have us live separately in two rented houses - one in the USA and one here. I beg you to be as easy on me as possible if a fine has to be paid. I also pledge that I will repay principal and interest on the loans as fast as possible. I am handling this problem alone and - with God's help - will solve it in the near future. I do regret all the time and trouble you have had to go through following this matter; it certainly has been a grievous burden for me and my family during a time when I was often unemployed. I hope this matter can be finalized as quickly as possible.

Sincerely,


John Muehlke, Jr.

P.S. For any quick clarifications of the above information, please do not hesitate to call me on the international phone. I am 13 hours ahead of you. Please don't forget to add international postage to mail you are sending to me.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

David S. Osman
Nighswander, Martin, Kidder, and
Mitchell, P.A.
One Mill Plaza
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Osman:

On January 29, 1986, the Commission found reason to believe that your clients, Marjorie Muehlke and John Muehlke, Sr., violated 2 U.S.C. § 441a(a)(1)(A). 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 your clients 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 Shelley Garr, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Muehlke for Congress Committee)	MUR 2138
John Muehlke, Jr., Treasurer)	
)	
Marjorie Muehlke)	
John Muehlke, Sr.)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Marjorie Muehlke and John Muehlke, Sr., (hereinafter "the Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.

§ 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr., was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984 \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports filed on July 18, 1985, disclosed a \$100 contribution by Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(a)(1)(A) an individual is prohibited from making contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

VI. By contributing \$10,100 and \$10,000, respectively, to the Muehlke for Congress Committee, Marjorie Muehlke and John Muehlke Sr. violated 2 U.S.C. § 441a(a)(1)(A).

VII. Respondents will each pay a civil penalty to the Treasurer of the United States in the amount of _____ pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire agreement.

X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY:

Kenneth A. Gross
Associate General Counsel

Date

FOR THE RESPONDENTS:

Date

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

John Muehlke, Jr.
American Institute in Taiwan
Hsin Yi Road
Taipei, Taiwan

RE: MUR MUR 2138
Muehlke for Congress
Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Commission found reason to believe that the Muehlke for Congress Committee and you, 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. (The Commission acknowledges your change of address and potential delays in mailing.) If you have any questions or suggestions for changes in the agreement, please contact Shelley Garr, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosures

87040525149

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Muehlke for Congress Committee)
John Muehlke, Jr., Treasurer)

MUR 2138

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Muehlke for Congress Committee, and John Muehlke, Jr., as treasurer, (hereinafter "the Respondents") violated 2 U.S.C. § 441a(f).

NOW THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over Respondents, and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent Muehlke for Congress Committee is a political committee registered with the Commission.

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2. John Muehlke, Jr. is the treasurer of the Muehlke for Congress Committee.

3. John Muehlke, Jr. was a candidate for the U.S. House of Representatives in the 1984 General Election on November 6, 1984.

4. The Muehlke for Congress Committee's 1984 12 Day Pre General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to Dr. Marjorie Muehlke.

5. The Muehlke for Congress Committee's 1984 30 Day Post General Report disclosed an October 20, 1984, \$10,000 bank loan which was secured with a \$10,000 Certificate of Deposit belonging to John Muehlke, Sr.

6. The Muehlke for Congress Committee's amended 12 Day Pre General and 30 Day Post General Reports, filed on July 18, 1985, disclosed a \$100 contribution from Dr. Marjorie Muehlke in September, 1984.

V. Pursuant to 2 U.S.C. § 441a(f), a candidate or political committee is prohibited from accepting contributions from any person in excess of \$1,000 with respect to any federal election. By knowingly accepting \$9,000 in excessive contributions from John Muehlke, Sr. and \$9,100 in excessive contributions from Dr. Marjorie Muehlke, respondents are in violation of 2 U.S.C. § 441a(f).

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VI. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of _____ pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or

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oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY:

Kenneth A. Gross
Associate General Counsel

Date

FOR THE RESPONDENTS:

Date

87040625153

**NIGHSWANDER,
MARTIN,
KIDDER &
MITCHELL, P.A.**
Attorneys at Law

One Mill Plaza, Laconia, New Hampshire 03246 • Telephone: (603) 524-4121

603#9819
RECEIVED AT THE FEC
WILLARD G. MARTIN, JR.
BRADLEY F. KIDDER
WALTER L. MITCHELL
DAVID S. DEMOS
ALEXANDRA T. BREED
DAVID L. HARRIGAN
JAMES L. BURKE
MARGARET A. DEMOS
LINDA G. PECK
MITCHELL B. JEAN
STEPHEN R. KAIN

OF COUNSEL
ARTHUR H. NIGHSWANDER
WILLIAM S. LORD
DAVID L. KENT

25% COTTON FIBER USA

February 20, 1986

Ms. Shelley Garr
Federal Election Commission
Washington, DC 20463

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Ms. Garr:

Thank you for the courtesy extended to me during our telephone conversation of February 18, 1986. I am enclosing statements of designation of Counsel signed by John Muehlke, Sr. and his daughter, Marjorie Muehlke.

If there has been some type of technical violation, it is my clients' position that there was no intent to violate the law and it is hoped that some pre-probable cause conciliation can be negotiated without prejudice to my clients or to the Federal Election Commission.

My clients have advised me that in the fall of 1984 John Muehlke, Jr. (Marjorie's brother and John, Sr.'s son) was running for Congress as an Independent. On October 11 and October 20, Marjorie Muehlke and John Muehlke agreed to provide security for loans John Muehlke, Jr. was trying to obtain from a bank. Marjorie Muehlke and John Muehlke were aware that they were restricted in the amount they could donate to the campaign. For that reason, they did not give or donate the \$10,000.00 to him, nor did they engage in direct loans to John, Jr. They merely provided the securities. John Muehlke, Jr. is obligated to the bank, not to Marjorie Muehlke or John G. Muehlke.

One very important reason that we seek to expedite this matter with as little involvement as possible is because Mr. Muehlke is over 80 years old and has had a heart operation.

87040525154

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RECEIVED
GENERAL INVESTIGATIVE

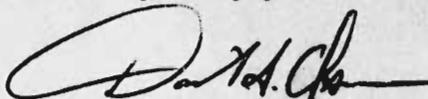
Ms. Shelley Garr,
Federal Election Commission
February 20, 1986
Page 2

Would you please let me know what I can do to assist an early and expeditious resolution of this matter.

I will be pleased to cooperate with you in any way I can.

Thank you for your cooperation.

Very truly yours,



David S. Osman

DSO/lap

cc: Ms. Marjorie S. Muehlke
Mr. John G. Muehlke

Enclosures

87040625155

STATEMENT OF DESIGNATION OF COUNSEL

MUR # 2138

NAME OF COUNSEL: David Osman

ADDRESS: Nightsworld Law Office
1 Hill Plaza
Keenota, N.H. 03246

TELEPHONE: 603-524-4121

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

19 Feb 1986
Date

Marjorie S Muehlke
Signature

RESPONDENT'S NAME: Marjorie S. Muehlke

ADDRESS: RT 7 Box 233
Gilford, N.H. 03246

HOME PHONE: 603-524-9507

BUSINESS PHONE: _____

87040325156

STATEMENT OF DESIGNATION OF COUNSEL

MUR #2138
NAME OF COUNSEL: Margaret A. Demoss
ADDRESS: Highlander Martin Kilde & Mitchell, P.A.
One Mill Plaza
Laconia, N.H. 03246
TELEPHONE: 603-524-4121

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

Feb 11, 1986
Date

John Muehlke, Sr.
Signature

RESPONDENT'S NAME: JOHN MUEHLKE
ADDRESS: RD 7 Box 233
LACONIA, N.H.
03246
HOME PHONE: 603 524 9507
BUSINESS PHONE: _____

87040625157



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 6, 1986

John Muehlke, Jr.
Muehlke for Congress Committee
Box 595
Moultonboro, New Hampshire 03254

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is reason to believe that the Muehlke for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting two excessive 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 Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

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. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

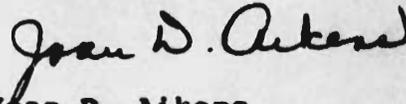
87040525158

John Muehlke, Jr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,



Joan D. Aikens
Chairman

Enclosures

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

87040325159

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2138
STAFF MEMBER & TEL. NO.

RESPONDENT: Muehlke for Congress Committee
John Muehlke Jr., Treasurer

SUMMARY OF ALLEGATIONS

87040525160
The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.^{1/}

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were

^{1/} The candidate's Statement of Organization was filed with the Commission on September 21, 1984.

to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(f), a candidate, political committee, or officer of a political committee is prohibited from knowingly accepting any contribution or making any expenditure in excess of \$1000. The Muehlke for Congress Committee reported the receipt of a \$9,000 apparent excessive contribution from John G. H. Muehlke, Sr. and \$9,100 in apparent excessive contributions from Dr. Marjorie Muehlke.^{2/} Thus, it is recommended that the

^{2/} Dr. Muehlke's contributions to the Muehlke for Congress Committee aggregated \$10,100: a \$100 contribution in September, 1984, and a \$10,000 loan guarantee in October, 1984. Thus, it appears that Dr. Muehlke's aggregate exceeded the \$1,000 contribution limitation imposed by the Act by \$9,100.

87040525161

Commission find reason to believe that the Muehlke for Congress
Committee and John Muehlke, Jr., as treasurer, violated
2 U.S.C. § 441a(f).

87040525162



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 6, 1986

Mr. John Muehlke, Sr.
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

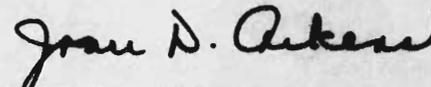
87040525163

Mr. John Muehlke, Sr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,



Joan D. Aikens
Chairman

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

87040525164

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2138
STAFF MEMBER & TEL. NO.

RESPONDENT: John Muehlke Sr.

SUMMARY OF ALLEGATIONS

The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

87040525165

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual is prohibited from making a contribution to a candidate and his authorized political committee with respect to any election for federal office which exceeds \$1000. Because John G. H. Muehlke, Sr. contributed in excess of the \$1000 limitation to the Muehlke for Congress Committee, it is recommended that the Commission find reason to believe that John G. H. Muehlke, Sr. violated 2 U.S.C. § 441a(a)(1)(A).

87040525166



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 6, 1986

Dr. Marjorie Muehlke
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Dr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

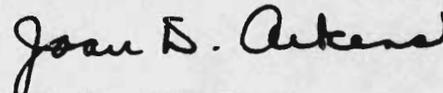
87040525167

Dr. Marjorie Muehke
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,



Joan D. Aikens
Chairman

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

87040525168

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2138
STAFF MEMBER & TEL. NO.

RESPONDENT: Dr. Marjorie Muehlke

SUMMARY OF ALLEGATIONS

The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

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Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual is prohibited from making a contribution to a candidate and his authorized political committee with respect to any election for federal office which exceeds \$1000. Because Dr. Marjorie Muehlke contributed in excess of the \$1000 limitation to the Muehlke for Congress Committee, it is recommended that the Commission find reason to believe that Dr. Marjorie Muehlke violated 2 U.S.C. § 441a(a)(1)(A).

87040525170



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Dr. Marjorie Muehlke
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Dr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

87040625171

Reg 2/4/86

TW
2/4/86

Dr. Marjorie Muehlke
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Joan D. Aikens
Chairman

Enclosures

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

87040525172



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. John Muehlke, Sr.
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

peg 2/4/86

1/24/86

87040525173

Mr. John Muehlke, Sr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Joan D. Aikens
Chairman

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

87040525174



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Muehlke, Jr.
Muehlke for Congress Committee
Box 595
Moultonboro, New Hampshire 03254

RE: MUR 2138
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On January 29, 1986, the Federal Election Commission determined that there is reason to believe that the Muehlke for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting two excessive 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 Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

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. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

Aug 21/4/86

87040525175

John Muehlke, Jr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

Joan D. Aikens
Chairman

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

87040525176

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Meuhlke for Congress Committee)
John Meuhlke Jr., Treasurer)

RAD Ref. 85L-43 (M 2,138)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 29, 1986, the Commission decided by a vote of 4-0 to take the following actions in RAD Ref. 85L-43:

1. Open a MUR.
2. Find reason to believe that the Meuhlke for Congress Committee and John Meuhlke Jr., as treasurer, violated 2 U.S.C. § 441a(f).
3. Find reason to believe that John Meuhlke, Sr. violated 2 U.S.C. § 441a(a)(1)(A).
4. Find reason to believe that Dr. Marjorie Meuhlke violated 2 U.S.C. § 441a(a)(1)(A).
5. Approve the letters and legal and factual analyses attached to the First General Counsel's Report signed January 23, 1986.

Commissioners Aikens, Elliott, Harris and Josefiak voted affirmatively for this decision; Commissioners McDonald and McGarry did not cast a vote.

Attest:

1-29-86
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Fri.,	1-24-86,	1:01
Circulated on 48 hour tally basis:	Mon.,	1-27-86,	11:00
Deadline for vote:	Wed.,	1-29-86,	11:00

87040525177

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE REG
CO SENSITIVE ARY

FIRST GENERAL COUNSEL'S REPORT

26 JAN 24 P 1: 01

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION

STAFF MEMBER: GARR

RAD Ref. 852-43

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Muehlke for Congress Committee
John Muehlke Jr., Treasurer

RELEVANT STATUTE: 2 U.S.C. § 441a(f) and 441a(a)(1)(A)

INTERNAL REPORTS CHECKED: FEC Disclosure Documents

FEDERAL AGENCIES CHECKED: N/A

Generation of Matter

The Muehlke for Congress Committee ("Committee") was referred to the Office of General Counsel by the Reports Analysis Division for receiving two bank loans, which were secured with collateral from family members of John Muehlke, Jr., the candidate.

Summary of Allegations

The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.^{1/}

^{1/} The candidate's Statement of Organization was filed with the Commission on September 21, 1984.

87040525178

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses. On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

87040525179

Pursuant to 2 U.S.C. § 441a(f), a candidate, political committee, or officer of a political committee is prohibited from knowingly accepting any contribution or making any expenditure in excess of \$1000. The Muehlke for Congress Committee reported the receipt of \$9,000 in apparent excessive contributions from John G. H. Muehlke, Sr. and \$9,100 in apparent excessive contributions from Dr. Marjorie Muehlke.^{2/} Thus, it is recommended that the Commission find reason to believe that the Muehlke for Congress Committee and John Muehlke, Jr., as treasurer, violated 2 U.S.C. § 441a(f).

Further, pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual is prohibited from making a contribution to a candidate and his authorized political committee with respect to any election for federal office which exceeds \$1000. Because John G. H. Muehlke, Sr. and Dr. Marjorie Muehlke each contributed in excess of the \$1000 limitation to the Muehlke for Congress Committee, it is recommended that the Commission find reason to believe that John G. H. Muehlke, Sr. and Dr. Marjorie Muehlke violated 2 U.S.C. § 441a(a)(1)(A).

Recommendation

The Office of General Counsel recommends that the Commission:

^{2/} Dr. Muehlke's contributions to the Muehlke for Congress Committee aggregated \$10,100: a \$100 contribution in September, 1984, and a \$10,000 loan guarantee in October, 1984. Thus, it appears that Dr. Muehlke's aggregate exceeded the \$1,000 contribution limitation imposed by the Act by \$9,100.

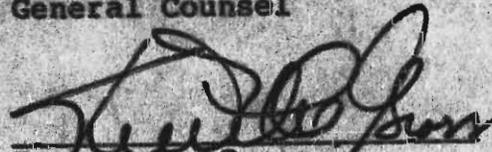
87040625100

- 1) Open a MUR.
- 2) Find reason to believe that the Muehlke for Congress Committee and John Muehlke Jr., as treasurer, violated 2 U.S.C. § 441a(f).
- 3) Find reason to believe that John Muehlke, Sr. violated 2 U.S.C. § 441a(a) (1) (A).
- 4) Find reason to believe that Dr. Marjorie Muehlke violated 2 U.S.C. § 441a(a) (1) (A).
- 5) Approve the attached letters and legal and factual analyses.

Charles N. Steele
General Counsel

January 27, 1986

By:


Kenneth A. Gross
Associate General Counsel

Attachments

1. Referral
2. Proposed letters and legal and factual analyses

87040525181

REPORTS ANALYSIS REFERRAL
TO
OFFICE OF GENERAL COUNSEL

DATE: October 7, 1985

ANALYST: Libby J. Cooperman

I. COMMITTEE: Muehlke for Congress Committee
(C00190561)
John Muehlke Jr., Treasurer^{1/}
Box 595
Moultonboro, NH 03254^{2/}

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)

III. BACKGROUND:

The 1984 12 Day Pre-General Election Report for the Muehlke for Congress Committee ("the Committee") disclosed a bank loan on October 20, 1984, endorsed by John Muehlke Jr., the candidate. The loan was reported on a Schedule C in the amount of \$10,000 (Attachment 2). A Request for Additional Information ("RFAI") was sent to the Committee on May 21, 1985^{3/} asking for the due date and interest rate for the loan (Attachment 3).

The 1984 30 Day Post-General Election Report for the Committee disclosed the receipt of an additional loan. The loan was reported on Line 13(a) of the Detailed Summary Page (Attachment 4). An RFAI was sent to the Committee on May 21, 1985^{4/} stating that the \$10,000 loan should be properly disclosed on a Schedule A and Schedule C (Attachment 5).

The May 29, 1985 amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports disclosed the terms of both loans. The first \$10,000 loan was incurred on October 11, 1984, had a variable interest rate, and did not have a deadline for repayment. This loan

^{1/} The candidate has been his own treasurer throughout the campaign.

^{2/} The Committee has changed its address twice. The above address is the current address as stated on the July 16, 1985 amended 12 Day Pre-General Election Report.

^{3/} The 1984 12 Day Pre-General Election Report was filed on May 8, 1985.

^{4/} The 1984 30 Day Post-General Election Report was filed on May 8, 1985.

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87040525182

was secured with stock certificates belonging to the candidate's sister, Dr. Marjorie Muehlke. The second \$10,000 loan was incurred on October 20, 1984, had a 12.5% interest rate, and did not have a deadline for repayment. This loan was secured with a Certificate of Deposit belonging to the candidate's father, John G.H. Muehlke, Sr. Copies of the loan agreements were included in the amendment. The amendment also stated that upon advice from the campaign staffers, the candidate "could not accept more than \$1,000 in grants or loans from anyone unless the money was in the form of bank loans and it was clear that I had full responsibility for repayments." These loan guarantees resulted in the receipt of a \$9,000 apparent excessive contribution from Dr. Marjorie Muehlke and a \$9,000 apparent excessive contribution from John G.H. Muehlke, Sr. (Attachment 6).

On July 9, 1985, the Committee was sent an RFAI for the amended 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports. It informed the Committee of the receipt of apparent excessive contributions and that the value of the collateral used to guarantee loans, such as stock and Certificates of Deposit from family members, are considered contributions and that family members are subject to the same limitation of \$1,000 per election as is any contributor to the campaign. The RFAI also stated the possibility of further Commission action regarding the acceptance of apparent excessive contributions (Attachment 7).

On July 16, 1985, the candidate contacted a Reports Analysis Division ("RAD") analyst to discuss the apparent excessive contributions. The candidate stated that he now knew that his Committee was in violation of the law for accepting collateral for bank loans from his family members in excess of \$1,000 and that when this was done they did not realize they were in violation of the law. He also stated that the stock used for collateral for one bank loan was entirely his sister's and that the Certificate of Deposit used for collateral for the other bank loan was entirely his father's. The candidate also stated that he was the only person paying the interest and principal on these loans. The RAD analyst suggested to the candidate that he state these facts in writing (Attachment 8).

On July 16, 1985, the Committee filed an amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports reiterating the conversation with the RAD analyst earlier that day. The amendment also stated that the candidate was paying off the loans as quickly as he could, but that his finances were severely limited (Attachment 9).

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On July 18, 1985, the candidate again contacted a RAD analyst. He stated that \$1,000 of each of the \$10,000 loans had been donated to the Committee by his sister and his father and that the remaining \$9,000 of each of the loans were used for personal living expenses, because he left his job to work on his campaign. The candidate also stated that he had used personal funds to cover the majority of the Committee's expenditures and that there were a few contributions from family members that were not previously reported (Attachment 10).

The July 19, 1985 amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports reiterated the conversation with the RAD analyst of July 18, 1985. The amendment disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures, and operating expenditures made in 1985. The amendment stated that \$1,000 of the \$10,000 loan guaranteed by John G.H. Muehlke, Sr. had been donated to the Committee by John G.H. Muehlke, Sr. and that \$900 of the \$10,000 loan guaranteed by Dr. Marjorie Muehlke had been donated to the Committee by Dr. Marjorie Muehlke. The amendment further stated that Dr. Marjorie Muehlke had made an additional \$100 contribution to the Committee in September of 1984 which had been previously reported to the Commission.^{5/} This \$100 contribution increases the total of apparent excessive contributions made to the Committee by Dr. Marjorie Muehlke to \$9,100. The amendment also stated that the Committee had paid all of the outstanding bills and had no further campaign obligations except for the two (2) loans (Attachment 11).

On July 19, 1985, the RAD analyst called the Assistant Treasurer, Diane Merski, because the candidate stated that she might need assistance in filing the amendments. Ms. Merski said she would call the RAD analyst back when she had her materials organized (Attachment 12).

On August 1, 1985, a Second Notice was sent to the Committee stating that the July 19, 1985 response was incomplete. The Second Notice advised the Committee that the Commission has determined in Advisory Opinion 1978-40 that funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate

^{5/} This \$100 contribution was not itemized and appears to have been included in the total of unitemized receipts reported by the Committee.

and his family are contributions for purposes of the Act unless the funds are "personal funds" which are strictly defined in 11 CFR 110.10(b). A copy of the Advisory Opinion was enclosed. The Second Notice also stated that the Committee must continue to report the loans until they are completely repaid. It also stated that the Commission may choose to initiate audit or legal enforcement action (Attachment 13).

On August 7, 1985 an amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports was received which disclosed the outstanding loans and the interest paid on these loans in 1985 (Attachment 14).

On August 15, 1985, the RAD analyst called the Assistant Treasurer, Diane Merski, to inform her that amendments for 1984 and 1985 were needed. The RAD analyst also told her to include the loans as receipts and the payments made from these loans for rent, food, utilities and other living expenses as disbursements (Attachment 15).

Ms. Merski called the RAD analyst on August 29, 1985 to ask how to report loan repayments. She also stated that she had almost completed the 1984 and 1985 amendments and that all she needed were the candidate's living expenses paid out of the two \$10,000 loans (Attachment 16).

On September 17, 1985, an amendment was received which disclosed the personal living expenses of the candidate and his family from the proceeds of the loans (Attachment 17).

To date, the complete 1984 and 1985 amendments have not yet been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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8 7 0 4 FEDERAL ELECTION COMMISSION
1983-1984

DATE 20CT85

CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
MUEHLKE, JOHN JR	HOUSE 01	INDEPENDENT					1984 ELECTION		ID# H4NH01102
1. STATEMENT OF CANDIDATE									
1984 STATEMENT OF CANDIDATE							21SEP84		1 84HSE/263/5167
1985 STATEMENT OF CANDIDATE - AMENDMENT							31MAY85		1 85HSE/286/4808
2. CANDIDATE REPORTS OF RECEIPTS & EXPENDITURES									
3. PRINCIPAL CAMPAIGN COMMITTEE									
MUEHLKE FOR CONGRESS COMMITTEE									
1984 STATEMENT OF ORGANIZATION							198 C00190561		HOUSE
STATEMENT OF ORGANIZATION - AMENDMENT							21SEP84		3 84HSE/267 179
OCTOBER QUARTERLY			8,500		8,500		10DEC84		1 84HSE/286 832
OCTOBER QUARTERLY - AMENDMENT			-		-		1AUG84 - 1OCT84		3 84HSE/277/0526
OCTOBER QUARTERLY - AMENDMENT			-		-		1AUG84 - 1OCT84		1 85FEC/385 18
PRE-GENERAL			10,300		8,475		1OCT84 - 18OCT84		1 85FEC/388 116
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		7 85HSE/286/3402
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		1 85FEC/375/1959
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		1 85FEC/387/1731
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		9 85HSE/287/4515
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		1 85FEC/386/1673
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84		1 85FEC/388/3417
NOTICE OF FAILURE TO FILE			-		-		1OCT84 - 17OCT84		1 84FEC/349/0198
REQUEST FOR ADDITIONAL INFORMATION			-		-		1OCT84 - 18OCT84		1 85FEC/374/1419
REQUEST FOR ADDITIONAL INFORMATION			-		-		1OCT84 - 18OCT84		1 85FEC/378/0336
REQUEST FOR ADDITIONAL INFORMATION 2ND			-		-		1OCT84 - 18OCT84		5 85FEC/383/5004
POST-GENERAL			10,468		11,079		18OCT84 - 26NOV84		7 85HSE/286/3395
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84		5 85HSE/286/4833
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84		2 85HSE/287/3649
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84		1 85FEC/385/1671
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84		1 85FEC/386/1674
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84		1 85FEC/388/3418
NOTICE OF FAILURE TO FILE			-		-		18OCT84 - 26NOV84		1 84FEC/357/3713
REQUEST FOR ADDITIONAL INFORMATION			-		-		18OCT84 - 26NOV84		1 85FEC/37 431
REQUEST FOR ADDITIONAL INFORMATION			-		-		18OCT84 - 26NOV84		7 85FEC/376 3329
REQUEST FOR ADDITIONAL INFORMATION 2ND			-		-		18OCT84 - 26NOV84		1 85FEC/383 1069
YEAR-END			-		-		26NOV84 - 31DEC84		1 85FEC/385 116
YEAR-END - AMENDMENT			-		-		26NOV84 - 31DEC84		1 85FEC/388/3419
NOTICE OF FAILURE TO FILE			-		-		31DEC84		1 85FEC/367/1969
TOTAL			0	29,348	0	28,135			72 TOTAL PAGES
4. AUTHORIZED COMMITTEES									
4B. TRANSFERS IN FROM JOINT FUNDRAISING COMMITTEES									

I(5)

All reports reviewed.

Cash-on-hand as of December 31, 1984 - \$1,311* - please note that additional receipts and disbursements are listed in amendments submitted in letter format. The Committee has stated they will be filing amendments for 1984 on FEC Form 3.

Debts outstanding as of December 31, 1984 - \$20,000.

ATTACHMENT 1
Page 1 of 2

87040425187

FEDERAL ELECTION COMMISSION
1985-1986

DATE 20CT85

CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
MUEHLKE, JOHN JR	HOUSE 01	INDEPENDENT					1984 ELECTION	ID# H4NH01102	
1. STATEMENT OF CANDIDATE									
2. CANDIDATE REPORTS OF RECEIPTS & EXPENDITURES									
3. PRINCIPAL CAMPAIGN COMMITTEE									
MUEHLKE FOR CONGRESS COMMITTEE								ID# C00190561 HOUSE	
1985 MID-YEAR REPORT								1 05FEC/385/1619	
MID-YEAR REPORT		- AMENDMENT						2 05HSE/290/4587	
MID-YEAR REPORT		- AMENDMENT						3 05HSE/291/ 9	
4. AUTHORIZED COMMITTEES									
4B. TRANSFERS IN FROM JOINT FUNDRAISING COMMITTEES									

(6) I
All reports reviewed.

Cash-on-hand as of June 30, 1985 - \$0* - please note that the 1985 Mid-Year Report was submitted in letter format and the calculations made by RAD show that refunds received and disbursements made appear to zero out. The Committee has stated they will be filing an amendment for 1985 on FEC Form 3.

Debts outstanding as of June 30, 1985 - \$20,000.

1984 12 DAY PRE- ELECTION REPORT

Name of Contributor (to Full)			
<p>MUSKIE FOR CONGRESS COMMITTEE</p> <p>Village Belle & Trust Country Club Rd Gilford, NH 03246</p> <p>Station: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)</p> <p>Terms: Date Entered <u>10/20/84</u> Date Due _____ Interest Rate _____ % <input type="checkbox"/> Secured</p> <p>Let All Endorse or Guarantee (if any) to Item A</p>			
Original Amount of Loan	Committed Payment To Date	Balance Outstanding at Close of This Period	
10,000.00		10,000.00	
<p>1. Full Name, Mailing Address and ZIP Code</p> <p>John Muskie, Jr. Box 600-216, RFD 4 Gilford, NH 03246</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>2. Full Name, Mailing Address and ZIP Code</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>3. Full Name, Mailing Address and ZIP Code</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>8. Full Name, Mailing Address and ZIP Code of Loan Source</p> <p>Station: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)</p> <p>Terms: Date Entered _____ Date Due _____ Interest Rate _____ % <input type="checkbox"/> Secured</p> <p>Let All Endorse or Guarantee (if any) to Item B</p>			
Original Amount of Loan	Committed Payment To Date	Balance Outstanding at Close of This Period	
<p>1. Full Name, Mailing Address and ZIP Code</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>2. Full Name, Mailing Address and ZIP Code</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>3. Full Name, Mailing Address and ZIP Code</p>			
Name of Employer	Occupation	Amount Guaranteed Outstanding	Name of Guarantor
		0	
<p>SUBTOTALS This Period This Page (optional)</p> <p>TOTALS This Period (last page in this file only)</p> <p>Carry outstanding balance only to LINE 3, Schedule D, for this tax. If no Schedule D, carry forward to appropriate line of Summary.</p>			

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

MAY 21 1985

John Muehlke, Jr., Treasurer
Muehlke for Congress
Box GAA-215, R.F.D. #4
Gilford, NH 03246

Identification Number: C00190561

Reference: 12 Day Pre-General Report (10/1/84-10/18/84)

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide the date due and interest rate for the \$10,000 loan from the Village Bank & Trust.

-Please provide a total on Line 10 of the Summary Page to accurately reflect all outstanding debts and obligations owed by your committee.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman
Reports Analyst
Reports Analysis Division

T(8)

87040325199



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

John Muehlke, Jr., Treasurer
Muehlke for Congress
Box GAA-215, R.F.D. #4
Gilford, NH 03246

MAY 21 1985

Identification Number: C00190561

Reference: 30 Day Post-General Report (10/18/84-11/26/84)

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide a Schedule A to support the amount reported on Lines 13(a), 13(b), and/or 13(c) of the Detailed Summary Page. Each person who makes a loan to your committee or to the candidate acting as an agent of the committee, must be reported on Schedule A and Schedule C. The itemization on Schedule A must include the person's full name, mailing address, and zip code, along with the name of his/her employer, the date of the contribution/loan and the aggregate year-to-date amount of contributions made by the person. Schedule C must include any endorser or guarantor of the loan, the date the loan was made and all other terms of the loan. If the loan is from the candidate, please indicate if it is from his/her personal funds. (11 CFR 104.3(a)(4)(iv))

-Please provide a total on Line 10 of the Summary Page to accurately reflect all outstanding debts and obligations owed by your committee.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman

Libby Cooperman
Reports Analyst
Reports Analysis Division

I(10)

87040525191

RECEIVED AT THE POST OFFICE

06 JUN 1985

MAY 29 1985

CERTIFIED MAIL

Re: Muehlke, #113743

May 29, 1985
R.F.D. 7, Box 233
Laconia, N.H. 03246
Phone until 6/13/85:
(603) 366-4778
Phone after 6/13/85:
(603) 524-9507

Libby Cooperman
Reports Analyst
Reports Analysis Division
Federal Election Commission (FEC)
Washington, D.C. 20463
(800) 424 9530 or (202) 523-4048

Dear Ms. Cooperman:

Thank you for your 2 letters of May 21, 1985. I'm glad you received from Diane Harski the 2 needed reports. Diane and I are happy to provide any additional data you need. Please call Diane as soon as you receive this letter, let her know that you have received it, and offer any guidance she may need should further info be required. Our situation is awkward because Diane, with most of our files, is in the Boston area, and I am in New Hampshire. For this reason, I hope you will give us an additional week or 2, if needed, to meet your requirements. In the future, please automatically send Diane copies of all correspondence pertaining to our campaign; at present, I have been sending her copies of your letters by Federal Express Zap mail. Her address at home is 41 Chestnut Hill Avenue, Apartment 44, Brighton, Mass. 02135; she has told me she prefers to receive campaign-related mail at her home. Her work telephone number is (617) 482-6640.

Your letter on the 30-day report requested information on my loans. Here it is:

Enclosed are xerox copies of the 2 loan agreements, the first for \$10,000 with the Laconia Savings Bank (LSB) and the second also for \$10,000 with the Village Bank and Trust (VBAT).

First loan: My wife and I had an account, #23676552, with LSB and a good credit rating there, so our first loan was with them. My sister offered to help back up the loan with some of her stock. There was a clear understanding that I, personally, had to repay the entire loan with interest. All correspondence with the bank has been with me only. I am up to date and have made 2 repayments - the first was dated 1/1/85 and was for \$351.01. The second, dated 4/6/85, was for \$299.97. The interest rate is variable; it changes, I believe, twice a year according to market conditions. The bank set no deadline for my repaying the loan but I established, on the basis of figures provided by a bank teller, a 7-year schedule of repayments as follows: (the schedule assumes roughly no change in interest rates)

U.S. POST OFFICE
LAACONIA, N.H.
03246
EAS JUN -4 PM 4:35

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I(11)

-2-

year 1	1253.42
year 2	1253.42
year 3	1253.42
year 4	2664.64
year 5	2706.56
year 6	2900.80
year 7	4997.28

We are very strapped for funds now, so the first few years' payments are necessarily low.

Second loan: I had another account with the VBAT (0011-70183501017721) and a good credit rating there, also, so I chose this bank for my second loan. My father, John Muehlke (Sr.) offered to help back up the loan to me with a CD, 011850. Again, there was a definite understanding that I and I only had to repay everything. The bank set no deadline, but I have established the following, 3-year plan:

year 1	1250.00
year 2	5237.20
year 3	6367.94

Should you wish to check on this repayment schedule, please feel free to call the officer who worked it out for me, Ruth Richard, Village Bank & Trust, Gilford, N.H. 03246, tel (603) 528-3000. Naturally, I would like to pay off both the VBAT and LSB loans as quickly as possible, but my present financial situation is not strong enough to do so. My payments to VBAT for my loan are up to date. The first, dated 1/9/85, was for \$321.09. The second, dated 4/15/85, was for \$312.50. I am receiving no help from anybody on repaying these loans.

I took these loans out in October, 1984, during the heat of the campaign, when I was almost always on the road. I was advised by staffers that these transactions were O.K.; they explained that, according to the regulations, I could not accept more than \$1,000 in grants or loans from anyone unless the money was in the form of bank loans and it was clear I had full responsibility for repayments. The two loans totalling \$20,000 are the only campaign debts and obligations I now have. All my bills have been paid promptly and fully. During the campaign we received very little in contributions, and our entire effort was citizen/"amateur"-run. No member of my committee - and no member of my family - is wealthy. We were entirely "straight" with the people during the campaign, and all the info I'm providing you is complete and true. Xmas
Check any of it you wish.

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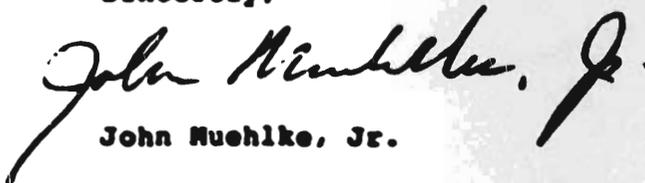
-3-

Since this letter represents my response to your request for full particulars on the loans you may, if they need a copy, send a copy over to the Office of the Clerk of the House of Representatives. That office is using an incorrect address for me - Box GAA-215, R4, Gilford. My correct address, as given above, is R7, Box 233, Laconia, NH 03246. Again, I'd appreciate your calling Diane and going over her data before she puts it in the mail to you; neither of us is a lawyer, we are not particularly expert at using your forms, and we welcome your help.

Unless I hear from you again, I assume our next report, covering 1/1/85 thru 6/30/85, is due by 7/31/85. When you call Diane, please provide any guidance she might need in preparing that report. That report will be very brief and will add nothing of substance to the data Diane and I are now providing.

Thanks for your support and the guidance we've received from the FEC. Diane told me just this morning that everyone she has talked with there has been courteous and helpful. Call me if you need any further explanations; I've provided all the data I have, however, and there really is nothing to add.

Sincerely,



John Muehlke, Jr.

I(13)

85012864834



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BQ-2

John Muehlke Jr., Treasurer
Muehlke for Congress Committee
Route 7, Box 233
Laconia, NH 03246

JUL 9 1985

Identification Number: C00190561

Reference: 12 Day Pre-General (10/1/84-10/18/84) and 30 Day
Post-General (10/18/84-11/26/84) Reports

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your reply to our Request for Additional Information (attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a multicandidate committee may not make contributions to a candidate for Federal office in excess of \$1,000 per election. If you have received a contribution(s) which exceeds the limits, the Commission recommends that you refund to the donor(s) the amount in excess of \$1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page of your next report. (2 U.S.C. 441a(a) and (f))

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. Please note that the value of the collateral used to guarantee loans, such as stock and certificates of deposit from members of your family, are considered contributions. Family members are subject to the same limitation of \$1,000 per election as is any contributor to your campaign.

If the contribution(s) in question was incorrectly reported and/or you have additional information regarding the contributor(s), you may wish to submit documentation for the public record. Please amend your report with the clarifying information.

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Although the Commission may take further legal steps concerning the acceptance of an excessive contribution(s), prompt action by you to refund the excessive amount will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman

Libby Cooperman
Reports Analyst
Reports Analysis Division

cc: Ms. Diane Merski

87040525198

I(17)

MEMORANDUM FOR FILES: TELECOM

SUBJECT: Apparent Excessive Loans

FROM: John Muehlke, Jr., Candidate - 603-544-2657

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: July 16, 1985

The candidate called in reference to the Request for Additional Information about apparent excessive loans. He stated that he now knew that his committee was in violation of the law for accepting collateral for bank loans from his family members in excess of \$1,000. He said that when this was done he and his committee thought that this was correct because he was not receiving the money - the bank was - per his letter dated May 29, 1985. He stated that the Certificate of Deposit used for collateral for the loan from the Village Bank and Trust was entirely his father's and that all the stocks used for collateral for the loan from the Laconia Savings Bank were his sister's. The Reports Analyst suggested that he state these facts in writing. The candidate also said that he was the only person paying the interest and principal on these loans.

87040625199

I(18)

JUL 16 1985

65254
(609) 544-2657

CCW000284

Dear Mr. Cooperman:

I have received your letter of July 9, 1985 and immediately called you. To summarize what was discussed,

None of my staff nor I realized when I took out the 2 loans in 1984 that the collateral may be considered contributions. If I had known that I would not have taken out those loans, which will take me several years to repay.

If I violated a law or regulation, I am sorry; I certainly did not do so deliberately or intentionally. I will pay back the loans as fast as I can. A schedule of repayments is outlined in detail on page 2 of my letter to you of May 29. The stock covered all of the Lacrima Savings loan and the c.d. was collateral for all of the Village Bank loan.

However, in discussions at both banks it was understood by everyone that I only have full responsibility to repay the loans with interest; no family member has suggested he or she will help me.

I must beg you to be lenient with me on this matter. All of our small cash reserves - about \$4000 - are for repaying my loans & for food & clothes for our children - aged 1 1/2 & 3. My wife works nights as a waitress and I tutor during the day. We cannot afford to hire a lawyer or to pay heavy fines.

Please call Diane Merski on (617) 452-6640 and be sure she has all the data correctly recorded for the report due July 31. My records show NO expenditures or receipts from November 26, 1984 to December 31, 1984.

870405253649

B
PL9

I(19)

Please read this report from the House of Representatives.

Your letter from the FEC frankly frightened me and my family. Believe me we're doing the best we can to meet your requirements with very little staff (Diane and I) and very little money.

Sincerely,

John Muskatke, Jr.

P.S. Please note our new address

13012073650

I(20)

MEMORANDUM FOR FILES: TELECON

SUBJECT: Apparent Excessive Loans

FROM: John Muehlke, Jr., Candidate - 603-544-2657

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: July 18, 1985

Mr. Muehlke called in reference to the apparent excessive loans. He stated that \$1,000 of each of the \$10,000 loans was donated by his father and his sister to his campaign. The remaining \$9,000 of each of the loans was used for personal living expenses during the campaign because he left his job to work on his campaign. He also stated that there were a few contributions from family members that had not been previously reported, but that the majority of the money used during the campaign had come from personal funds such as bank accounts, final salary payments, tax refunds, insurance reimbursements and interest and dividends. The candidate said he would send an amendment showing this additional information.

87040525202

I(21)

CERTIFIED MAIL
JUL 19 1985

July 19, 1985

Box 595

Mountbarns, N.A. 21:35
(603) 544 2657

Libby Cooperman
Reports Analyst
Federal Election Commission
Washington, D.C. 20520
(800) 424-9530 or (202) 523-4049

113743

Dear Ms. Cooperman:

Thank you for your long and useful chats with me on July 16 and 18. I had real fun in a complete and careful review of all my 1984 finances - personal and political and they led to very positive and fruitful discussions with relatives concerning their contributions to my campaign.

Based on the discussions with you and my relatives, and on my financial review, I submit this final, wrap-up report, with amendments. I hope there is no need for Diane Messki, my assistant, to take this data and send it to you again in a different format. However, if there is such a need, Diane already has a copy of this letter for reference and I would appreciate your calling her on (617) 432-6640 to help her fill out the forms properly.

All the following facts and figures are accurate. They are based in large part on statistics I sent several

I(22)

5151/021011

1985 JUL 26 AM 11:20

- 2 -

months ago to my CPA for the IRS.

All the figures you have compared exactly with what the IRS has.

My careful review showed that I was able, using strictly personal funds and a few thousand dollars of contributions, mainly from relatives, and without the two, personal \$10,000 loans, to cover all of my political campaign expenses.

My 1984 financial records show clearly that I personally put a great deal of money into the campaign.

In addition to receipts already reported, funds used in the campaign included:

1. Personal funds of me, John Muehlke, Jr., R7, Lacinia, N.H. 03246, Candidate, (603) 524-9507, in personal bank accounts in July, 1984 \$7,290.39
2. Personal funds of mine which were final salary payments + various payments for old business expenses from my former employer, 8/19/84 \$6,959.59

I(23)

S 1 5 1 6 1 0 1 1

- 3 -

3. Personal funds from
 a) a big tax refund 7/27/84 547.11 —
 b) a medical insurance
 company reimbursement
 check payable to me
 9/25/84 2521.72

4. Personal interest +
 dividends receipts
 in mid-1984 150.00

5. Gift grant from Dr.
 Marjorie Muchlik, states,
 Professor of Science Education,
 R 7 Box 233, Laconia,
 N.H. 03246. This is
 in addition to a \$100
 gift grant she made to me
 in September, 1984 +
 already reported to you. 10/11/84
 (603) 524-9507 900.00 —

6. Gift grant from Mr.
 John Muchlik, Senior,
 Kattus, R 7, Laconia
 N.H., Retired engineer
 10/20/84 (603)
 524-9507 1000.00 —

150130/1517

I(24)

(Note: Please amend all reports to delete the 2 personal loans with the Lacomia Savings and Village Bank of \$10,000 each on 10/11 & 10/12/54)

7. Kuei-chin Ling, sister in law, pharmacist, 2310-A West Forest Drive, Austin, Texas 78704
No phone. Granted as gift in addition to gift of \$300 given to campaign and already reported in October, 1954

700. -

8. Wen-liang Lin, brother in law, computer specialist, 2310-A West Forest Drive, Austin, Texas 78704. No phone.
Granted as gift

1,000. -

9. Kuei-chen Muchlke, wife, waitress, R 7, Lacomia, N.H. 03246, (603) 524-9507. granted as gift effective August 1954 in addition to gift of \$100 already reported.

900. -

I(25)

87040325206
 15013814519

Already reported contributions
totalled: (All small)

\$1,875. -

10. Refund from Lacombe Post Office
on 1/7/85
Lacombe, N.H. 03246.
Campaign had had box # there.

34.19

11. Refund from WZID, Derry,
N.H. from excess paid
earlier in deposit for
political ads. 2/20/85

113.35

12. Refund from New England
Telephone Company for
campaign's telephone,
Main Street, Lacombe, N.H.
03246

513.15

Note: Between November 26, 1984
and December 31, 1984 the
committee had no receipts

9704063597
151101

All the above are receipts.
Previously unreported expenditures are:

For 11/26/84 to 12/31/84

- 1. To New England Telephone Co,
Laconia, N.H. 03246
for final campaign bill 69. 92

For 1/1/85 to 6/30/85

- 1. To State of N.H., Concord, N.H.
for 1 Court Manual, 3/18/85 4. -
- 2. To Michael Brand, Attorney,
471 H St NW, D.C.
20001 for review of political
material, 3/19 + 5/18/85 342. -
66. 50
- 3. To the New England telephone
co., Main St., Laconia, N.H.
03246, for calls to Diane
Merski and to the FEC 20. -
75. -

87040325208
15012871520

4. To Julian Printing, Laconia,
N.H. 03246, for xeroxing,
typing 4/16/85

7. —

5. To Laconia Post Office, N.H.
03246 for postage for
expedition mail to Diane
Murski + the FEC

6/3 + 6/85	5. —
4/29/85	4. —
5/29 + 31/85	17. <u>37</u>

6. To Federal Express, Bisson
Ave, Laconia, N.H.
03246, for fast mail to
FEC + Diane Murski

5/6/85	25. —
5/7/85	25. —
5/28/85	27. —

Note: Re the \$20,000 in personal loans.
I was wrong to imply in an earlier
letter that these loans were exclusively
for political purposes. My own
records show that \$2,000 was
immediately set aside for interest

I(28)

870403392821

payments. \$900 of the
10/11/84 Lacombe loan is a gift from
Marjorie to the campaign.

\$1000 of the 10/20/84 Village
Bank loan is a gift from John (Sr.)
to the campaign.

As of
July 14, 1985 I have \$4,733.13 left
in personal accounts. I have been
unemployed since my defeat on
November 6, 1984, and the
remaining amount was helpful to
us for rental, housing, food, and
other strictly personal costs from
10/11/84 and 10/20/84 to the
present.

This is my final report.
I certify that the Muehlke for
Congress Committee and I, as
its candidate and treasurer, have
absolutely no further campaign
financial obligations whatsoever.

- 9 -

All of our bills were paid long ago.
Thank you for your advice
and assistance. Please send a
copy of this letter to the House of
Representatives.

Sincerely,

John Muehlke, Jr.

370129/4523

MEMORANDUM FOR FILES: TELECON

SUBJECT: Amendments to Reports

FROM: Libby Cooperman, Reports Analyst

TO: Diane Merski, Assistant Treasurer, 617-482-6640

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: July 19, 1985

Reports Analyst was finally able to reach Assistant Treasurer after leaving messages on July 16, 17 and 18. Reports Analyst was calling because candidate had stated that Assistant Treasurer needed information about filing amendments and requested that Reports Analyst call her. Assistant Treasurer told Reports Analyst that she would call back when she had her materials organized.

87040625212

I(31)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

August 1, 1985

John Muehlke, Jr., Treasurer
Muehlke for Congress Committee
Route 7, Box 233
Laconia, NH 03246

Identification Number: C00190561

Reference: 12 Day Pre-General (10/1/84-10/18/84) and 30 Day
Post-General (10/18/84-11/26/84) Reports

Dear Mr. Muehlke:

On July 9, 1985 you were notified that a review of the
above-referenced report(s) raised questions as to specific
contributions and/or expenditures, and the reporting of certain
information required by the Federal Election Campaign Act.

Your July 19, 1985 response is incomplete because you have
not provided all the requested information. For this response to
be considered adequate, the following information is still
required.

-Your response states that most of the funds received
from the two (2) excessive \$10,000 loans were used for
the candidate's living expenses. Please be advised
that the Commission has determined in Advisory Opinion
1978-40 (see enclosed copy) that funds provided to a
candidate to be used solely for personal living
expenses and subsistence of the candidate and his
family are contributions for purposes of the Act unless
the funds are "personal funds." Personal funds are
strictly defined in 11 CFR 110.10(b).

Please note that your committee must continue to report
these loans until they are completely repaid. The
Commission should be notified immediately in writing
when the excessive amounts of the loans have been
repaid. The repayments of the loans should also appear
on Line 19(a) of the Detailed Summary Page of your next
report and be itemized on Schedules B and C.

Although the Commission may take further legal steps
concerning the acceptance of excessive contributions,
prompt action by you to repay the excessive amounts of
the loans will be taken into consideration.

87040625213

I(32)

If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Libby Cooperman on our toll-free number (800) 424-9530 or our local number (202) 523-4048.

Sincerely,

John D. Gibson
John D. Gibson
Assistant Staff Director
Reports Analysis Division

cc: Ms. Diane Merski

87040525214

I(33)

10.338

Advisory Opinions

01-20-78

ISSUANCE AD 1978-49: Loans for Living Expenses on Candidacy

Loans to pay living expenses while a person decides whether or not to become a candidate become contributions if the person does become a candidate. Answer to Thomas R. Jenner, Treasurer, Ray Kogevsek for Congress, 137 First National Bank Building, Pueblo, Colorado 81001.

This responds to your letter of June 21, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and applicable regulations regarding loans received by a candidate for personal and family living expenses during the period when he was evaluating his candidacy.

Your letter states that on June 1, 1977, Ray Kogevsek's position as a para legal was abolished and that he needed funds for his personal and family living expenses while evaluating his candidacy. During the month of June 1977, before his decision to seek nomination or election to the United States House of Representatives, Mr. Kogevsek borrowed a total of \$3,900 from ten individuals. A note was executed for each loan. The proceeds were placed in a separate checking account. All withdrawals from the account were made for personal and family living expenses. Mr. Kogevsek announced his candidacy and filed FEC Form 2, statement of candidacy, after he borrowed the money.

Specifically, you ask if these loans are contributions under the Act. If so, you ask how the loans and expenditures from the loan proceeds for personal living expenses are to be reported, and by whom? Finally you ask what "procedures" and "specific forms" the candidate must file to be in compliance with the Act.

The Commission concludes that these loans are contributions for purposes of the Act. Therefore the loans must be disclosed in reports filed by the Ray Kogevsek For Congress Committee, and the amount contributed (loaned) by any individual with respect to any election must not exceed \$1,000. 2 U.S.C. 5434(b), 5441a(a)(1).

Candidate status may arise before candidacy is publicly declared or before an FEC Form 2 is filed. 2 U.S.C. 5431(b) defines "candidate", in part, as an individual who seeks nomination for election, or election, to Federal office... and... an individual shall be deemed to seek nomination for election, or election, if he has -

- (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election to Federal office; or
- (2) received contributions or made expenditures... with a view of bringing about his nomination for election, or election to such office.

A "contribution" is defined in part, as a "gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination, for election, or election, of any person to Federal office." 2 U.S.C. 5431(e)(1). A limited exception to that definition is recognized in Commission regulation 100.4(b)(1) where it is stated that the term contribution does not include payments made for the purpose of determining whether or an individual should become a candidate, if the individual does not otherwise become a candidate. If, however, the individual subsequently becomes a candidate, the payments are contributions and must be reported with the first appropriate report filed regardless of the date the payments were made. 11 CFR 100.7(b)(2) is a similar exception for expenditures.

In this instance you state that, during June 1977, Mr. Kogevsek was evaluating his candidacy. Reports filed by the Ray Kogevsek for Congress Committee, show contributions received in April 1977 and both contributions and expenditures in June 1977. Although these may have been payments made for the purpose of determining whether he should become a candidate, the fact that he did become a

87040625215

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© 1978, Commerce Clearing House, Inc.

T(34)

candidate has the effect of making these payments contributions and expenditures for purposes of the Act as of the date the transactions occurred.

As already stated, a contribution is defined, in part, as a "gift... loan... or anything of value made for the purpose of influencing the nomination, for election, or election, of any person to Federal office. The Commission has previously held that funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act if the funds are not "personal funds" under Commission regulations, §110.10(b).2/

This section states that, except for Presidential candidates receiving public financing, candidates may make unlimited expenditures from personal funds. The following definition is given:

(b) for purposes of this section, "personal funds" means--

(1) Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members; and

(2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

The thrust of §110.10 is that a candidate is expending campaign contributions rather than personal funds, unless the funds involved are assets to which he or she had legal and rightful title or the right of beneficial enjoyment at the time he or she became a candidate, or unless the funds were personal assets under §110.10(b)(2). The same rationale would apply to the proceeds of loans received by a candidate, although used only for personal living expenses, since under this test these loans are not personal funds, but are contributions under the Act. Accordingly, the loans must be reported giving the information specified in 2 U.S.C. §434(b)(5). See also §104.2(b)(5) of Commission regulations and supplemental reporting instructions for loans to candidates (copy enclosed).

Since the \$3,900 in loans constitute contributions rather than personal funds, the expenditures for personal living expenses from the \$3,900 must be reported in accord with 2 U.S.C. §434(b)(9) and §104.2 of the Commission regulations.2/ Mr. Kogovsek may be identified as the person to whom the expenditure was made and the purpose of the expenditure may be described as personal and family living expenses during a stated time period. §104.2(b)(9).

Your final question concerns the procedures to be followed to comply with the Act in connection with the described loans. Since the loans fall within §100.4(b) (1) of the regulations, which requires that contributions be reported with the first report filed by the candidate or principal campaign committee, the committee should file an amendment to its first report within the next 15 days listing both the loans, and payments made from the loan proceeds, in the manner discussed above.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Dated: September 1, 1978.

87040525216

I(35)

FD-340

Advisory Opinions

© 1967

- 1/ A loan from an individual to a contribution as long as it is outstanding and unpaid by the candidate or committee at whom the loan was made. 11 C.F.R. 100.4(a)(1)(i). As it is repaid, the individual lender is no longer charged with a contribution for limit purposes under 2 U.S.C. 3441a.
- 2/ See the Commission's response to Advisory Opinion Request 1976-84 and Advisory Opinion 1976-70, copies enclosed.
- 3/ As contributions, the loan proceeds constitute campaign funds not personal funds. Therefore, the reporting exemption in §100.7(b)(10) of Commission regulations for payments of routine living expenses from "out-campaign funds" would not apply in the circumstances you have presented.

87040525217

I(36)

CERTIFIED MAIL
AUG 7 1985

August 7, 1985 RECEIVED AT THE FEC
Box 595
Moultonboro, N.H. 03254
(603) 544-2657

113743

Dear Mr. Cooperman:

Thank you for the August 1, 1985 letter from Mr. Gibern explaining how we should continue our reports to you.

Please extend the due date on our 1/1/85 6/30/85 report; it will be sent to you as soon as you call Diane MacKi on (617) 482-6646

and give her additional guidance on filling out the forms. As stated in earlier correspondence

my wife + I have very little money now.

Nevertheless, we are endeavoring to repay our loans as quickly as possible. I assume our next report, covering 7/1 - 12/31/85, is due 1/31/86.

All our campaign bills were paid long ago so we now have only 2 reportable items:

① \$9,098.99 + interest for excess
 in personal living funds loan.
 (This is \$10,000 borrowed from the
 Laconia Savings Bank 10/11/54
 minus \$900 gift grant from
 Majorie Muehle minus \$1.01
 in principal paid 4/6/55. The
 2 loan repayments have been:

1/1/55 - \$356.01 in interest
 4/6/55 - \$299.97 (\$1.01 in
 principal + \$298.96 in interest)

② \$9,000. - + interest for excess
 in personal living funds loan. (Note:
 \$10,000 borrowed 10/20/54 from
 Village Savings Bank minus \$1000
 gift grant from John Muehle, Sr.
 The 2 repayments have been:

1/9/55 \$321.09 in interest
 4/15/55 \$312.50 in interest)

Please note that my address is Box 595,
 Mount Auburn, N.H. 03254. The
 August 1 letter was sent to the
 wrong address.

Sincerely,
 John Muehle, Jr.

050129J:599

MEMORANDUM FOR FILES: TELECOM

SUBJECT: Amendments to Reports

FROM: Libby Cooperman, Reports Analyst

TO: Diane Merski, Assistant Treasurer - 617-482-6640

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: August 15, 1985

87040525220

The Reports Analyst called the Assistant Treasurer per a request from the candidate in his August 7, 1985 letter. He stated that the Assistant Treasurer may need assistance in amending the reports. Ms. Merski wanted to know which reports needed to be amended. She was told that an amended report covering the financial activity for 1984 and one covering 1985 should be submitted. She was also told that the loans guaranteed by collateral from family members should be included in receipts and that payments made from these loans for rent food, utilities and other living expenses should show as disbursements. Ms. Merski requested that blank FEC Form 3's be sent to her at her office - First New England Securities, 225 Franklin Street, Suite 1150, Boston, MA, 02110. The Reports Analyst sent the requested forms.

I(39)

MEMORANDUM FOR FILES: TELECON

SUBJECT: Reporting of Loan Repayments

FROM: Diane Merski, Assistant Treasurer, 617-482-6640

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: August 29, 1985

87040525221

The treasurer called to ask which lines on the Detailed Summary Page are used to report loan repayments - principal and interest. The Reports Analyst told her to report the loan interest on Line 17 - Operating Expenditures and to report the principal payments on Line 19 - Loan Repayments. Ms. Merski stated that she had almost completed the 1984 and 1985 amendments and that all that she needed were the candidate's living expenses paid out of the two \$10,000 loans. When she has that information she can complete her amendments.

I (40)

RECEIVED AT THE POST OFFICE

SEP 13 1985

REGULAR MAIL

September 13, 1985
Box 595
Moultonboro, N.H. 03254
(603) 544-2657

05 SEP 16 AM 02

Libby Cooperman
Reports Analyst
Federal Election Commission
Washington, D.C. 20463
(800) 424-9530
(202) 523-4048

SEP 17 AM 11:03
OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES

113943

Dear Ms. Cooperman:

Enclosed is a copy of a letter I sent today to Diane Meraki. I thought she had sent all of our material to you, but she told me last night over the telephone that you want some new information - personal expenses broken down by categories. These expenses are listed in the letter to Diane.

Per my letter to Diane, she will help me on the forms and amendment(s) covering all material and activity up to and including June 30, 1985. For all material and activity starting July 1, 1985 - this will be very minor expenditures such as the cost of sending this letter and calling Diane plus reporting on interest and principal payments - I will ~~payments~~ Please call me in the late afternoon or evening during the week on 544-2647 (area code 603). I'll definitely need your guidance in filling out the forms; we want to do them right the first time so there will be no unnecessary delays.

We appreciate your granting us an extension on the time to file the necessary forms and amendment(s). In fact, the FEC did receive from me, prior to the due date, statistics then deemed necessary, even though it is taking time to get those figures and the new ones you want into the proper format. Please share this information with the U.S. House of Representatives and call Diane between 12 noon and 1 p.m. on (617) 482-6640 as soon as you receive this info to give her guidance on completing the forms.

Thank you for your help.

Sincerely,
John Muehlke, Jr.
John Muehlke, Jr.

82704131229
page the forms,

I (41)

September 13, 1985
Box 595
Moultonboro, N.H. 03254
(603) 544-7657

Diane Merski
4 Parkvale Avenue #1
Allston, MA. 02134
(H) 617-789-4526
(O) 617-482-6640

Dear Diane,

Congratulations on you promotion! That's great! I deeply appreciate the long hours of devoted work and many contacts you have taken the time to make with the FEC and with me. Per our chat over the phone last night you agreed to complete and submit to Ms. Cooperman for her to share with the U.S. House of Representatives all forms and amendments covering receipts/expenditures/loan payments up to and including June 30, 1985. I am, therefore, returning to you the material you sent me September 7.

I appreciate the pressures you are under and suggest that the next time I am in Boston I pick up the entire file from you. Alternatively, when you're next in New Hampshire you could leave the entire file with me. I must go over the forms with you in person and in detail; the material is still all "Greek" to me. I will handle all receipts/expenditures/loan payment reporting starting July 1, 1985.

You said that the only 2 items you need are
a/ a breakdown of principal and interest payments
and
b/ a list of personal expenses

Here they are:

a/1/ Village Bank and Trust \$17,000 loan of 10/20/84. As of 6/30/84 I had paid no principal on this. I paid \$321.09 in interest on 1/9/85 and \$312.50 in interest on 4/15/85 for a total of \$633.59 in interest. \$1,000 of this loan was a grant gift from John Muehlke, Sr. to the campaign.

a/2/ Laconia Savings Bank \$10,000 loan of 10/11/84. As of 6/30/85 I had paid \$1.01 in principal. This was paid on 4/6/85. I paid \$351.01 in interest on 1/1/85 and the total payment on 4/6/85 was \$299.97 - \$1.01 in principal plus \$298.96 in interest. The total interest paid on this loan as of 6/30/85 was \$649.97. \$900 of this loan was a grant gift from Dr. Marjorie Muehlke.

I am endeavoring to keep up with the interest payments and pay off the entire principal of these two loans just as fast as possible.

I(42)

1501291:237

-2-

b/ Expenses covered by the \$20,000 in loans were as follows:

(\$1,000 was grant gift to campaign by Muehlke, Sr.)
 (\$ 900 was grant gift by Marjorie Muehlke)
 (\$1,900 Subtotal - POLITICAL)

\$18,100 - Subtotal - PERSONAL

\$3,059.18 Insurance - medical, liability, car, life
 \$ 665.46 Transportation - gas, car repairs
 \$ 432.30 Medical for John Muehlke, Jr., Kwei-chen Muehlke,
 and infant sons David and Jonathan
 \$ 161.68 Lawyer's fee
 \$7,023.59 Food, utilities, telephone bills, clothes, firewood,
 and stamps (Sorry, I don't have clear breakdown
 of each of these items)
 \$3,350.00 Rent
 \$ 117.18 Bank charges, incl Visa and Amexpress
 \$ 92.00 Church donations
 \$ 301.00 Babysitting, and child care
 \$ 210.00 Books
 \$ 294.24 Local taxes and fees
 \$ 446.77 Gifts
 \$1,871.00 Computer-related costs
 \$ 74.60 Moving costs - Gilford to Laconia

\$18,100 Subtotal - PERSONAL

This should complete all the data required by the FEC. Please contact Libby immediately upon receipt of this material, give her your new home telephone number if she needs it, and complete & send to Libby by registered mail all forms for material up to 6/30/85. After you have returned the entire file to me, your duty is done. A big thanks to you. You've struggled to help above and beyond the call of duty.

With warm regards,

John Muehlke, Jr.
 John Muehlke, Jr.

P.S. I am sending a copy of this letter to Ms. Cooperman with a request that she call and assist you in preparing the proper form(s) and amendment(s).

I(43)

03012911231



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

John Muehlke, Jr.
Muehlke for Congress Committee
Box 595
Moultonboro, New Hampshire 03254

RE: MUR
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On , 198 , the Federal Election Commission determined that there is reason to believe that the Muehlke for Congress Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") by accepting two excessive 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 Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

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. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding or probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

87040525225

John Muehlke, Jr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

John Warren McGarry

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

87040525226

II (45)

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER & TEL. NO.

RESPONDENT: Muehlke for Congress Committee
John Muehlke Jr., Treasurer

SUMMARY OF ALLEGATIONS

87040525227
The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.^{1/}

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were

^{1/} The candidate's Statement of Organization was filed with the Commission on September 21, 1984.

to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(f), a candidate, political committee, or officer of a political committee is prohibited from knowingly accepting any contribution or making any expenditure in excess of \$1000. The Muehlke for Congress Committee reported the receipt of a \$9,000 apparent excessive contribution from John G. H. Muehlke, Sr. and \$9,100 in apparent excessive contributions from Dr. Marjorie Muehlke.^{2/} Thus, it is recommended that the

^{2/} Dr. Muehlke's contributions to the Muehlke for Congress Committee aggregated \$10,100: a \$100 contribution in September, 1984, and a \$10,000 loan guarantee in October, 1984. Thus, it appears that Dr. Muehlke's aggregate exceeded the \$1,000 contribution limitation imposed by the Act by \$9,100.

87040325228

Commission find reason to believe that the Muehlke for Congress
Committee and John Muehlke, Jr., as treasurer, violated
2 U.S.C. § 441a(f).

87040525229



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Dr. Marjorie Muehlke
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Dr. Muehlke:

On , 198 , the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

87040525230

Dr. Marjorie Muehlke
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

John Warren McGarry

Enclosures

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

87040625231

II (49)

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER & TEL. NO.

RESPONDENT: Dr. Marjorie Muehlke

SUMMARY OF ALLEGATIONS

The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

87040525232

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual is prohibited from making a contribution to a candidate and his authorized political committee with respect to any election for federal office which exceeds \$1000. Because Dr. Marjorie Muehlke contributed in excess of the \$1000 limitation to the Muehlke for Congress Committee, it is recommended that the Commission find reason to believe that Dr. Marjorie Muehlke violated 2 U.S.C. § 441a(a)(1)(A).

87040525233

II (51)



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. John Muehlke, Sr.
R 7 Box 233
Lanconia, New Hampshire 03246

RE: MUR
Muehlke for Congress Committee
John Muehlke, Jr., Treasurer

Dear Mr. Muehlke:

On , 1985, the Federal Election Commission determined that there is 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") by making an excessive contribution to the Muehlke for Congress Committee. The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter.

In the absence of any additional information which demonstrates that no further action should be taken against you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding or probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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.

87040525234

Mr. John Muehlke, Sr.
Page 2

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 Shelley Garr, the staff member assigned to this matter, at (202) 523-4143.

Sincerely,

John Warren McGarry

Enclosures

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

87040625235

II (53)

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO.
STAFF MEMBER & TEL. NO.

RESPONDENT: John Muehlke Sr.

SUMMARY OF ALLEGATIONS

The 1984 12 Day Pre-General Report disclosed an October 11, 1984, bank loan for \$10,000 which was endorsed by John Muehlke, Jr., the candidate, but which was secured with stock certificates belonging to his sister, Dr. Marjorie Muehlke. The 1984 30 Day Post General Election Report also disclosed an October 20, 1984, \$10,000 bank loan which was secured with a Certificate of Deposit belonging to the candidate's father, John Muehlke, Sr.

On July 18, 1985, the candidate contacted a RAD analyst to advise that \$1,000 from each of the loans was to be donated to the Committee while the remaining \$9,000 of each was for use by the candidate for personal living expenses.

On July 18, 1985, the Committee filed an amended 12 Day Pre General and 30 Day Post General Election Report which disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures and 1985 operating expenditures. The candidate reiterated that \$1,000 of the loan guaranteed by his father but only \$900 of the loan guaranteed by his sister, were to be treated as contributions to the Committee. The amendment further stated that Dr. Muehlke made an additional \$100 contribution to the Committee in September, 1984.

87040325236

Although the candidate has advised the Commission that \$9,000 of each of the loans was to be used for personal living expenses while the remaining \$1000 was to be a contribution to the campaign, the Commission has determined in Advisory Opinion 1978-40 that all funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds" as defined in C.F.R. § 110.10(b). Because the candidate did not have "legal right of access to or control over" the loans at the time he became a candidate, the loans must be considered as contributions.

Pursuant to 2 U.S.C. § 441a(a)(1)(A), an individual is prohibited from making a contribution to a candidate and his authorized political committee with respect to any election for federal office which exceeds \$1000. Because John G. H. Muehlke, Sr. contributed in excess of the \$1000 limitation to the Muehlke for Congress Committee, it is recommended that the Commission find reason to believe that John G. H. Muehlke, Sr. violated 2 U.S.C. § 441a(a)(1)(A).

87040625237



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 7, 1985

MEMORANDUM

TO: CHARLES N. STEELE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: JOHN D. GIBSON
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF THE MUEHLKE FOR CONGRESS COMMITTEE

This is a referral of the Muehlke for Congress Committee ("the Committee"). The Committee has received apparent excessive contributions from individuals in the form of loan guarantees. According to the RAD Review and Referral Procedures for Authorized Committees (Standard 2), this matter requires further examination by your office.

John Muehlke Jr. was an independent candidate in the First Congressional District in the State of New Hampshire for the General Election. The candidate lost the General Election with less than one percent (1%) of the vote.

If you have any questions regarding this matter, please contact Libby Cooperman at 523-4048.

Attachment

87040525238

REPORTS ANALYSIS REFERRAL
TO
OFFICE OF GENERAL COUNSEL

DATE: October 7, 1985

ANALYST: Libby J. Cooperman

I. COMMITTEE: Muehlke for Congress Committee
 (C00190561)
 John Muehlke Jr., Treasurer^{1/}
 Box 595
 Moultonboro, NH 03254^{2/}

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)

III. BACKGROUND:

The 1984 12 Day Pre-General Election Report for the Muehlke for Congress Committee ("the Committee") disclosed a bank loan on October 20, 1984, endorsed by John Muehlke Jr., the candidate. The loan was reported on a Schedule C in the amount of \$10,000 (Attachment 2). A Request for Additional Information ("RFAI") was sent to the Committee on May 21, 1985^{3/} asking for the due date and interest rate for the loan (Attachment 3).

The 1984 30 Day Post-General Election Report for the Committee disclosed the receipt of an additional loan. The loan was reported on Line 13(a) of the Detailed Summary Page (Attachment 4). An RFAI was sent to the Committee on May 21, 1985^{4/} stating that the \$10,000 loan should be properly disclosed on a Schedule A and Schedule C (Attachment 5).

The May 29, 1985 amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports disclosed the terms of both loans. The first \$10,000 loan was incurred on October 11, 1984, had a variable interest rate, and did not have a deadline for repayment. This loan

^{1/} The candidate has been his own treasurer throughout the campaign.

^{2/} The Committee has changed its address twice. The above address is the current address as stated on the July 16, 1985 amended 12 Day Pre-General Election Report.

^{3/} The 1984 12 Day Pre-General Election Report was filed on May 8, 1985.

^{4/} The 1984 30 Day Post-General Election Report was filed on May 8, 1985.

87040525239

was secured with stock certificates belonging to the candidate's sister, Dr. Marjorie Muehlke. The second \$10,000 loan was incurred on October 20, 1984, had a 12.5% interest rate, and did not have a deadline for repayment. This loan was secured with a Certificate of Deposit belonging to the candidate's father, John G.H. Muehlke, Sr. Copies of the loan agreements were included in the amendment. The amendment also stated that upon advice from the campaign staffers, the candidate "could not accept more than \$1,000 in grants or loans from anyone unless the money was in the form of bank loans and it was clear that I had full responsibility for repayments." These loan guarantees resulted in the receipt of a \$9,000 apparent excessive contribution from Dr. Marjorie Muehlke and a \$9,000 apparent excessive contribution from John G.H. Muehlke, Sr. (Attachment 6).

On July 9, 1985, the Committee was sent an RFAI for the amended 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports. It informed the Committee of the receipt of apparent excessive contributions and that the value of the collateral used to guarantee loans, such as stock and Certificates of Deposit from family members, are considered contributions and that family members are subject to the same limitation of \$1,000 per election as is any contributor to the campaign. The RFAI also stated the possibility of further Commission action regarding the acceptance of apparent excessive contributions (Attachment 7).

On July 16, 1985, the candidate contacted a Reports Analysis Division ("RAD") analyst to discuss the apparent excessive contributions. The candidate stated that he now knew that his Committee was in violation of the law for accepting collateral for bank loans from his family members in excess of \$1,000 and that when this was done they did not realize they were in violation of the law. He also stated that the stock used for collateral for one bank loan was entirely his sister's and that the Certificate of Deposit used for collateral for the other bank loan was entirely his father's. The candidate also stated that he was the only person paying the interest and principal on these loans. The RAD analyst suggested to the candidate that he state these facts in writing (Attachment 8).

On July 16, 1985, the Committee filed an amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports reiterating the conversation with the RAD analyst earlier that day. The amendment also stated that the candidate was paying off the loans as quickly as he could, but that his finances were severely limited (Attachment 9).

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On July 18, 1985, the candidate again contacted a RAD analyst. He stated that \$1,000 of each of the \$10,000 loans had been donated to the Committee by his sister and his father and that the remaining \$9,000 of each of the loans were used for personal living expenses, because he left his job to work on his campaign. The candidate also stated that he had used personal funds to cover the majority of the Committee's expenditures and that there were a few contributions from family members that were not previously reported (Attachment 10).

The July 19, 1985 amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports reiterated the conversation with the RAD analyst of July 18, 1985. The amendment disclosed the amount of personal funds contributed by the candidate to the Committee, additional contributions from family members, refunds of operating expenditures, and operating expenditures made in 1985. The amendment stated that \$1,000 of the \$10,000 loan guaranteed by John G.H. Muehlke, Sr. had been donated to the Committee by John G.H. Muehlke, Sr. and that \$900 of the \$10,000 loan guaranteed by Dr. Marjorie Muehlke had been donated to the Committee by Dr. Marjorie Muehlke. The amendment further stated that Dr. Marjorie Muehlke had made an additional \$100 contribution to the Committee in September of 1984 which had been previously reported to the Commission.^{5/} This \$100 contribution increases the total of apparent excessive contributions made to the Committee by Dr. Marjorie Muehlke to \$9,100. The amendment also stated that the Committee had paid all of the outstanding bills and had no further campaign obligations except for the two (2) loans (Attachment 11).

On July 19, 1985, the RAD analyst called the Assistant Treasurer, Diane Merski, because the candidate stated that she might need assistance in filing the amendments. Ms. Merski said she would call the RAD analyst back when she had her materials organized (Attachment 12).

On August 1, 1985, a Second Notice was sent to the Committee stating that the July 19, 1985 response was incomplete. The Second Notice advised the Committee that the Commission has determined in Advisory Opinion 1978-40 that funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate

^{5/} This \$100 contribution was not itemized and appears to have been included in the total of unitemized receipts reported by the Committee.

87040625241

and his family are contributions for purposes of the Act unless the funds are "personal funds" which are strictly defined in 11 CFR 110.10(b). A copy of the Advisory Opinion was enclosed. The Second Notice also stated that the Committee must continue to report the loans until they are completely repaid. It also stated that the Commission may choose to initiate audit or legal enforcement action (Attachment 13).

On August 7, 1985 an amendment to the 1984 12 Day Pre-General Election and 30 Day Post-General Election Reports was received which disclosed the outstanding loans and the interest paid on these loans in 1985 (Attachment 14).

On August 15, 1985, the RAD analyst called the Assistant Treasurer, Diane Merski, to inform her that amendments for 1984 and 1985 were needed. The RAD analyst also told her to include the loans as receipts and the payments made from these loans for rent, food, utilities and other living expenses as disbursements (Attachment 15).

Ms. Merski called the RAD analyst on August 29, 1985 to ask how to report loan repayments. She also stated that she had almost completed the 1984 and 1985 amendments and that all she needed were the candidate's living expenses paid out of the two \$10,000 loans (Attachment 16).

On September 17, 1985, an amendment was received which disclosed the personal living expenses of the candidate and his family from the proceeds of the loans (Attachment 17).

To date, the complete 1984 and 1985 amendments have not yet been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

87040625242

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
MUEHLKE, JOHN JR	HOUSE 01	INDEPENDENT					1984 ELECTION		ID# H4NH01102
1. STATEMENT OF CANDIDATE									
1984 STATEMENT OF CANDIDATE							31SEP84	1	84HSE/268/5167
1985 STATEMENT OF CANDIDATE - AMENDMENT							31MAY85	1	85HSE/286/4808
2. CANDIDATE REPORTS OF RECEIPTS & EXPENDITURES									
3. PRINCIPAL CAMPAIGN COMMITTEE									
MUEHLKE FOR CONGRESS COMMITTEE									
1984 STATEMENT OF ORGANIZATION							130 C00190561 HOUSE		
STATEMENT OF ORGANIZATION - AMENDMENT							21SEP84	3	84HSE/268/5179
OCTOBER QUARTERLY			8,580		8,580		10DEC84	1	84HSE/280/5132
OCTOBER QUARTERLY - AMENDMENT			-		-		1AUG84 - 1OCT84	8	84HSE/277/0528
OCTOBER QUARTERLY - AMENDMENT			-		-		1AUG84 - 1OCT84	1	85FEC/385/1618
OCTOBER QUARTERLY - AMENDMENT			-		-		1AUG84 - 1OCT84	1	85FEC/388/3416
PRE-GENERAL			10,300		8,476		1OCT84 - 18OCT84	7	85HSE/286/3402
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	1	85FEC/375/1959
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	1	85FEC/387/1731
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	4	85HSE/287/4515
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	1	85FEC/386/1673
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	1	85FEC/386/3417
PRE-GENERAL - AMENDMENT			-		-		1OCT84 - 18OCT84	1	85FEC/378/0336
NOTICE OF FAILURE TO FILE							1OCT84 - 17OCT84	1	84FEC/349/0198
REQUEST FOR ADDITIONAL INFORMATION							1OCT84 - 18OCT84	1	85FEC/374/1419
REQUEST FOR ADDITIONAL INFORMATION							1OCT84 - 18OCT84	1	85FEC/378/0336
REQUEST FOR ADDITIONAL INFORMATION 2ND							1OCT84 - 18OCT84	5	85FEC/583/5504
POST-GENERAL			10,468		11,079		18OCT84 - 26NOV84	7	85HSE/286/3395
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84	5	85HSE/286/4033
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84	2	85HSE/287/3649
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84	1	85FEC/385/1617
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84	1	85FEC/386/1674
POST-GENERAL - AMENDMENT			-		-		18OCT84 - 26NOV84	1	85FEC/388/3418
NOTICE OF FAILURE TO FILE							18OCT84 - 26NOV84	1	84FEC/357/2713
REQUEST FOR ADDITIONAL INFORMATION							18OCT84 - 26NOV84	1	85FEC/374/1419
REQUEST FOR ADDITIONAL INFORMATION							18OCT84 - 26NOV84	7	85FEC/378/0336
REQUEST FOR ADDITIONAL INFORMATION 2ND							18OCT84 - 26NOV84	1	85FEC/383/5009
YEAR-END							26NOV84 - 31DEC84	1	85FEC/385/1616
YEAR-END - AMENDMENT							26NOV84 - 31DEC84	1	85FEC/388/3418
NOTICE OF FAILURE TO FILE							31DEC84	1	85FEC/367/1969
TOTAL			0	29,348	0	28,135		72	TOTAL PAGES
4. AUTHORIZED COMMITTEES									
4B. TRANSFERS IN FROM JOINT FUNDRAISING COMMITTEES									

All reports reviewed.

Cash-on-hand as of December 31, 1984 - \$1,311* - please note that additional receipts and disbursements are listed in amendments submitted in letter format. The Committee has stated they will be filing amendments for 1984 on FEC Form 3.

Debts outstanding as of December 31, 1984 - \$20,000.

CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (B)

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
MUEHLKE, JOHN JR	HOUSE 01	INDEPENDENT					1984 ELECTION	ID# H4NH01102	
1. STATEMENT OF CANDIDATE									
2. CANDIDATE REPORTS OF RECEIPTS & EXPENDITURES									
3. PRINCIPAL CAMPAIGN COMMITTEE									
MUEHLKE FOR CONGRESS COMMITTEE									
1985 MID-YEAR REPORT								ID# C00190561 HOUSE	
MID-YEAR REPORT - AMENDMENT								- 1JAN85 -30JUN85	1 85FEC/385/1619
MID-YEAR REPORT - AMENDMENT								- 1JAN85 -30JUN85	3 85HSE/290/4587
MID-YEAR REPORT - AMENDMENT								- 1JAN85 -30JUN85	3 85HSE/391/1000
4. AUTHORIZED COMMITTEES									
4B. TRANSFERS IN FROM JOINT FUNDRAISING COMMITTEES									

All reports reviewed.

Cash-on-hand as of June 30, 1985 - \$0* - please note that the 1985 Mid-Year Report was submitted in letter format and the calculations made by RAD show that refunds received and disbursements made appear to zero out. The Committee has stated they will be filing an amendment for 1985 on FEC Form.3.

Debts outstanding as of June 30, 1985 - \$20,000.

1984 12 DAY PRE-BANKRUPTCY CREDIT REPORT

Name of Guarantor (if Full)			
<p>MUEHLER EXP. SERVICES COMMITTEE</p> <p>A. Full Name, Mailing Address and ZIP Code of Loan Source Village Bank & Trust Country Club Rd Gilford, NH 03246</p> <p>Station: <input type="checkbox"/> Primary <input checked="" type="checkbox"/> General <input type="checkbox"/> Other (Specify)</p> <p>Terms: Date Insured <u>10/30/84</u> Date Due _____ Interest Rate _____ % (per) <input type="checkbox"/> Secured</p> <p>Let All Endorsers or Guarantors (if any) to Item A</p> <p>1. Full Name, Mailing Address and ZIP Code John Muenke, Jr. Box 69A-216, RFD 4 Gilford, NH 03246</p> <p>2. Full Name, Mailing Address and ZIP Code</p> <p>3. Full Name, Mailing Address and ZIP Code</p>			
Original Amount of Loan	Comprehensive Payments To Date	Balance Outstanding at Close of This Period	
10,100.00		10,100.00	
<p>B. Full Name, (Mailing Address and) ZIP Code of Loan Source</p> <p>Station: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (Specify)</p> <p>Terms: Date Insured _____ Date Due _____ Interest Rate _____ % (per) <input type="checkbox"/> Secured</p> <p>Let All Endorsers or Guarantors (if any) to Item B</p> <p>1. Full Name, Mailing Address and ZIP Code</p> <p>2. Full Name, Mailing Address and ZIP Code</p> <p>3. Full Name, Mailing Address and ZIP Code</p>			
Original Amount of Loan	Comprehensive Payments To Date	Balance Outstanding at Close of This Period	
<p>SUBTOTALS This Period This Page (Annual)</p> <p>TOTALS This Period (Last page on this line only)</p> <p>Carry outstanding balance only to LINE 3, Schedule B, for this line. If no Schedule B, carry forward to appropriate line of Summary.</p>			

35012803409



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

MAY 21 1985

John Muehlke, Jr., Treasurer
Muehlke for Congress
Box GAA-215, R.F.D. #4
Gilford, NH 03246

Identification Number: C00190561

Reference: 12 Day Pre-General Report (10/1/84-10/18/84)

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide the date due and interest rate for the \$10,000 loan from the Village Bank & Trust.

-Please provide a total on Line 10 of the Summary Page to accurately reflect all outstanding debts and obligations owed by your committee.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman
Reports Analyst
Reports Analysis Division

87040625246

1984 30 DAY POST-GENERAL ELECTION REPORT

Name of Committee (in Full)

Report Covering the Period
 From To

		COLUMN A Total This Period	COLUMN B Calendar Year to Date	
L. RECEIPTS				
11.	CONTRIBUTIONS (other than loans) FROM			
(a)	Individuals/Persons Other Than Political Committees	300.00	1749.60 1295.00	11 (a)
	State Entry Unitized \$ <u>130.00</u>			
(b)	Political Party Committees			11 (b)
(c)	Other Political Committees			11 (c)
(d)	The Candidate		7415.45	11 (d)
(e)	TOTAL CONTRIBUTIONS (other than loans) add 11(a), 11(b), 11(c) and 11(d)	430.00	9,310.45	11 (e)
12.	TRANSFERS FROM OTHER AUTHORIZED COMMITTEES			12
13.	LOANS:			
(a)	Made or Guaranteed by the Candidate	10,000.00	20,000.00	13 (a)
(b)	All Other Loans			13 (b)
(c)	TOTAL LOANS (add 13 (a) and 13 (b))	10,000.00	20,000.00	13 (c)
14.	OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	38.67		14
15.	OTHER RECEIPTS (Dividends, Interest, etc.)			15
16.	TOTAL RECEIPTS (add 11 (e), 12, 13 (c), 14 and 15)	10,468.67	29,349.12	16
H. DISBURSEMENTS				
17.	OPERATING EXPENDITURES	11,079.26	28,349.12	17
18.	TRANSFERS TO OTHER AUTHORIZED COMMITTEES	-		18
19.	LOAN REPAYMENTS:			
(a)	Of Loans Made or Guaranteed by the Candidate			19 (a)
(b)	Of All Other Loans			19 (b)
(c)	TOTAL LOAN REPAYMENTS (add 19 (a) and 19 (b))			19 (c)
20.	REFUNDS OF CONTRIBUTIONS TO:			
(a)	Individuals/Persons Other Than Political Committees			20 (a)
(b)	Political Party Committees			20 (b)
(c)	Other Political Committees			20 (c)
(d)	TOTAL CONTRIBUTION REFUNDS (add 20 (a), 20 (b), and 20 (c))			20 (d)
21.	OTHER DISBURSEMENTS			21
22.	TOTAL DISBURSEMENTS (add 17, 18, 19 (c), 20 (d) and 21)	11,079.26	28,349.12	22
HI. CASH SUMMARY				
23.	CASH ON HAND AT BEGINNING OF REPORTING PERIOD	\$	1,402.06	23
24.	TOTAL RECEIPTS THIS PERIOD (From Line 16)	\$	10,468.67	24
25.	SUBTOTAL (Add Line 23 and Line 24)	\$	12,390.73	25
26.	TOTAL DISBURSEMENTS THIS PERIOD (From Line 22)	\$	11,079.26	26
27.	CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (Subtract Line 26 from 25)	\$	1,311.47	27

LC



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

John Muehlke, Jr., Treasurer
Muehlke for Congress
Box GAA-215, R.F.D. #4
Gilford, NH 03246

MAY 21 1985

Identification Number: C00190561

Reference: 30 Day Post-General Report (10/18/84-11/26/84)

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide a Schedule A to support the amount reported on Lines 13(a), 13(b), and/or 13(c) of the Detailed Summary Page. Each person who makes a loan to your committee or to the candidate acting as an agent of the committee, must be reported on Schedule A and Schedule C. The itemization on Schedule A must include the person's full name, mailing address, and zip code, along with the name of his/her employer, the date of the contribution/loan and the aggregate year-to-date amount of contributions made by the person. Schedule C must include any endorser or guarantor of the loan, the date the loan was made and all other terms of the loan. If the loan is from the candidate, please indicate if it is from his/her personal funds. (11 CFR 104.3(a)(4)(iv))

-Please provide a total on Line 10 of the Summary Page to accurately reflect all outstanding debts and obligations owed by your committee.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman

Libby Cooperman
Reports Analyst
Reports Analysis Division

87040525248

RECEIVED AT THE

05 JUN 85 02:00

MAY 29 1985

CERTIFIED MAIL

Re: Muehlke, 113743

May 29, 1985
R.F.D. 7, Box 233
Laconia, N.H. 03246
Phone until 6/13/85:
(603) 366-4778
Phone after 6/13/85:
(603) 524-9507

Libby Cooperman
Reports Analyst
Reports Analysis Division
Federal Election Commission (FEC)
Washington, D.C. 20463
(800) 424 9330 or (202) 523-4048

Dear Ms. Cooperman:

Thank you for your 2 letters of May 21, 1985. I'm glad you received from Diane Maraki the 2 needed reports. Diane and I are happy to provide any additional data you need. Please call Diane as soon as you receive this letter, let her know that you have received it, and offer any guidance she may need should further info be required. Our situation is awkward because Diane, with most of our files, is in the Boston area, and I am in New Hampshire. For this reason, I hope you will give us an additional week or 2, if needed, to meet your requirements. In the future, please automatically send Diane copies of all correspondence pertaining to our campaign; at present, I have been sending her copies of your letters by Federal Express Zap mail. Her address at home is 41 Chestnut Hill Avenue, Apartment 44, Brighton, Mass. 02135; she has told me she prefers to receive campaign-related mail at her home. Her work telephone number is (617) 482-6640.

Your letter on the 30-day report requested information on my loans. Here it is:

Enclosed are xerox copies of the 2 loan agreements, the first for \$10,000 with the Laconia Savings Bank (LSB) and the second also for \$10,000 with the Village Bank and Trust (VBAT).

First loan: My wife and I had an account, #23676552, with LSB and a good credit rating there, so our first loan was with them. My sister offered to help back up the loan with some of her stock. There was a clear understanding that I, personally, had to repay the entire loan with interest. All correspondence with the bank has been with me only. I am up to date and have made 2 repayments - the first was dated 1/1/85 and was for \$351.01. The second, dated 4/6/85, was for \$299.97. The interest rate is variable; it changes, I believe, twice a year according to market conditions. The bank set no deadline for my repaying the loan but I established, on the basis of figures provided by a bank teller, a 7-year schedule of repayments as follows: (the schedule assumes roughly no change in interest rates)

OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
605 JUN -6 PM 4:35

85012864833

-2-

year 1	1253.42
year 2	1253.42
year 3	1253.42
year 4	2664.64
year 5	2706.56
year 6	2900.80
year 7	4997.28

We are very strapped for funds now, so the first few years' payments are necessarily low.

Second loan: I had another account with the VBAT (#011-70183501017721) and a good credit rating there, also, so I chose this bank for my second loan. My father, John Muehlke (Sr.) offered to help back up the loan to me with a CD, \$11850. Again, there was a definite understanding that I and I only had to repay everything. The bank set no deadline, but I have established the following, 3-year plan:

year 1	1250.00
year 2	5237.20
year 3	6367.94

Should you wish to check on this repayment schedule, please feel free to call the officer who worked it out for me, Ruth Richard, Village Bank & Trust, Gilford, N.H. 03246, tel (603) 528-3000. Naturally, I would like to pay off both the VBAT and LSB loans as quickly as possible, but my present financial situation is not strong enough to do so. My payments to VBAT for my loan are up to date. The first, dated 1/9/85, was for \$321.09. The second, dated 4/15/85, was for \$312.50. I am receiving no help from anybody on repaying these loans.

I took these loans out in October, 1984, during the heat of the campaign, when I was almost always on the road. I was advised by staffers that these transactions were O.K.; they explained that, according to the regulations, I could not accept more than \$1,000 in grants or loans from anyone unless the money was in the form of bank loans and it was clear I had full responsibility for repayments. The two loans totalling \$20,000 are the only campaign debts and obligations I now have. All my bills have been paid promptly and fully. During the campaign we received very little in contributions, and our entire effort was citizen/"amateur"-run. No member of my committee - and no member of my family - is wealthy. We were entirely "straight" with the people during the campaign, and all the info I'm providing you is complete and true. Xmas
Check any of it you wish.

5
 4
 3
 2
 1
 0
 9
 8
 7
 6
 5
 4
 3
 2
 1
 0

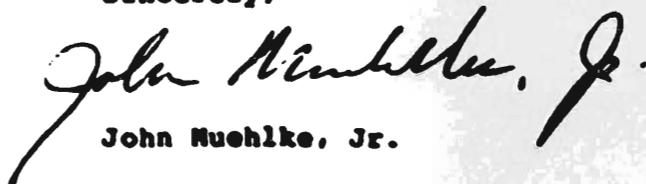
-3-

Since this letter represents my response to your request for full particulars on the loans you may, if they need a copy, send a copy over to the Office of the Clerk of the House of Representatives. That office is using an incorrect address for me - Box GAA-215, R4, Gilford. My correct address, as given above, is R7, Box 233, Laconia, NH 03246. Again, I'd appreciate your calling Diane and going over her data before she puts it in the mail to you; neither of us is a lawyer, we are not particularly expert at using your forms, and we welcome your help.

Unless I hear from you again, I assume our next report, covering 1/1/85 thru 6/30/85, is due by 7/31/85. When you call Diane, please provide any guidance she might need in preparing that report. That report will be very brief and will add nothing of substance to the data Diane and I are now providing.

Thanks for your support and the guidance we've received from the FEC. Diane told me just this morning that everyone she has talked with there has been courteous and helpful. Call me if you need any further explanations; I've provided all the data I have, however, and there really is nothing to add.

Sincerely,



John Muehlke, Jr.

875011228564334

SEE SEE NO 00V-31-53W
TELEPHONE 283 6643
ADDRESS GA.

LACONIA SAVINGS BANK
Laconia, New Hampshire

REVISED 9/83

LOAN NUMBER 144000101

DEBTOR(S):
Name John G. H. Muddick, Jr.
Address Box 688-215 RD#4
Caledonia NH 03046

LACONIA SAVINGS BANK
60 Pleasant Street
Laconia, N.H. 03050
together with any transferee hereof
may be hereinafter called the "Lender".

TRUTH-IN-LENDING DISCLOSURE

ANNUAL PERCENTAGE RATE The APR for this loan if it is a fixed rate	PERCENTAGE CHARGE The finance charge on this loan expressed as a percent of the amount financed	ANNUY PAYMENTS The amount of each payment and the number of payments	TOTAL OF PAYMENTS The amount of all payments to be made under this loan	I have the right to receive in this state an itemization of the Amount Financed <input type="checkbox"/> Yes I want an itemization <input type="checkbox"/> No I do not want an itemization to appear on this notice
<u>14%</u>	<u>0 1400.00</u>	<u>0 1200.00</u>	<u>0 11,400.00</u>	

The Borrower hereby certifies that:
 1. The amount of the loan is 10,000.00
 2. The amount of the down payment is 0
 3. The date of the first payment is on October 1, 1983
 4. The date of the last payment is on October 1, 1985

This note has a demand feature. This note is payable on demand and all discounts are based on an assumed maturity of one year.
 Except: I am giving a security interest in Real description of other property
 the goods or property being purchased
 collateral securing other loans with you may also secure this loan.
 I or third parties and other rights in the payment of money have you.
 Giving such a security for this loan.
 Late Charge If a payment is late more than 10 days after due I will be charged 1% of the amount of the payment, or 10 dollars, whichever is greater.
 Prepayment: If I pay off this loan early, I may may not may not be entitled to a refund of part of the finance charge.
 may may not be entitled to a refund of part of the finance charge.
 I am an individual obligor for any collateral information about my credit record, status, my financial condition, and the financial condition and performance of my business.

PRINCIPAL NOTE AND ASSIGNMENT OF COLLATERAL

FOR VALUE RECEIVED, the undersigned hereby and lawfully assigns and guarantees to pay to the order of the lender in the place of the borrower here to the sum of Ten thousand and no/100 dollars as shown on the promissory note which is attached hereto, with interest at 14% per annum, payable monthly commencing on October 1, 1983 and on the 1st day of each month hereafter, October 1, 1985, and the expenses of the note on the 1st day of October 1, 1983.

THE BANK RESERVES THE RIGHT TO CHANGE THE CURRENT RATE OF ANY TIME TO A RATE NOT EXCEEDING 14% PER ANNUM ABOVE THE RATE PAID BY THE LACONIA SAVINGS BANK ON THE SIX MONTH MONEY MARKET CERTIFICATE OF DEPOSIT.

To secure the payment of this note, and of any liability shown or implied, here or caused by the undersigned hereunder or which may hereafter arise, in the face of the holder hereof, the following property hereby assigned and delivered to the lender as collateral security:

The undersigned certifies on account of the encumbrance:
 Real Estate: 100 Sh. Farm Road #1, Lakewood, N.H.
 The following description: 100 Sh. Farm Road #1, Lakewood, N.H.
 Other: 100 Sh. Farm Road #1, Lakewood, N.H.

ANY DEPOSITS OR OTHER FUNDS CREDITED BY OR ON BEHALF OF THE LENDER TO THE BORROWER AND ANY DEPOSITS OR OTHER PROPERTY OF THE BORROWER IN THE POSSESSION OF THE LENDER HELD AND TITLED AS COLLATERAL SECURITY HEREON, OR ANY OR ANY INTEREST THEREON OR ANY OTHER PROPERTY OF THE BORROWER OR TO RECEIVE OR FOR THE PAYMENT OF THIS NOTE OR THE FULL PERFORMANCE OF THE OBLIGATION.

The undersigned agrees at all times during the life of this loan to maintain the possession of the title to all collateral security in quality and amount according to a schedule, and that the balance of the loan not exceed 75% of the market value of the collateral offered as security to secure this loan.

If this note or any other liability is not paid in full when it becomes due, the undersigned agrees to pay of such and expenses of collection including of reasonable attorney fees.

Each and every party to this instrument, whether creditor, endorser or otherwise hereby agrees, covenants and agrees that any certificate or other instrument of the time of payment or other obligations and any substitution, exchange or release of collateral granted or provided by the lender shall not affect the liability hereunder.

In the event that there is more than one maker of this note, the holder shall be released of all responsibility for the collection of any amount due to any one of the makers.

REPAYMENT IS GIVEN THE UNDERSIGNED TO ANTICIPATE PAYMENT OF THIS NOTE SUBJECT TO A MINIMUM PAYMENT GRACE OF SEVEN (7) DAYS. The terms and address of the parties shown above and the terms set forth herein are hereby made a part of this promissory note.

IN WITNESS WHEREOF, the undersigned has hereunto set their hands on this 1st day of October, 1983.
John G. H. Muddick, Jr.

Summary of Amount Financed
 Amount paid to the lender 10,000.00
 Amount paid on my account 0
 Amount to return on my behalf:

 Total of Payments \$ 11,400.00
 APR 14%

R 7 81 94 00 1522050 24 50 3 7



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

John Muehlke Jr., Treasurer
Muehlke for Congress Committee
Route 7, Box 233
Laconia, NH 03246

JUL 9 1985

Identification Number: C00190561

Reference: 12 Day Pre-General (10/1/84-10/18/84) and 30 Day
Post-General (10/18/84-11/26/84) Reports

Dear Mr. Muehlke:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Your reply to our Request for Additional Information (attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a multicandidate committee may not make contributions to a candidate for Federal office in excess of \$1,000 per election. If you have received a contribution(s) which exceeds the limits, the Commission recommends that you refund to the donor(s) the amount in excess of \$1,000. The Commission should be notified in writing if a refund is necessary. In addition, any refund should appear on Line 20 of the Detailed Summary Page of your next report. (2 U.S.C. 441a(a) and (f))

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. Please note that the value of the collateral used to guarantee loans, such as stock and certificates of deposit from members of your family, are considered contributions. Family members are subject to the same limitation of \$1,000 per election as is any contributor to your campaign.

If the contribution(s) in question was incorrectly reported and/or you have additional information regarding the contributor(s), you may wish to submit documentation for the public record. Please amend your report with the clarifying information.

870405254

Although the Commission may take further legal steps concerning the acceptance of an excessive contribution(s), prompt action by you to refund the excessive amount will be taken into consideration.

An amendment to your original report(s) correcting the above problem(s) should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 523-4048.

Sincerely,

Libby Cooperman

Libby Cooperman
Reports Analyst
Reports Analysis Division

cc: Ms. Diane Merski

87040525255

MEMORANDUM FOR FILES: TELECON

SUBJECT: Apparent Excessive Loans

FROM: John Muehlke, Jr., Candidate - 603-544-2657

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: July 16, 1985

The candidate called in reference to the Request for Additional Information about apparent excessive loans. He stated that he now knew that his committee was in violation of the law for accepting collateral for bank loans from his family members in excess of \$1,000. He said that when this was done he and his committee thought that this was correct because he was not receiving the money - the bank was - per his letter dated May 29, 1985. He stated that the Certificate of Deposit used for collateral for the loan from the Village Bank and Trust was entirely his father's and that all the stocks used for collateral for the loan from the Laconia Savings Bank were his sister's. The Reports Analyst suggested that he state these facts in writing. The candidate also said that he was the only person paying the interest and principal on these loans.

87040525256

Mr. & Mrs. Moulton, N.H.
83254
(603) 544-2657

CCW00084

Dear Mr. Cooperman:

I have received your letter of July 9, 1985 and immediately called you. To reiterate what was discussed,

None of my staff nor I realized when I took out the 2 loans in 1984 that the collateral may be considered contributions. If I had known that I would not have taken out those loans, which will take me several years to repay.

If I violated a law or regulation, I am sorry; I certainly did not do so deliberately or intentionally. I'll pay back the loans as fast as I can.

A schedule of repayments is outlined in detail on page 2 of my letter to you of May 29. The stock covered all of the Lacombe Savings loan and the c.d. was collateral for all of the Village Bank loan.

Moreover, in discussions at both banks it was understood by everyone that I only have full responsibility to repay the loans with interest; no family member has suggested he or she will help me.

I must beg you to be lenient with me on this matter. All of our small cash reserves - about \$4000 - are for repaying my loans & for food & clothes for our children - aged 1 1/2 & 3. My wife works nights as a waitress and I tutor during the day. We cannot afford to hire a lawyer or to pay heavy fines.

Please call Diane Nerski on (617) 452-6640 and be sure she has all the data correctly recorded for the report due July 31. My records show NO expenditures or receipts from November 26, 1984 to December 31, 1984.

980323686
070403230110

PL9

Please come to sign in the name of
Representatives.

Your letter from the FEC
frankly frightened me and my family.
Believe me we're doing the best we can to
meet your requirements with very little
staff (Diane and I) and very little money.

Sincerely,

John Muehlke, Jr.

P.S. Please note our new address.

33012873650

MEMORANDUM FOR FILES: TELECON

SUBJECT: Apparent Excessive Loans

FROM: John Muehlke, Jr., Candidate - 603-544-2657

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - 000190561 - New Hampshire

DATE: July 18, 1985

Mr. Muehlke called in reference to the apparent excessive loans. He stated that \$1,000 of each of the \$10,000 loans was donated by his father and his sister to his campaign. The remaining \$9,000 of each of the loans was used for personal living expenses during the campaign because he left his job to work on his campaign. He also stated that there were a few contributions from family members that had not been previously reported, but that the majority of the money used during the campaign had come from personal funds such as bank accounts, final salary payments, tax refunds, insurance reimbursements and interest and dividends. The candidate said he would send an amendment showing this additional information.

87040525259

CERTIFIED MAIL
JUL 19 1985

July 19, 1985
Box 595
Montgomery, N.A. 20910
(603) 544-2657

85 JUL 23 2:35

Libby Cooperman
Reports Analyst
Federal Election Commission
Washington, D.C. 20520
(800) 424-9530 or (202) 523-4043

113743

Dear Ms. Cooperman:

Thank you for your long and useful chats with me on July 16 and 18. ^{That result led} in a complete and careful review of all my 1984 finances - personal and political and they led to very positive and fruitful discussions with relatives concerning their contributions to my campaign.

Based on the discussions with you and my relatives, and on my financial review, I submit this final, wrap-up report, with amendments. I hope there is no need for Diane Messick, my assistant, to take this data and send it to you again in a different format. However, if there is such a need, Diane already has a copy of this letter for reference and I would appreciate your calling her on (617) 432-6640 to help her fill out the forms properly.

All the following facts and figures are accurate. They are based in large part on statistics I sent several

15012074515

1985 JUL 26 AM 11:20
U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

- 2 -

months ago to my CPA for the IRS.

All the figures you have compared exactly with what the IRS has.

My careful review showed that I was able, using strictly personal funds and a few thousand dollars of contributions, mainly from relatives, and without the two, personal \$10,000 loans, to cover all of my political campaign expenses.

My 1984 financial records show clearly that I personally put a great deal of money into the campaign.

In addition to receipts already reported, funds used in the campaign included:

1. Personal funds of me, John Muehlke, Jr., R 7, Lacombe, N.H. 03246, Candidate, (603) 524-9507, in personal bank accounts in July, 1984 \$7,290.39
2. Personal funds of mine which were final salary payments + reimbursements for old business expenses from my former employer, 8/1 + 9/84 \$6,959.59

10302101515

3. Personal funds from
 a) a big tax refund 7/27/84 547.00 —
 b) a medical insurance
 company reimbursement
 check payable to me
 9/25/84 2521.72

4. Personal interest +
 dividends receipts
 in mid-1984 150.00

5. Gift grant from Dr.
 Marjorie Muchlke, sister,
 Professor of Science Education,
 R 7, Box 233, Laconia,
 N.H. 03246. This is
 in addition to a \$100
 gift grant she made to me
 in September, 1984 &
 already reported to you. 10/11/84
 (603) 524-9507 900.00 —

6. Gift grant from Mr.
 John Muchlke, Senior,
 Gattler, R 7, Laconia
 N.H., Retired engineer
 10/20/84 (603)
 524-9507 1000.00 —

15013814517

(Note: Please amend all reports to delete the 2 personal loans with the Lacomia Savings and Village Banks of \$10,000 each on 10/11 + 10/15/84)

7. Kuei-chin Lin, sister in law, pharmacist, 2310-A West Forest Drive, Austin, Texas 78704
No phone. Granted as gift in addition to gift of \$300 given to campaign and already reported in October, 1984

700. -

8. Wen-liang Lin, brother in law, computer specialist, 2310-A West Forest Drive, Austin, Texas 78704. No phone.
Granted as gift

1,000. -

9. Kuei-chen Muchlke, wife, waitress, R 7, Lacomia, N.H. 03246, (603) 524-9507. granted as gift effective August 1984 in addition to gift of \$100 already reported.

900. -

R 7040535293
: 5012874593

All the above are receipts.

Previously unreported expenditures are:

For 11/26/84 to 12/31/84

1. To New England Telephone Co.
Laconia, N.H. 03246
for final campaign bill

69. 92

For 4/1/85 to 6/30/85

1. To State of N.H., Concord, N.H.
for 1 Court Manual, 3/15/85

4. -

2. To Michael Brand, Attorney,
471 H St NW, D.C.
20001 for review of political
material, 3/19 + 5/18/85

342. -
66. ⁵⁰

3. To the New England telephone
co., Main St., Laconia, N.H.
03246, for calls to Diane
Merski and to the FEC

4/15

5/7

20. -

75. -

87040425265
15012874520

4. To Johnson Printing, Laconia,
 N.H. 03246, for xeroxing,
 typing 4/16/85

7. —

5. To Laconia Post Office, N.H.
 03246 for postage for
 expeditions mail to Diane
 Messki + the FEC

6/3 + 6/85	5. —
4/29/85	4. —
5/29 + 31/85	17. <u>37</u>

6. To Federal Express, Bisson
 Ave, Laconia, N.H.
 03246, for fast mail to
 FEC + Diane Messki

5/6/85	25. —
5/7/85	25. —
5/28/85	27. —

870405252529
 15013374529

Note: Re the \$20,000 in personal loans.
 I was wrong to imply in an earlier
 letter that these loans were exclusively
 for political purposes. My own
 records show that \$2,000 was
 immediately set aside for interest

payments. \$900 of the 10/11/84 Lacomia loan is a gift from Marjorie to the campaign.

\$1000 of the 10/20/84 Village Bank loan is a gift from John (sv.) to the campaign.

As of July 14, 1985 I have \$4,733.13 left in personal accounts. I have been unemployed since my defeat on November 6, 1984, and the remaining amount was helpful to us for rental, housing, food, and other strictly personal costs from 10/11/84 and 10/20/84 to the present.

This is my final report. I certify that the Mueller for Congress Committee and I, as its candidate and treasurer, have absolutely no further campaign financial obligations whatsoever.

050123/4522

- 9 -

All of our bills were paid long ago.
Thank you for your advice
and assistance. Please send a
copy of this letter to the House of
Representatives.

Sincerely,

John Muchlik, Jr.

3 5 0 1 2 9 7 4 5 2 3

MEMORANDUM FOR FILES: TELECON

SUBJECT: Amendments to Reports

FROM: Libby Cooperman, Reports Analyst

TO: Diane Merski, Assistant Treasurer, 617-482-6640

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: July 19, 1985

Reports Analyst was finally able to reach Assistant Treasurer after leaving messages on July 16, 17 and 18. Reports Analyst was calling because candidate had stated that Assistant Treasurer needed information about filing amendments and requested that Reports Analyst call her. Assistant Treasurer told Reports Analyst that she would call back when she had her materials organized.

87040525269



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-3

August 1, 1985

John Muehlke, Jr., Treasurer
Muehlke for Congress Committee
Route 7, Box 233
Laconia, NH 03246

Identification Number: C00190561

Reference: 12 Day Pre-General (10/1/84-10/18/84) and 30 Day
Post-General (10/18/84-11/26/84) Reports

Dear Mr. Muehlke:

On July 9, 1985 you were notified that a review of the above-referenced report(s) raised questions as to specific contributions and/or expenditures, and the reporting of certain information required by the Federal Election Campaign Act.

Your July 19, 1985 response is incomplete because you have not provided all the requested information. For this response to be considered adequate, the following information is still required.

-Your response states that most of the funds received from the two (2) excessive \$10,000 loans were used for the candidate's living expenses. Please be advised that the Commission has determined in Advisory Opinion 1978-40 (see enclosed copy) that funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act unless the funds are "personal funds." Personal funds are strictly defined in 11 CFR 110.10(b).

Please note that your committee must continue to report these loans until they are completely repaid. The Commission should be notified immediately in writing when the excessive amounts of the loans have been repaid. The repayments of the loans should also appear on Line 19(a) of the Detailed Summary Page of your next report and be itemized on Schedules B and C.

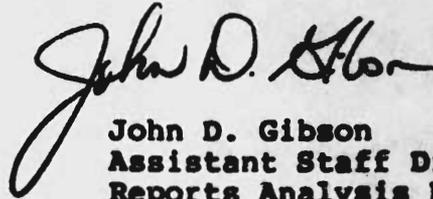
Although the Commission may take further legal steps concerning the acceptance of excessive contributions, prompt action by you to repay the excessive amounts of the loans will be taken into consideration.

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If this information is not received by the Commission within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Libby Cooperman on our toll-free number (800) 424-9530 or our local number (202) 523-4048.

Sincerely,



John D. Gibson
Assistant Staff Director
Reports Analysis Division

cc: Ms. Diane Merski

87040525271

10,338

Advisory Opinions

02-10-78

[5341] AO 1978-40: Loans for Living Expenses as Contributions

[Loans to pay living expenses while a person decides whether or not to become a candidate become contributions if the person does become a candidate. Answer to Thomas E. Janner, Treasurer, Ray Kogovsek for Congress, 117 First National Bank Building, Pueblo, Colorado 81003.]

This responds to your letter of June 21, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") and applicable regulations regarding loans received by a candidate for personal and family living expenses during the period when he was evaluating his candidacy.

Your letter states that on June 1, 1977, Ray Kogovsek's position as a paid legal was abolished and that he needed funds for his personal and family living expenses while evaluating his candidacy. During the month of June 1977, before his decision to seek nomination or election to the United States House of Representatives, Mr. Kogovsek borrowed a total of \$3,900 from ten individuals. A note was executed for each loan. The proceeds were placed in a separate checking account. All withdrawals from the account were made for personal and family living expenses. Mr. Kogovsek announced his candidacy and filed FEC Form 2, statement of candidacy, after he borrowed the money.

Specifically, you ask if these loans are contributions under the Act. If so, you ask how the loans and expenditures from the loan proceeds for personal living expenses are to be reported, and by whom? Finally you ask what "procedures" and "specific forms" the candidate must file to be in compliance with the Act.

The Commission concludes that these loans are contributions for purposes of the Act. Therefore the loans must be disclosed in reports filed by the Ray Kogovsek For Congress Committee, and the amount contributed (loaned) by any individual with respect to any election must not exceed \$1,000./ 2 U.S.C. §434(b), §441a(a)(1).

Candidate status may arise before candidacy is publicly declared or before an FEC Form 2 is filed. 2 U.S.C. §431(b) defines "candidate", in part, as an individual who seeks nomination for election, or election, to Federal office... and... an individual shall be deemed to seek nomination for election, or election, if he has -

- (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election to Federal office; or
- (2) received contributions or made expenditures... with a view of bringing about his nomination for election, or election to such office.

A "contribution" is defined in part, as a "gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination, for election, or election, of any person to Federal office." 2 U.S.C. §431(e)(1). A limited exception to that definition is recognized in Commission regulation §100.4(b)(1) where it is stated that the term contribution does not include payments made for the purpose of determining whether or an individual should become a candidate, if the individual does not otherwise become a candidate. If, however, the individual subsequently becomes a candidate, the payments are contributions and must be reported with the first appropriate report filed regardless of the date the payments were made. 11 CFR 100.7(b)(2) is a similar exception for expenditures.

In this instance you state that, during June 1977, Mr. Kogovsek was evaluating his candidacy. Reports filed by the Ray Kogovsek for Congress Committee, show contributions received in April 1977 and both contributions and expenditures in June 1977. Although these may have been payments made for the purpose of determining whether he should become a candidate, the fact that he did become a

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● 20-4-78

Opinions

10.339

candidate has the effect of making these payments contributions and expenditures for purposes of the Act as of the date the transactions occurred.

As already stated, a contribution is defined, in part, as a "gift... loan... or anything of value made for the purpose of influencing the nomination, for election, or election, of any person to Federal office. The Commission has previously held that funds provided to a candidate to be used solely for personal living expenses and subsistence of the candidate and his family are contributions for purposes of the Act if the funds are not "personal funds" under Commission regulations, §110.10(b).2/

This section states that, except for Presidential candidates receiving public financing, candidates may make unlimited expenditures from personal funds. The following definition is given:

(b) for purposes of this section, "personal funds" means--

- (1) Any assets to which at the time he or she became a candidate the candidate had legal and rightful title, or with respect to which the candidate had the right of beneficial enjoyment under applicable State law, and which the candidate had legal right of access to or control over, including funds from immediate family members; and
- (2) Salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate's stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

The thrust of §110.10 is that a candidate is expending campaign contributions rather than personal funds, unless the funds involved are assets to which he or she had legal and rightful title or the right of beneficial enjoyment at the time he or she became a candidate, or unless the funds were personal assets under §110.10(b)(2). The same rationale would apply to the proceeds of loans received by a candidate, although used only for personal living expenses, since using this sort these loans are not personal funds, but are contributions under the Act. Accordingly, the loans must be reported giving the information specified in 2 U.S.C. §434(b)(5). See also §104.2(b)(5) of Commission regulations and supplemental reporting instructions for loans to candidates (copy enclosed).

Since the \$3,900 in loans constitute contributions rather than personal funds, the expenditures for personal living expenses from the \$3,900 must be reported in accord with 2 U.S.C. §434(b)(9) and §104.2 of the Commission regulations.3/ Mr. Kogovsek may be identified as the person to whom the expenditure was made and the purpose of the expenditure may be described as personal and family living expenses during a stated time period. §104.2(b)(9).

Your final question concerns the procedures to be followed to comply with the Act in connection with the described loans. Since the loans fall within §100.4(b)(1) of the regulations, which requires that contributions be reported with the first report filed by the candidate or principal campaign committee, the committee should file an amendment to its first report within the next 15 days listing both the loans, and payments made from the loan proceeds, in the manner discussed above.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Dated: September 1, 1978.

10.340

Advisory Opinions

● 10-60

- 1/ A loan from an individual is a contribution as long as it is outstanding and unpaid by the candidate or committee to whom the loan was made. 11 C.F.R. 100.4(a)(1)(1). As it is repaid, the individual lender is no longer charged with a contribution for limit purposes under 2 U.S.C. 5441a.
- 2/ See the Commission's response to Advisory Opinion Request 1976-84 and Advisory Opinion 1976-70, copies enclosed.
- 3/ As contributions, the loan proceeds constitute campaign funds not personal funds. Therefore, the reporting exemption in 100.7(b)(10) of Commission regulations for payments of routine living expenses from "non-campaign funds" would not apply in the circumstances you have presented.

87040525274

CERTIFIED MAIL
AUG 7 1985

RECEIVED AT THE FEC
August 7, 1985
Box 595
Moultonboro, N.H.
(603) 544-2657
05 AUG 13 08:52
03234

113743

Dear Mrs. Cooperman:

Thank you for the August 1, 1985 letter from Mr. Gibern explaining how we should continue our reports to you.

Please extend the due date on our 1/1/85 6/30/85 report; it will be sent to you as soon as you call Diane Nicotki on (617) 482-6646

and give her additional guidance on filling out the forms. As I stated in earlier correspondence my wife + I have very little money now. Nevertheless, we are endeavoring to repay our loans as quickly as possible. I assume our next report, covering 7/1 -> 12/31/85, is due 1/31/86.

All our campaign bills were paid long ago so we now have only 2 reportable items:

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95
100

AUG 15 PM 2:06

- 2 -

① \$9,098.99 + interest for excess
in personal living funds loan.

(This is \$10,000 borrowed from the
Laconia Savings Bank 10/11/54

minus \$900 gift grant from
Majorie Muehlke minus \$1.01

in principal paid 4/6/55. The

2 loan repayments have been:

1/55 - \$351.01 in interest

4/6/55 - \$299.97 (\$1.01 in

principal + \$298.96 in interest)

② \$9,000. - + interest for excess
in personal living funds loan. (Note:

\$10,000 borrowed 10/20/54 from

Village Savings Bank minus \$1000

gift grant from John Muehlke, Sr.

The 2 repayments have been:

1/9/55 \$321.09 in interest

4/15/55 \$312.50 in interest)

Please note that my address is Box 595,
Moultonboro, N.H. 03254. The

August 1 letter was sent to the
wrong address.

Sincerely,
John Muehlke, Jr.

050129J:599

MEMORANDUM FOR FILES: TELECON

SUBJECT: Amendments to Reports

FROM: Libby Cooperman, Reports Analyst

TO: Diane Merski, Assistant Treasurer - 617-482-6640

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: August 15, 1985

87040525277

The Reports Analyst called the Assistant Treasurer per a request from the candidate in his August 7, 1985 letter. He stated that the Assistant Treasurer may need assistance in amending the reports. Ms. Merski wanted to know which reports needed to be amended. She was told that an amended report covering the financial activity for 1984 and one covering 1985 should be submitted. She was also told that the loans guaranteed by collateral from family members should be included in receipts and that payments made from these loans for rent food, utilities and other living expenses should show as disbursements. Ms. Merski requested that blank FEC Form 3's be sent to her at her office - First New England Securities, 225 Franklin Street, Suite 1150, Boston, MA, 02110. The Reports Analyst sent the requested forms.

MEMORANDUM FOR FILES: TELECON

SUBJECT: Reporting of Loan Repayments

FROM: Diane Merski, Assistant Treasurer, 617-482-6640

TO: Libby Cooperman, Reports Analyst

NAME OF COMMITTEE: Muehlke for Congress - C00190561 - New Hampshire

DATE: August 29, 1985

The treasurer called to ask which lines on the Detailed Summary Page are used to report loan repayments - principal and interest. The Reports Analyst told her to report the loan interest on Line 17 - Operating Expenditures and to report the principal payments on Line 19 - Loan Repayments. Ms. Merski stated that she had almost completed the 1984 and 1985 amendments and that all that she needed were the candidate's living expenses paid out of the two \$10,000 loans. When she has that information she can complete her amendments.

87040525278

SEP 13 1985

REGULAR MAIL

September 13, 1985
Box 995
Moultonboro, N.H. 03254
(603) 544-2657

RECEIVED AT THE P...
05 SEP 16 AM: 22

Libby Cooperman
Reports Analyst
Federal Election Commission
Washington, D.C. 20463
(800) 424-9530
(202) 523-4048

RECEIVED BY THE SECRETARY OF THE HOUSE OF REPRESENTATIVES
05 SEP 17 AM 11:43

113943

Dear Ms. Cooperman:

Enclosed is a copy of a letter I sent today to Diane Merski. I thought she had sent all of our material to you, but she told me last night over the telephone that you want some new information - personal expenses broken down by categories. These expenses are listed in the letter to Diane.

Per my letter to Diane, she will help me on the forms and amendment(s) covering all material and activity up to and including June 30, 1985. For all material and activity starting July 1, 1985 - this will be very minor expenditures such as the cost of sending this letter and calling Diane plus reporting on interest and principal payments - I will ~~pay~~ Please call me in the late afternoon or evening during the week on 544-2647 (area code 603). I'll definitely need your guidance in filling out the forms; we want to do them right the first time so there will be no unnecessary delays.

We appreciate your granting us an extension on the time to file the necessary forms and amendment(s). In fact, the FEC did receive from me, prior to the due date, statistics then deemed necessary, even though it is taking time to get those figures and the new ones you want into the proper format. Please share this information with the U.S. House of Representatives and call Diane between 12 noon and 1 p.m. on (617) 482-6640 as soon as you receive this info to give her guidance on completing the forms.

Thank you for your help.

Sincerely,

John Muehlke, Jr.
John Muehlke, Jr.

854840812:52279

September 13, 1985
Box 595
Moultonboro, N.H. 03254
(603) 544-2657

Diane Merski
4 Parkvale Avenue #1
Allston, MA. 02134
(H) 617-789-4526
(O) 617-482-6640

Dear Diane,

Congratulations on you promotion! That's great! I deeply appreciate the long hours of devoted work and many contacts you have taken the time to make with the FEC and with me. Per our chat over the phone last night you agreed to complete and submit to Ms. Cooperman for her to share with the U.S. House of Representatives all forms and amendments covering receipts/expenditures/loan payments up to and including June 30, 1985. I am, therefore, returning to you the material you sent me September 7.

I appreciate the pressures you are under and suggest that the next time I am in Boston I pick up the entire file from you. Alternatively, when you're next in New Hampshire you could leave the entire file with me. I must go over the forms with you in person and in detail; the material is still all "Greek" to me. I will handle all receipts/expenditures/loan payment reporting starting July 1, 1985.

You said that the only 2 items you need are
a/ a breakdown of principal and interest payments
and

b/ a list of personal expenses

Here they are:

a/1/ Village Bank and Trust \$10,000 loan of 10/20/84. As of 6/30/84 I had paid no principal on this. I paid \$321.09 in interest on 1/9/85 and \$312.50 in interest on 4/15/85 for a total of \$633.59 in interest. \$1,000 of this loan was a grant gift from John Muehlke, Sr. to the campaign.

a/2/ Laconia Savings Bank \$10,000 loan of 10/11/84. As of 6/30/85 I had paid \$1.01 in principal. This was paid on 4/6/85. I paid \$351.01 in interest on 1/1/85 and the total payment on 4/6/85 was \$299.97 - \$1.01 in principal plus \$298.96 in interest. The total interest paid on this loan as of 6/30/85 was \$649.97. \$900 of this loan was a grant gift from Dr. Marjorie Muehlke.

I am endeavoring to keep up with the interest payments and pay off the entire principal of these two loans just as fast as possible.

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-2-

b/ Expenses covered by the \$20,000 in loans were as follows:

(\$1,000 was grant gift to campaign by JMuehike, Sr.)
(\$ 900 was grant gift by Marjorie Muehike)
(\$1,900 Subtotal - POLITICAL)

\$18,100 - Subtotal - PERSONAL

- \$3,059.18 Insurance - medical, liability, car, life
 - \$ 665.46 Transportation - gas, car repairs
 - \$ 432.30 Medical for John Muehike, Jr., Kwei-chen Muehike, and infant sons David and Jonathan
 - \$ 161.68 Lawyer's fee
 - \$7,023.59 Food, utilities, telephone bills, clothes, firewood, and stamps (Sorry, I don't have clear breakdown of each of these items)
 - \$3,350.00 Rent
 - \$ 117.18 Bank charges, incl Visa and Amexpress
 - \$ 92.00 Church donations
 - \$ 301.00 Babysitting, and child care
 - \$ 210.00 Books
 - \$ 294.24 Local taxes and fees
 - \$ 446.77 Gifts
 - \$1,871.00 Computer-related costs
 - \$ 74.60 Moving costs - Gilford to Laconia
- \$18,100 Subtotal - PERSONAL

This should complete all the data required by the FEC. Please contact Libby immediately upon receipt of this material, give her your new home telephone number if she needs it, and complete & send to Libby by registered mail all forms for material up to 6/30/85. After you have returned the entire file to me, your duty is done. A big thanks to you. You've struggled to help above and beyond the call of duty.

With warm regards,

John Muehike, Jr.
John Muehike, Jr.

P.S. I am sending a copy of this letter to Ms. Cooperman with a request that she call and assist you in preparing the proper form(s) and amendment(s).

0 5 0 1 2 9 1 2 3 1



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF FUR # 2138

Date Filmed 1/30/87 Camera No. --- 2

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