



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20461

THIS IS THE BEGINNING OF MUR # 2561

DATE FILMED 11-3-85 CAMERA NO. 1

CAMERAMAN JMN

95043685178

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: July 17, 1987

ANALYST: Robin Kelly

I. COMMITTEE: Friends of Schaefer
(C00209213)
Maryland/Senate
Michael Schaefer, Treasurer
8840 Villa La Jolla Drive, #112
La Jolla, CA 92037 1/

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)
2 U.S.C. §434(b)(8)
11 CFR 104.3(d)

III. BACKGROUND:

A. Receipt of an Apparent Excessive Contribution -
2 U.S.C. §441a(f)

The Friends of Schaefer Committee (the "Committee") has received a \$29,000 apparent excessive contribution from an individual.

The Committee's 1986 12 Day Pre-Primary Report disclosed a \$30,000 loan on Line 13(a) of the Detailed Summary Page (Attachment 2). The itemization on Schedule A of the report disclosed that the \$30,000 loan was received from Mr. Schaefer, in July of 1986 (Attachment 3). The Committee failed to include a Schedule C in the report to disclose this loan.

A Request for Additional Information ("RFAI") was sent to the Committee on September 30, 1986 regarding the 1986 12 Day Pre-Primary Report (Attachment 4). The RFAI requested a Schedule C for the loan incurred during the reporting period and for clarification as to the original source of the candidate loan.

On October 15, 1986 the Committee submitted an Amended 12 Day Pre-Primary Report. The report included a Schedule C which disclosed that the loan from the candidate was borrowed from an individual (Attachment 5). Schedule C showed that the individual, Mary Huerta, loaned Mr. Schaefer \$30,000 at 10% interest, due on demand, and secured by "500 shares (San Diego Financial Corp.) at a market value of \$100 per share, Bid."

1/ This is the candidate's permanent address. The address originally used for the campaign was 723 St. Paul Street, Baltimore, MD 21202.

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On October 28, 1986 an RFAI was sent to the Committee regarding the Amended 12 Day Pre-Primary Report (Attachment 6). The RFAI informed the Committee of the apparent excessive contribution. The Committee was also advised that if it had received an excessive contribution, it should refund the excessive amount to the contributor and notify the Commission in writing of the refund.

On October 31, 1986 a Reports Analysis Division analyst received a phone call from Mr. Schaefer (Attachment 7). Mr. Schaefer called in response to the RFAI sent to him on the Amended 12 Day Pre-Primary Report. He said he did not know what was wanted, since he had disclosed everything. The analyst explained that the letter was sent to advise him of the violation and to give him an opportunity to clarify any information he felt necessary. In addition, the analyst said that the candidate was considered an agent of the committee and that a loan from an individual was subject to the Act's dollar limitations, which was \$1,000 per election. The analyst told Mr. Schaefer that the matter would probably be referred to the Office of General Counsel. Mr. Schaefer said that he was a very busy person and asked if he could speak with our General Counsel's office. He wanted the matter cleared up as quickly as possible. The analyst told Mr. Schaefer that she would get someone to return his call. Peter Kell, Jr., the Authorized Committee Branch Chief, returned Mr. Schaefer's call that same day. In the conversation between Mr. Schaefer and Mr. Kell, Mr. Schaefer asked what action he should take, and Mr. Kell responded that Mr. Schaefer should write a letter to the Commission explaining the matter.

On November 5, 1986 a letter addressed to Chairman Joan D. Aikens was received from Mr. Schaefer (Attachment 8). In the letter Mr. Schaefer stated that he did not agree with the Commission's interpretation of the law as it related to his loan transaction. Mr. Schaefer wrote that since he had borrowed money from the same individual in the past and the loan was secured and used current interest rates, it was similar to a loan extended by a bank. Also, he did not agree with the Commission's view that any transaction involving him during the period that he was a candidate should be viewed as acting as an agent of the Committee. He says that "[T]he realistic view is that many busy business and professional people have several capacities of their own, separate and apart from being a Candidate for a brief period."

On January 20, 1987 a letter was received from Mr. Schaefer (Attachment 9). Mr. Schaefer stated that he was

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still waiting for some response to his October 31, 1986 letter to Chairman Joan D. Aikens regarding the Commission's interpretation of the \$30,000 collateral stock loan from Mary Huerta. Mr. Schaefer maintained that it was a commercial loan from a source of a "prior loan or loans, at interest, and secured by listed securities."

On April 13, 1987 a letter addressed to the analyst was received from Mr. Schaefer in which he stated that the loan to Mary Huerta is being paid 10% quarterly interest as opposed to semi-annual (Attachment 10). It went on to say that \$750 in interest was paid on April 1, 1987 from "my personal business income, it being a business loan against bank stock".

On April 23, 1987 Mr. Schaefer called in response to a Second Notice he had received regarding the 1986 October Quarterly Report (Attachment 11). He said that he had not yet received word from the Commission about a decision on the \$30,000 loan from Mary Huerta. The analyst informed him that the matter would be referred to the Office of General Counsel.

B. Failure to Continuously Report Debts and/or Obligations
- 2 U.S.C. §434(b)(8) and 11 CFR 104.3(d)

The Committee's 1986 October Quarterly Report failed to disclose on Schedule C the \$30,000 loan which was reported on the 1986 12 Day Pre-Primary Report (Attachment 12).

On March 17, 1987 an RFAI was sent to the Committee regarding the 1986 October Quarterly Report (Attachment 13). The RFAI requested that the Committee amend its report to include a Schedule C for the \$30,000 outstanding loan.

A Second Notice was sent to the Committee on April 9, 1987 for failure to respond (Attachment 14).

In a letter received on April 13, 1987 and addressed to the analyst, Mr. Schaefer referred to the Commission's RFAI concerning the dropped loan with "I don't have any forms and do not understand balance of your letter (Attachment 10)."

On April 23, 1987, Mr. Schaefer called in response to a Second Notice he had received regarding the 1986 October Quarterly Report (Attachment 11). The analyst explained that the letter sent to him had requested a current Schedule C for the loan. Mr. Schaefer said that he had not made any payments and that there were no changes to report. The analyst said that he should still submit a current Schedule C.

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To date no further responses regarding these matters
have been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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FEDERAL ELECTION COMMISSION
1985-1986
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 12/29/87

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE	COUNT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERED DATES	# OF PAGES	MICROFILM LOCATION TYPE OF FILER
				PRIMARY	GENERAL	PRIMARY	GENERAL			
SCHREIFER, MICHAEL	SENATE		REPUBLICAN PARTY					1986 ELECTION	ID# 96000231	
1. STATEMENT OF CANDIDATE										
1986 STATEMENT OF CANDIDATE								15 JUL 86		1 06SEN/013/1715
2. PRINCIPAL CAMPAIGN COMMITTEE										
FRIENDS OF SCHREIFER									ID# 000029213	SENATE
1986 STATEMENT OF ORGANIZATION - AMENDMENT								20 JUL 86		3 06SEN/016/3164
48 HOUR CONTRIBUTION NOTICE								10 SEP 86		1 06SEN/019/0116
MISCELLANEOUS REPORT TO FEC								5 NOV 86		3 06SEN/045/0151
JULY QUARTERLY				29,004		6,013		15 JUL 86		5 06SEN/013/1717
JULY QUARTERLY - AMENDMENT				-		-		1 APR 86 -15 JUL 86		4 06SEN/019/0117
REQUEST FOR ADDITIONAL INFORMATION								1 APR 86 -15 JUL 86		1 06FEC/426/2469
REQUEST FOR ADDITIONAL INFORMATION 2ND								1 APR 86 -15 JUL 86		2 06FEC/429/2810
PRE-PRIMARY				37,852		2,294		15 JUL 86 -20 AUG 86		6 06SEN/010/3361
PRE-PRIMARY - AMENDMENT				-		-		15 JUL 86 -20 AUG 86		4 06SEN/020/2240
REQUEST FOR ADDITIONAL INFORMATION								15 JUL 86 -20 AUG 86		2 06FEC/432/2624
REQUEST FOR ADDITIONAL INFORMATION								15 JUL 86 -20 AUG 86		3 06FEC/443/0004
OCTOBER QUARTERLY				41,422		53,553		20 AUG 86 -30 SEP 86		7 06SEN/020/0331
OCTOBER QUARTERLY - AMENDMENT				-		-		20 AUG 86 -30 SEP 86		3 07SEN/005/1043
REQUEST FOR ADDITIONAL INFORMATION								20 AUG 86 -30 SEP 86		2 06FEC/463/0555
REQUEST FOR ADDITIONAL INFORMATION 2ND								20 AUG 86 -30 SEP 86		3 06FEC/464/3914
NOTICE OF FAILURE TO FILE								31 DEC 86		1 06FEC/461/4509
1987 MISCELLANEOUS REPORT TO FEC								21 JAN 87		3 07SEN/001/2659
MISCELLANEOUS REPORT TO FEC								13 APR 87		3 07SEN/005/1040
TOTAL				100,278	0	101,060	0			56 TOTAL PAGES
3. AUTHORIZED COMMITTEES										
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN										

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All reports filed have been reviewed.

Ending cash-on-hand as of 9/30/86: \$13,734.16

Debts owed by the Committee as 9/30/86: \$58,000

Debts owed to the Committee as of 9/30/86: \$0

SCHEDULE A

ITEMIZED RECEIPTS

Page 1 of 1 for
 (Line 11) (Section 170(e)(2)(B))
 Also attach (Schedule) for each
 category of the Donor
 Summary Page

Any information obtained 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 on Form **Friends of Schaefer**

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Dan D. Helprin, Jr. 9 Eastman Bedford, N.H. 03102 Reason For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	U.S.A. Occupation: Deputy Admin. M.D. Aggregate Year-to-Date-\$ 100.00	7/86	100.00
Mary E. Huerta 1613 Blvd. de las Vegas Las Vegas, Nevada 89100 Reason For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Retired Occupation: Aggregate Year-to-Date-\$ 500.00	7/86	500.00
Michael Schaefer 723 St. Paul St. Baltimore Md. 21202 Reason For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Name of Employer: SELF. Occupation: Public Entertainer Aggregate Year-to-Date-\$ 30,000.00	7/86	30,000.00 (LOAN)
Northeastern Signs, Inc. 1790 Union Ave. Balt. Md. 21211-4185 Reason For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Name of Employer: Rebate on campaign signs (order returned) Occupation: Printer Aggregate Year-to-Date-\$ 541.80	8/7/86	541.80
Jay R. DeMiranda P.O. Box Torrance, Calif. Reason For: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Name of Employer: SELF. Occupation: Investor Aggregate Year-to-Date-\$ 6,711.00	8/19/86	6,711.00
F. Full Name, Mailing Address and ZIP Code Reason For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Name of Employer: On Mortgage Occupation: Aggregate Year-to-Date-\$	Date (month, day, year)	Amount of Each Receipt This Period
G. Full Name, Mailing Address and ZIP Code Reason For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify)	Name of Employer: Occupation: Aggregate Year-to-Date-\$	Date (month, day, year)	Amount of Each Receipt This Period
SUBTOTAL of Receipts This Page (optional)			2400.80
TOTAL This Period (last page this line number only)			37,852.80



FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20541

HQ-2

SEP 30 1986

Michael Schaefer, Treasurer
 Friends of Schaefer
 723 St. Paul Street
 Baltimore, MD 21202

Identification Number: C00209213

Reference: 12 Day Pre-Primary Report (7/15/86-8/20/86)

Dear Mr. Schaefer:

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 totals for Lines 6(a) through 10 on the Summary Page of your report.

-Please provide the Column B totals for the Summary Page and Detailed Summary Page.

-Your report does not include a Schedule C. Certain information disclosed in your report indicates that a loan(s) should be itemized on Schedule C. Please provide the missing schedule.

-When a committee reports receiving a loan from the candidate, it is necessary to clarify whether or not the candidate used his/her personal funds or borrowed the money from a lending institution, or any other source. If the candidate borrowed funds from a lending institution or any other source, please provide the name of the lending institution and the complete terms of the loan. If the loan(s) was from personal funds, please acknowledge that fact in an amendment to this report. Further, it is important to note that "personal funds" is strictly defined by Commission regulations and may be found in 11 CFR 110.10. (11 CFR 100.7(a)(1) and 104.3(d))

An amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen

FORM 100-1
Schedule C
Part 200

LOANS

Page 1 of 1
L. The borrower
has secured the loan
for each individual listed

Name of Guarantor (if full)			
Friends of Schaefer			
A. Full Name, Mailing Address and ZIP Code of Loan Source Michael Schaefer 723 St. Paul St. Baltimore, Md. 21202		Original Amount of Loan 30000.00	Outstanding Payment To Date 0
Balance Outstanding at Close of This Period 30,000.00		Terms: Date Incurred 2/12 Date Due Annual Interest Rate 0 % <input type="checkbox"/> Variable <input type="checkbox"/> Secured	
List All Endorsers or Guarantors of entry in Item A			
1. Full Name, Mailing Address and ZIP Code Loan was from personal funds, borrowed on security of endorsement		Name of Employer	
2. Full Name, Mailing Address and ZIP Code borrowed by candidate from Mary Huerta, the loan by		Name of Employer	
3. Full Name, Mailing Address and ZIP Code Schaefer is 0% demand loan, the Huerta loan to		Name of Employer	
B. Full Name, Mailing Address and ZIP Code of Loan Source Schaefer is 10% interest demand loan. Security for loan:		Original Amount of Loan	Outstanding Payment To Date
Balance Outstanding at Close of This Period		Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % <input type="checkbox"/> Variable <input type="checkbox"/> Secured	
List All Endorsers or Guarantors of entry in Item B			
1. Full Name, Mailing Address and ZIP Code 500 shares San Diego Financial Corp., Market		Name of Employer	
2. Full Name, Mailing Address and ZIP Code Value \$100.00 per share, Bid.		Name of Employer	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
SUBTOTALS This Period This Page (entered)			
TOTALS This Period (all pages of this form only)			
Carry outstanding balances only to LINE 2, Schedule D, for this line. If no Schedule D, carry forward to appropriate line on Schedule C.			

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If the loan in question is from an individual, other than the candidate, please amend your report to show the loan on Line 13(b) 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. (11 CFR 104.3(a)(4)(iv))

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) 376-2400.

Sincerely,

Robin Kelly

Robin Kelly
Reports Analyst
Reports Analysis Division

MEMORANDUM FOR FILES: TELECOM

SUBJECT: Response to our RFAI re: Mr. Schaefer's 12-P Schedule C

FROM: Call from Mr. Michael Schaefer

TO: RAD Analyst, Robin Kelly

NAME OF COMMITTEE: Friends of Schaefer - Senate/MD - C00209213

DATE: 10/31/86

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Mr. Schaefer called in response to our letter (RFAI) sent regarding the 1986 12-P report. He stated that he had disclosed everything and wanted to know what we wanted. I explained that the letter was sent in order to advise him that there was a possible violation and that we needed to know if any clarification was needed on his part. I told him that he was considered an agent of his committee and that borrowing money from an individual had to be within the allowable limits of the FEC regulations. He said he could have borrowed the money from a bank, and asked what the difference was between borrowing from a bank or from an individual. He said that he had borrowed lots of money from Mary Merta. He had borrowed \$100,000 from her a couple of years ago. I explained that once he became a candidate for Federal office, a loan collected by him acting as an agent of the committee had to be within the laws set forth by the Commission. He said he could pay back the loan tomorrow. What was the difference. I told him that wasn't the point, the point is that he had accepted a loan (contribution) from an individual that was in excess of the limitations as set forth in the FECA. I told him that the matter would probably be referred to the Office of General Counsel. He said he wanted to talk with them. He said he would be going to California soon, and that he had business to attend. He didn't have time to deal with the Commission. He said he'd like the issue to be resolved within 10 days. I told him that that wasn't possible. He said he would write a letter to the Commission addressed to the Chairman. He definitely didn't want this thing to drag on. He wanted someone to call him back. I got his number. Peter Kell, Jr., Chief of the section returned his call.

LAW OFFICES OF MICHAEL SCHAEFER, ESQ.

Public Interest and General Litigation

RECEIVED
SECRETARY OF THE SENATE
OCT 26 1986
U.S. SENATE
WASHINGTON, D.C.

October 31, 1986

RE: [unclear] P 3: 27

Handwritten initials

2000 Villa La Jolla Drive, Suite 100
La Jolla, California 92037
(619) 499-0720

Chairman Joan D. Aikens
Federal Election Commission
Washington, D.C. 20463

Dear Chairman Aikens:

It appears to me that Robin Kelly of your staff is interpreting the rules in a very broad manner to bring into the web of disclosure and enforcement activities that were not intended.

A couple of years ago I borrowed some \$100,000 from a Nevada private lender, and borrowed another \$30,000 this year. These were interest-bearing notes, well secured by collateral. (One was really a noninterest- loan, but I received only a net proceeds, after the interest at 12% was deducted, note was \$100,000, I received \$88,000).

Now I am asked to repay the \$30,000 as a contribution in excess of \$1,000.

The statutes cover "each person who makes a loan to your committee or to the candidate acting as an agent of the committee".

Ms. Kelly takes the view that any transaction involving me, during the period I was a candidate, views me as acting "as an agent of the Committee". The realistic view is that many busy business and professional people have several capacities of their own, separate and apart from being a Candidate for a brief period.

\$29,000

If I refunded ~~the~~ of the \$30,000, the lender would not have the 10% well secured interest-income. And I'd just borrow it back again to use for some property or securities investment. The loan of \$30,000 was secured by assignment of 500 shares of San Diego Financial Corp. stock, traded OTC at \$103 Bid. The \$100,000 loan was secured by 1,500 shares of the same stock. The interest rate and collateral is similar to that extended by a bank.

Unless you have some facts to indicate that a secured loan, to me, at current interest rates, from a source used in the past for substantial financing, necessarily involves my acting "as an agent of the Committee", you should close the files and go on to matters involving those who are still candidates.

Handwritten signature: M. Schaefer

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8602045.151

RECEIVED BY THE FEC

SCHAEFFER FOR UNITED STATES SENATE

17 JAN 20 11:43

January 19, 1987

FURTHER INFORMATION
PLEASE CONTACT:
MRS SCHAEFFER (301) 232-0405
723 ST. PAUL ST.
BALTIMORE, MD. 21202



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FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Re: Year-end Report Notice
#C00209213

The above campaign went dormant after the September 9, 1986 primary and has had no activity since then.

We are still waiting from some response from my October 31, 1986 letter to Chairman Joan D. Aikens, for a ruling as to Robin Kelly's interpretation that a \$30,000 collateral stock loan from Mary Baerts in Nevada, who had another \$100,000 prior loan with me, must be repaid as being a "campaign contribution" in excess of allowable limits. I maintain that it is a commercial loan from a source of prior loan or loans, at interest, and secured by listed securities (500 shares, San Diego Financial Corp., \$106 value, \$22 \$53,000 aggregate collateral value).

If you wish to reach me with regard to the above items, I will be, until January 30th, at the address and phone below, after that will be in Calif. for a month or so.

4515 Willard Ave. #307
Chevy Chase, Md. 20815
(301)656-0056

I plan no additional filing for the above campaign unless specifically requested to do so; this letter should suffice to declare that there have been no contributions and no expenses since last filing.

M Schaeffer
MICHAEL SCHAEFFER
Treasurer, Friends of Schaeffer

8702001.2653

LAW OFFICES OF MICHAEL SCHAEFER

Public Interest and General Litigation

April 6, 1987

APR 14 10 45

MAIL ROOM

RECEIVED THE FEC

97 APR 13 10:02

2000 West 1st Street, Suite 2000
Los Angeles, California 90012
(213) 480-0000

2000 West 1st Street, Suite 2000
Los Angeles, California 90012
(213) 480-0000

Robin Kelly, Reports Analyst
FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

Dear Ms. Kelly:

I have in hand your March 17th letter which awaited my arrival in Maryland March 26th for a week....my permanent address is the LA JOLLA, CAL. address above and you should direct future communications there to be expedient. I will however be at the Maryland address the week of April 21-25. (It is a hotel business I own, but don't live there anymore).

The \$20,000 you made reference to was loaned by myself to myself. If I were going to "pay it back", I would really be transferring funds from my bank account to my bank account. (For my "bank account" I was my stockexchange account with Charles Schwab & Co.).

Since the funds were taken from the margin account, there were substantial sales, year-end, of securities, and all of the funds owed were paid off, or were reduced by at least \$20,000 (which would cover the \$20,000 you speak about).

The \$20,000 obtained by me, from my own stockbroker account, was repaid prior to year-end.

Rather than a "loan" in the conventional sense, it was an obtaining of my own funds against stock that I owned, proprietary to sale of the stock; the stock was sold, the funds paid back the 'advance' and balance of funds paid to me.

I don't think it is a reportable transaction, as to the sale of the stock, as to the FEC, it was reported or will be reported to the IRS in my Form 1040 as a taxable transaction.

As to the \$20,000 loan, from Mary Barta, a secured loan from a person who had had me several loans, is being paid quarterly interest instead of semi-annual interest, at 10%, and \$700.00 interest was paid April 1, 1987 to Mary Barta, from my personal business income, it being a business loan against bank stock. I do not feel that it is relevant, and my petition to the full F.E.C. for a ruling on the issue of the \$20,000 loan has not been resolved yet to my knowledge.

I don't have any forms and do not understand balance of your letter.

Respectfully,
Michael Schaefer

95070205119043

MEMORANDUM FOR FILES: TELECON

SUBJECT: Response to loans obtained by the candidate, Michael Schaefer

FROM: Call received from Michael Schaefer

TO: RAD Analyst, Robin Kelly

NAME OF COMMITTEE: Friends of Schaefer - Senate/MD - C00209213

DATE: April 23, 1987

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Mr. Schaefer called in response to the Second Notice he had received regarding the 1986 October Quarterly Report. He explained that he was not receiving his mail timely because he was not presently residing in Maryland. He asked that we use the La Jolla, California address as stated in his most recent written correspondence. Mr. Schaefer also said that he had not yet received word from the Commission regarding a ruling on the \$30,000 loan he had obtained from Mary Huerta. I told him that this was a matter that would be referred to our Office of General Counsel. Then he explained that the loan obtained from Charles Schwab & Co. was a loan from himself to himself and therefore he didn't see any problem with the transaction. I told Mr. Schaefer that I would also have to refer this matter to our Office of General Counsel for their interpretation. In addition, I told Mr. Schaefer that our letter had requested that he amend his report to indicate the current status of the \$30,000 loan. He told me that he had not made any payments and that there were no changes to report. I said, that regardless he should still submit a current Schedule C indicating the current status of the loan. I asked Mr. Schaefer for a current phone number. He told me that he could be reached at (202) 234-9643 for the next couple weeks.

3 S3536 MD REPC1104

(Summary Page)

Name of Committee (in Full) **Friends of Schaefer**
 Address (Number and Street) **723 St. Paul St.**
 City, State and Zip Code **Baltimore Md. 21202**
 PFC Reporting Period **600229215**
 Is this Report an Amendment? YES NO
 Check if address is different than previously reported

TYPE OF REPORT

- April 15 Quarterly Report
- July 15 Quarterly Report
- October 15 Quarterly Report
- January 31 Year End Report
- July 3 Mid Year Report (Non-election Year Only)
- Tenth day report preceding _____ (Type of Election) _____ in the State of _____
- Twentieth day report following the General Election on _____ in the State of _____
- Termination Report

The report contains activity for - Primary Election General Election Special Election Recall Election

	PERIOD	COLUMN A This Period	COLUMN B Calendar Year to Date
1	Reporting Period <u>8/20/86</u> through <u>9/20/86</u>		
2	Total Contributions (other than loans)		
	of Total Contributions (other than loans) from Line 11 and	0	671,710
	of Total Contributions (other than loans) from Line 20 and	0	0
	of Total Contributions (other than loans) (Subtotal Line 8 and from 8 and	0	671,710
3	Total Operating Expenditures		
	of Total Operating Expenditures from Line 17	93,553	95,842.16
	of Total Offsets to Operating Expenditures from Line 18	0	541.82
	of Total Operating Expenditures (Subtotal Line 7 and from 7 and	93,553	95,305.34
4	Cash on Hand at Close of Reporting Period from Line 27	13,784.16	
5	Debits and Obligations Owed TO The Committee (Reported on an Schedule C or Schedule D)	0	
6	Debits and Obligations Owed BY The Committee (Reported on an Schedule C or Schedule D)	58,000	

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

Michael Schaefer
Type or Print Name of Treasurer

M Schaefer
Signature of Treasurer

10-7-86
Date

For further information, contact:
Federal Election Commission
600 E Street, N.W.
Washington, D.C. 20460
Tel. (202) 453-6800
Local (202) 576-5100

NOTE: Submission of false information or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. 6437c

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

FEC FORM 3 (3-80)

360229215



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20541

HQ-2

MAR 17 1986

Michael Schaefer, Treasurer
Friends of Schaefer
723 St. Paul Street
Baltimore, MD 21202

Identification Number: C00209213

Reference: October Quarterly Report (8/20/86-9/30/86)

Dear Mr. Schaefer:

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:

-On Schedule C of your report (pertinent portion attached) you disclose a \$20,000 loan from Michael Schaefer which you state "is borrowed from a Charles Schwab & Co. stockbrokers account held by Schaefer, a 'margin' loan secured by various stocks owned." Please note that a loan other than that made by a state bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Credit Union Administration [11 CFR 100.7(b)(11)] is considered a contribution. The term loan includes a guarantee, an endorsement and any other form of security. Please clarify the terms involved in this loan transaction and whether or not credit of any kind was extended to the candidate (acting as an agent of the committee) by Charles Schwab & Co. If the contribution (loan) in question was incompletely or incorrectly reported, you may wish to submit documentation for the public record.

Although the Commission may take further legal steps concerning the acceptance of a prohibited contribution, prompt action by you to refund the prohibited amount will be taken into consideration.

-Commission Regulations require the continuous reporting of all outstanding loans. This report omits the loan(s) itemized on your previous report(s).

7/24

Please amend your report(s) to indicate the current status of the following loan(s): \$30,000 - Michael Schaefer. (11 CFR 104.3(d) and 104.11) Rt

-Column B figures for the Summary and Detailed Summary Pages should equal the sum of the Column B figures of your previous report and the Column A figures of this report. Please amend your report to correct the Column B discrepancies for Line(s) 6(a), 6(c), 7(a), 7(c) and 16 and any subsequent report(s) which may be affected by this correction. Note that Column B should reflect the year-to-date totals for calendar year 1986 only.

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) 376-2480.

Sincerely,

Robin Kelly

Robin Kelly
Reports Analyst
Reports Analysis Division



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20543

4-3

April 9, 1987

Michael Schaefer, Treasurer
Friends of Schaefer
723 St. Paul Street
Baltimore, MD 21202

Identification Number: C00209213

Reference: October Quarterly Report (8/30/86-9/30/86)

Dear Mr. Schaefer:

This letter is to inform you that as of April 8, 1987, the Commission has not received your response to our request for additional information, dated March 17, 1987. That notice requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received 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 Robin Kelly on our toll-free number (800) 424-9530 or our local number (202) 376-2400.

Sincerely,

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

Enclosure

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SENSITIVE

RECEIVED
FEDERAL ELECTION COMMISSION
SECRET

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

87 DEC -1 PM 6:59
EXECUTIVE SESSION

DEC 08 1987

FIRST GENERAL COUNSEL'S REPORT

RAD REF #87L-29
STAFF MEMBER: Anne Weissenborn

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENTS: Friends of Schaefer Committee
Michael Schaefer, Treasurer
Mary E. Huerta
Charles Schwab and Co., Inc.

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 434(b)(8)
2 U.S.C. § 434(a)(2)(A)(iii)
2 U.S.C. § 441b
11 C.F.R. § 104.11

INTERNAL REPORTS CHECKED: Friends of Schaefer Committee

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was generated by a referral from the Reports Analysis Division ("RAD") of information obtained during review of reports filed by the Friends of Schaefer Committee ("the Committee"). (Attachment 1)

II. FACTUAL AND LEGAL ANALYSIS

A. \$30,000 Loan

The referral from RAD concerns a \$30,000 loan received by the Committee from the candidate, Michael Schaefer, in July, 1986. This loan to the Committee was apparently made possible by a loan which the candidate had obtained from an individual, Mary E. Huerta of Las Vegas, Nevada. The Committee reported the \$30,000 loan on a Schedule A as a personal loan from the candidate. Attachment 1, page 12.

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In response to an RFAI triggered by the Committee's initial failure to file an accompanying Schedule C, the Committee submitted the required schedule which stated that the loan "was from personal funds borrowed on securities owned, borrowed by the candidate from Mary Huerta . . ." The Schedule C further indicated that the Huerta loan was a "10% interest demand loan."

A second RFAI was sent to the Committee citing receipt of an apparently excessive contribution. This was followed by a series of telephone conversations during which the candidate insisted that the loan from Ms. Huerta was a secured commercial loan, similar to ones obtained from her in the past. He also disputed being designated as an agent of the Committee at the time the loan was obtained. The latest report filed by the Committee, the 1986 October Quarterly Report, did not include a repayment to Ms. Huerta; indeed, a letter from Mr. Schaefer dated April 6, 1987, stated that she was being paid quarterly, rather than semi-annual interest on the loan and that she had been paid \$750 in interest on April 1, 1987. Attachment 1, page 18. No repayment of principal was mentioned in the letter. The Committee accepted an additional \$500 contribution from Ms. Huerta in July, 1986, indicating knowledge on her part of Mr. Schaefer's candidacy at the time of the \$30,000 loan, although the exact date of the transaction between Mr. Schaefer and Ms. Huerta is not known at this time.

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2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount which a person may contribute to a federal candidate and his authorized political committee with respect to any election. 2 U.S.C. § 441a(f) prohibits candidates or political committees from accepting contributions in excess of the limitations. 2 U.S.C. § 431(8)(A)(i) defines "contribution" as including any "loan . . . made by any person for the purpose of influencing any election for Federal office." The only exception to the inclusion of loans within the definition of contribution involves loans of money by state or federal banks or by certain savings and loan institutions. See 2 U.S.C. § 431(8)(B)(vii).

In the present matter it appears that the \$30,000 loan made by the candidate, Michael Schaefer, to his committee in July, 1986, was made with funds borrowed by the candidate from Mary E. Huerta. Additional information is needed regarding Ms. Huerta's knowledge of a Schaefer campaign and her intent to benefit that campaign at the time of her \$30,000 loan; however, the fact that she made a \$500 contribution in July, 1986, provides a basis for assuming knowledge on her part of the campaign at the time of the \$30,000 transaction. Given the candidate's status as an agent of the Committee pursuant to 11 C.F.R. § 101.2 when obtaining loans in connection with his campaign, the Committee may be deemed to have received the loan from Ms. Huerta.

This Office recommends that the Commission find reason to believe that the Friends of Schaefer Committee violated 2 U.S.C.

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§ 441a(f) by accepting an excessive contribution from Mary E. Huerta and that Ms Huerta violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to the Committee. 1/

B. Failure to Report Loan in Continuous Fashion

2 U.S.C. § 434(b)(8) requires that a political committee report the amount and nature of outstanding debts owed by the committee on each report required to be filed. Pursuant to 11 C.F.R. § 104.11 debts and obligations are to be continuously reported until extinguished. The last report filed by the Friends of Schaefer Committee was the 1986 October Quarterly Report which did not include on a Schedule C the \$30,000 loan from Mary E. Huerta here at issue. In response to inquiries from RAD, Mr. Schaefer on April 23, 1987, stated that he had made no payments. Therefore, the debt apparently remained as of that date and reporting continued to be required.

This Office recommends that the Commission find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 434(b)(8) and 11 C.F.R. § 104.11.

1/ Additional questions arise from Mr. Schaefer's letter of April 6, 1987, concerning the source of the \$750 interest payment made to Ms. Huerta on April 1. Mr. Schaefer stated that this interest was paid "from my personal business income, it being a business loan against bank stock."

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C. \$28,000 Loan

Also noted in the RAD referral is a second loan of \$28,000 disclosed on the Committee's 1986 October Quarterly Report as received on September 2, 1986. Again, this loan was reported as coming from the candidate, with the accompanying Schedule C showing that the money used by the candidate had been "borrowed from Charles Schwab and Co. stockholders account held by Schaefer, a 'margin' loan secured by various stocks owned, no repayment date to Schwab, interest: Brokers call rate + .75% (about 7 1/2%)." (Attachment 2)

In his April 6, 1987 letter, Mr. Schaefer wrote that the loan in question "was loaned by myself to myself." He further stated that "(s)ince the funds were taken from the margin account, there were substantial sales, year-end, of securities, and all of the funds owed were paid off, or were reduced by at least \$30,000 (which would cover the \$28,000)" (Attachment 1, page 18).

According to information on margin accounts published by the New York Stock Exchange, such an account is made up of cash or securities provided by the investor and by credit extended by a broker. The Federal Reserve Board requires that at least 50% of the cost of a stock which the investor wishes to purchase through such an account be supplied by the investor. The firm then extends credit for the remainder at the going rate of interest.

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Mr. Schaefer argues in his letter of April 6, that the funds taken from his margin account were his own funds which he had obtained against stock which he owned. He also states that "the stock was sold, the funds paid back the 'advance' and balance of funds paid to me."

11 C.F.R. § 110.10(1) and (2) define "personal funds" of the candidate as any assets which . . . at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either (i) legal and rightful title, or (ii) an equitable interest." The definition also includes "dividends and proceeds from the sale of the candidate's stocks." Mr. Schaefer's explanation leaves unclear whether the funds used to make the \$28,000 loan to the Committee constituted such "personal funds" at the time of the loan or whether they had been in fact borrowed from Charles Schwab and Company with Mr. Schaefer's stock used as security.

2 U.S.C. § 441b(a) prohibits any corporation from making a contribution or expenditure in connection with any election to federal office. 2 U.S.C. § 441b(b)(2) defines "contribution or expenditure" to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money . . . to any candidate, campaign committee, or political party or

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organization, in connection with any election to any [federal office].

The use of the terms "security" and "interest" on the Committee's Schedule C indicate that Mr. Schaefer accepted a loan from Charles Schwab and Co. for use in his campaign; i.e., that the funds used, as opposed to the security used to obtain those funds, were not personal assets at the time he became a candidate. However, additional information is needed in order to ascertain such facts as the amount and sources of monies in Mr. Schaefer's margin account at the time of the loan to his Committee, the relationship between the usual function of a margin account (to make investments) and Mr. Schaefer's apparently broader use, whether or not Charles Schwab and Company considered the \$28,000 obtained by Mr. Schaefer to be a loan from the company, and, if so, the extent of the company's knowledge of his candidacy at the time of the loan. Again, if Mr. Schaefer accepted a loan for use in his campaign, the receipt of such a loan by the candidate would constitute receipt by his committee.

This Office recommends that the Commission find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 441b by accepting a loan from Charles Schwab and Co., Inc., and that Charles Schwab and Co., Inc. violated 2 U.S.C. § 441b by making a loan and thus a contribution to the Committee through the candidate.

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D. Receipt of Interest Payments

During the course of analyzing the information referred by RAD in this matter, this Office has identified an additional apparent violation. In its 1986 Pre-Primary and October Quarterly Reports the Committee itemized on Schedule A's three payments of \$6,711 each received from Jay R. DeMiranda of Torrance, California. (Attachment 3). Each of these receipts is reported as being for monthly interest on a mortgage; they are included on the reports' detailed summary pages as "other receipts." On the Schedule A attached to the October report, the statement is made that "these are monthly interest payments received by Committee on its \$671,100 mortgage owned, 12% due 1991, secured by Los Angeles apartment bldgs." The Pre-Primary Report, the Committee's first, contained on the detailed Summary Page the statement "Committee holds \$671,142 mortgage (12% interest, due 1991, may be liquidated earlier at discount)." The October Quarterly Report gave the figure of \$60,000 approx." for the aggregate year-to-date payments received from Mr. DeMiranda.

2 U.S.C. § 431(8)(A)(i) also defines contribution as including a "deposit of money or anything of value made by any person for purposes of influencing any election for Federal office...." It has been the position of the Commission that "business or commercial type ventures of ongoing political committees are simply another form of fundraising for political purposes; therefore, the proceeds from such ventures were

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considered contributions subject to the Act." Advisory Opinion 1986-14. See also Advisory Opinions 1983-2 and 1979-17. In the present situation, the Committee apparently received interest payments totaling approximately \$53,289^{2/} on a commercial property during the primary campaign in which Michael Schaefer was a candidate, the primary election in Maryland having been held on September 9, 1986. The Schaefer campaign was not in the process of terminating at the time these payments were made.^{3/}

This Office recommends that the Commission find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions from Jay R. DeMiranda. This Office also recommends that the Commission find reason to believe that Jay R. DeMiranda violated 2 U.S.C. § 441a(l) (A) by making excessive contributions to the Friends of Schaefer Committee.

B. Failure to File Report

2 U.S.C. § 434(a) (2) (A) (iii) requires the authorized committees of candidates to file, in an election year, a report covering the quarter ending December 31 no later than January 31 of the following calendar year. According to the referral from

^{2/} \$60,000 minus \$6,711 received on September 26, 1986, and thus after the primary election

^{3/} As noted in Advisory Opinion 1986-14 the Commission has recognized two exceptions to the general rule that the sale of political committee assets results in a contribution by the purchaser, these being a sale upon termination of operations and the sale of a mailing list developed as a unique asset of the Committee for its own use..

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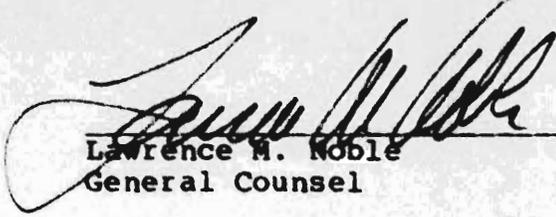
the Reports Analysis Division, the Friends of Schaefer Committee has never filed a 1986 Year End Report. Therefore, this Office recommends that the Commission find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

RECOMMENDATIONS

1. Find reason to believe that the Friends of Schaefer Committee violated 2 U.S.C. §§ 441a(f), 441b, 434(b)(8) and 434(a)(2)(A)(iii).
2. Find reason to believe that Mary E. Huerta violated 2 U.S.C. § 441a(a)(1)(A).
3. Find reason to believe that Charles Schwab and Co., Inc., violated 2 U.S.C. § 441b.
4. Find reason to believe that Jay R.D. Miranda violated 2 U.S.C. § 441a(a)(1)(A).
5. Approve the attached letters, factual and legal analysis, subpoenas to produce documents and orders to submit written answers.

Date

11/30/87


Lawrence M. Noble
General Counsel

Attachments:

1. Referral from Reports Analysis Division
2. Schedule C from Committee's 1986 October Quarterly Report
3. Schedules A from Committee's 1986 Pre-Primary and October Quarterly Reports
4. Factual and Legal Analyses (4)
5. Subpoenas to Produce Documents and Orders to Submit Written Answers (4)
6. Letters (4)

95043685209



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/SUSAN GREENLEE S.G

DATE: December 3, 1987

SUBJECT: OBJECTION TO RAD Ref. 87L-29: First General
Counsel's Report
signed Nov.30, 1987

The above-captioned document was circulated to the
Commission on Wednesday, December 2, 1987 at 11:00 A.M.

Objections have been received from the Commissioners
as indicated by the name(s) checked:

Commissioner Aikens	<u> X </u>
Commissioner Elliott	<u> X </u>
Commissioner Josefiak	<u> X </u>
Commissioner McDonald	<u> X </u>
Commissioner McGarry	<u> X </u>
Commissioner Thomas	<u> X </u>

This matter will be placed on the Executive Session
agenda for December 8, 1987.

Please notify us who will represent your Division
before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Schaefer Committee)
Micahel Schaefer, Treasurer) RAD Referral #87L-29 (MUR 2561)
Mary E. Huerta)
Charles Schwab and Co., Inc.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 8, 1987, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to RAD Referral #87L-29:

1. Open a Matter Under Review (MUR).
2. Find reason to believe that the Friends of Schaefer Committee violated 2 U.S.C. §§ 441a(f), 441b, 434(b)(8) and 434(a)(2)(A)(iii).
3. Find reason to believe that Mary E. Huerta violated 2 U.S.C. § 441a(a)(1)(A).
4. Take no action at this time with respect to recommendation number 3 contained in the General Counsel's report dated November 30, 1987.

(continued)

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Federal Election Commission
Certification for RAD Referral 87L-29
December 8, 1987

Page 2

5. Take no action at this time with respect to recommendation number 4 contained in the General Counsel's report dated November 30, 1987.
6. Direct the Office of General Counsel to send appropriate letters and an appropriate factual and legal analysis, appropriate subpoenas to produce documents and appropriate orders to submit written answers.

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

Attest:

12-9-87

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 29, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mary E. Huerta
1613 Breezewood Drive
Las Vegas, Nevada 89108

RE: MUR 2561

Dear Ms. Huerta:

On December 8, 1987, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The 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. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials along with your response to the enclosed Subpoena to Produce Documents and Order to Answer Questions. All responses to the order and subpoena must be submitted within 15 days of your receipt of this order and subpoena. Statements should be submitted under oath.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel and authorizing such counsel to receive any notifications or other communications from the Commission.

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.

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Letter to Mary E. Huerta
Page 2

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

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

This matter will remain 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 Anne A. Weissenborn, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Subpoena and Order
Factual and Legal Analysis
Procedures
Designation of Counsel Form

95043685214

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)
)
)

MUR 2561

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Mary E. Huerta
1613 Breezewood Drive
Las Vegas, Nevada 89108

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Order. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Commission along with the requested documents within 15 days of your receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand on this 24th day of December, 1987.



Scott E. Thomas, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions (pages)
Document Request (pages)

95043685215

Mary E. Huerta

Please produce the following documents:

1. All documents related to the \$30,000 loan obtained from you by Michael Schaefer in 1986, including, but not limited to, the loan agreement, the terms of payment, and all correspondence.
2. Copies of the front and back of all checks written by you to Michael Schaefer and to the Friends of Michael Schaefer Committee in 1986.

Please answer the following questions:

1. What was the date of the \$30,000 loan which you made to Michael Schaefer in 1986?
2. For what purpose were you told the 1986 loan to Michael Schaefer was being requested?
3. Did you make a contribution to the Friends of Schaefer Committee in the amount of \$500 in July, 1986? If yes, what was the date of the contribution?
4. When did you first learn that Michael Schaefer intended to become, or had become, a candidate for the United States Senate?
5. Has your \$30,000 loan to Michael Shaefer been repaid? If yes, please state the date(s) of repayment and whether repayment was made by Michael Schaefer or the Friends of Committee.

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: ~~Mary E. Huerta~~

MUR: 2561

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Reports filed by the Friends of Schaefer Committee ("the Committee") included information concerning a \$30,000 loan received by the Committee from the candidate, Michael Schaefer, in July, 1986. This loan to the Committee was apparently made possible by a loan which the candidate had obtained from an individual, Mary E. Huerta of Las Vegas, Nevada. The Committee reported the \$30,000 loan on a Schedule A as a personal loan from the candidate.

In response to an RFAI triggered by the Committee's initial failure to file an accompanying Schedule C, the Committee submitted the required schedule which stated that the loan "was from personal funds borrowed on securities owned, borrowed by the candidate from Mary Huerta . . ." The Schedule C further indicated that the Huerta loan was a "10% interest demand loan."

A second RFAI was sent to the Committee citing receipt of an apparently excessive contribution. This was followed by a series of telephone conversations during which the candidate insisted that the loan from Ms. Huerta was a secured commercial loan, similar to ones obtained from her in the past. He also disputed being designated as an agent of the Committee at the time the loan was obtained. The latest report filed by the Committee, the

1986 October Quarterly Report, did not include a repayment to Ms. Huerta; indeed, a letter from Mr. Schaefer dated April 6, 1987, stated that she was being paid quarterly, rather than semi-annual, interest on the loan and that she had been paid \$750 in interest on April 1, 1987. Attachment 1, page 18. No repayment of principal was mentioned in the letter. The Committee accepted an additional \$500 contribution from Ms. Huerta in July, 1986, indicating knowledge on her part of Mr. Schaefer's candidacy at the time of the \$30,000 loan, although the exact date of the transaction between Mr. Schaefer and Ms. Huerta is not known at this time.

2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount which a person may contribute to a federal candidate and his authorized political committee with respect to any election. 2 U.S.C. § 441a(f) prohibits candidates or political committees from accepting contributions in excess of the limitations. 2 U.S.C. § 431(8)(A)(i) defines "contribution" as including any "loan . . . made by any person for the purpose of influencing any election for Federal office." The only exception to the inclusion of loans within the definition of contribution involves loans of money by state or federal banks or by certain savings and loan institutions. See 2 U.S.C. § 431(8)(B)(vii).

In the present matter it appears that the \$30,000 loan made by the candidate, Michael Schaefer, to his committee in July, 1986, was made with funds borrowed by the candidate from Mary E.

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Huerta. Additional information is needed regarding Ms. Huerta's knowledge of a Schaefer campaign and her intent to benefit that campaign at the time of her \$30,000 loan; however, the fact that she made a \$500 contribution in July, 1986, provides a basis for assuming knowledge on her part of the campaign at the time of the \$30,000 transaction. Given the candidate's status as an agent of the Committee pursuant to 11 C.F.R. § 101.2 when obtaining loans in connection with his campaign, the Committee may be deemed to have received the loan from Ms. Huerta.

There is reason to believe that Mary E. Huerta violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to the Friends of Schaefer Committee.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 29, 1987

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Schaefer, Treasurer
Friends of Schaefer
8840 Villa LaJolla Drive, #112
LaJolla, CA 92037

RE: MUR 2561

Dear Mr. Schaefer:

On December 8, 1987, the Federal Election Commission found that there is reason to believe the Friends of Schaefer ("the Committee") and you, as treasurer, violated 2 U.S.C. §§ 441a(f), 441b, 434(b)(8) and 434(a)(2)(A)(iii), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. § 104.11. The 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 and your committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials along with your response to the enclosed Subpoena to Produce Documents and Order to Answer Questions. All responses to the subpoena and order must be submitted within 15 days of your receipt of this subpoena and order. Statements should be submitted under oath.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. If you intend to be represented by counsel, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel and authorizing such counsel to receive any notifications or other communications from the Commission.

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

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Letter to Michael Schaefer
Page 2

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent.

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

This matter will remain 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 Anne A. Weissenborn, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Subpeona and Order
Factual and Legal Analysis
Procedures
Designation of Counsel Form

95043685221

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 2561

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Michael Schaefer, individually and as treasurer
Friends of Schaefer Committee
8840 Villa LaJolla Drive, #112
LaJolla, CA 92037

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Order. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Commission along with the requested documents within 15 days of your receipt of this Subpoena and Order.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand on this 24th day of December, 1987.



Scott E. Thomas, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Questions
Document Requests

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Please provide answers to the following questions:

1. When did you first request that Mary E. Huerta make a loan to you of \$30,000 which you in turn lent to the Friends of Schaefer Committee in July, 1986.
2. For what stated purpose did you request the \$30,000 loan from Ms. Huerta?
3. Has the \$30,000 loan from Ms. Huerta been repaid? If so, state the date(s) and amount(s) of repayment.
4. What was the source of the business loan which you used to make the \$750 interest payment to Ms. Huerta on April 1, 1987 on behalf of the Committee?
5. Identify the individual(s) at Charles Schwab and Company with whom you dealt in arranging for the loan against your margin account which you obtained on September 2, 1986.
6. On September 2, 1986, how much of the funds in the margin account which you maintained with Charles Schwab and Company represented monies which you had deposited therein and how much represented monies borrowed against stock?
7. When and from whom did the Committee acquire the \$671,000 mortgage secured by Los Angeles apartment buildings cited in the Committee's reports to the Commission.

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Please produce the following documents:

1. All documents related to the \$30,000 loan obtained by Michael Schaefer from Mary E. Huerta in 1986, including any loan agreement, terms of payment and all related correspondence between the parties.
2. All documents related to the loan used to make a \$750 interest payment to Mary E. Huerta on April 1, 1987, including any loan agreement, terms of payment and all related correspondence.
3. All documents related to the \$28,000 loan obtained by Michael Schaefer from Charles Schwab & Co. in 1986, including any loan agreements, the terms of payment, and all related correspondence between the parties.
4. Copies of all statements for the margin account held by Michael Schaefer with Charles Schwab & Co. covering the period between July 1, 1986 and January 31, 1987.
5. All documents related to the \$671,000 mortgage held by the Committee on Los Angeles apartment buildings sold to Jay R. DeMiranda for which \$6,711 monthly interest payments were receiving by the Committee during 1986.
6. Copies of checks received by the Committee from Jay R. DeMiranda as payments of interest on mortgage.

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INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1986 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

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DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"The Committee" shall mean the Friends of Schaefer Committee.

"You" shall mean Michael Schaefer individually and as treasurer of the Friends of Schaefer Committee.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

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**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS: Friends of Schaefer Committee
Michael Schaefer, as treasurer**

MUR: 2561

A. \$30,000 Loan

Reports filed by the Friends of Schaefer Committee ("the Committee") with the Commission included information concerning a \$30,000 loan received by the Committee from the candidate, Michael Schaefer, in July, 1986. This loan to the Committee was apparently made possible by a loan which the candidate had obtained from an individual, Mary E. Huerta of Las Vegas, Nevada. The Committee reported the \$30,000 loan on a Schedule A as a personal loan from the candidate.

In response to an RFAI triggered by the Committee's initial failure to file an accompanying Schedule C, the Committee submitted the required schedule which stated that the loan "was from personal funds borrowed on securities owned, borrowed by the candidate from Mary Huerta . . ." The Schedule C further indicated that the Huerta loan was a "10% interest demand loan."

A second RFAI was sent to the Committee citing receipt of an apparently excessive contribution. This was followed by a series of telephone conversations during which the candidate insisted that the loan from Ms. Huerta was a secured commercial loan, similar to ones obtained from her in the past. He also disputed being designated as an agent of the Committee at the time the loan was obtained. The latest report filed by the Committee, the 1986 October Quarterly Report, did not include a repayment to

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Ms. Huerta; indeed, a letter from Mr. Schaefer dated April 6, 1987, stated that she was being paid quarterly, rather than semi-annual, interest on the loan and that she had been paid \$750 in interest on April 1, 1987. No repayment of principal was mentioned in the letter. The Committee accepted an additional \$500 contribution from Ms. Huerta in July, 1986, indicating knowledge on her part of Mr. Schaefer's candidacy at the time of the \$30,000 loan, although the exact date of the transaction between Mr. Schaefer and Ms. Huerta is not known at this time.

2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount which a person may contribute to a federal candidate and his authorized political committee with respect to any election. 2 U.S.C. § 441a(f) prohibits candidates or political committees from accepting contributions in excess of the limitations. 2 U.S.C. § 431(8)(A)(i) defines "contribution" as including any "loan . . . made by any person for the purpose of influencing any election for Federal office." The only exception to the inclusion of loans within the definition of contribution involves loans of money by state or federal banks or by certain savings and loan institutions. See 2 U.S.C. § 431(8)(B)(vii).

In the present matter it appears that the \$30,000 loan made by the candidate, Michael Schaefer, to his committee in July, 1986, was made with funds borrowed by the candidate from Mary E. Huerta. Additional information is needed regarding Ms. Huerta's knowledge of a Schaefer campaign and her intent to benefit that

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campaign at the time of her \$30,000 loan; however, the fact that she made a \$500 contribution in July, 1986, provides a basis for assuming knowledge on her part of the campaign at the time of the \$30,000 transaction. Given the candidate's status as an agent of the Committee pursuant to 11 C.F.R. § 101.2 when obtaining loans in connection with his campaign, the Committee may be deemed to have received the loan from Ms. Huerta.

There is reason to believe that the Friends of Schaefer Committee violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Mary E. Huerta. 1/

B. Failure to Report Loan in Continuous Fashion

2 U.S.C. § 434(b)(8) requires that a political committee report the amount and nature of outstanding debts owed by the committee on each report required to be filed. Pursuant to 11 C.F.R. § 104.11 debts and obligations are to be continuously reported until extinguished. The last report filed by the Friends of Schaefer Committee was the 1986 October Quarterly Report which did not include on a Schedule C the \$30,000 loan from Mary E. Huerta here at issue. In response to inquiries from RAD, Mr. Schaefer on April 23, 1987, stated that he had made no payments. Therefore, the debt apparently remained as of that date and reporting continued to be required.

1/ Additional questions arise from Mr. Schaefer's letter of April 6, 1987, concerning the source of the \$750 interest payment made to Ms. Huerta on April 1. Mr. Schaefer stated that this interest was paid "from my personal business income, it being a business loan against bank stock."

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There is reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 434(b)(8).

C. \$28,000 Loan

A loan of \$28,000 was disclosed on the Committee's 1986 October Quarterly Report. This loan was reported as coming from the candidate, with the accompanying Schedule C showing that the money used by the candidate had been "borrowed from Charles Schwab and Co. stockholders account held by Schaefer, a 'margin' loan secured by various stocks owned, no repayment date to Schwab, interest: Brokers call rate + .75% (about 7 1/2%)."

In his April 6, 1987 letter, Mr. Schaefer wrote that the loan in question "was loaned by myself to myself." He further stated that "(s)ince the funds were taken from the margin account, there were substantial sales, year-end, of securities, and all of the funds owed were paid off, or were reduced by at least \$30,000 (which would cover the \$28,000)"

According to information on margin accounts published by the New York Stock Exchange, such an account is made up of cash or securities provided by the investor and by credit extended by a broker. The Federal Reserve Board requires that at least 50% of the cost of a stock which the investor wishes to purchase through such an account be supplied by the investor. The firm then

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extends credit for the remainder at the going rate of interest.

Mr. Schaefer argues in his letter of April 6, that the funds taken from his margin account were his own funds which he had obtained against stock which he owned. He also states that "the stock was sold, the funds paid back the 'advance' and balance of funds paid to me."

11 C.F.R. § 110.10(1) and (2) define "personal funds" of the candidate as any assets which . . . at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had either (i) legal and rightful title, or (ii) an equitable interest." The definition also includes "dividends and proceeds from the sale of the candidate's stocks." Mr. Schaefer's explanation leaves unclear whether the funds used to make the \$28,000 loan to the Committee constituted such "personal funds" at the time of the loan or whether they had been in fact borrowed from Charles Schwab and Company with Mr. Schaefer's stock used as security.

2 U.S.C. § 441b(a) prohibits any corporation from making a contribution or expenditure in connection with any election to federal office. 2 U.S.C. § 441b(b)(2) defines "contribution or expenditure" to include "any direct or indirect payment, distribution, loan, advance, deposit or gift of money . . . to any candidate, campaign committee, or political party or

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organization, in connection with any election to any [federal office].

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The use of the terms "security" and "interest" on the Committee's Schedule C would indicate that Mr. Schaefer accepted a loan from Charles Schwab and Co. for use in his campaign; i.e., that the funds used, as opposed to the security used to obtain those funds, were not personal assets at the time he became a candidate. However, additional information is needed in order to ascertain such facts as the amount and sources of monies in Mr. Schaefer's margin account at the time of the loan to his Committee, the relationship between the usual function of a margin account (to make investments) and Mr. Schaefer's apparently broader use, whether or not Charles Schwab and Company considered the \$28,000 obtained by Mr. Schaefer to be a loan from the company, and, if so, the extent of the company's knowledge of his candidacy at the time of the loan. Again, if Mr. Schaefer accepted a loan for use in his campaign, the receipt of such a loan by the candidate would constitute receipt by his committee.

There is reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 441b by accepting a loan from Charles Schwab and Co., Inc.

D. Receipt of Interest Payments

In its 1986 Pre-Primary and October Quarterly Reports the Committee itemized on Schedule A's three payments of \$6,711 each received from Jay R. DeMiranda of Torrance, California. Each of

these receipts is reported as being for monthly interest on a mortgage; they are included on the reports' detailed summary pages as "other receipts." On the Schedule A attached to the October report, the statement is made that "these are monthly interest payments received by Committee on its \$671,100 mortgage owned, 12% due 1991, secured by Los Angeles apartment bldgs." The Pre-Primary Report, the Committee's first, contained on the detailed Summary Page the statement "Committee holds \$671,142 mortgage (12% interest, due 1991, may be liquidated earlier at discount)." The October Quarterly Report gave the figure of "\$60,000 approx." for the aggregate year-to-date payments received from Mr. DeMiranda.

2 U.S.C. § 431(8) (A) (i) also defines "contribution as including a "deposit of money or anything of value made by any person for purposes of influencing any election for Federal office...." It has been the position of the Commission that "business or commercial type ventures of ongoing political committees are simply another form of fundraising for political purposes; therefore, the proceeds from such ventures were considered contributions subject to the Act." Advisory Opinion 1986-14. See also Advisory Opinions 1983-2 and 1979-17. In the present situation, the Committee apparently received interest payments totaling approximately \$53,289^{2/} on a commercial property during the primary campaign in which Michael Schaefer

^{2/} \$60,000 minus \$6,711 received on September 26, 1986, and thus after the primary election

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was a candidate, the primary election in Maryland having been held on September 9, 1986. The Schaefer campaign was not in the process of terminating at the time these payments were made.^{3/}

There is reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive contributions from Jay R. DeMiranda.

E. Failure to File Report

2 U.S.C. § 434(a)(2)(A)(iii) requires the authorized committees of candidates to file, in an election year, a report covering the quarter ending December 31 no later than January 31 of the following calendar year. According to the referral from the Reports Analysis Division, the Friends of Schaefer Committee has never filed a 1986 Year End Report. Therefore, there is reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(iii).

^{3/} As noted in Advisory Opinion 1986-14 the Commission has recognized two exceptions to the general rule that the sale of political committee assets results in a contribution by the purchaser, these being a sale upon termination of operations and the sale of a mailing list developed as a unique asset of the Committee for its own use..

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LAW OFFICES OF MICHAEL SCHAEFER

Public Interest and General Litigation

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

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January 9, 1988

6849 Villa La Jolla Drive, #112
La Jolla, California 92037
(619) 450-0720

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

RE: Friends of Schaefer Committee
Michael Schaefer, as treasurer
Factual and Legal Analysis
MUR: 2561

I have read and evaluated the above document
consisting of 8 pages.

It contains all kinds of possible and feasible
violations of federal, but completely ignores common
sense, citizens presumption of innocence, and the
real life situation evidenced by the Commission's
information at hand.

1. For a retired person holding \$200,000 to
increase an existing \$100,000 loan to \$130,000
loan, at market rates of interest, thus providing
a much greater income (10%) than she would otherwise
earn from a Certificate of Deposit in some bank (6-7%),
is a prudent and reasonable act. To suggest that
because the person, the mother of Michael Schaefer's
longtime friend and client, did something as a
'contribution' because she was aware of the campaign
and had donated \$500 to it, is unrealistic.

Presumptions have to yield to realities. If she
wanted to make a loan that need not be paid back,
it would not be a secured obligation. Retired
people everywhere like to make secured loans on
homes, apartments, and sometimes stock collateral,
for returns that are usually 50% greater than any
financial institution would pay. For every \$1.00
loaned, she was holding \$2.00 in marketable securities.

2. The campaign terminated September 9, 1986. There
was no fundraising after that date. The \$671,100
California mortgage will continue until 1991.
Funds of the Committee were utilized in a 1987
Los Angeles City Council campaign, and some may
be used in a 1988 County Supervisor or City Attorney
campaign in San Diego, Calif., then again, they may
merely be left to accumulated. They are listed and
treated as personal capital of Michael Schaefer in
his bankruptcy proceeding, Case No. 87-05174-LM11,
now pending (since July, 1987) in Southern District of Calif.

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OFFICE OF GENERAL COUNSEL
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Ongoing receipt of \$6,711 monthly, or payment of \$750 quarterly, are not transactions of federal moment; they are private. There is no basis to expect Michael Schaefer to go through life filing quarterly or annual reports with the Federal Election Commission, when the federal election has come and gone, and there are no federal jurisdictional contacts on the horizon; the issue of reporting would be with city, county, and/or state offices, should there arise a local government campaign utilizing such funds. There is a question whether such funds can be used for anything without leave of the federal bankruptcy court, or whether they remain subject to actions by unsecured creditors, of whom more than \$2,000,000 exist. These are not issues that the Federal Elections Commissions is expected to, or is prepared to, respond to, except on some make-work mission. Seeing the quantity of workload evidenced by periodic mailings of a FEC newsletter, it is clear that ongoing current federal campaigns provide an abundance of potential violations and questions needing resolve, and that subject campaign, which began and ended 2 years ago, is not part of that. There is no grounds to suggest a continuing reporting. The matter is closed. Until and unless Michael Schaefer becomes involved in some federal campaign, and is not inhibited by a federal court in his pending bankruptcy from utilizing said funds. If the FEC has jurisdiction to decide that these funds are not personal funds subject to discretionary political, charitable or other use by Michael Schaefer, thus not reachable by his creditors (personal), the FEC is invited to do so.

3. The \$28,000 'loan' by Michael Schaefer to his campaign, from his brokerage account, is similar to a loan from a FDIC insured bank, except that it is of necessity on a secured basis, not to exceed 50% loan-to-market value, and only some securities qualify for such financing. If there are no restrictions on what is done with the funds (and there are none), fact that people use them for political campaigns as personal capital, or to finance personal vacations, or Las Vegas gambling, is a shortcoming that the securities industry ought address, perhaps limiting the use of brokers stock loans to the purchase of additional securities. But that is not the present state of the law.

4. Michael Schaefer, dba Friends of Schaefer, or Friends of Schaefer, Michael Schaefer, Treasurer, receives and will continue to receive \$6,711 mo. until the note is paid off on maturity, 1991, or compromised earlier, or seized by creditors as part of a reorganization of his personal affairs. There is no obligation to continue to file Reports; Michael Schaefer did file a report for the quarter ending December 31, 1986, by way of documenting that the campaign, the raising and disbursement of funds, was ended, and such was a final and closing report. There is no culpability on the part of Friends of Schaefer, or Michael Schaefer.

Respectfully,


MICHAEL SCHAEFER

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1 DOCUMENTS REQUESTED

2 1. Documents relating to \$30,000 loan from Mary Huerta.

3 Attached is copy of the 1986 note. I had no correspondence
4 with Mrs. Huerta. Her son attended high school same time I did,
5 different schools, but we were in Kiwanis sponsored Key Club
6 together. I later became Best Man at his wedding, and some 20
7 years later was his divorce attorney. Mrs. Huerta and I have
8 known each other as a result of my being her son's classmate and
9 attorney and friend. I've met her, but her son handled all her
10 financial dealings, as many sons do for their retired mothers.

11 Huerta held shares in
12 connection with earlier \$100,000 loan, was given an additional
13 shares in connection with the \$30,000 additional loan. Her
14 son is identified as "consultant" on the note.

15 2. All documents related to the loan used to make a \$750
16 interest payment.

17 There are no documents other than the note referred to
18 in Request #1, above. The \$750 was not 'borrowed' but was
19 simply paid out as part of the estimated \$30,000 that I receive
20 and disburse monthly.

21 3. All documents related to the \$280,000 loan from Charles Schwab & Co

22 There are no documents, just a phone call to the broker to
23 see if there are loanable funds (that the value of the securities
24 is such that existing loan, if any, is less than 50% of securities
25 then-current value). If there are, a check is promptly sent upon
26 oral request. I can obtain a copy of my monthly brokerage statement
27 that would indicate the check being issued to me, if you wish, and
28 indicate the date the funds were disbursed to me.

Or I probably can find it from my own record search.

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1 4. Copies of all statements for the margin account I have
2 with Schwab for period 7/1/86 to 1/31/87 are attached.

3 5. All documents relating to the \$671,000 mortgage.

4 Attached is a copy of the current interest payment, to
5 indicate what these look like. The only other documents are
6 the deed of trust & note executed by DeMiranda, and my assignment
7 of same to Provident Bank. Those that I have in my file are
8 attached.

9 6. Copies of checks received by the Committee.

10 The only check I have is original check for current payment.
11 Mr. DeMiranda has his other checks, all cancelled check, and I
12 refer the Commission to him should these be desired, or that I
13 be asked to obtain them from Mr. DeMiranda. I keep no copies, no
14 check stubs. In fact, until recently, the checks were sent
15 directly by DeMiranda to Provident Bank and I had no contact with
16 them, except for a monthly deposit into the Friends of Schaefer
17 account, statement for same being sent to me. Attached is
18 a recent statement indicating a \$42,242.85 balance as of 11/10/87.

19
20 SPECIAL NOTE

21 I have today searched my 1986 federal tax records and can
22 find only the following brokers account statements for the
23 cited period, 7/1/86 to 1/31/87, and attach same; this is
24 my specific authorization to Charles Schwab & Co., Inc. to
25 provide to the Federal Elections Commission copies of any and
26 all 1986 documents relating to my account or
27 any other account in my name with any office, including the
28 Baltimore, Md. office.

1. Schwab statement, period ending 1/31/87
2. Schwab statement, period ending 12/31/86
3. Schwab statement, period ending 10/31/86
4. Schwab statement, period ending 9/30/86
5. Three Jack White & Co. statements
for periods in 1986.

Executed under penalty of perjury this 10th day of Jan., 1988,
at San Diego, Calif.

Michael Schaefer
MICHAEL SCHAEFER
aka JOHN M. SCHAEFER

95043685238

(THIS NOTE REPLACES ANY OTHER NOTES BETWEEN THE PARTIES)

DEMAND NOTE

(Principal due on demand, Interest paid periodically)

\$ 30,000.00 San Diego, Calif. September 18, 1986 as c
amount owed city and state where note signed date August 10, 1986

ON DEMAND for value received, the undersigned (jointly and severally) promise(s) to
pay to MARY HUERTA at
name of payee(s)
1613 Breezewood Dr., Las Vegas, Nevada 89109, the sum of _____
address of payee

30 Thirty Thousand and no/100 Dollars (\$ 30,000.00), with interest from date at the rate of

Ten percent (10%) per annum. Interest shall be payable semi-annual
commencing Sept 18, 1986 for 4 mo. of 1986 (9/10, 10/10, 11/10, 12/10/86)
eng. from 1986
monthly, quarterly, annually

and semi-annual thereafter by June 30 and Dec. 31.
Should suit be commenced to enforce payment of this note, I promise to pay such
additional sum as attorney's fees as the court may adjudge reasonable.

Principal and interest payable in lawful money of the United States of America.

Michael Schaefer
Michael Schaefer

name of payor

name of payor

MICHAEL SCHAEFER

723 St. Paul St., Baltimore, Md. 21202

8840 Villa La Jolla Dr., #112, La Jolla, Cal. 92037

3333 W. 2nd St., #55-104, Los Angeles, Cal. 90004

cc: F.A.WALDEN, Consultant

4/2/87 FAW requests quarterly
int. (1/4, 3/31, 6/30, 9/30, 12/31).
Agreed. @ \$750

9504368523

DE MIRANDA MANAGEMENT

post office box 3189

torrance, california 90510 (213) 632-6389

STUDENT ACCOUNT

Payee: **FRIENDS OF SCHEFER**

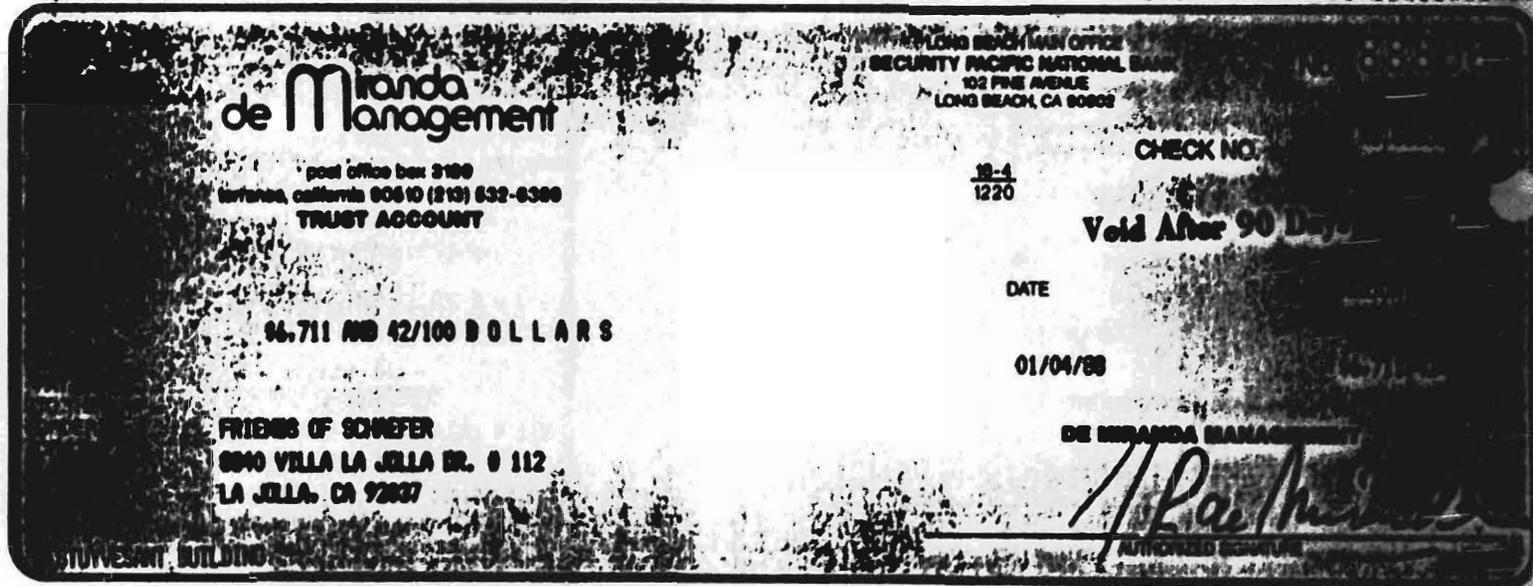
Amount: 6,711.42 Acct #: 9210 - DEBT SERVICE

Check Total: 6,711.42

No. **88856**

01/04/88

Check #: 88856



⑆0088856⑆ 1⑆122000043⑆928⑆912809⑆

LAW OFFICES OF MICHAEL SCHAEFER

Public Interest and General Litigation

January 10, 1988

8840 Villa La Jolla Drive, #112
La Jolla, California 92037
(619) 450-0720

Scott E. Thomas, Chairman
*Federal Election Commission
*Washington, D.C. 20463

Re: MUR 2561

Request is made that no certified mailings be made to me, simply because I am generally not available to sign for them and have no secretary, wife or assistant at the above address. It happens that your December 29th mailing was simply left for me, perhaps because the postman was negligent, or perhaps because he knows that if a yellow slip is left, it may be a week or two before I can get to the central postoffice during business hours to obtain an item,

This letter serves to support a 'no action' response by the Committee. If the Committee would prefer that I simply repay Mary Huerta the \$30,000 loan, I would do that; except I am currently in Chapter XI federal bankruptcy proceedings and may have to obtain leave of the bankruptcy judge to make an accelerated payoff to even a secured creditor (as is Mary Huerta).

I expect to be in Washington, D.C. the last week in March, and would be available to appear before the Commission or confer with staff, should that be feasible. I was in Washington January 7-8 this past week, am there every 6 to 8 weeks, as I have business interests in Maryland that require my attention. The above is my home and my office, and am generally available there if I am not travelling. I spend 2 days weekly in Los Angeles however.

I do not understand the concepts of pre-probably cause conciliation, and simply wish to respond to any questions and will expect that Federal Election Commission staff will exercise good judgment and common sense in evaluation of same, and importantly, keep me apprised.

This material was received January 9, 1988 and is being responded to promptly as is evident.

Please see attached page for my response.

Sincerely,

M Schaefer
MICHAEL SCHAEFER

95043605241

1 ANSWERS TO QUESTIONS

2 Question #1. When did you first request the loan?

3 It was within 60 days of the loan being made; Huerta held
4 collateral valued at about \$200,000 and the existing loan was
5 \$100,000. I am used to borrowing 60 to 75% of market value of
6 quality stock. The collateral was stock in a 98 year old San Diego
7 bank with book value of maybe \$130 per share and market value \$100.

8 Am not sure if it was my request or Huerta's son inviting me
9 to increase the loan. She desired to get a good 10% return on
10 cash funds, knew the collateral she held was excellent quality;
11 I could always put money to work in my personal securities
12 portfolio, or real estate acquisitions (I own, operate, several
13 apartment-hotel properties, in Maryland and California), or simply
14 my payoff of some 12 or 14% 2nd mortgage with her 10% money. Or
15 loan the funds to myself for any political campaign I was involved in.

16 Question #2. For what purpose did I request the loan?

17 It was requested without any designation. I don't think
18 I indicated what I would do with the funds; Huerta was so amply
19 secured that I am sure she did not care. I probably had the
20 campaign in mind at the time, and it is always a question of
21 whether I (a) simply sell some stocks to raise funds, or (b) borrow
22 against those same stocks, to raise funds.

23 Question #3 Has the \$30,000 from Ms. Herta been repaid?

24 No it has not. I simply pay interest, at \$750.00 per
25 quarter, which is 10% rate, on the sum. I have offered to repay
26 it (be oral invitation to her son, she being a retired lady), and
27 he has indicated that she enjoyed the retirement income from it.
28 Interest is paid every 3 mo., although I have paid 6 mo. at a time.

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1 Question #4. What was the source of the business loan used
2 to fund \$750.00 quarterly interest payment?

3 No specific source. I receive and expend some \$30,000
4 monthly, from rents primarily; and pay mortgages out of that,
5 and \$10,000 of that monthly is paid to Remaindermen of two properties
6 that I have a Life Estate in (but collect all of the rents, subject
7 to the \$10,000 mo. payment to the Remaindermen). The \$750.00
8 came out of my general revenues which consists of maybe 5% in
9 dividends, 20% in interest, the rest being rental revenues, with
10 occasional professional fees. Professional fees about \$7000 in 1986.
11 Have not done my income tax accounting yet for 1987.

12 Question #5. Identify individuals at Charles Schwab dealt with.

13 No specific persons. I just call and talk to whomever
14 answers the phone. If it is a securities transaction, I am turned
15 over to a 'trader'. If it is accessing funds from an account, the
16 accounting people who answer the front office phone generally help me.
17 These were Baltimore, Md. staff people as I was living at the
18 Schaefer Hotel in Baltimore at the time. I could get names of
19 staff members there but I don't recall who I dealt with; perhaps
20 the check issued would designate which staff member prepared it.

21 Question #6. How much of the funds in margin account with Schwab
22 represented deposits, how much represented borrowings.

23 I do not understand the question; perhaps because it does
24 not apply to my situation. I never deposited funds, as excess funds
25 at-interest, as some investors do, who like to keep a "cash position".
26 I deposited funds to pay for some securities I purchased. Or to
27 reduce an existing debit balance (margin loan unpaid). If my
28 securities were worth, say, \$100,000, I could borrow up to \$50,000
(50% margin requirement) for any purpose, Schwab didn't care.

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1 And such loans are the cheapest money available. If the balance
2 is \$50,000 or more, I would pay 3/4% in excess of brokers call rate,
3 which meant that I'd be paying something like 'prime', or maybe
4 8 1/2% when banks would generally charge 10-11% for loans.
5 Brokers make money available so cheap because they want you to
6 buy and sell even more stocks & bonds, which generate commissions.
7 I would estimate that 100% of the funds I withdrew would be a
8 loan against personal securities in my stock brokerage account.

9 Question #7. When and from whom did Committee acquire \$671,000
10 mortgage?

11 I personally assigned the Mortgage (or rather Deed of Trust
12 and Note, as is commonly used in Calif.) to Provident Bank of
13 Maryland, Baltimore, Md., for credit to Friends of Schaefer,

14 I did this I'd guess in 1985. Could
15 have been 1986. I had obtained the Trust Deed when sold 71 apartment
16 units in Los Angeles in August, 1981 (8/1/81) for \$1,200,000 with
17 but \$50,000 down payment. The note represented my equity, which
18 then was (after deducting the cash) \$580,000. The note was
19 interest-accrual first year, and partial interest 2nd year, so
20 that unpaid interest accrued and increased total balance to \$671,000.

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FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20461

February 4, 1988

Mr. Michael Schaefer
3040 Villa La Jolla Drive, #112
La Jolla, CA 92037

Dear Mr. Schaefer:

I have received your letter of January 14, 1988, regarding MUR 2561. Because the Commission's statute and regulations have strict confidentiality and ex parte communication provisions, I believe that it would be inappropriate for me either to respond to your letter or meet with you personally.

The Commission has a long-standing policy that all respondents deal with the Commission through the Office of General Counsel. Accordingly, I have referred your letter to the General Counsel and circulated a copy of your letter to the other Commissioners.

Sincerely,

Scott E. Thomas
Commissioner

Such is a practical and appropriate response. Thank you.

Michael Schaefer
2/9/88

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000#6363

LAW OFFICES OF MICHAEL SCHAEFER

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

Public Interest and General Litigation

88 FEB -9 PM 12: 10

February 6, 1988

8840 Villa La Jolla Drive, #112
La Jolla, California 92037
(619) 450-0720

Anne A. Weissenborn, Esq.
Federal Elections Commission
Washington, d.C. 20463

RE: MUR 2561

Dear Ms. Weissenborn:

Will not be in Washington, D.C. area until mid April, perhaps April 14-18, now; change occasioned by my G'Town law 25th Reunion weekend of April 17.

I sent you some materials almost a month ago, and would ask you for some written response as to:

1. Adequacy of the materials;
2. Your opinion as to my payoff of the Huerta \$30,000 loan when the prepaid interest has run(3/31/88), before I make another interest payment(from my personal income)
3. Whether anyone cares, or responded, to my urging that the 800 number be provided in all correspondence to persons outside the 202 dialing area whom you invite to telephone your office(as you did me, and Mrs. Huerta)
4. As to whether you received any response from Mrs. Huerta, the retired lady in Nevada who has made stock loans to me in the past.

If you cannot respond at this time with any information, it would be nice to know when you will reach this point, so I won't have an open and ambiguous status file. Thank you.

Sincerely,

Michael Schaefer

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -9 PM 1:25

CC-6393
7/25/81

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB 11 PM 3:28

1 TO: Scott E. Thomas, Chairman
2 Federal Election Commission
3 Washington, D.C. 20463

88 FEB -2 AM 11:49

4 Re: Response to Supoena and Request for Information

5 MARY E. HUERTA declares under penalty of perjury the
6 following to be true of her own knowledge, she being
7 competent to testify thereto if called upon as a witness:

- 8 1. That the only documents she has relative to a \$30,000
9 loan made to Michael Schaefer consist of his initial
10 self-typed note given to me at the time the funds
11 were invested, August 10, 1986, and his subsequent
12 formal note, which I have kept, copy of which is
13 attached hereto.
- 14 2. That I had a previous loan with Schaefer, at a rate
15 of interest better than banks were paying on my
16 savings, and have always held stock in San Diego
17 Financial Corp., a San Diego bank holding company,
18 that is worth twice the amount of any loan.
19 The \$30,000 was secured specifically by 500 shares
20 of stock in the Bank, which has a current market
21 value of about \$60,000.
- 22 3. That my son has known Michael Schaefer since they
23 were high school students at the same time, and
24 he has arranged to make secured loans with my savings.
- 25 4. I knew that Michael Schaefer was a candidate for
26 federal office, from my son mentioning it, and from
27 newsclippings he may have provided for my son's
28 information. When I made the contribution of \$500
to his campaign, I did not know that money he was
borrowing was going to be used for a campaign, or
for real estate investment, I do know that Schaefer
is investing in real estate from time to time. I
was merely seeking a fair return on my savings funds.
5. The loan is a demand loan, payments of interest have
been made satisfactorily by Schaefer, I have not
asked for repayment of my principal. I can anytime.

Executed at Las Vegas, Nevada this 28 day of January, 1988.

Mary E. Huerta
MARY E. HUERTA



NOTARY PUBLIC
STATE OF NEVADA
County of Clark
DIXIE FULLERTON

My Appointment Expires May 23, 1989

Aug. 4-86

CHECK # 110 To Friends

OF Michael Schaefer. 500...

Host. 16-10022855

Subscribed and sworn to before me this

28 day of Jan, 1988

Dixie Fullerton Notary Public

in and for the County of Clark, State of Nevada

95043685247

LAW OFFICES OF MICHAEL SCHAEFER

Public Interest and General Litigation

January 14, 1988

Mr. Scott E. Thomas, Chairman
Federal Election Commission
Washington, D.C. 20463

8840 Villa La Jolla Drive, #112
La Jolla, California 92037
(619) 480-0720

Re: Request for Office Appointment
Last week of March, 1988

Dear Mr. Thomas:

Would you please have your office make me an appointment for 5 minutes to meet with you when I visit Washington the last week of March?

I do not and will not discuss my case with you, #MUR 2561, because that is in the hands of staff and will in due time be considered.

I do wish to protest the tactics used by FEC investigators in treating my case as a criminal matter warranting unfettered imposition of laymen who have no idea what is going on.

I spent 1/4 of an ^{hour} ~~hour~~ on longdistance phone last night trying to pacify a distrauf retired lady and her son over a subpoena served on her which she thought demanded she travel from the State of Nevada to Washington, D.C. to be questioned. It didn't, but she is not accustomed to subpoenas.

It was identical to one received by me earlier this week, and which I responded to within 48 hours, sending 100% of the material requested that was in my possession.

I would think that unless there is some national urgency with my case, that common sense, and proper government posture, would be to first evaluate the materials provided by me, discuss the matter further with me, and then and only then if there is something desired that is not forthcoming, or if my response was not timely or proper, then seek information by subpoena or otherwise from custodians of records, etc. But when you are dealing with laymen, especially retired people who do nothing but invest their savings in banks and stock/real estate loans, you are really unnecessarily agitating innocent citizens. And I expect you, as Chairman, to have staff use a bit more discretion in seeking responses. I don't mind any requests, formal or otherwise, to me, but it is not necessary to go after laymen involved until my response is received and evaluated.

M. Schaefer

RECEIVED
FEDERAL ELECTION COMMISSION
80 FEB 10 PM 2:52

9 5 0 4 3 6 8 5 2 4 8

600#0-07



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 26, 1988

Michael Schaefer
8840 Villa La Jolla Drive, #112
La Jolla, California 92033

RE: MUR 2561
Friends of Michael Schaefer

Dear Mr. Schaefer:

This letter is in response to your letter of February 6, 1988, addressed to Anne A. Weissenborn of this Office in which you posed several questions concerning the above-cited matter.

This Office is in the process of reviewing the information and materials which you have provided in response to the Commission's finding of reason to believe and pursuant to the Commission's subpoena and order. You will be notified about the next step in the enforcement process as soon as possible.

We have received a response from Mrs. Mary E. Huerta.

In communicating with this Office you may use either the toll-free number (800) 424-9530 or (202) 376-5690.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence M. Noble".

Lawrence M. Noble
General Counsel

95043685249

EXHIBITIVE

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION **60 MAR -7 PH 4:11**

In the Matter of)
)
Friends of Schaefer Committee)
Michael Schaefer, as treasurer)

MUR 2561

EXHIBITIVE SESSION
MAR 15 1988

GENERAL COUNSEL'S REPORT

On December 8, 1987, the Commission found reason to believe that the Friends of Schaefer Committee ("the Committee") and Michael Schaefer, as treasurer, had violated 2 U.S.C. § 441a(f) by accepting excessive contributions, 2 U.S.C. §§ 434(b)(8) and 434(a)(2)(A)(iii) by failing to report debts owed by the committee continuously until extinguished and by failing to file a 1986 Year-End Report, and 2 U.S.C. § 441b by accepting a loan from a corporation.

The bases for the determination that 2 U.S.C. § 441a(f) had been violated were the Committee's acceptance of a \$30,000 loan from Mary E. Huerta through Michael Schaefer and the acceptance of monthly payments of \$6,711 from Jay R. DeMiranda which represent payments on a note secured by a mortgage on one or more apartment buildings in Los Angeles which Michael Schaefer has stated he assigned to the Committee in 1985 or 1986. In his response to the Commission's finding of reason to believe, Mr. Schaefer has said that funds from the mortgage "are listed as personal capital of Michael Schaefer in his bankruptcy . . . now pending in [the] Southern District of California. Later in the same response, Mr. Schaefer states, "Michael Schaefer, dba Friends of Schaefer, or Friends of Schaefer, Michael Schaefer, Treasurer, receives and continues to receive \$6,711 mo. until the

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note is paid off in maturity, 1991, or compromised earlier, or seized by creditors as part of a reorganization of his personal affairs."

Earlier, in response to a Request for Additional Information, Mr. Schaefer reported that monthly interest payments of \$750 to Mary E. Huerta come from his personal business income. According to Mr. Schaefer, "Ongoing receipt of \$6,711 monthly, or payment of \$750 quarterly, are not transactions of federal moment; they are private."

These statements clearly indicate that Michael Schaefer considers the Friends of Schaefer Committee an extension of himself and its funds his personal funds. As noted, these assets are being treated as personal in Mr. Schaefer's pending bankruptcy proceeding.

2 U.S.C. § 432(b)(3) states that "all funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual." In light of the apparent fact that no such separation exists between the personal funds of Michael Schaefer and those of the Committee, this Office recommends that the Commission find reason to believe that the Friends of Michael Schaefer and Michael Schaefer, as treasurer, have violated 2 U.S.C. § 432(b)(3).

The Commission's determination that the Committee violated 2 U.S. C. § 434(a)(2)(A)(iii) involved its failure to file the 1986 Year-End Report. The Committee also filed no reports covering 1987 activities. 2 U.S.C. § 434(a)(2)(B)(i) and (ii)

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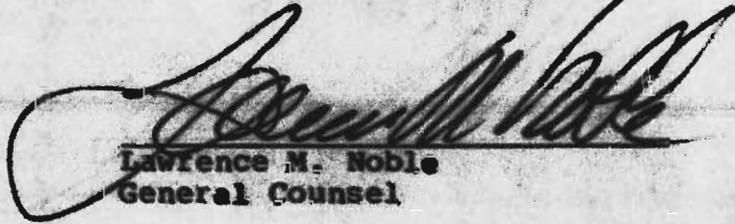
require the principal campaign committees of candidates to file, in non-election years, a Mid-Year Report due on July 31 and a Year End Report due on January 31 of the following year. Therefore, this Office recommends that the Commission find reason to believe that the Committee has violated 2 U.S.C. § 434(a)(2)(B)(i) and (ii).

RECOMMENDATIONS

1. Find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 432(b)(3) and U.S.C. § 434(a)(2)(B)(i) and (ii).
2. Send the attached letter and legal and factual analysis.

Date

3/7/88


Lawrence M. Noble
General Counsel

Attachments

Response from Committee
Letter and Legal and Factual Analysis

Staff Person: Anne Weissenborn

95043685252



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20461

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN *JM*

DATE: MARCH 10, 1988

SUBJECT: OBJECTIONS TO MUR 2561 - General Counsel's Report
Signed March 7, 1988

The above-captioned document was circulated to the Commission on Tuesday, March 8, 1988 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	<u> X </u>
Commissioner Elliott	<u> X </u>
Commissioner Josefiak	<u> X </u>
Commissioner McDonald	<u> </u>
Commissioner McGarry	<u> </u>
Commissioner Thomas	<u> </u>

This matter will be placed on the Executive Session agenda for March 15, 1988.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Friends of Schaefer Committee) MUR 2561
Michael Schaefer, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 15, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2561:

1. Find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(B) (i) and (ii).
2. Take no action with respect to the General Counsel's recommendation to find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 432(b)(3).
3. Direct the Office of the General Counsel to send an appropriate letter, legal and factual analysis, and questions pursuant to the above-noted actions.

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

Attest:

3-16-88

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 28, 1988

Michael Schaefer, Treasurer
Friends of Schaefer Committee
8840 La Jolla Drive, #112
La Jolla, California 92037

Re: MUR 2561

Dear Mr. Schaefer:

On the basis of information contained in your response to the Commission's earlier findings of reason to believe that the Friends of Schaefer Committee and you, as treasurer, violated provisions of the Federal Election Campaign Act, and on the basis of other information ascertained during the normal course of its administrative responsibilities, the Federal Election Commission on March 15, 1988, determined that your committee and you, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i) and (ii). A supplemental Factual and Legal Analysis is enclosed.

You have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer, with regard to these new determinations. Please submit any factual and legal materials within 15 days of your receipt of this letter.

You are also asked to respond to the enclosed questions and requests for documents which have become necessary as a result of your responses to the Commission's earlier determinations in this matter.

As was stated in the letter and accompanying information notifying you of the Commission's earlier determinations, the steps following Commission determinations of reason to believe include an investigation and Commission consideration of whether or not there is probable cause to believe that violations have occurred. This consideration is preceded by a briefing process. If the Commission determines that there is probable cause to believe violations have occurred, a proposed conciliation agreement will be sent to you and the Committee.

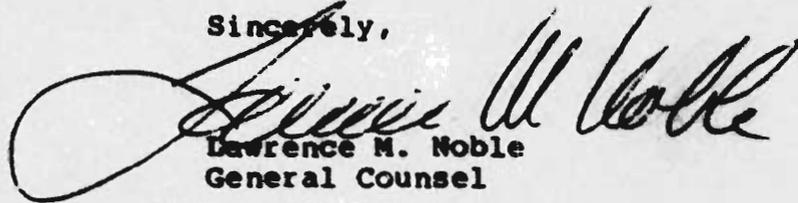
It is, however, possible to shorten this process by means of conciliation prior to a finding of probable cause. A written request on behalf of the committee to begin such conciliation would be needed. See 11 C.F.R. § 111.18(d).

95043685255

Letter to Michael Schaefer, Treasurer
Page 2

If you have any further questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 376-5690 or (800) 424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Attachment
Factual and Legal Analysis

9 5 0 4 3 6 8 5 2 5 6

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends of Schaefer Committee
Michael Schaefer, as treasurer

MUR 2561

SUMMARY OF ALLEGATIONS

On December 8, 1987, the Commission found reason to believe that the Friends of Schaefer Committee ("the Committee") and Michael Schaefer, as treasurer, had violated 2 U.S.C. § 441a(f) by accepting excessive contributions, 2 U.S.C. §§ 434(b)(8) and 434(a)(2)(A)(iii) by failing to report debts owed by the committee continuously until extinguished and by failing to file a 1986 Year-End Report, and 2 U.S.C. § 441b by accepting a loan from a corporation.

The Committee also filed no reports covering 1987 activities. 2 U.S.C. § 434(a)(2)(B)(i) and (ii) require the principal campaign committees of candidates to file, in non-election years, a Mid-Year Report due on July 31 and a Year End Report due on January 31 of the following year. Therefore, there is reason to believe that the Committee has violated 2 U.S.C. § 434(a)(2)(B)(i) and (ii).

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Questions and Requests for Documents

1. Please clarify what is meant by "Michael Schaefer 'dba' Friends of Schaefer or Friends of Schaefer, Michael Schaefer, treasurer."

2. For what purposes has the Committee's account No. with Provident Bank of Maryland been used besides those related to the campaign of Michael Schaefer for the U.S. Senate in 1986? Please furnish copies of all bank records related to this account dated between April 1, 1986 and the present, including bank statements and cancelled checks.

3. Please furnish the deed of trust and note executed by Jay R. DeMiranda and your assignment of that deed and note to the Provident Bank of Maryland. These documents were not attached to the earlier response dated January 9, 1988.

4. Please explain how the \$671,000 mortgage came to be treated as the personal capital of Michael Schaefer in the bankruptcy proceeding. Was this by action of the court? If yes, on what basis did the court include this asset? Please furnish any written court decisions on this issue.

4. Out of what account does Michael Schaefer make monthly interest payments of \$750 to Mary E. Huerta?

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GCC # 9054

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 APR 14 AM 10:33

PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

121 BROADWAY, SUITE 224
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 239-0880

April 1, 1988

Law Office
Michael Schaefer

Lawrence M. Noble, General Counsel
Federal Election Commission
Washington, D.C. 20461

Re: MUR 2561

Dear Mr. Noble:

I have your March 28th letter. I assume that you are not making recommendations for formal action against Mary Huerta, the retired lady who lends me money on \$220,000 worth of bankstock I own and she holds.

I am and have been in Chapter XI federal bankruptcy proceedings, see attached STAY; I do not know if this affects your ability to hound me.

I will be in Washington, D.C. in 2 weeks for the 25th Reunion of my Georgetown Law class of 1963; and can meet with anyone briefly if you make a specific request therefore. Otherwise I can do business by mail.

Both loans have been paid off, and I am filing a closing report this coming week. I am busy with briefs due in Los Angeles, and in Annapolis, Md., in a few days, so cannot file the closing report until after that.

Your suggested violation of 2 USC 441b, accepting a loan from a corporation, is hogwash; your Commission sanctions loans from banks when in ordinary course and properly secured, and that's all my loan from Charles Schwab & Co. stockbrokers was, in ordinary course, margin account, 50% of value of securities held by lender. The Huerta loan was the same. If I am in error as to lawfulness of borrowing \$10,000 or any amount, secured, from a bank, to use as a personal contribution to the campaign, then I stand corrected. The bank and the broker could care less what I do with the money; they hope I'd reinvest it with them. I reinvested it in my personal campaign.

I filed no further reports because the entire campaign came to an end 9/9/86, I returned to California, all bills were paid, and I so advised the Commission by letter. I am sorry that a formal Report on your form was not made. It will be filed within 10 days. Please advise what you want further from me.

88 APR 14 PH 2:00

RECEIVED
FEDERAL ELECTION COMMISSION

95043685259

I don't know what you are looking for to demonstrate that no action should be taken, other than a common sense reason. Which would be that you scare away banks and brokers and private secured lenders from having anything to do with a candidate, and that is certainly not in the public interest.

You send me Questions and Requests for Documents:

1. I don't know what is meant by the quoted words, other than I called my U.S. Senate Committee "Friends of Schaefer", and since it was 100% funds donated by me, I felt that I was doing-business as "Friends of Schaefer". That is probably an improper use of words, for which I apologize.

2. The Provident Bank account has been used to receive the \$6,711 per month paid on the \$671,100 mortgage assigned to it for collection. I will have to supply the documents by supplemental filing within 30 days, as I am up to my ears in paperwork now with imminent deadlines. Since the Committee ended as of 1986, I then utilized funds arising in 1987 for a municipal government campaign in 1987, and am using funds arising in 1987 and 1988 for a local government campaign in 1988. The mortgage continues to payout \$6711 mo. but it is no longer part of a federal entity.

3. Will supply the Miranda deed of trust and assignment within 30 days.

4. The \$671,100 note became treated as personal capital upon advise of bankruptcy counsel, Jack F. Fitzmaurice, Esq. of Fitzmaurice & Buchbinder; you are welcome to contact him at (619) 233-6993. I would prefer that it not be part of my personal estate, but it was his opinion that for me to so treat it would be indefensible. No court action. I'd hope that Fitzmaurice is in error, but a \$2,000,000 creditor of mine, personal injury judgment, will do whatever can be done to recover it for the estate at possible great expense to the estate to challenge.

4.(sic). You mean 5. Quarterly, not monthly, payments of \$750(\$3000 annual on \$30,000, at 10%), are made out of John Michael Schaefer debtor in possession account, as it was and is a personal loan; the Friends of Schaefer account has repaid me \$30,000 and I have directed the funds to Mary Huerta, and sent her \$750.00 covering interest for the last 3 mo. She wants to lend-back the money to me(she thinks 10% is a good retirement fund income) but I am not interested in borrowing funds until my personal bankruptcy is resolved(and I don't know that I have any right to personally borrow).

Sincerely,


MICHAEL SCHAEFER

95043685260

1 BRIAN D. BEAUDOIN, ESQ.
2 FITZMAURICE & BUCHBINDER
3 225 Broadway, Suite 1800
4 San Diego, CA 92101
5 (619) 233-6993

FILED

JUL 22 4 33 PM '87

CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
BY _____ DEPUTY

Attorneys for Debtor-In-Possession

8 UNITED STATES BANKRUPTCY COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 In re:) CASE NO. 87-05174-LM11
11 JOHN MICHAEL SCHAEFER,) NOTICE OF AUTOMATIC STAY
12)
13 Debtor-In-Possession.)

14 TO: ALL CREDITORS, EMPLOYERS, ANY PARTY IN INTEREST AND
15 TO ANY MARSHAL, CONSTABLE, SHERIFF OR OTHER LEVYING OFFICER:

16 PLEASE TAKE NOTICE that on July 17, 1987, the above-named
17 Debtor filed a proceeding under Chapter 11 of Title 11, United
18 States Code.

19 Pursuant to Title 11, United States Code, Section
20 362(a), all entities are barred from commencing, continuing the
21 issuance or employment of process against the Debtor for any
22 claim that could have been commenced or was commenced prior to
23 the commencement of the above-referenced case unless the creditor
24 or other party in interest complies with the provisions of Title
25 11, Section 362, United States Code.

27 Dated: July 21, 1987

Brian D. Beaudoin
BRIAN D. BEAUDOIN, ESQ.

95043685
Fitzmaurice & Buchbinder
ATTORNEYS AT LAW
CRIFINAL SERVICE TOWER
225 BROADWAY, SUITE 1800
SAN DIEGO, CALIFORNIA 92101
(619) 233-6993

6CCF9171

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 APR 29 AM 10:49

PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

121 BROADWAY, SUITE 224
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 238-0880

April 27, 1988

Law Office
Michael Schaefer

Lawrence M. Noble, General Counsel
Federal Elections Commission
Washington, D.C. 20463

Re: MUR 2561

Dear Mr. Noble:

You asked for certain information March 28, 1988,
by letter, and I provided some of it.

Here are some additional items:

1. Copy of the Deed of Trust from Jay R. deMiranda to myself, dated August 26, 1981, as recorded on the records of the County of Los Angeles
2. Copy of assignment of this Deed of Trust by myself to Provident Bank of Maryland for credit to Friends of Schaefer.
3. The Bank Statements received on this account for the months ending January 10, 1988, March 10, 1988 and April 10, 1988.

I believe that my 1987 and 1986 tax records will contain the statements for those years, if you require those also, please call me at above number; I have not yet been able to do my 1987 federal income tax thus have not accessed these documents, but will specially if you require same.

There are no checks written on this account, there are only withdrawals made. You can see from the statements cited above, withdrawals of \$17,246.25 (for purchase of or maybe it was a larger number of shares, in Provident Bank of Md., in their public offering, stock held in name of Friends of Schaefer; shares was ordered but the price was adjusted after the market collapse and a larger number of shares issued for the same price), withdrawal of \$1,844.09 (to pay primary costs of a Friends of Schaefer campaign for Municipal Court in San Diego, Calif.) and withdrawal of \$25,000 on 2/29/88 (to fund the same Friends of Schaefer San Diego account for use in Municipal Court campaign, and to return \$30,000 total to Michael Schaefer for his payoff of the Mary Huerta loan). The San Diego Friends of Schaefer account has been augmented by the \$6,711.42 monthly remittance from Jay R. DeMiranda for months subsequent to January, 1988. Such as February, March, April.

M Schaefer
MICHAEL SCHAEFER

88 MAY -2 AM 9:50

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

*Election
June 7, 1988*

95043685262

9 5 0 4 3 6 8 5 2 6 3

The deed of trust is for less than the \$671,100 approx. note balance because the note was ACCRUAL OF INTEREST with partial payment, for the first few years, and grew and grew until it reached \$671,100 at time that "true interest" was to be paid.

RECORDING REQUESTED BY

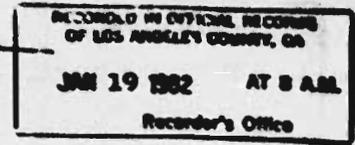
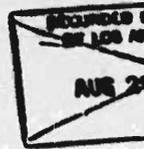
St. Paul Title Co.

WITH RECORDED MAIL TO

Michael Schaeffer
P.O. Box 3348
La Jolla, Calif. 92038

81-858307

82- 6



136



SPACE ABOVE THIS LINE FOR RECORDER'S USE

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF BENEFIT

This Deed of Trust, made this 26th day of August, 1981, between

JAY R. de MIRANDA, a married man on his separate property, herein called TRUSTOR,

whose address is P.O. Box 3189 Torrance 90510 California (number and street) (city) (state) (state)

STEWART-WEST COAST TITLE CO., a California corporation herein called TRUSTEE, and
MICHAEL SCHAEFFER, an unmarried man, herein called SERVICIANT,

Witnesseth: That Trustor (hereinafter) GRANTS, TRANSFERS AND ASSIGNS to Trustee in Trust, with power of sale, that property in city of Los Angeles Los Angeles County, California, described as:

The Southerly 10 feet, front and rear, of Lot 10 and all of Lot 11 in Block "7" of Wilshire Boulevard Heights Tract, in the city of Los Angeles, as per map recorded in book N/page 47 of maps, in the office of the County Recorder of said county.

AKA: 757 S. Berendo, Los Angeles, Calif.

THIS DEED OF TRUST IS BEING RECORDED TO CORRECT THE MAP BOOK REFERENCE NUMBER TO READ "6" RATHER THAN "0" AS ORIGINALLY TYPED.

TERMINATION WITH THE term, hours and periods thereof, AS SET FORTH, in the right, power and authority given to and contained upon hereinafter by paragraph 1(1) of the provisions incorporated herein by reference to collect and apply such rents, moneys and profits.

For the Purpose of Securing: 1. Performance of each agreement of Trustor incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one promissory note of even date herewith, and any extension or renewal thereof, in the principal sum of \$ 484,209.00 executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the third named party of said property hereafter may become from time to time, when evidenced by another note or notes to, being it is so required.

To Protect the Security of This Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust and the note secured hereby, that provisions (1) to (14), inclusive, of the facsimile deed of trust recorded in Los Angeles County June 4, 1964, in book 11731 and at page 10 of Official Records in the office of the county recorder, and in Kern County September 18, 1969 in book 4318 and at page 807 of Official Records in the office of the county recorder, and in San Bernardino County September 18, 1969 in book 7315 and at page 726 of Official Records in the office of the county recorder, and in Santa Barbara County August 15, 1973 in book 2477 and at page 196 of Official Records in the office of the county recorder, in each provision are printed on the reverse hereof) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length, that he will observe and perform said provisions, and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

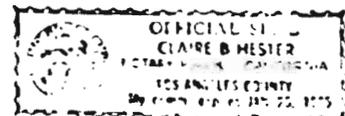
The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth

ST. OF CALIFORNIA
COUNTY OF Los Angeles
On August 26, 1981 before me, the undersigned, a Notary Public in and for said State, personally appeared Jay R. de Miranda

Jay R. de Miranda

knows to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same
WITNESS my hand and official seal.

Signature *Clare B. Hester*
Name (Typed or Printed)



Title Order No. 919041-4 Escrow or Loan No.

EM 100-20

RECORDING REQUESTED BY

86- 409710

AND WHEN RECORDED MAIL TO

MICHAEL SCHAEFER
723 St. Paul St.
Baltimore, Md. 71202

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
1 APR 1 PM APR 2 1981
PAST.

FEE
\$5
0

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Assignment of Deed of Trust

REV. 12-68

THIS FORM PUBLISHED BY TRUSTERS SECURITY SERVICE

For Value Received, the undersigned hereby grants, assigns and transfers to
PROVIDENT BANK OF MARYLAND, for credit to Friends of Schaefer account;
all beneficial interest under that certain Deed of Trust dated August 26, 1981
created by Jay R. de Miranda

to Stewart-West Coast Title Co. Trustee.
and recorded on instrument on Aug. 27, 1981
per [Signature] of [Official] in County Recorder's office of LOS ANGELES County,
California, describing land therein as:

Parcel (1). The Northerly 40 feet of Lot 10 and the Southerly 20 feet
of Lot 9, Block F of Wilshire Blvd. Heights in the City of Los
Angeles, County of Los Angeles, State of Calif., recorded in book 6,
page 47 of Maps, in office of County Recorder, commonly known
as 749 S. Surondo, Los Angeles, Cal.

Parcel (2). The Southern 10 feet front and rear, Lot 10, and all of
Lot 11, Block F, Wilshire Blvd. Heights Tract, in City of Los
Angeles, County of Los Angeles, State of Cal., per map recorded
in book 6, page 47 of Maps, office of County Recorder, commonly
known as 749 S. Surondo, Los Angeles, Cal.

Together with the date or dates therein described or referred to, the money due and to become due therein with
interest, and all other proceeds or payments under said Deed of Trust,
dated February 28, 1986

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

On February 28, 1986 before me, the undersigned, a Notary Public in and for said State, personally appeared
MICHAEL SCHAEFER

[Signature]
MICHAEL SCHAEFER
an unmarried man

known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same
with the name and address as

Signature [Signature]
Mary Jo Wigmore Notary Public
My Comm. Expires July 1, 1985

Title Order No. _____ File, Entry or Loan No. _____



DO NOT DESTROY THIS NOTE: When paid, this note, with Deed of Trust securing same, must be surrendered to Trustee for cancellation before reconveyance will be made.

NOT SECURED BY DEED OF TRUST
(Straight Note)

\$484,209.00 Los Angeles, California, August 26, 1981

ON OR BEFORE August 27, 1991 after date, for value received, I promise to pay to

MICHAEL SCHAEFER, an unmarried man
_____, or order,

Los Angeles, Calif., or as designated by payee

the sum of FOUR HUNDRED EIGHTY FOUR THOUSAND TWO HUNDRED NINE AND no/100 DOLLARS,

with interest from date endorsed until paid, at the rate of

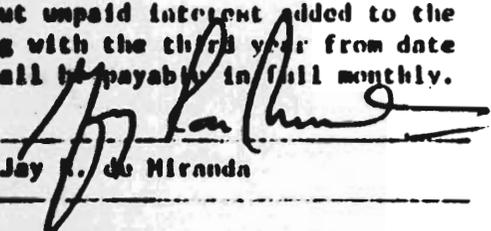
twelve per cent per annum, payable interest to accrue for one year and be added to the principal monthly and treated as principal, commencing with the second year interest

Should interest not be so paid it shall thereafter bear like interest as the principal, but such unpaid interest so compounded shall not exceed an amount equal to simple interest on the unpaid principal at the maximum rate permitted by law. Should default be made in payment of interest when due the whole sum of principal and interest shall become immediately due at the option of the holder of this note. Principal and interest payable in lawful money of the United States. If action be instituted on this note I promise to pay such sum as the Court may fix as attorney's fees. This note is secured by Deed of Trust to Stewart-West Coast Title Co., a California corporation, as Trustee.

shall be payable \$2,000.00 per month with accrued but unpaid interest added to the principal monthly and treated as principal. Starting with the third year from date endorsed and from thence until maturity, interest shall be payable in full monthly.

SEE REVERSE SIDE HEREOF FOR _____

LATE CHARGE _____


Jay R. de Miranda

STEWART WEST COAST TITLE CO

THIS FORM FURNISHED BY STEWART-WEST COAST TITLE CO

DO NOT DESTROY THIS NOTE

Form No. 811104

These notes were accrual-of-interest (add to principal) (1st year part accrual 2nd year full int. only 3rd yr. (commence 8-26-83))

9 5 0 4 3 6 8 5 2 6 5

3 6 8 5

_____, California, _____
 For Value Received, the undersigned hereby grants, assigns and transfers, with-
 out recourse, the within note, together with the Deed of Trust securing same, to

DIFFERENT HAS BEEN RECEIVED AS OF 8-27-91
 THROUGH DEED NO. 51-164
CAL ESTATE COMPANY, INC.
 BY Walter B. Nestis

<p>LATE CHARGE: If any installment is not paid when due, the maker hereby agrees to pay a monthly late charge of 5% of the installment due, for each payment that is delinquent in one or more days.</p>		<p>Pay to Order of</p>
<p>PREPAYMENT: Maker shall not repay holder's note except as follows: Maker may pay off one third of the face amount of the note in any calendar year and may make additional prepayment in any amounts, paying at the same time a prepayment penalty of 5% of the amount so prepaid.</p>		<p>Amount</p>
<p>SUBORDINATION: Any time and from time to time, at the request of maker, beneficiary agrees to subordinate this note and deed of trust in any amount or amount not less than the balance of the beneficiary's note up to \$20,000.00 plus the balance of all financing senior thereto does not exceed \$1,150,000.00 and so long as the monthly payments of all such financing including this note does not exceed 5% of the scheduled monthly gross income.</p>		<p>Interest</p>
		<p>Principal</p>
		<p>Pay to Order of</p>
		<p>Amount</p>
		<p>Interest</p>
		<p>Principal</p>
		<p>Pay to Order of</p>
		<p>Amount</p>
		<p>Interest</p>
		<p>Principal</p>
		<p>Pay to Order of</p>
		<p>Amount</p>
		<p>Interest</p>
		<p>Principal</p>
		<p>Pay to Order of</p>
		<p>Amount</p>
		<p>Interest</p>
		<p>Principal</p>

PAYMENTS



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

03/10/88

FRIENDS OF SCHAEFER
8840 VILLA L JOLLA DR 112
LA JOLLA CA 92037

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
38,971.24	1	127.46	2	26,844.09	12,254.61

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
02/17	1844.09		WITHDRAWAL
02/29	25000.00		WITHDRAWAL
03/10		127.46	CREDIT - INTEREST PAYMENT

PAGE 1



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

01/10/88

FRIENDS OF SCHAEFER
8840 VILLA L JOLLA DR 112
LA JOLLA CA 92037

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
42,435.59	2	6,890.15	1	17,246.25	32,079.49

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
12/18		6711.42	DEPOSIT
12/22	17246.25		DEBIT MEMO
01/10		178.73	CREDIT - INTEREST PAYMENT



STATEMENT SAVINGS ACTIVITY PERIOD

STATEMENT DATE
04/10/88

FRIENDS OF SCHAEFER
8840 VILLA L JOLLA DR 112
LA JOLLA CA 92037

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
12,254.61	1	57.37		.00	12,311.98

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
04/10		57.37	CREDIT - INTEREST PAYMENT
INTEREST CREDITED YEAR-TO-DATE IS			543.89

This statement lists the transactions posted to your account. If you note any discrepancies or have any questions concerning this statement please contact your branch office or call 281-7111, or 1-800-962-9644. SEE REVERSE SIDE FOR IMPORTANT INFORMATION

BRIAN D. BEAUDOIN, ESQ.
FITZMAURICE & BUCHBINDER
225 Broadway, Suite 1800
San Diego, CA 92101
(619) 233-6993

FILED
JUL 22 4 33 PM '87

Attorneys for Debtor-In-Possession

CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
BY _____ DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:) CASE NO. 87-05174-LM11
JOHN MICHAEL SCHAEFER,) NOTICE OF AUTOMATIC STAY
Debtor-In-Possession.)

TO: ALL CREDITORS, EMPLOYERS, ANY PARTY IN INTEREST AND
TO ANY MARSHAL, CONSTABLE, SHERIFF OR OTHER LEVYING OFFICER:

PLEASE TAKE NOTICE that on July 17, 1987, the above-named
Debtor filed a proceeding under Chapter 11 of Title 11, United
States Code.

Pursuant to Title 11, United States Code, Section
362(a), all entities are barred from commencing, continuing the
issuance or employment of process against the Debtor for any
claim that could have been commenced or was commenced prior to
the commencement of the above-referenced case unless the creditor
or other party in interest complies with the provisions of Title
11, Section 362, United States Code.

Dated: July 21, 1987

Brian D. Beaudoin
BRIAN D. BEAUDOIN, ESQ.

Trustee appointed

4/14/88

1858-1 004361y

Page 1

FEB 10 1988

INTERNAL REVENUE SERVICE
FRESNO, CA

Fitzmaurice & Buchbinder
950436
CENTRAL BANKING TOWER
225 BROADWAY • SUITE 1800
SAN DIEGO, CALIFORNIA 92101
(619) 233-6993

FEDERAL ELECTION COMMISSION

6/11/88

88 MAY 23 10:10

PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

181 BROADWAY, SUITE 224
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 238-0880

Law Office
Michael Schaefer

May 18, 1988

Anne A. Weissenborn, Esq.
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2561

Dear Ms. Weissenborn:

Contrary to my expectations, I was able to conveniently access the bank statements on the Friends of Schaefer account for 1986 and 1987, as they had been segregated out and stapled together, and were on top of the stack of paperwork for the year.

Sincerely,

MICHAEL SCHAEFER
Treasurer
Friends of Schaefer

P.S. I don't really know the legal status of the Committee. I have considered it part of my personal estate in connection with my current bankruptcy proceedings, on advice of my counsel in that matter, and paid taxes on the income generated, some \$6,710 mo. However, I'd just as soon see it at separate. I don't use it for any personal outlays, but consider it to be a floating fund that can be accessed for political or charitable causes, as I have done in 1986(U.S.Senate), 1987(City Council), 1988(Municipal Judge). I have been involved in perhaps 15 candidacies since graduation, and generally contribute \$1000 to my several colleges and other charities. Be assured of my diligent response to your future inquiries, and I am sorry for the delay in responding.

9 5 0 4 3 6 8 5 2 7 0

RECEIVED
FEDERAL ELECTION COMMISSION
88 MAY 24 AM 11:24

STATEMENT DATE
10/10/86

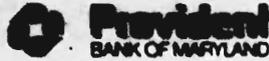
FRIENDS UP SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
1,405.00	2	0,771.11		.00	0,714.00

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
09/10		0711.42	CREDIT - A L N
10/10		33.73	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 1,400.01



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
11/10/86

FRIENDS UP SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
0,412.03	2	0,771.05		.00	1,403.00

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
10/21		0711.42	DEPOSIT
11/10		39.63	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 1,220.44



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
12/10/86

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
14,983.88	2	6,803.77		.00	21,787.65

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
11/10		6711.42	DEPOSIT
12/10		92.35	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 1,320.79

316 852 / 1

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

04/10/86

#76294

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
1,004.83	3	97,041.40		.00	58,046.23

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
03/13		50000.00	DEPOSIT
03/24		6711.42	DEPOSIT
04/10		329.98	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 334.81



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

05/10/86

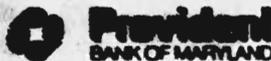
FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
58,046.23	2	6,970.99	3	53,000.00	12,017.22

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
04/18	1000.00		DEBIT MEND
04/23		6711.42	DEPOSIT
04/30	50000.00		WITHDRAWAL
05/08	2000.00		WITHDRAWAL
05/10		299.57	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 594.38



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

06/10/86

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
12,017.22	2	6,796.16	2	2,650.00	16,163.38

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
05/15	2000.00		WITHDRAWAL
05/20		6711.42	DEPOSIT
06/03	650.00		WITHDRAWAL
06/10		84.74	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 679.12

0431685212

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
16,163.38	2	6,828.18		.00	22,991.56

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
06/18		6711.42	DEPOSIT
07/10		116.76	CREDIT - INTEREST PAYMENT
		INTEREST CREDITED YEAR-TO-DATE IS 785.88	



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
07/13/55

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
22,991.56	3	37,537.18		.00	60,528.74

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
07/18		6711.42	DEPOSIT
08/08		30650.00	DEPOSIT
08/10		175.76	CREDIT - INTEREST PAYMENT
		INTEREST CREDITED YEAR-TO-DATE IS 971.64	



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
09/10/56

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
60,528.74	3	7,414.04	2	66,477.72	1,465.06

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
08/19		6711.42	DEPOSIT
08/20	1375.00		WITHDRAWAL
08/25	65102.72		WITHDRAWAL
09/02		541.80	DEPOSIT
09/10		161.42	CREDIT - INTEREST PAYMENT
		INTEREST CREDITED YEAR-TO-DATE IS 1,133.06	

M 316 815 273



STATEMENT SA

ACTIVITY REPORT

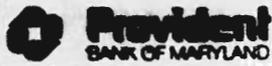
STATEMENT DATE
01/10/87

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
21,787.65	2	6,805.40	1	12,000.00	16,593.05

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
12/22		6711.42	DEPOSIT
12/23	12000.00		WITHDRAWAL
01/10		93.98	CREDIT - INTEREST PAYMENT
INTEREST CREDITED YEAR-TO-DATE IS			93.98



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
02/10/87

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
16,593.05	-	6,805.40		0.00	23,398.45

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
01/30		6711.42	DEPOSIT
02/10		89.71	CREDIT - INTEREST PAYMENT
INTEREST CREDITED YEAR-TO-DATE IS			109.69



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE
03/10/87

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
23,398.45	-	6,805.36	1	7,250.00	22,900.54

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
02/25		6711.42	DEPOSIT
03/02	7250.00		DEBIT MEMO
03/10		104.94	CREDIT - INTEREST PAYMENT
INTEREST CREDITED YEAR-TO-DATE IS			288.63

9 0 4 3 1 6 8 5 2 1 4

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

08/10/87

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
1,530.53	4	14,977.52	1	1,490.94	15,017.11

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
07/13		1490.94	TO ADJ 7/10
07/13		6711.42	TO ADJ 7/10
07/13	1490.94		WRONG AMOUNT
07/15		6711.42	DEPOSIT
08/10		63.74	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 788.10



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

05/10/87

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
22,795.76	2	6,828.11		.00	29,623.87

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
04/23		6711.42	DEPOSIT
05/10		116.69	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 529.12



STATEMENT SAVINGS ACTIVITY REPORT

STATEMENT DATE

04/10/87

FRIENDS OF SCHAEFER
723 SAINT PAUL STREET
BALTIMORE, MD 21202

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		CHECKS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
22,960.54	2	6,835.22	1	7,000.00	22,795.76

SAVINGS ACCOUNT TRANSACTIONS			
DATE	DEBITS	CREDITS	DESCRIPTION
03/23		6711.42	DEPOSIT
03/30	7000.00		WITHDRAWAL
04/10		123.80	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 412.43

685275



STATEMENT SAVINGS ACTIVITY REPORT

ACC# 9191

STATEMENT DATE

02/15/88

FRIENDS OF SCHAEFER
8840 VILLA L JOLLA DR 112
LA JOLLA CA 92037

ACCOUNT NUMBER

BALANCE LAST STATEMENT	DEPOSITS AND CREDITS		WITHDRAWALS AND DEBITS		BALANCE THIS STATEMENT
	NO.	TOTAL AMOUNT	NO.	TOTAL AMOUNT	
32,079.49	2	6,991.75		.00	38,971.24

SAVINGS ACCOUNT TRANSACTIONS

DATE	DEBITS	CREDITS	DESCRIPTION
01/20		6711.42	DEPOSIT
02/10		130.33	CREDIT - INTEREST PAYMENT

INTEREST CREDITED YEAR-TO-DATE IS 359.06

4/28/88 Forget to include this
with material sent yesterday.

(Found it at home last night)

re: MUR 2561
re: COB209213

Friends of
Schaefer

This statement lists the transactions posted to your account. If you note any discrepancies or have any questions concerning this statement please contact your branch office or call 281-7111, or 1-800-962-9644. SEE REVERSE SIDE FOR IMPORTANT INFORMATION

FEDERAL RECEIVED COMMISSION

88 MAY -3 AM 9:56

9 5 0 4 3 6 8 5 2 7 7

88 MAY -3 AM 11:48

FEDERAL RECEIVED COMMISSION

REPORT OF RECEIPTS AND DISBURSEMENTS

For All Authorized Committees
(Summary Page)

USE FEC MARKING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full) Friends of Schaefer		MUR 2561
ADDRESS (number and street) <input type="checkbox"/> Check if different than previously reported. 8840 Villa La Jolla Dr. #112		2. FEC IDENTIFICATION NUMBER C00209213
CITY, STATE and ZIP CODE La Jolla, Calif. 92037	STATE/DISTRICT	3. IS THIS REPORT AN AMENDMENT? <input type="checkbox"/> YES <input type="checkbox"/> NO

4. TYPE OF REPORT

- | | |
|---|---|
| <input type="checkbox"/> April 15 Quarterly Report
<input type="checkbox"/> July 15 Quarterly Report
<input type="checkbox"/> October 15 Quarterly Report
<input type="checkbox"/> January 31 Year End Report
<input type="checkbox"/> July 31 Mid-Year Report (Non-election Year Only) | <input type="checkbox"/> Twelfth day report preceding _____
<small>(Type of Election)</small>
election on _____ in the State of _____
<input type="checkbox"/> Thirtieth day report following the General Election on _____
in the State of _____
<input checked="" type="checkbox"/> Termination Report |
|---|---|

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

SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period <u>9/30/86</u> through <u>4/1/88</u>		
6. Net Contributions (other than loans):		
(a) Total Contributions (other than loans) (from Line 11(e))	58,000	58,000
(b) Total Contribution Refunds (from Line 20(d))	0	0
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	58,000	58,000
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	58,000	58,000
(b) Total Offsets to Operating Expenditures (from Line 14)	0	0
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	58,000	58,000
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 and/or Schedule D)	0	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	0	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

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

Type or Print Name of Treasurer Michael Schaefer	
Signature of Treasurer <i>Michael Schaefer</i>	Date 4/27/88

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

25043685278

Name of Committee (in Full)	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
<p><i>Friends of Schaefer</i></p> <p>A. Full Name, Mailing Address and Zip Code of Debtor or Creditor <i>Michael Schaefer</i> <i>8840 Villa La Jolla Dr. #112</i> <i>La Jolla, Calif. 92037</i></p>	58,000		58,000	0
<p>Nature of Debt (Purpose): <i>Candidate Advances to Personal Campaign</i></p>				
<p>B. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>Nature of Debt (Purpose):</p>				
<p>C. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>* These funds were utilized by the Candidate to payoff in full two personal debts he incurred in order to be able to advance said funds.</p>				
<p>D. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>He repaid \$25,000 to Charles Schwab & Co. stockbroker margin account and \$30,000 to a private lender having advanced the \$30,000 (in addition to \$100,000 in 1984</p>				
<p>E. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>or 1983), Mary Huerta, secured by 2000 Shares of San Diego Financial Corp. (having a public market value of \$121.00 Bid, or \$242,000)</p>				
<p>F. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>Nature of Debt (Purpose):</p>				
<p>1) SUBTOTALS This Period This Page (optional)</p>				1
<p>2) TOTAL This Period (last page this line only)</p>				0
<p>3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)</p>				0
<p>4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)</p>				0

95043685279

Law Office
Michael Schaeffer

PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

121 BROADWAY, SUITE 224
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 233-0222

August 23, 1988

John D. Gibson, Assistant Staff Director
Reports Analysis Division, Federal Elections Commission
WASHINGTON, D.C. 20461

Re: C00209213

Dear Mr. Gibson:

I did not appreciate your August 19th letter
referencing Mid Year REport 1988, in the above
matter, threatening me with an audit or legal enforcement
auction.

There has been no activity with reference to
the Committee's federal campaign since 1986, some
two years ago, other than complete payoff of a
personal \$30,000 loan from Mary Huerta who holds
shares of
stock having a quoted market value of about
\$300,000. She continues to hold the stock
because of a \$100,000 outstanding loan made
in 1984 or 1985 that remains as a source of
interest-income to her.

A termination report, final report, etc.,
has some time ago been filed with the
Commission, as requested by the Commission's
staff.

I am advised by Pat Sheppard that the
matter is "in litigation", which is a very
poor choice of words if in fact I have not
been charged with any civil or criminal
misconduct. MUR matters should never
be referred to as "in litigation". But
then again, you may have commenced judicial
or administrative litigation with me that
I am not aware of, so this comment may
be premature and/or inaccurate.

MUR "

I do not intend to file a Mid-Year Report,
unless you again request same and provide me
with an appropriate form. All activity from
start-to-end has been previously reported.

Thank you for your courtesy and attention.

M. Schaeffer
MICHAEL SCHAEFFER

95043685280



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

RQ-7

August 19, 1988

Michael Schaefer, Treasurer
Friends of Schaefer
723 St. Paul Street
8840 Villa La Jolla Drive, #112
La Jolla, CA 92037

Identification Number: C00209213

Reference: Mid-Year Report (1/1/88-6/30/88)

Dear Mr. Schaefer:

It has come to the attention of the Federal Election Commission that you may have failed to file the above referenced Report of Receipts and Disbursements as required by the Federal Election Campaign Act. You were previously notified of the due date for this report.

It is important that you file this report immediately with the Clerk of the House, Office of Records and Registration, 1036 Longworth House Office Building, Washington, DC 20515, or the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510, as appropriate. A copy of the report should also be filed with the Secretary of State or equivalent state officer of your state.

The failure to file this report may result in an audit or legal enforcement action.

If you have any questions regarding this matter, please contact Pat Sheppard on our toll-free number (800) 424-9530. Our local number is (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

*I called her
8-23-88*

95043685281

050
406

RECEIVED
FEDERAL ELECTION COMMISSION
PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED 88 SEP 19 PM 11:00
BY FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1180 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
BUSINESS (619) 480-7884
RESIDENCE (619) 480-0720

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 484-3257

September 12, 1988

Anne A. Weissenborn, Esq.
Federal Elections Commission
Washington, D.C. 20461

Re: MUR 2561

Re: Attached letter of August 23, 1988 to John D. Gibson
and attached August 19th letter to me from John D. Gibson

Dear Ms. Weissenborn:

I am so very busy with a number of civil cases for my account and for clients, and with weekly motions in my personal Chapter XI bankruptcy proceeding with a Trustee who seeks to undertake all kinds of costly travel, etc. related to my investments and demands a \$6,000 mo. fee from the court to do what I used to do in an hour here and there, that I do not like having an Open File with your office from a campaign of more than 2 years ago.

Would you please get me some kind of response from the MUR and from the demands for a mid-year report.

I no longer have legal control over any of my funds or reports, with a Trustee having taken charge last April.

And I want very very much to either close the FEC file, know that I have nothing pending, and discard its contents--or if you have some specific demand, or cause to indict me, at least I could then ask the bankruptcy court for funds to retain an attorney to handle the matter so that I would not have my continuing concern as to what you are doing with MUR and what demands for reports will arrive in my next mail with threat of legal action.

I am not critical of your office, just expect some response within 10 days, when I respond the very next day. I know you are busier than I am, but you have modern equipment, computers, and lots of staff, and here it is just me and my typewriter.

Cordially,
M Schaefer
MICHAEL SCHAEFER

PLEASE NOTE NEW OFFICE ADDRESS FOR ALL PURPOSES

95043685232

88 SEP 19 PM 12:38

RECEIVED
FEDERAL ELECTION COMMISSION

88 NOV 10 PM 12:01

PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1950 SILVERADO, SUITE 100
LA JOLLA, CALIFORNIA 92037
BUSINESS (619) 456-7884
RESIDENCE (619) 450-0788

RECEIVED
FEDERAL ELECTION COMMISSION
NOV 10 PM 2:57

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 454-3267

November 5, 1988

Attorney Wise
Federal Election Commission
Washington, D.C. 20461

Re- MUR 2561

Dear Sir:

We talked on October 13th, and you assured me that there would be a prompt resolution of the above matter, so that I could discard my files which impose upon my cluttered desk & small office, or I could bring the matter into U.S. District Court or retain defense in your Commission if there were some problem needing further action.

I advised you that I have been in Chapter XI federal bankruptcy proceedings, case no. 87-05174-LM11, Southern Dist. of Calif., for the past 1 1/2 years, and need to clear with the Court any involving of myself in expenditures of any nature.

I do, as a matter of principle, feel that it is inappropriate to bar loans from nonbanks to candidates, so long as they are properly secured, and it is an existing creditor-debtor relationship (such as Mrs. Huerta having loaned me \$100,000 in 1984 or thereabouts, against \$300,000 worth of stock, and having increased it to \$130,000 at time I was a federal candidate, since paid back down to the original \$100,000). (The stock was worth only \$200,000 at time of loan, today is \$300,000). (But today I have a \$2,000,000 personal injury judgment creditor, that's why the Chapter XI bankruptcy).

Please know that the above is my current address for all purposes. I prefer noncertified mail, but now there is a receptionist in my executive suite arrangements who can sign for your certified, if any.

Thank you for your attention to this; hopefully we can do something with this case before year-end. The matter of it being unresolved, and intimidating, of course upsets me. Regardless of what is done with my case, I think the loan v. contribution law ought be modified, if it can be done without inviting substantial abuse.

M. Schaefer
MICHAEL SCHAEFER

95043685283

06C#1340

FEDERAL COMMISSION

PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

San Office
Michael Schaefer

88 DEC 12 AM 10:32

FAX TRANSMISSION (818) 487-8848

SAN DIEGO OFFICE:
1800 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
BUSINESS (818) 488-7864
RESIDENCE (818) 480-0780

Remailed 12-5-88

Nov. 25, 1988

Anne A. Weissenborn, Esq.
FEC
Washington, DC. 20463

(Wrong zip code used)

MUR 2561

Dear Ms. Weissenborn:

Mr. Wise of your staff has talked with me, Oct. 13th, and I have written him, Nov. 5th, seeking to resolve the above matter. He indicated you all were busy, but would get to it. He was very helpful.

Please don't let this carryover until 1989 without either closing it, or referring it to the Dept. of Justice.

I am in Chapter XI bankruptcy, which is supposed to give me a peace of mind, and I have nothing but uncertainties as to the above matter which has been sitting on my desk as an open case for over 2 years now.

I do want to have the federal court evaluate whether it is constitutional for the FEC to require that candidates are capable of borrowing only from banks, and not from private parties---even on a totally secured basis, consistent with terms that any commercial bank might make available, and where it is a pre-existing creditor-debtor situation, as in my case where \$100,000 was borrowed years before the campaign, probably in 1984, and then increased to \$130,000 by \$30,000 more loan(collateral is worth \$300,000 today, was always worth \$200,000, and the \$100,000 balance is stilled owed to Mrs. Huerta). (As you know, the \$30,000 is no longer outstanding).

I am tired of writing about it, It is time for the FEC to get the case out of its files, by closing it or referring it to litigation. I have no funds now to retain counsel but will, most assuredly, do a yoeman's job in defending the case if it is brought.

My bankruptcy case is 87-05174-LM11, pending in the U.S.B.C., So. Dist. of Calif.

Please have someone write or call before year-end. I prefer noncertified mail. Thank you.

M. Schaefer

95043685284

88DEC12 PM 3:03

FEDERAL COMMISSION

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

89 MAR -6 AM 11:01

06C2046

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 484-3227
Feb. 25, 1989

PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE
1180 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
BUSINESS (619) 480-7984
RESIDENCE (619) 480-0720

Ann Weissenborn, Esq.
Federal Elections Commission
WASHINGTON, D.C. 20461

Re: MUR 2561

Re: ID No. C00209213

Dear Ms. Weissenborn:

It distresses me to receive periodically the attached letters from Robin Kelly in the name of John Gibson. In the past I have sent back a letter indicating that I had filed a closing and final and terminal Report on the Committee, yet I still get all these letters, maybe it is only every 6 mo., but Robin has written me thusly, at least once, since a final report was filed.

As you know, the Friends of Schaefer Committee was active only in connection with the September, 1986 primary U.S. Senate election in Maryland (and also funded a municipal campaign in Los Angeles in 1987). It's assets have been converted to cash and the cash has been claimed by my Chapter 11 Trustee, for benefit of creditors. But what is important, is that a final report was filed, and if you don't have it, or want another one, please have one sent to me. But please let's get Robin Kelly on my back, it is not fair to her, or fair to me, to have this periodic mailing. Thank you.

Sincerely,
M Schaefer
MICHAEL SCHAEFER

COMM-5 PM 2:55

95043685205
P.S. It is possible that the final report I have in mind was a state report filed with the Local Registrar of Voters. I am not positive I have filed a final report with you. I NO, STRIKE THAT... attached is one dated 4/27/88 that was filed, FYI.

95043685287

Name of Committee (in Full)	Outstanding Balance Beginning This Period	Amount Incurred This Period	Payment This Period	Outstanding Balance at Close of This Period
<p><i>Friends of Schaefer</i></p> <p>A. Full Name, Mailing Address and Zip Code of Debtor or Creditor <i>Michael Schaefer 8840 Villa La Jolla Dr. #112 La Jolla, Calif. 92037</i></p>	58,000		58,000*	0.
<p>Nature of Debt (Purpose): <i>Candidate Advances to Personal Campaign</i></p>				
<p>B. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>Nature of Debt (Purpose):</p>				
<p>C. Full Name, Mailing Address and Zip Code of Debtor or Creditor <i>* These funds were utilized by the Candidate to payoff in full two personal debts he incurred</i></p>				
<p>Nature of Debt (Purpose): <i>in order to be able to advance said funds,</i></p>				
<p>D. Full Name, Mailing Address and Zip Code of Debtor or Creditor <i>He repaid \$25,000 to Charles Schwab & Co. stockbroker margin account and \$30,000 to a private lender having advanced the</i></p>				
<p>Nature of Debt (Purpose): <i>\$30,000 (in addition to \$100,000 in 1984</i></p>				
<p>E. Full Name, Mailing Address and Zip Code of Debtor or Creditor <i>or (1983), Mary Huerta, secured by 2000 Shares of San Diego Financial Corp. (having a</i></p>				
<p>Nature of Debt (Purpose): <i>Public market value of \$121.00 Bid, or \$242,000.</i></p>				
<p>F. Full Name, Mailing Address and Zip Code of Debtor or Creditor</p>				
<p>Nature of Debt (Purpose):</p>				
<p>1) SUBTOTALS This Period This Page (optional)</p>				1
<p>2) TOTAL This Period (last page this line only)</p>				0
<p>3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)</p>				0
<p>4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)</p>				0

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
MAY 11 1988
MUR 2561

In the Matter of
Michael Schaefer, as candidate
Friends of Schaefer
Michael Schaefer, as treasurer

)
)
)
)

MUR 2561

SENSITIVE

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

MAR 14 1988

I. BACKGROUND

Following referral to the Office of the General Counsel by the Reports Analysis Division of the issues involved in this matter, the Commission, on December 8, 1987, found reason to believe that the Friends of Schaefer Committee ("the Committee") violated 2 U.S.C. § 441a(f) by accepting excessive contributions from Mary E. Huerta and Jay R. DeMiranda, 2 U.S.C. § 441b by accepting a loan from Charles Schwab and Company, 2 U.S.C. § 434(b)(8) by failing to report the debt owed Mary E. Huerta in a continuous fashion, and 2 U.S.C. § 434(a)(2)(A)(iii) by failing to file a 1986 Year End Report. On March 15, 1988, the Commission found reason to believe that the Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i) and (ii) by failing to file a 1987 Mid-Year and a 1987 Year End Report. Numerous documents have been requested of the Committee; these have now been supplied.

On May 24, 1988, this Office received a request from the treasurer/candidate for conciliation prior to a finding of probable cause. This Office is now prepared to recommend such pre-probable cause conciliation with the Committee.

95043685288

II. ANALYSIS

A. Excessive Contributions

a. Loan from Mary E. Huerta

Based upon information contained in reports submitted by the Committee, it appeared that Mary E. Huerta had made a \$30,000 loan to Michael Schaefer in July, 1986, which he in turn had loaned to the Committee. Mrs. Huerta also made a \$500 contribution to the Committee in that same month. This loan has been confirmed by a Demand Note dated September 18, 1986, and signed by Michael Schaefer which has been supplied by both Michael Schaefer and Mrs. Huerta (Attachment 1). The note provided for a 10% annual rate of interest to be paid monthly for four months beginning September 10, 1986, and then semi-annually. The note was secured by 500 shares of San Diego Financial Corporation common stock.

In a sworn statement submitted in response to the interrogatories posed by the Commission (Attachment 2), Mrs. Huerta states,

I had a previous loan with Schaefer, at a rate of interest better than banks were paying on my savings, and have always held stock in San Diego Financial Corp., a San Diego bank holding company, that is worth twice the amount of any loan. The \$30,000 was secured specifically by 500 shares of stock in the Bank, which has a current market value of about \$60,000.

Mrs. Huerta further states that her son has known Michael Schaefer since high school, and "he has arranged to make secured loans with my savings." According to Mrs. Huerta, "payments of interest have been made satisfactorily by Schaefer."

95043685289

Regarding her knowledge of Michael Schaefer's candidacy and the use to which her loan would be put, Mrs. Huerta declares,

I knew that Michael Schaefer was a candidate for federal office, from my son mentioning it, and from newspaper clippings he may have provided for my son's information. When I made the contribution of \$500 to this campaign, I did not know that money he was borrowing was going to be used for the campaign, or for real estate investment, I do know that Schaefer is investing in real estate from time to time. I was merely seeking a fair return on my savings funds.

95043685290
According to Mr. Schaefer, at the time the \$30,000 was made, he already had a \$100,000 loan outstanding from Mrs. Huerta which was secured by \$200,000 in bank stock. As to the purpose for which he requested the \$30,000 loan, Mr. Schaefer has stated, in answer to a Commission interrogatory:

It was requested without any designation. I don't think I indicated what I would do with the funds; Huerta was so amply secured that I am sure she did not care. I probably had the campaign in mind at the time, and it is always a question of whether I (a) simply sell some stocks to raise funds, or (b) borrow against those same stocks, to raise funds.

Mr. Schaefer stated that he has made the interest payments out of a personal account. Later he reported that the loan was repaid in early 1988.

In his most recent letter to this Office, Mr. Schaefer states that he feels as a matter of principle "it is inappropriate to bar loans from nonbanks to candidates, so long as they are properly secured, and it is an existing creditor-debtor relationship (such as Mrs. Huerta having loaned me \$100,000 in 1984 or thereabouts,

against \$300,000 worth of stock, and having increased to \$130,000 at [the] time I was a federal candidate, since paid back down to the original \$100,000.)" He does not, however, dispute the campaign-relatedness of the acceptance of the loan.

2 U.S.C. § 431(8)(A)(i) defines "contribution" to include "any gift, subscription, loan, advance or deposit of money . . . made by any person for the purpose of influencing any election for Federal office" 2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount which a person may contribute "to any candidate and his authorized political committee with respect to any election for Federal office," while 2 U.S.C. § 441a(f) prohibits the acceptance of contributions in excess of the limitations at 2 U.S.C. § 441a(a). If a candidate receives a loan for use in connection with his campaign, the candidate receives the loan as an agent of his authorized committee. 2 U.S.C. § 432(e)(2). See Advisory Opinion 1985-33.

In the present matter Mrs. Huerta made a loan of \$30,000 to Michael Schaefer, the proceeds of which he in turn lent to the Committee. Mr. Schaefer acknowledges that he "probably" intended the loan to be used for the campaign when he requested it from Mrs. Huerta. Therefore, it is clear that the Committee accepted a \$30,000 loan from Ms. Huerta in violation of 2 U.S.C. § 441a(f).

With regard to Mrs. Huerta as contributor, there is evidence of an ongoing business relationship between her and Mr. Schaefer as witness his provision of \$300,000 in collateral against which he had already borrowed \$100,000 at the time of the \$30,000 loan.

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Both parties to the loan in the present matter assert that no particular purpose was given for the loan at the time it was requested of Mrs. Huerta by Mr. Schaefer. He acknowledges that he "probably" had a campaign purpose in mind, but says that Mrs. Huerta was not given a designated purpose. This loan was apparently the latest in a series of loans which Mr. Schaefer has obtained from Mrs. Huerta largely at her son's behest, her willingness to make these loans having assertedly been based upon the security and rate of interest offered, the latter higher than that offered by commercial institutions. The \$30,000 loan was evidenced by a written demand note and carried the same rate of interest and the same security as had the earlier non-campaign loans.

Given the uncertainties as to whether Mr. Schaefer's campaign was discussed at the time the \$30,000 loan was made by Mrs. Huerta, and given that loan's similarity to other, strictly business, loans made to him by Mrs. Huerta earlier, it is the opinion of this Office that Mrs. Huerta's role in this transaction was a largely uninformed one. Therefore, it is recommended that the Commission take no further action with regard to her making of an apparent excessive contribution and close the file as to her involvement in this matter. The attached proposed letter to be sent to Mrs. Huerta contains an admonition against making such an excessive loan to a federal candidate in the future.

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b. Receipt of Payments on Promissory Note

Reports filed with the Commission in 1986 also showed that the Committee had received monthly payments of \$6,711.42 from Jay R. DeMiranda on a note secured by two Los Angeles apartment buildings. Bank statements furnished in response to a Commission subpoena show that the Committee's account was opened in February or early March, 1986, with monthly deposits of \$6,711.42 appearing throughout that year, throughout 1987 and into January, 1988.

During the course of the investigation in this matter, Mr. Schaefer furnished this Office with a copy of an Assignment of Deed of Trust dated February 28, 1986, and recorded in Los Angeles on April 2, 1986 (Attachment 3). This Assignment transferred to the Provident Bank of Maryland, for credit to the Friends of Schaefer account, all beneficial interest under a Deed of Trust dated August 26, 1981, which had been executed by Jay R. DeMiranda and which secured payment for property which, with accrual of interest, was valued at \$671,142 by 1986.

On July 17, 1987, Mr. Schaefer filed for bankruptcy under Chapter 11, Title 11, United States Code. Pursuant to advice of counsel, Mr. Schaefer has treated the \$671,142 note as personal capital in the bankruptcy proceeding. He states that he has paid tax on the income generated, i.e., on the \$6,711 monthly payments received.

In a letter received by this Office on April 14, 1988, Mr. Schaefer stated with regard to the mortgage payments, "Since the Committee ended as of 1986, I then utilized funds arising in

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1987 for a municipal government campaign in 1987, and an using funds arising in 1987 and 1988 for a local government campaign in 1988. The mortgage continues to pay out \$6,711 monthly but it is no longer part of a federal entity." Later in the same letter Mr. Schaefer wrote, "I would prefer that [the note] not be part of my personal estate, but it was his [the attorney's] opinion that for me to so treat it would be indefensible."

2 U.S.C. § 431(2) defines "candidate" as an individual seeking nomination for Federal office, and states that such an individual will be deemed to be seeking nomination if he or she receives contributions or makes expenditures in excess of \$5,000. Pursuant to 11 C.F.R. § 110.10, a candidate may make unlimited expenditures from personal funds for his or her own campaign. "Personal funds" means assets to which the candidate has legal right of access or control and to which the candidate has legal and rightful title or an equitable interest at the time he or she becomes a candidate. 11 C.F.R. § 110.10(b)(1). In the present matter Mr. Schaefer signed and recorded an assignment of the mortgage at issue to the Committee on February 28, 1986, but declared the \$671,142 note to be personal capital in a bankruptcy proceeding which he began more than a year after the date of the assignment. Between February 28, 1986, and January, 1988, Jay DeMiranda made payments to the Committee's account which, according to bank records, totaled \$154,362.66.^{1/}

^{1/} Bank statements for May and June, 1987, have not been produced; however, two payments of \$6,711.42 appear on the July statement. This report assumes a payment each month for twenty-three months.

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Mr. Schaefer's argument that the Committee ended in 1986 and that the monthly payments thus ceased being made to a federal entity at that time is counter to the requirements of the Act and the Commission's regulations. A political committee registered with the Commission is required to continue in existence so long as the committee has outstanding debts. 11 C.F.R. § 102.3. The last report filed by the Committee prior to April, 1988 was its 1986 October Quarterly Report which showed on the Detailed Summary Page \$58,000 in loans received to date and \$0 in loans repaid during the period covered by the report. More recently Mr. Schaefer has stated that the loan from Mrs. Huerta (see above) and a \$30,000 loan obtained by means of his margin account (see below) were repaid in 1988. Therefore, the Committee was required to continue to report into 1988 and any payments into its account constituted payments to a political committee.

The controlling issue regarding the receipt by the Committee from Mr. DeMiranda of monthly payments of \$6,711.42 is whether those payments are to be considered personal funds of the candidate or contributions by Mr. DeMiranda to the Committee. This determination is governed in turn by whether Mr. Schaefer had a legal right of access to or control over those payments, and a legal or rightful title to, or equitable interest in, receiving those payments at the time he became a candidate so as to meet the definition of "personal funds" at 11 C.F.R. § 110.10(b).

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It is the position of the Office of the General Counsel that the assignment of the \$671,142 note to the Committee by Mr. Schaefer in February, 1986, triggered his candidacy as of that date. As noted above, 2 U.S.C. § 431(2) defines candidate as an individual who is seeking nomination for election, or election, to Federal Office, "seeking nomination or election" being defined, inter alia, as the receipt of contributions by that individual in excess of \$5,000. The making of a \$671,142 contribution by an individual to his own campaign constitutes receipt of a contribution in that amount, thereby conferring candidate status upon that individual.

In the present matter Mr. Schaefer's assignment of the mortgage and his attainment of the status of candidate were simultaneous. Therefore, for the purposes of 11 C.F.R. § 110.10(b), the \$671,142 mortgage assigned to the Committee should be considered to have been Mr. Schaefer's "personal funds" at the time he became a candidate. It then follows that the monthly mortgage payments of \$6,711.42 made by Mr. DeMiranda constituted payments to Mr. Schaefer which the latter continuously assigned to the Committee even though the payments were made directly to the Committee's account. Those payments should thus be deemed contributions by Mr. Schaefer to his own campaign, not contributions to the Committee by Mr. DeMiranda.

Mr. Schaefer assigned the \$671,142 to the Committee on February 28, 1986. As discussed above, this is the date that Mr. Schaefer became a candidate. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or her principal campaign committee within 15 days of becoming a candidate. The candidate must designate his or her

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principal campaign committee by filing a Statement of Candidacy with the Commission. Mr. Schaefer did not file a Statement of Candidacy until July 17, 1986. Therefore, this Office recommends that the Commission find reason to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the \$5,000 contribution threshold.

Pursuant to 2 U.S.C. § 433(a) each authorized campaign committee must file a Statement of Organization no later than 10 days after designation pursuant to section 432(e)(1). In the present matter the Committee filed its Statement of Organization in July, 1986. Because the candidate did not timely file a Statement of Candidacy, it follows that the Committee did not timely file a Statement of Organization. Therefore, this Office recommends that the Commission find reason to believe that the Committee violated 2 U.S.C. § 433(a).

c. Failure to Report Debt Continuously

2 U.S.C. § 434(b)(8) requires that a political committee include the amount and nature of outstanding debts owed by the committee in each required report. 11 C.F.R. § 104.11 requires that debts and obligations be reported continuously until extinguished.

The Committee's 1986 October Quarterly Report did not include on Schedule C the \$30,000 loan from Mary E. Huerta discussed

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above. This loan was not repaid until early 1988. Therefore, it should have been included in the 1986 October Quarterly Report.

d. Loan from Charles Schwab and Co.

The Commission also found reason to believe that the Committee and Michael Schaefer, as treasurer, had violated 2 U.S.C. § 441b by accepting a \$28,000 loan from Charles Schwab and Co.

The Committee's 1986 October Quarterly Report itemized a \$28,000 loan received from Michael Schaefer on September 2, 1986. The accompanying Schedule C contained a notation that the funds for this loan had been "borrowed from Charles Schwab and Co. stockholders account held by Schaefer, a 'margin' loan secured by various stocks owned, no repayment date to Schwab, interest: Brokers call rate +.75% (about 7 1/2%)."

Pursuant to regulations prescribed by the Federal Reserve Board regarding margin purchases, an investor may deposit with a broker either cash or certain classes of securities which may be used to obtain credit for the purchase of additional securities or for other purposes. Under present Federal Reserve Board regulations brokers are generally permitted to extend credit only up to 50% of the value of deposited securities. The loan value of these securities for other purposes is also limited to 50%. It is the understanding of this Office that, provided there are securities of sufficient value or other funds in a margin account, a brokerage firm will make loans virtually upon demand to the holder of the account for other than the purchase of

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additional securities. There is no requirement that the brokerage firm inquire about the purpose of the loan, nor is there a special application to be submitted. Such loans may be obtained by telephone.

The particular statement reflecting Mr. Schaefer's \$28,000 loan shows that the account was opened on the same day as his receipt of the loan (Attachment 4). To open the account Mr. Schaefer deposited 10,000 shares of stock in First National Corporation of California and 5,000 shares in the H. H. Robertson Company. No cash deposit was made. Therefore, the \$28,000 loan was made based upon deposited securities only.

2 U.S.C. § 441b prohibits national banks and corporations from making contributions or expenditures in connection with federal elections. 2 U.S.C. § 431(8) and (9) define "contribution" and "expenditure" as including any loan. The only exception to the inclusion of a loan in these definitions is found at 2 U.S.C. § 431(8)(A)(vii) which exempts from the definition of contribution "any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Saving and Loan Insurance Corporation, or the National Credit Union Administration"

This statutory language provides no basis for a determination that a loan extended by a brokerage firm would come within the exception. The legislative history for this provision, with

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its repeated references to "banking institutions," supports the opposite conclusion. For example, The Report of the Senate Committee on Rules and Administration on S. 382, S. Rep. No. 92-229, 92nd Congress, 1st Session 89 (1971) states, "Testimony received from witnesses was unanimously in favor of the granting of loans by national and state banks if such loans were made pursuant to applicable banking rules and regulations." Reprinted in Legislative History of Federal Election Campaign Act of 1971 ("1971 Legislative History") at p. 217, 1981)). During the Senate floor debate on S.382, Senator Cannon, in his explanation of the coverage of the proposed legislation, stated, "Other terms are as broad as possible, and, in fact, so all inclusive that a special exception had to be written into the definitions of the criminal code amendments in order to permit National and State banks to make loans of money." 1971 Legislative History, supra p. 451. Later, during the same floor debate, Senator Prouty reiterated that the definitions of contribution and expenditure had been "modified so as to permit candidates for Federal office to obtain bona fide bank loans." 1971 Legislative History, p. 460. It thus appears that, unless it can be shown that funds obtained by means of a margin account are the personal funds of the person holding the account, those funds would constitute a loan by the brokerage firm and thus a contribution to any campaign which benefits from such a loan.

It is further the understanding of this Office that, contrary to Mr. Schaefer's assertion, a loan obtained from a brokerage

firm secured by stock in a margin account would not be considered by the firm to be a loan of the account holder's own monies, but, rather, a secured loan from the firm to the borrower upon which interest is owed. If the margin account holds cash deposits equal to a loan at the time the loan is obtained, there is a different result; such cash would be considered the depositor's own funds. But an account composed solely of securities can provide only collateral for a loan.

In the present matter Charles Schwab and Co. made a loan of \$28,000 to Mr. Schaefer, with stock in his margin account serving as collateral for that loan. Mr. Schaefer then lent the \$28,000 to his campaign. Given the provisions of 2 U.S.C. § 432(e) (2) that a loan to a candidate subsequently used in a campaign becomes a loan to the candidate's committee, the Committee violated 2 U.S.C. § 441b by accepting a \$28,000 contribution from Charles Schwab and Co.^{2/}

e. Failure to File Reports

2 U.S.C. § 434(a) (2) (A) (iii) requires the principal committees of candidates for the House of Representatives and Senate to file, in an election year, a report covering the quarter ending December 31 no later than January 31 of the following calendar year.

^{2/} On December 8, 1987, the Commission voted to take no action at that time with regard to a possible violation of 2 U.S.C. § 441b by Charles Schwab and Co. In light of the apparently standard practice of brokerage firms to grant loans on margin accounts, up to a certain percentage of the value of deposited securities, as a matter of course with no statement required as to the purpose of the loan, there is no reason to alter the Commission's previous determination.

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The Committee did not file a report covering activity during the final quarter of 1986 until April 27, 1988.

2 U.S.C. § 434(a)(2)(B)(i) and (ii) require the principal campaign committees of such candidates to file, in non-election years, a Mid-Year Report due on July 31 and a Year End Report due on January 31 of the following calendar year. The Committee did not file a report covering activity during the first and second halves of 1987 until April 27, 1988.^{3/}

f. Conciliation

This Office recommends that the Commission enter into conciliation prior to a finding of probable cause to believe with regard to all of violations by the Committee discussed above.

II. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

^{3/} The report filed by the Committee on April 27, 1988, shows on the Summary page total contributions, other than loans, of \$58,000 and operating expenditures of \$58,000. An attached Schedule D reports an outstanding loan of \$58,000 from Michael Schaefer at the beginning of the report period and payment of a like amount during the same period. A notation on that Schedule states that the \$58,000 was used to pay back \$30,000 to Mary Huerta and \$28,000 to the candidate's margin account. The information in this report bears no relationship to the transactions itemized on the Committee's bank statements between October, 1986 and April, 1988. The same kinds of discrepancies are to be found in a comparison of the Committee's reports filed in 1986 with the bank statements covering the same periods of time.

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III. RECOMMENDATIONS

1. Find reason to believe that Michael Schaefer violated
2 U.S.C. § 432(e)(1).

2. Find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 433(a).
3. Enter into conciliation with the Friends of Schaefer Committee and Michael Schaefer, as treasurer, prior to a finding of probable cause to believe.
4. Take no further action regarding an apparent violation by Mary E. Huerta and close the file in her regard.
5. Approve the attached proposed conciliation agreement and letters.

Date

3/7/89

Lawrence M. Noble
General Counsel



Attachments

1. Demand Note provided Mary E. Huerta
2. Response of Mrs. Huerta to Interrogatories
3. Assignment of Deed of Trust
4. Statement of margin account for period ending September 30, 1986
5. Proposed conciliation agreement
6. Letter to Committee
7. Letter to Mary E. Huerta

Staff Person: Sandra J. Dunham

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / JOSHUA MCFADDEN
COMMISSION SECRETARY

DATE: MARCH 9, 1989

SUBJECT: OBJECTION TO MUR 2561 - General Counsel's Report
Signed March 7, 1989

The above-captioned document was circulated to the Commission on Wednesday, March 8, 1989 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens _____
Commissioner Elliott _____ X
Commissioner Josefiak _____
Commissioner McDonald _____
Commissioner McGarry _____
Commissioner Thomas _____

This matter will be placed on the meeting agenda for March 14, 1989.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate) MUR 2561
Friends of Schaefer)
Michael Schaefer, as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 14, 1989, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2561:

1. Find reason to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1).
2. Find reason to believe that the Friends of Schaefer Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 433(a).
3. Enter into conciliation with the Friends of Schaefer Committee and Michael Schaefer, as treasurer, prior to a finding of probable cause to believe.
4. Take no further action regarding an apparent violation by Mary E. Huerta and close the file in her regard.

(continued)

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5. Approve the proposed conciliation agreement and letters attached to the General Counsel's report dated March 7, 1989.

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

Attest:

3-14-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 21, 1989

Michael Schaefer, Treasurer
Friends of Schaefer Committee
121 Broadway Suite 554
San Diego, California 92101

RE: MUR 2561

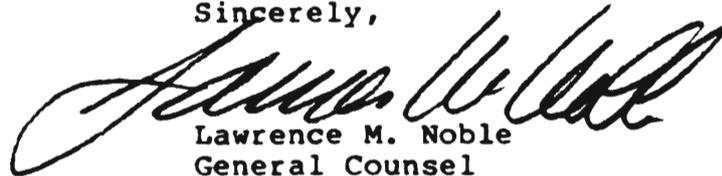
Dear Mr. Schaefer:

On December 8, 1987, and March 15, 1988 the Federal Election Commission found reason to believe that the Friends of Schaefer Committee and you, as treasurer, violated 2 U.S.C. §§ 441a(f), 441b, 434(b)(8), 434(a)(2)(A)(iii) and 434(a)(2)(B)(i) and (ii). Also, on March 14, 1989, the Commission found reason to believe that you, as candidate, violated 2 U.S.C. § 432(e)(1) and Friends of Schaefer and you, as treasurer, violated 2 U.S.C. § 433(a). At your request, on March 14, 1989, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 21, 1989

Mary E. Huerta
16131 Breezewood Drive
Las Vegas, Nevada 89108

RE: MUR 2561

Dear Mrs. Huerta:

On December 29, 1987, you were notified that the Federal Election Commission had found reason to believe that you had violated 2 U.S.C. § 441a(a)(1)(A). On February 11, 1988, the Office of the General Counsel received a response from you to the Commission's reason to believe findings in this matter.

After considering the circumstances of the matter, the Commission determined on March 14, 1989, to take no further action against you, and closed the file as it pertains to you. The Commission reminds you that your loan of \$30,000 to Michael Schaefer which he then lent to his federal election campaign appeared to constitute an excessive contribution by you to the campaign in violation of 2 U.S.C. § 441a(a)(1)(a). You should take immediate steps to insure that you do not make such a contribution in the future.

The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

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

If you have any questions, please contact Sandra J. Dunham, th staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

March 20, 1989

Michael Schaefer, Treasurer
Friends of Schaefer Committee
8840 Villa La Jolla Drive #112
La Jolla, California 92037

RE: MUR 2561
Michael Schaefer, as candidate
Friends of Schaefer
Michael Schaefer, as treasurer

Dear Mr. Schaefer:

On February 25, 1989, you requested that the Reports Analysis Division of the Federal Election Commission cease questioning Friends of Schaefer (the "Committee") about financial disclosure reports which should have, but have not been, filed with the Commission. Because of the ongoing enforcement matter involving your Committee, this request cannot be approved. Therefore, you are reminded that the Committee must continue to file the required reports with the Commission until such time as the entire enforcement matter has been closed.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence M. Noble".

Lawrence M. Noble
General Counsel

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PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1150 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037

BUSINESS (619) 454-7884
RESIDENCE (619) 450-0780

RECEIVED
FEDERAL ELECTION COMMISSION
89 APR 10 PM 12:09

Law Office
Michael Schoof

FAX TRANSMISSION (619) 454-3257

April 5, 1989

Sandra J. Dunham, Esq.
Federal Elections Comm.
Washington, D.C. 20463

Re: MUR 2561

Dear Ms. Dunham:

(1) Upon my return from a 2 week vacation today I found the attached two letters from you, one sent to my residence on Villa La Jolla Dr., the other sent to an office I abandoned last August in San Diego, Cal. to relocate to the above address. Please see that only the above 1150 Silverado, Suite 111, La Jolla, C'A. 92037 address appears on future mailings.

(2) I regret that you do not favor addresses with your 800 phone number, for tollfree communication. Former staff members did. Please try to do that in the future. I tried to reach you from my home this morning (I got in last evening), spent about 5 minutes on the phone trying to reach you, you were unavailable, Mr. Noble was not taking calls, and his secretary was trying to reach your supervisor for me. I finally left the line, realizing that the (202) call was costing me money that I did not have, and my files (with the 800 no. on other letters from staff) was at the office.

(3) You leave me little alternative but to file a civil action in the U.S. District Court, So. District of California, against the FEC, and I will do so, unless your office contacts me within 15 days of above date and other arrangements are made. I expect to be in Washington the end of May, 1989, and would be available to participate in a hearing. I have advised your office in the past as to each of my trips to Washington, D.C. but have never had an invitation or request to physically meet with anyone or attending any hearing. Perhaps it would be easiest on all of us to resolve the matter in the local USDC. I don't know. Be assured of my good faith and cooperation.

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p.5*

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(4) Your March 20th letter, to my home, advised that I must continue to be subject to demands for periodic filings for the Committee. The Committee ceased to do business after September 9, 1986, and has since been disbanded, destroyed, and all assets seized by Wilford D. Willis, Trustee in bankruptcy. As you know- I am a debtor in a bankruptcy proceeding, as per the attached NOTICE OF AUTOMATIC STAY, and have been since July 17, 1987. It is silly, and burdensome for your office as well as myself, to have your staff demand that I file periodic reports----I filed a Termination Report last year.

The proper procedure might perhaps have been for your office to REJECT the tendered termination report, so that I would know that no Termination Report was on file. But you accepted it, are bound by it for the purposes of periodic reporting, and are free to pursue the issues of MUR 2561. Please do not permit staff to demand of me periodic reports when there is absolutely no information I could provide other than fill in the zeros. Please ask Mr. Nobel to reevaluate his position on the matter.

(5)

(6)

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c. I am well aware, personally and professionally, of the \$1,000 limitation on federal campaign contributions, having been a candidate for the U.S. House of Representatives from California in 1968 (GOP Nominee) and 1982 (GOP Candidate). At no time have I solicited or received a contribution in excess of limits.

d. The \$130,000 loaned to me at various times by Mary Huerta, a retired lady in Las Vegas, Nevada who son is or was a college classmate and friend of mine since 1955 and a former banking manager, was not for purpose of influencing any election for federal office. I barely know Mrs. Huerta, having met her when I was best-man for her son's wedding, and met her only on one other occasion in some 30 years. I dealt solely with her son, except for mailing of interest payments to her; she has at all times held shares of publicly traded stock having a quoted market value such that the loan was always consistent with commercial banking standards--the stock today is quoted at \$180, or \$360,000, and the loan is now down to \$100,000.

e. Mrs. Huerta's purpose and result is to obtain a better-than-average return on invested capital, and she has at all times received either 10% or 12% annual interest on the funds her son has arranged to be loaned to me always on a 100% fully secured basis. As a former bank manager, and banking manager at the time the original loan was made, he was very careful to exercise his fiduciary duties with his mom's money in a way that was beyond criticism, and since his bank was not paying as much as 10% and 12% on cash deposits, he knew that a well-collateralized loan, not more than 50% of market value of publicly traded securities, was in her best interest, any interest I had in accessing the funds being immaterial. And frankly, I could have borrowed the funds from any commercial bank at interest rates approximately the same as those paid Mrs. Huerta. I think that Mrs. Huerta worked as a secretary or clerk prior to retiring, or maybe she did not work; her late husband was a service station manager I think. She is a person of modest means and your insinuation that she desired to be "influencing any election to federal office" is absurd.

f. I could have used the \$30,000, as I did the \$100,000 before that, in paying off a higher-interest loan (I had some 2nd mortgages that ran as high as 20% interest), or in purchase of additional real estate investments (that was what I did with funds I had available, prior to becoming a debtor in bankruptcy). It is not realistic to insinuate that I received the \$30,000 for use in a federal campaign. There was no restriction or suggestion or recommendation as to what the money would go for.

95043685315

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g. The February 28, 1986 assignment to the Committee of my beneficial interest in a \$671,142 mortgage note has been nullified, set aside, and reversed by the Trustee in bankruptcy; he has in fact received the funds, which with prepayment penalties and accrued interest approximate \$709,000, and has the funds in a Certificate of Deposit at First Interstate Bank, I am told (have no proof of this) in the name of JOHN MICHAEL SCHAEFER, or in the name of WILFORD D. WILLIS, TRUSTEE FOR JOHN MICHAEL SCHAEFER. I assure you that if these were truly political funds they would not have been subject to the U.S. Bankruptcy Court seizing same for protection of my personal creditors.

h. I do not remember Mas. Huerta making a \$500 contribution to my 1986 federal campaign, but if she did, it was something arranged by her son, Floyd A. Walden, because of my having written a number of letters to assist him with some unrelated matters and provided him gratuitous legal counsel on some matters. It was Mr. Walden's way of paying me \$500 for helping him, by getting a \$500 contribution out of his mom's limited funds, since Mr. Walden was himself in a position of dealing with personal creditors that left him no personal ability to make a \$500 contribution and he wanting to help; so it was logical for him to ask his mom to make a contribution of \$500. Again, I do not remember the check, some 3 years later, but it seems reasonable and if it was made, it was reported, and if it was reported, it was factual.

i. The \$30,000 was not tied into the campaign. I could have resigned as candidate, and spent the \$30,000 playing blackjack in Las Vegas, Nevada, and Mary Huerta would not have cared a whit. She was sitting on some \$260,000 or more in collateral for her \$130,000 in deposits or loan with myself personally.

j. For the federal government to say it's okay for me to borrow, secured on conventional basis, from a Commercial Bank, and use the funds to help with a campaign, but that it is illegal for me to borrow, from a non-Bank, secured on a conventional basis, at conventional rates, is artificial, wrong, and something that should be reviewed either by the U.S. Bankruptcy Court handling my estate, or the U.S. District Court having jurisdiction where I reside.

k. I don't understand your reference to Charles Schwab & Co. in the agreement, this company was owned by Bank of America for times involved in the 1986 campaign, I believe, and is similar to a commercial bank.

Customers merely write Schwab One checks, or pick-up checks from their local broker, whenever they want money for anything, to take a trip, make a personal unrestricted political contribution to their personal campaign, etc. Schwab does not know or care what the money is used for. If they were told that it was funding a political campaign, they would probably refuse the funds until their counsel ruled on it. And their counsel would rule that they are limited only by federal regulations as to Margin Accounts, as to how much they can lend against a given securities value.

1. The Committee filed its final report a long time ago, and just because you refuse to accept it, does not make subsequently filings untimely. There has been no income or expenses since 1986 to report, and you know it.

I am sending a copy of this letter, and of your 7 page document, to Charles Schwab's general counsel for his opinion. I am not going to bother Mrs. Huerta about it. Under your view, you could probably seek to throw Charles Schwab and Mary Huerta in jail, as well as myself.

Sincerely,

M. Schaefer
MICHAEL SCHAEFER

cc: LAWRENCE M. NOBEL, General Counsel
cc: Kenneth Houseman, Esq., Howard, Rice
et al., Counsel for Charles Schwab & Co.
cc: Floyd A. Walden

95043685317

BRIAN D. BEAUDOIN, ESQ.
FITZMAURICE & BUCHBINDER
225 Broadway, Suite 1800
San Diego, CA 92101
(619) 233-6993

FILED

JUL 22 4 33 PM '87

CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
BY _____ DEPUTY

Attorneys for Debtor-In-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:) CASE NO. 87-05174-LM11
JOHN MICHAEL SCHAEFER,) NOTICE OF AUTOMATIC STAY
Debtor-In-Possession.)

TO: ALL CREDITORS, EMPLOYERS, ANY PARTY IN INTEREST AND
TO ANY MARSHAL, CONSTABLE, SHERIFF OR OTHER LEVYING OFFICER:

PLEASE TAKE NOTICE that on July 17, 1987, the above-named
Debtor filed a proceeding under Chapter 11 of Title 11, United
States Code.

Pursuant to Title 11, United States Code, Section
362(a), all entities are barred from commencing, continuing the
issuance or employment of process against the Debtor for any
claim that could have been commenced or was commenced prior to
the commencement of the above-referenced case unless the creditor
or other party in interest complies with the provisions of Title
11, Section 362, United States Code.

Dated: July 21, 1987

Brian D. Beaudoin
BRIAN D. BEAUDOIN, ESQ.

FEB 10 1988

950436
ATTORNEYS AT LAW
CENTRAL EXPRESS TOWER
225 BROADWAY • SUITE 1800
SAN DIEGO, CALIFORNIA 92101
(619) 233-6993

FEDERAL ELECTIONS COMMISSION
ADMINISTRATIVE SERVICES DIVISION

89 APR 27 AM 9:39

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 484-3857

April 12, 1989

Ms. Sandra J. Dunham, Esq.
Office of General Counsel
Federal Elections Commission
Washington, D.C. 20463

Dear Ms. Dunham:

Reference MUR 2561.

Thank you for your discussion of the matter with me today, I anticipate and hope that you will be able to complete your briefing in this matter within April, so that I can get this matter before the Commission or the U.S. Bankruptcy Court, promptly.

It appears that sec. 437g of the Federal Election Campaign Laws provides for Commission action before discovery, and for reaction to a complaint filed.

1. Please advise me whether a Complaint was filed by any citizen with the Commission, and if so, the identity of complainant and the date the item was filed.
2. It appears that the Commission, by an affirmative vote of 4 of its members, opted to proceed as to myself. Please identify for me the 4 or more affirmative votes, by name, and the date such action was taken.
3. Since I did not receive notice of such Commission meeting, please explain why this was not done. I would think that due process would mandate that any target of a complaint have an opportunity for themselves or their counsel to appear, or at least file something directed to such meeting and have opportunity to also appear to respond to inquiry.

Thank you for your courtesy and prompt attention. I trust you will be able to get to this during April. Be aware of my availability in Washington, D.C. end of May.

Sincerely,
Michael Schaefer
MICHAEL SCHAEFER

PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE
1950 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037

BUSINESS (619) 488-7884
RESIDENCE (619) 488-0780

95043685319

APR 11 1989

P.S. Specifically, I would like to know your position, promptly, as to why you feel that the Commission is exempt from the Automatic Stay entered in my federal bankruptcy proceeding. It provides that "all entities" are barred from continuing any process against Debtor for any claim that was commenced prior to July 27, 1987, or that could have been commenced prior to said date. I have provided you with the Notice of Automatic Stay, and you of course had constructive notice of same.

9 5 0 4 3 6 8 5 3 2 0

BRIAN D. BEAUDOIN, ESQ.
FITZMAURICE & BUCHBINDER
225 Broadway, Suite 1800
San Diego, CA 92101
(619) 233-6993

FILED

JUL 22 4 33 PM '87

CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
BY _____ DEPUTY

Attorneys for Debtor-In-Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:)
JOHN MICHAEL SCHAEFER,)
Debtor-In-Possession.)
CASE NO. 87-05174-LM11
NOTICE OF AUTOMATIC STAY

TO: ALL CREDITORS, EMPLOYERS, ANY PARTY IN INTEREST AND
TO ANY MARSHAL, CONSTABLE, SHERIFF OR OTHER LEVYING OFFICER:

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States Code.

Pursuant to Title 11, United States Code, Section
362(a), all entities are barred from commencing, continuing the
issuance or employment of process against the Debtor for any
claim that could have been commenced or was commenced prior to
the commencement of the above-referenced case unless the creditor
or other party in interest complies with the provisions of Title
11, Section 362, United States Code.

Dated: July 21, 1987

Brian D. Beaudoin
BRIAN D. BEAUDOIN, ESQ.

FEB 10 1988

INTERNAL REVENUE SERVICE
FRESNO, CA

EX. C

950436
Fitzmaurice & Buchbinder
Attorneys at Law
CENTRAL SAVINGS TOWER
225 BROADWAY - SUITE 1800
SAN DIEGO, CALIFORNIA 92101
(619) 233-6993

00C 2652

RECEIVED
FEDERAL PUBLIC INTEREST AND
GENERAL LITIGATION

69 MAY -4
OFFICE OF THE CLERK
OF FEDERAL STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1180 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
BUSINESS (619) 489-7984
RESIDENCE (619) 480-0720

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 484-3257

April 30, 1989

Chairman
Federal Elections Commission
Washington, D.C. 20463

Dear Mr. Chairman:

I have been the object of your MUR 2561 for some 3 years now, and am distressed that the best your staff can come up with, timewise, is that I am required to exhaust my administrative remedies before going to federal court, and that when you get around to it, a hearing will be set in Los Angeles or some other area convenient to my home.

✓ I will be in Washington, D.C the last part of May and early June, and will be by your office to discuss this with you.

Apart from the facts being insufficient to evidence any wrongdoing--the borrowing of money on a well-secured conventional basis, by myself, against public traded stocks, and my then using the funds as personal contributions to my 1986 federal campaign(which concluded 9-9-86), is not criminal. The lenders were nonrelatives, nobody with an ax to grind, they were Charles Schwab & Co. stockbrokers and a retired woman who has been loaning me money against stock for years, because I pay more than her CDs and she feels well secured. But forget that part of the matter.

I am a debtor in federal bankruptcy, my Estate never did get a claim from the FEC, my Plan of Reorganization has been confirmed by the Court and the FEC isn't in it, and I am entitled to start life anew free of being pursued. And unless you have cause to resolve it another way, I feel obligated to file an Adversary Paoceeding against the FEC in the enclosed federal bankruptcy action and have the bankruptcy Judge make an Order in the matter so I don't have anyone, including the FEC, hassling a debtor who is supposed to be protected.

Attached: Automatic Stay Order

MICHAEL SCHAEFER
JOHN MICHAEL SCHAEFER
Debtor

9 5 0 4 3 6 8 5 3 2 2

69 MAY -4 PM 4:15

BRIAN D. BEAUDOIN, ESQ.
FITZMAURICE & BUCHBINDER
225 Broadway, Suite 1800
San Diego, CA 92101
(619) 233-6993

FILED

JUL 22 4 33 PM '87

Attorneys for Debtor-In-Possession

CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.
BY _____ DEPUTY

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re:)
JOHN MICHAEL SCHAEFER,)
Debtor-In-Possession.)

CASE NO. 87-05174-LM11
NOTICE OF AUTOMATIC STAY

TO: ALL CREDITORS, EMPLOYERS, ANY PARTY IN INTEREST AND
TO ANY MARSHAL, CONSTABLE, SHERIFF OR OTHER LEVYING OFFICER:

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claim that could have been commenced or was commenced prior to
the commencement of the above-referenced case unless the creditor
or other party in interest complies with the provisions of Title
11, Section 362, United States Code.

Dated: July 21, 1987

Brian D. Beaudoin
BRIAN D. BEAUDOIN, ESQ.
022

FEB 10 1988

EX "C"

9504
Central Savings Tower
Attorneys at Law
225 Broadway - Suite 1800
San Diego, California 92101
(619) 233-6993

060 3350

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION

LUCE, FORWARD, HAMILTON & SCRIPPS

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
FOUNDED 1873

89 JUL -7 AM 10:51

1700 THE BANK OF CALIFORNIA PLAZA
110 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
(619) 236-1414

LA JOLLA GOLDEN TRIANGLE
ARGENTS SQUARE II
4000 EXECUTIVE SQUARE, SUITE 700
LA JOLLA, CALIFORNIA 92037
(619) 435-0811

TELEPHONE
(619) 232-8311

JOHN M. OCHOA

DIRECT DIAL NUMBER
(619) 699-2568

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
JUL -7 10 23

July 3, 1989

CERTIFIED MAIL

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: In re J. Michael Schaefer, Bankruptcy No. 87-05174-LM11
Friends of Schaefer/Your reference number: NUR 2561

Dear Mr. Noble:

This firm represents Mr. Wilford D. Willis, trustee ("Trustee") for the bankruptcy estate of John Michael Schaefer. As you may know, Mr. Schaefer filed for Chapter 11 on or about July 17, 1987. The Trustee was appointed to manage his affairs on April 18, 1988. Over the last fourteen months, the Trustee has been administering the assets of Mr. Schaefer's bankruptcy estate, confirmed a plan of reorganization and is preparing to satisfy the various claims of creditors of this estate.

It has come to our attention that the Federal Election Commission ("FEC") may have pre-petition claims against Mr. Schaefer or Friends of Schaefer for violations of federal election laws. If this is the case, I strongly encourage the FEC to file a claim in this proceeding within thirty days of receipt of this letter in order preserve the FEC's rights to satisfy any potential claims from the bankruptcy estate. Otherwise, the pre-petition potential claims may be discharged by the bankruptcy. The Trustee will evaluate this claim when filed. Should the FEC not have received previous notice of Mr. Schaefer's bankruptcy filing, this letter shall serve as such a notice.

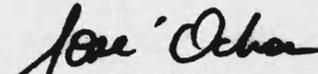
95043685324

LUCE, FORWARD, HAMILTON & SCRIPPS

Lawrence M. Noble, Esq.
July 3, 1989
Page 2

For your convenience and to assist in filing of a claim, if any, I have enclosed a Proof of Claim form for the United States Bankruptcy Court for the Southern District of California. Please do not hesitate to contact me at the number set forth above, if you have any questions or concerns regarding this matter.

Very truly yours,


Jose M. Ochoa
for

LUCE, FORWARD, HAMILTON & SCRIPPS

SCH095JMO:tv

Enclosure

cc: Wilford D. Willis (w/o encl.)
Mr. John Michael Schaefer (w/o encl.)

95043685325

United States Bankruptcy Court

PROOF OF CLAIM

DISTRICT OF

Southern District Of California

Name of Debtor

Bankruptcy Case No.

A. CREDITOR INFORMATION

(The creditor is the person or other entity to whom the debtor owes money or property)

- Check box if you never received any notices from the bankruptcy court in this case.
- Check box if this address differs from the address on the envelope sent to you by the court.
- Check box and attach copy of assignment if claim has been assigned to you.

THIS SPACE IS FOR COURT USE ONLY

Number by which creditor identifies debtor:

- Check here if this claim
- replaces
 - amends a previously filed claim dated: _____
 - supplements

B. CLAIM INFORMATION

1. BASIS FOR CLAIM

- Goods purchased
- Services performed
- Money loaned
- Other forms of contract (Identify)
- Personal injury/wrongful death/property damage
- Other (Describe briefly)

Wages, Salaries and Commissions (Fill out below)

Your social security number _____
 Unpaid services performed from _____ to _____
 Nature of services (Describe briefly)

2. DATE DEBT WAS INCURRED

3. CLASSIFICATION OF CLAIM: Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Priority, (3) Secured. It is possible for a claim to be partly in one category and partly in another—such as wage claim which may be a priority claim for the first \$2,000 and an unsecured nonpriority claim for the balance. Classify the nature of the claim by CHECKING THE APPROPRIATE BOX OR BOXES which you believe best describes the claim. STATE THE AMOUNT OF THE CLAIM.

- UNSECURED NONPRIORITY CLAIM \$ _____
For the purposes of this form, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.
- SECURED CLAIM \$ _____
Attach evidence of perfection of security
Brief Description of Collateral:
 Real Estate Motor Vehicle Other

- PRIORITY CLAIM \$ _____
Specify the priority of the claim by checking the appropriate boxes:
 Wages, salaries or commissions (up to \$2,000, earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier).
 Contributions to an employee benefit plan—11 U.S.C. §507(a)(4)
 Up to \$500 of deposits toward purchase, lease, or rental of property or services for personal, family or household use—11 U.S.C. §507(a)(8)
 Taxes or penalties of governmental units—11 U.S.C. §507(a)(7)
 Other specify:

4. TOTAL AMOUNT OF CLAIM: \$ _____ (Unsecured) + \$ _____ (Secured) + \$ _____ (Priority) = \$ _____ (Total)

- 5. Attach copies of documents in support of this claim, such as purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.
- 6. This form should not be used to make a claim for expenses incurred after the filing of the bankruptcy petition. Such expenses may be paid only upon proper application and notice pursuant to 11 U.S.C. §503.
- 7. CREDITS AND SETOFFS: Attach an itemization of all amounts and dates of payments which have been credited against the debt. Set forth any setoff or counterclaim which the debtor may have against your claim.
- 8. To receive an acknowledgment of the receipt of your claim, enclose a stamped, self-addressed envelope and a copy of your claim.

THIS SPACE IS FOR COURT USE ONLY

C. CERTIFICATION

The undersigned certifies under penalty of perjury that the debtor named above is indebted to the claimant in the amount shown, that there is no security for the debt other than that stated above or in an attachment to this form, that no unmatured interest is included, and that the undersigned is authorized to make this claim.

Date _____ Sign and Print the Name and Title, if any, of the Creditor or Other Person Authorized to File this Claim (attach copy of power of attorney, if any)

95043685326

United States Bankruptcy Court

PROOF OF CLAIM

DISTRICT OF _____

Southern District Of California

Name of Debtor

Bankruptcy Case No.

A. CREDITOR INFORMATION

(The creditor is the person or other entity to whom the debtor owes money or property)

- Check box if you never received any notices from the bankruptcy court in this case.
- Check box if this address differs from the address on the envelope sent to you by the court.
- Check box and attach copy of assignment if claim has been assigned to you.

THIS SPACE IS FOR COURT USE ONLY

Number by which creditor identifies debtor:

- Check here if this claim replaces amends a previously filed claim dated: _____ supplements

B. CLAIM INFORMATION

1. BASIS FOR CLAIM

- Goods purchased
- Services performed
- Monies loaned
- Other forms of contract (Identify)
- Personal injury/Wrongful death/Property damage
- Other (Describe briefly)

Wages, Salaries and Commissions (Fill out below)

Your social security number _____
 Unpaid services performed from _____ to _____
 Nature of services (Describe briefly)

2. DATE DEBT WAS INCURRED

3. CLASSIFICATION OF CLAIM: Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Priority, (3) Secured. It is possible for a claim to be partly in one category and partly in another—such as wage claim which may be a priority claim for the first \$2,000 and an unsecured nonpriority claim for the balance. Classify the nature of the claim by CHECKING THE APPROPRIATE BOX OR BOXES which you believe best describes the claim. **STATE THE AMOUNT OF THE CLAIM.**

- UNSECURED NONPRIORITY CLAIM \$** _____
For the purposes of this form, a claim is unsecured if there is no collateral, or to the extent the value of collateral is less than the amount of the debt.
- SECURED CLAIM \$** _____
Attach evidence of perfection of security
Brief Description of Collateral:
 Real Estate Motor Vehicle Other

- PRIORITY CLAIM \$** _____
Specify the priority of the claim by checking the appropriate boxes:
 Wages, salaries or commissions: up to \$3,000, earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier.
 Contributions to an employee benefit plan—11 U.S.C. §507(a)(4)
 Up to \$600 of deposits toward purchase, lease, or rental of property or services for personal, family or household use—11 U.S.C. §507(a)(6)
 Taxes or penalties of governmental units—11 U.S.C. §507(a)(7)
 Other specify:

4. TOTAL AMOUNT OF CLAIM: \$ _____ (Unsecured) + \$ _____ (Secured) + \$ _____ (Priority) = \$ _____ (Total)

5. Attach copies of documents in support of this claim, such as purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.

THIS SPACE IS FOR COURT USE ONLY

6. This form should not be used to make a claim for expenses incurred after the filing of the bankruptcy petition. Such expenses may be paid only upon proper application and notice pursuant to 11 U.S.C. §503.

7. CREDITS AND SETOFFS: Attach an itemization of all amounts and dates of payments which have been credited against the debt. Set forth any setoff or counterclaim which the debtor may have against your claim.

8. To receive an acknowledgment of the receipt of your claim, enclose a stamped, self-addressed envelope and a copy of your claim.

C. CERTIFICATION

The undersigned certifies under penalty of perjury that the debtor named above is indebted to the claimant in the amount shown, that there is no security for the debt other than that stated above or in an attachment to this form, that no unmaturing interest is included, and that the undersigned is authorized to make this claim.

Date _____ Sign and Print the Name and Title, if any, of the Creditor or Other Person Authorized to File this Claim (attach copy of power of attorney, if any)

95043685327

ENTERED 5-25-89
 FILED
 MAY 23 1989
 CLERK, U.S. BANKRUPTCY COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 BY _____

UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF CALIFORNIA

<p>In re:</p> <p>JOHN MICHAEL SCHAEFER,</p> <p style="padding-left: 100px;">Debtor.</p> <p>Southern District of California Bankruptcy No. 87-05174-LM11</p> <hr/> <p>WILFORD D. WILLIS, TRUSTEE,</p> <p style="padding-left: 100px;">Plaintiff,</p> <p style="padding-left: 100px;">vs.</p> <p>JOHN MICHAEL SCHAEFER, et al.,</p> <p style="padding-left: 100px;">Defendants.</p>	<p>) Adversary Proceeding</p> <p>) No. C88-0316-LM11</p> <p>) AMENDED PROPOSED ORDER RE:</p> <p>) DEBTOR'S CONTEMPT AND</p> <p>) SANCTIONS</p>
---	---

The Court's Order to Show Cause re: Contempt came on regularly for hearing in the United States Bankruptcy Court for the Southern District of California, on February 27, 1989, at 2:00 p.m., The Honorable Louise DeCarl Malugen, United States Bankruptcy Judge presiding. Margaret M. Mann, of Luce, Forward, Hamilton & Scripps, appeared on behalf of Trustee,

95043685328

1 Wilford D. Willis, who was also present; John Michael Schaefer
2 appeared in his own behalf; C. Patrick Callahan appeared on
3 behalf of Pamela Emery, the Irwin Trust and himself; Thomas A.
4 Darton, of Gibson, Dunn & Crutcher, appeared on behalf of
5 Marjorie Gallego, et al., and Gibson, Dunn & Crutcher, but did
6 not take part in the proceedings.

7 In accordance with the Findings of Fact and
8 Conclusions of Law filed concurrently herewith, the Bankruptcy
9 Court hereby certifies to the District Court, pursuant to
10 Bankruptcy Rule 9020, that the debtor be held in civil contempt
11 for:

12 1. Disobeying the Stipulation and Preliminary
13 Injunction and Turnover Order entered on July 26, 1988, by
14 publishing an advertisement to sell property of the estate in
15 the Wall Street Journal;

16 2. Disobeying the Order entered September 15, 1988,
17 Re: Trustee's Application for a Preliminary Injunction
18 Regarding Debtor's Interference With Gallego v. Schaefer Appeal
19 by contacting appellate counsel and filing documents with the
20 Court of Appeal; and,

21 3. Interference with the Court Order entered
22 December 28, 1988, Approving Mitchell Taylor Settlement by
23 filing a lawsuit against C. Patrick Callahan and Pamela Emery.

24 * * *

25 * * *

26 * * *

95043685329

1 ~~Because monetary sanctions cannot be satisfied and are~~
2 ~~futile due to the debtor's financial condition,~~ the Bankruptcy
3 Court further recommends that the debtor be incarcerated for a
4 period of not less than five days and until such additional
5 time as debtor is willing to fully comply with this Court's
6 orders.

7
8 DATED: 23 May 89

Louise DeCarl Malugen
LOUISE DeCARL MALUGEN, Judge
United States Bankruptcy Court

95043685330

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1 Margaret M. Mann, State Bar No. 99054
2 Jose M. Ochoa, State Bar No. 193134
3 LUCE, FORWARD, HAMILTON & SCRIPPS
4 1700 The Bank of California Plaza
5 110 West A Street
6 San Diego, California 92101
7 (619) 236-1414

8 Attorneys for Trustee, Wilford D. Willis

9 UNITED STATES BANKRUPTCY COURT
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

11 In re

12 JOHN MICHAEL SCHAEFER,
13 Debtor.

14) Bankruptcy No. 87-05174-LM11
15)
16) NOTICE OF HEARING ON
17) APPLICATION FOR PAYMENT OF
18) FEES AND REIMBURSEMENT OF
19) COSTS BY PROFESSIONALS
20)
21) Date: April 13, 1989
22) Time: 3:30 p.m.
23) Dept: Two

24 TO THE DEBTOR, ALL CREDITORS AND OTHER PARTIES IN INTEREST:

25 PLEASE TAKE NOTICE that on April 13, 1989, at 3:30 p.m., in
26 Department Two of the United States Bankruptcy Court, 940 Front
27 Street, Fifth Floor, San Diego, California, the following
28 Applicants will seek Court authorization for a final award of fees
and reimbursement of costs as administrative expenses for services
rendered to the estate for the following amounts:

<u>Applicant</u>	<u>Fees</u>	<u>Costs</u>	<u>Total</u>
Luce, Forward, Hamilton & Scripps General Counsel to Trustee	\$269,251.00	\$19,070.23	\$288,321.23

Total of 2 pages: \$380,000

EX-2-D

Announcement in
open court that
debtor out-of-state
3/19 to 4/4, that
nothing instant
relevant to take
place during this
time requiring
attention of debtor.

95043685332
LAW OFFICES
LUCE, FORWARD, HAMILTON & SCRIPPS
1700 THE BANK OF CALIFORNIA PLAZA
110 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
(619) 236-1414

2	Frank, Bernstein, Conway	\$ 8,823.50	\$ 329.48	\$ 9,152.98
3	& Goldman			
4	Special Counsel to Trustee			
5	Goebel, Shensa	\$29,617.50	\$3,004.48	\$32,621.98
6	and Deale			
7	Special Counsel to Trustee			
8	Levitz, Sachs	\$50,576.75	\$1,164.41	\$51,741.16
9	& Ciceric, Inc.			
10	Accountants for Trustee			

The above request is detailed in the applications will be on file and may be inspected during regular business hours at the Office of the Clerk of the United States Bankruptcy Court, 940 Front Street, Fifth Floor, San Diego, California.

Objections, if any, must be in writing and must be filed with the Clerk's office at the address listed above and a copy served upon the undersigned no later than seven (7) days prior to the date set for the hearing above. (April 6, 1989)

LUCE, FORWARD, HAMILTON & SCRIPPS

DATED: March 24, 1989

By: Margaret M. Mann
Margaret M. Mann, Attorneys for
Wilford D. Willis, Trustee

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Luce Office
LUCE, FORWARD, HAMILTON & SCRIPPS
1700 THE BANK OF CALIFORNIA PLAZA
110 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
(619) 234-1011

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PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1160 SILVERADO, SUITE 1111
LA JOLLA, CALIFORNIA 92037
TELEPHONE (619) 456-7984

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 456-2828

October 5, 1989

Lawrence Noble, General Counsel
Federal Elections Commission
Washington, D.C. 20463

Dear Sir:

Reference MUR 2561.

This is nonsettable because I have no personal estate, due to my bankruptcy, and I disavow any criminal responsibility for the acts alleged.

Fact that you have chosen to not prosecute Charles Schweb & Co., the national brokerage firm that loaned me the money against my stock, or Mary Wiersta, the retired woman who has for years prior to my political campaign loaned me money against my stock on a secured basis consistent with banking practices (her son is a banker, and he damn well saw to that), assures me that you have doubts also as to the fairness and legality of your position.

I would submit that the statute you act under is invalid and a denial of equal protection of the law, to the extent that it makes illegal a transaction that is legal, when the lender in the first instance is a private person and the lender in the second instance is a banking corporation, even though the (a) interest rates, (b) collateral, loan-to-value ratio, (c) arms length nature of the transaction.....are all very similar.

It is been a hardship and clutter to my office to have this case open and festering for 3 years now, and I would ask that you make a policy decision to proceed, or not proceed, and advise me in writing at the above office. I expect to be in Washington, D.C. in mid-November and will be in your office to confer, and ask that the Commission set me for a personal appearance November 15-19, if we have not come to some understanding by that time.

Sincerely,

Michael Schaefer
MICHAEL SCHAEFER

Public Interest Attorney

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PUBLIC INTEREST AND
GENERAL LITIGATION

ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE
1180 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
TELEPHONE (619) 486-7884

Law Office

Michael Schaefer

FAX TRANSMISSION (619) 486-2828

November 26, 1989

Lawrence Nobel, General Counsel
Federal Elections Commission
Washington, D.C. 20463

Re: MUR 2561

Dear Mr. Nobel:

You and I have discussed the above matter by phone at some length, and I have talked to your staff counsel too.

On November 2nd your Ms. Dunham represented to me that this matter will be resolved within 6 months, one way or the other.

Since I have fully advised you of the pendency of the federal bankruptcy filing and you have opted to eschew involvement, I will have no alternative but to take the matter into Court for resolution as to my post-bankruptcy liability for a fine, if your office obtains such a sanction.

I know that you are constrained by federal laws as to what is a legal and illegal source of funding. I find your failure to prosecute Charles Schwab and Co. and the retired lady who has been lending me money on stock loans for years, to be hypocritical, and I would be interested how many other technical violations of the statutes you overlook in a quest to make an example of myself.

This letter documents Ms. Dunham's representation to me, and if a pound-of-flesh is all you want, I can document for you the \$2,000 or so in attorney fees claimed from my estate for evaluating the status of the FEC in this proceeding. My Chapter 11 has been pending since July, 1987, but your file has been pending since 1986. I regret that you do not have the resources to fish-or-cut-bait within 24 months of an election. If I ever get to Congress, I'll see that you do. I know you prosecute everybody. I discussed teh matter with Senator Alan Simpson recently, he assured me you had him pay a fine because of a loan his mom made to one of his campaigns (but that loan was probably not secured by stock, and at interest, 50% or less loan/to/value, with all incindications it was similar to a bank loan---like mine is).

Please give this matter your prompt attention. My file is *Mike Schaefer* growing cobwebs. I cannot handle or cope with uncertainty. MICHAEL SCHAEFER

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PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1180 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
TELEPHONE (619) 489-7884

Law Office

Michael Schaefer

FAX TRANSMISSION (619) 489-8888

January 24, 1990

Lawrence Nobel, General Counsel
Federal Elections Commission
Washington, D.C. 20463

Re: MUR 2561

Dear Mr. Nobel:

I have been waiting some 3 1/2 years for your office to act on the above, and was advised on November 2, 1989 by Ms. Dunham that it would be resolved "within 6 months".

I am concluded that nothing is being done about it, and am closing my files today. If you later resurrect the matter, I will of course resurrect my files.

Unfortunately my bankruptcy counsel has spent considerable funds from my estate, which they control, researching the issues you raised, and I have certified by affidavit to the federal court that I am an indigent, having been stripped of all my economic base and being engaged virtually fulltime in matters related to my Chapter 11 proceeding.

I am not going to hold my breath to hear from your office.

If I ever get to Congress I am going to introduce legislation that will:

- a. put an absolute 3 year statute of limitations on any activity by your office, running from the date irregularities are made public by a candidate's filing of statutory reports or otherwise;
- b. provide that loans to candidates from any source that are consistent with contemporary bank financing, as to (a) interest rates and (b) collateral, will be treated as bank financing for purposes of your office; (to hold otherwise is a denial of Equal Protection).

Sincerely,
M Schaefer
MICHAEL SCHAEFER
1986 federal primary candidate (MD.)

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BEFORE THE FEDERAL ELECTION COMMISSION

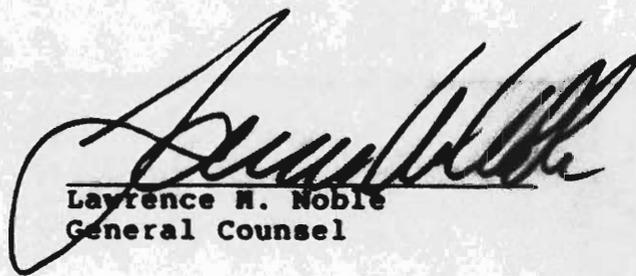
SENSITIVE

In the Matter of)	
)	
Michael Schaefer, as candidate)	NUR 2561
Friends of Schaefer and)	
Michael Schaefer, as treasurer)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Michael Schaefer, as candidate and Friends of Schaefer and Michael Schaefer, as treasurer, based on the assessment of the information presently available.

4/10/90
Date


Lawrence M. Noble
General Counsel

Staff Person: Sandra J. Dunham

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MAIL ROOM

90 MAY -1 PM 1:58

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2561
Michael Schaefer, etc.)

REQUEST FOR EXTENSION OF TIME
FOR FILING OF RESPONSIVE BRIEF

COMES NOW Michael Schaefer requesting extension
of time for filing responsive brief, for a period
of 30 days past the May 13, 1990 current deadline based
on 15 day response period and receipt of Brief this date.

Good cause consists of fact that within the period
May 1 to May 15, 1990 Michael Schaefer is obligated to
prepare and file numerous other demanding pleadings:

1. Brief to 9th Circuit Court of Appeals
in a personal case;
2. Brief to Appellate Dept. Superior Court,
San Diego, Cal. in a client case;
3. Petition for Certiorari to U.S. Supreme
Court in a personal case;
4. Brief to Texas Court of Appeals in a
family trust case;

Michael Schaefer has no secretary, or legal assistant,
or associate counsel, and cannot property respond to the
Brief filed within the time constraints. He will be able
to so file same by mid-June, 1990.

Respectfully submitted,

Michael Schaefer
MICHAEL SCHAEFER
1150 Silverado, #111
La Jolla, Cal. 92037
Tel. (619) 456-7984

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 MAY -1 PM 2:46

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PROOF OF SERVICE

Michael Schaefer, a member of the California Bar,
certifies that on 4/28/90 he did serve copies
of this Request as follows:

1. Original, Clerk, Federal Elections Commission;
2. Copy, ^{Lawrence} ~~Lawrence~~ M, Noble, General Counsel,
Federal Election Commission;

Executed 4/28/90 at San Diego, Calif. under
penalty of perjury.

M. Schaefer

MICHAEL SCHAEFER

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 4, 1990

Michael Schaefer, Esquire
1150 Silvered, #111
La Jolla, California 92037

RE: MUR 2561
Michael Schaefer
Friends of Michael Schaefer and
Michael Schaefer, as
treasurer

Dear Mr. Schaefer:

This is in response to your letter dated April 28, 1990, which we received on May 2, 1990, requesting an extension of 30 days to respond to the Office of the General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on June 13, 1990.

If you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (800) 424-9530.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in black ink, appearing to read "L92", written over a horizontal line.

BY: Lois G. Lerner
Associate General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 24, 1990

**Michael Schaefer, Esquire
1150 Silverado, Suite 111
La Jolla, California 92037**

**RE: MUR 2561
Friends of Schaefer and
Michael Schaefer, as
treasurer**

Dear Mr. Schaefer:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by you, on December 8, 1987, March 15, 1988 and March 14, 1989, the Federal Election Commission found reason to believe that you, as the candidate and Friends of Schaefer (the "Committee") and you, as treasurer, violated 2 U.S.C. §§ 432(e)(1), 433(a), 434(a)(2)(A)(III), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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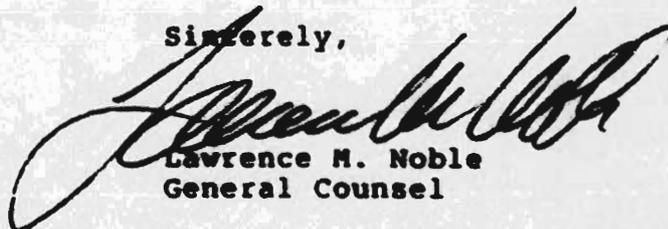
Michael Schaefer
Page 2

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (800) 424-9530.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate) MUR 2561
Friends of Schaefer and)
Michael Schaefer, as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 8, 1987, the Commission found reason to believe that the Friends of Schaefer Committee (the "Committee") violated 2 U.S.C. § 441a(f) by accepting excessive contributions from Mary E. Huerta and Jay R. DeMiranda, 2 U.S.C. § 441b by accepting a loan from Charles Schwab and Company, 2 U.S.C. § 434(b)(8) by failing to report the debt owed Mary E. Huerta in a continuous fashion, and 2 U.S.C. § 434(a)(2)(A)(iii) by failing to file a 1986 Year End Report. On March 15, 1988, the Commission found reason to believe that the Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(B)(i) and (ii) by failing to file a 1987 Mid-Year and 1987 Year End Report. On March 14, 1989, the Commission found reason to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the \$5,000 threshold and that the Committee and Michael Schaefer, as treasurer violated 2 U.S.C. § 433(a) for failing to timely file a Statement of Organization.

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II. ANALYSIS

A. Excessive Contributions

I. Loan from Mary E. Huerta

Based upon information contained in reports submitted by the Committee, it appeared that Mary E. Huerta had made a \$30,000 loan to Michael Schaefer in July, 1986, which he in turn had loaned to the Committee. Mrs. Huerta also made a \$500 contribution to the Committee in that same month. This loan has been confirmed by a Demand Note dated September 18, 1986, and signed by Michael Schaefer which has been supplied by both Michael Schaefer and Mrs. Huerta. The note provided for a 10% annual rate of interest to be paid monthly for four months beginning September 10, 1986, and then semi-annually. The note was secured by 500 shares of San Diego Financial Corporation common stock.

In a sworn statement submitted in response to the interrogatories posed by the Commission Mrs. Huerta stated,

I had a previous loan with Schaefer, at a rate of interest better than banks were paying on my savings, and have always held stock in San Diego Financial Corp., a San Diego bank holding company, that is worth twice the amount of any loan. The \$30,000 was secured specifically by 500 shares of stock in the Bank, which has a current market value of about \$60,000.

Mrs. Huerta further stated that her son has known Michael Schaefer since high school, and "he has arranged to make secured loans with my savings." According to Mrs. Huerta, "payments of interest have been made satisfactorily by Schaefer."

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Regarding her knowledge of Michael Schaefer's candidacy and the use to which her loan would be put, Mrs. Huerta declares,

I knew that Michael Schaefer was a candidate for federal office, from my son mentioning it, and from newspaper clippings he may have provided for my son's information. When I made the contribution of \$500 to this campaign, I did not know that money he was borrowing was going to be used for the campaign, or for real estate investment, I do know that Schaefer is investing in real estate from time to time. I was merely seeking a fair return on my savings funds.

According to Mr. Schaefer, at the time the \$30,000 loan was made, he already had a \$100,000 loan outstanding from Mrs. Huerta which was secured by \$200,000 in bank stock. As to the purpose for which he requested the \$30,000 loan, Mr. Schaefer has stated, in answer to a Commission interrogatory:

It was requested without any designation, I don't think I indicated what I would do with the funds; Huerta was so amply secured that I am sure she did not care. I probably had the campaign in mind at the time, and it is always a question of whether I (a) simply sell some stocks to raise funds, or (b) borrow against those same stocks, to raise funds.

Mr. Schaefer stated that he has made the interest payments out of a personal account. Later he reported that the loan was repaid in early 1988.

In a letter, Mr. Schaefer stated that he feels as a matter of principle "it is inappropriate to bar loans from non-banks to candidates, so long as they are properly secured, and it is an existing creditor-debtor relationship (such as Mrs. Huerta having loaned me \$100,000 in 1984 or thereabouts, against

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\$300,000 worth of stock, and having increased to \$130,000 at [the] time I was a federal candidate, since paid back down to the original \$100,000"). He does not, however, dispute the campaign-relatedness of the acceptance of the loan.

2 U.S.C. § 431(8)(A)(i) defines "contribution" to include "any gift, subscription, loan, advance or deposit of money . . . made by any person for the purpose of influencing any election for Federal office" 2 U.S.C. § 441a(a)(1)(A) limits to \$1,000 the amount which a person may contribute "to any candidate and his authorized political committee with respect to any election for Federal office," while 2 U.S.C. § 441a(f) prohibits the acceptance of contributions in excess of the limitations at 2 U.S.C. § 441a(a). If a candidate receives a loan for use in connection with his campaign, the candidate receives the loan as an agent of his authorized committee. 2 U.S.C. § 432(e)(2). See Advisory Opinion 1985-33.

Mrs. Huerta made a loan of \$30,000 to Michael Schaefer, the proceeds of which he in turn lent to the Committee. Mr. Schaefer acknowledged that he "probably" intended the loan to be used for the campaign when he requested it from Mrs. Huerta. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 441a(f).

2. Receipt of Payments on Promissory Note

Reports filed with the Commission in 1986 showed that the Committee had received monthly payments of \$6,711.42 from Jay R. DeMiranda on a note secured by two Los Angeles apartment buildings. Bank statements furnished in response to a Commission

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subpoena show that the Committee's account was opened in February or early March, 1986, with monthly deposits of \$6,711.42 appearing throughout that year, through 1987 and into January, 1988.

During the course of the investigation in this matter, Mr. Schaefer furnished this Office with a copy of an Assignment of Deed of Trust dated February 28, 1986, and recorded in Los Angeles on April 2, 1986. This Assignment transferred to the Provident Bank of Maryland, for credit to the Friends of Schaefer account, all beneficial interest under a Deed of Trust dated August 26, 1981, which had been executed by Jay R. DeMiranda and which secured payment for property which, with accrual of interest, was valued at \$671,142 by 1986.

On July 17, 1987, Mr. Schaefer filed for bankruptcy under Chapter 11, Title 11, United States Code. Pursuant to advice of counsel, Mr. Schaefer treated the \$671,142 note as personal capital in the bankruptcy proceeding. He has stated that he has paid tax on the income generated, i.e. on the \$6,711 monthly payments received. Further, Mr. Schaefer has stated with regard to the mortgage payments, "Since the Committee ended as of 1986, I then utilized funds arising in 1987 for a municipal government campaign in 1987, and am using funds arising in 1987 and 1988 for a local government campaign in 1988. The mortgage continues to pay out \$6,711 monthly but it is no longer part of a federal entity." Later in the same letter Mr. Schaefer wrote, "I would prefer that [the note] not be part of my personal estate, but it

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was his [the attorney's] opinion that for me to so treat it would be indefensible."

2 U.S.C. § 431(2) defines "candidate" as an individual seeking nomination for Federal office, and states that such an individual will be deemed to be seeking nomination if he or she receives contributions or makes expenditures in excess of \$5,000. Pursuant to 11 C.F.R. § 110.10, a candidate may make unlimited expenditures from personal funds for his or her own campaign. "Personal funds" means assets to which the candidate has legal right of access or control and to which the candidate has legal and rightful title or an equitable interest at the time he or she becomes a candidate. 11 C.F.R. § 110.10(b)(1). In the present matter, Mr. Schaefer signed and recorded an assignment of the mortgage at issue to the Committee on February 28, 1986, but declared the \$671,142 note to be personal capital in a bankruptcy proceeding which he began more than a year after the date of the assignment. Between February 28, 1986, and January, 1988, Jay DeMiranda made payments to the Committee's account which, according to bank records, totaled \$154,362.66.^{1/}

The controlling issue regarding the receipt by the Committee from Mr. DeMiranda of monthly payments of \$6,711.42 is whether those payments are to be considered personal funds of the candidate or contributions by Mr. DeMiranda to the Committee. This determination is governed in turn by whether Mr. Schaefer

^{1/} Bank statements for May and June, 1987, have not been produced; however, two payments of \$6,711.42 appear on the July statement. This report assumes a payment each month for twenty-three months.

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had a legal right of access to or control over those payments, and a legal or rightful title to, or equitable interest in, receiving those payments at the time he became a candidate so as to meet the definition of "personal funds" at 11 C.F.R. § 110.10(b).

The assignment of the \$671,142 note to the Committee by Mr. Schaefer in February, 1986, triggered his candidacy as of that date. As noted above, 2 U.S.C. § 431(2) defines candidate as an individual who is seeking nomination for election, or election, to Federal Office, "seeking nomination or election" being defined, inter alia, as the receipt of contributions by that individual in excess of \$5,000. The making of a \$671,142 contribution by an individual to his own campaign constitutes receipt of a contribution in that amount, thereby conferring candidate status upon that individual.

In the present matter, Mr. Schaefer's assignment of the mortgage and his attainment of the status of candidate were simultaneous. Therefore, for the purpose of 11 C.F.R. § 110.10(b), the \$671,142 mortgage assigned to the Committee was Mr. Schaefer's "personal funds" at the time he became a candidate. Consequently, the monthly mortgage payments of \$6,711.42 made by Mr. DeMiranda constituted payments to Mr. Schaefer which the latter continuously assigned to the Committee even though the payments were made directly to the Committee's account. Those payments were contributions by Mr. Schaefer to his own campaign, not contributions to the

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Committee by Mr. DeMiranda. Therefore, the Committee was not the recipient of excessive contributions from Mr. DeMiranda.

B. Failure to Timely File Statement of Candidacy and Statement of Organization

Mr. Schaefer assigned the \$671,142 to the Committee on February 28, 1986. As discussed above, this is the date that Mr. Schaefer became a candidate. 2 U.S.C. § 432(e)(1) requires each candidate to designate, in writing, a political committee to serve as his or her principal campaign committee within 15 days of becoming a candidate. The candidate must designate his or her principal campaign committee by filing a Statement of Candidacy with the Commission. Mr. Schaefer did not file a Statement of Candidacy until July 17, 1986. Therefore, this Office recommends that the Commission find probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) by not filing timely a Statement of Candidacy when he exceeded the \$5,000 contribution threshold.

Pursuant to 2 U.S.C. § 433(a) each authorized campaign committee must file a Statement of Organization no later than 10 days after designation pursuant to Section 432(e)(1). In the present matter, the Committee filed its Statement of Organization in July, 1986. Because the candidate did not timely file a Statement of Candidacy, it follows that the Committee did not timely file a Statement of Organization. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 433(a).

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C. Failure to Report Debt Continuously

2 U.S.C. § 434(b)(8) requires that a political committee include the amount and nature of outstanding debts owed by the committee in each required report. 11 C.F.R. § 104.11 requires that debts and obligations be reported continuously until extinguished.

The Committee's 1986 October Quarterly Report did not include on Schedule C the \$30,000 loan from Mary E. Huerta discussed above. This loan was not repaid until early 1988. Consequently, it should have been included in the 1986 October Quarterly Report. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 434(b)(8).

D. Loan from Charles Schwab and Co.

The Commission also found reason to believe that the Committee and Michael Schaefer, as treasurer, had violated 2 U.S.C. § 441b by accepting a \$28,000 loan from Charles Schwab and Co.

The Committee's 1986 October Quarterly Report itemized a \$28,000 loan received from Michael Schaefer on September 2, 1986. The accompanying Schedule C contained a notation that the funds for this loan had been "borrowed from Charles Schwab and Co. stockholders account held by Schaefer, a 'margin' loan secured by various stocks owned, no repayment date to Schwab, interest: Brokers call rate + 75% (about 7 1/2%)."

Pursuant to regulations prescribed by the Federal Reserve Board regarding margin purchases, an investor may deposit with a

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broker either cash or certain classes of securities which may be used to obtain credit for the purchase of additional securities or for other purposes. Under present Federal Reserve Board regulations, brokers are generally permitted to extend credit only up to 50% of the value of deposited securities. The loan value of these securities for other purposes is also limited to 50%. If there are securities of sufficient value or other funds in a margin account, a brokerage firm will make loans virtually upon demand to the holder of the account for other than the purchase of additional securities. There is no requirement that the brokerage firm inquire about the purpose of the loan, nor is there a special application to be submitted. Such loans may be obtained by telephone.

The particular statement reflecting Mr. Schaefer's \$28,000 loan shows that the account was opened on the same day as his receipt of the loan. To open the account, Mr. Schaefer deposited shares of stock in First National Corporation of California and shares in the H.H. Robertson Company. No cash deposit was made. Therefore, the \$28,000 loan was made based upon deposited securities only.

2 U.S.C. § 441b prohibits political committees from knowingly accepting or receiving contributions from any corporation. 2 U.S.C. § 431(8) and (9) define "contribution" and "expenditure" as including any loan. The only exception to the inclusion of a loan in these definitions is found at 2 U.S.C. § 431(8)(A)(vii) which exempts from the definition of contribution "any loan of money by a State bank, a federally

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chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration"

This statutory language provides no basis for a determination that a loan extended by a brokerage firm would come within the exception. The legislative history for this provision, with its repeated references to "banking institutions" supports the opposite conclusion. For example, The Report of the Senate Committee on Rules and Administration on S. 382, S. Rep. No. 92-229, 92nd Congress, 1st Session 59 (1971) states, "Testimony received from witnesses was unanimously in favor of the granting of loans by national and state banks if such loans were made pursuant to applicable banking rules and regulations." Reprinted in Legislative History of Federal Election Campaign Act of 1971 ("1971 Legislative History" at p. 217 (1981)). During the Senate floor debate on S.382, Senator Cannon, in his explanation of the coverage of the proposed legislation, stated, "Other terms are as broad as possible, and, in fact, so all inclusive that a special exception had to be written into the definitions of the criminal code amendments in order to permit National and State banks to make loans of money." 1971 Legislative History, supra p. 451. Later, during the same floor debate, Senator Prouty reiterated that the definitions of contribution and expenditure had been "modified so as to permit candidates for Federal office to obtain bona fide bank loans." 1971 Legislative History, supra p. 460. Thus, unless it can be

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shown that funds obtained by means of a margin account are the personal funds of the person holding the account, those funds would constitute a loan by the brokerage firm and thus a contribution to any campaign which benefits from such a loan.

Contrary to Mr. Schaefer's assertion, a loan obtained from a brokerage firm secured by stock in a margin account would not be considered by the firm to be a loan of the account holder's own monies, but, rather, a secured loan from the firm to the borrower upon which interest is owed. If the margin account holds cash deposits equal to a loan at the time the loan is obtained, there is a different result; such cash would be considered the depositor's own funds. But an account composed solely of securities can provide only collateral for a loan.

In the present matter Charles Schwab and Co. made a loan of \$28,000 to Mr. Schaefer, with stock in his margin account serving as collateral for that loan. Mr. Schaefer then lent the \$28,000 to his campaign. Given the provisions of 2 U.S.C. § 432(e)(2), that a loan to a candidate subsequently used in a campaign becomes a loan to the candidate's committee, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 441b by accepting a \$28,000 contribution from Charles Schwab and Co.

E. Failure to File Report

Mr. Schaefer's argument that the Committee ended in 1986 and that the monthly payments thus ceased being made to a federal entity at that time is counter to the requirements of the Act and the Commission's regulations. A political committee registered

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with the Commission is required to continue in existence so long as the committee has outstanding debts. 11 C.F.R. § 102.3. The last report filed by the Committee prior to April, 1988 was its 1986 October Quarterly Report which showed on the Detailed Summary Page \$58,000 in loans received to date and \$0 in loans repaid during the period covered by the report. More recently Mr. Schaefer has stated that the loan from Mrs. Huerta and a \$30,000 loan obtained by means of his margin account were repaid in 1988. Therefore, the Committee was required to continue to report into 1988 and, further, any payments into its account constituted payments to a political committee.

2 U.S.C. § 434(a)(2)(A)(iii) requires the principal committees of candidates for the House of Representatives and Senate to file, in an election year, a report covering the quarter ending December 31 no later than January 31 of the following calendar year. The Committee did not file a report covering activity during the final quarter of 1986 until April 27, 1988. Therefore, this Office recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. § 434(a)(2)(A)(iii).

2 U.S.C. §§ 434(a)(2)(B)(i) and (ii) require the principal campaign committees of such candidates to file, in non-election years, a Mid-Year Report due on July 31 and a Year End Report due on January 31 of the following calendar year. The Committee did not file a report covering activity during the first and second halves of 1987 until April 27, 1988. Therefore, this Office

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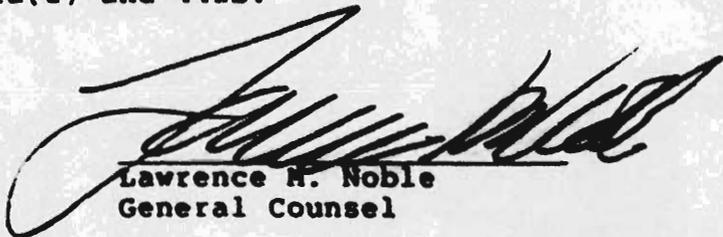
recommends that the Commission find probable cause to believe that the Committee violated 2 U.S.C. §§ 434(a)(2)(B)(i) and (ii).

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1).
2. Find probable cause to believe that Friends of Schaefer and Michael Schaefer, as treasurer violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b.

Date

4/23/90



Lawrence N. Noble
General Counsel

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for OGC 6398

Lawrence M. Noble
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:)	
)	
Michael Schaefer, as candidate;)	MUR 2561
Friends of Schaefer and)	
Michael Schaefer, as Treasurer)	
)	

BRIEF OF MICHAEL SCHAEFER

I. POSITION ON THE ISSUES

A. The entire matter is barred by laches, if not statute of limitations, more than 4 years having passed since the March, 1986 campaign in the jurisdiction of Maryland. To proceed now is denial of Schaefer's due process rights

B. The entire matter is barred by the defense of selective enforcement. There has been an absence of indication of prosecution of Jay R. DeMiranda, Mary E. Huerta, or Charles Schwab & Co., all of whom provided funds to Schaefer by way of (a) loan, (b) payment of accounts owed, (c) contribution, during the first part of 1986. Either all alleged involved parties should be before the Commission, or the proceeding is artificial, with absence of necessary parties preventing full adjudication of rights and responsibilities of all.

C. There is no prospect of recovery in event of prosecution with sanctions. The Commission is without jurisdiction to incarcerate Schaefer, and Schaefer is of record before the United States District Court, Southern District of California, in Case No. Misc.90-0039 and before

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the United States Bankruptcy Court, as a debtor and adverse defendant, in Case No. C88-0316-LM11 and Bankruptcy No. 87-05174-LM11, as an indigent, seeking appointment of counsel to assist him pursuant to Title 18, Sec. 3006A; Schaefer demands now the appointment of counsel to defend him in the proceeding before the Federal Election Commission if this case is to proceed any further.

D. Schaefer asserts as further defense his rights pursuant to the United States Constitution, the First Amendment protecting his freedom of speech to conduct a campaign in a manner consistent with ordinary use of credit, the Fifth Amendment which protects him from deprivation of liberty or property without due process of law, the Sixth Amendment which guarantees him right to trial by an impartial jury and the Assistance of Counsel, and the Ninth Amendment which protects his retained rights.

E. Statutes which authorize a candidate to borrow sums from a National Bank in excess of the \$1,000 federal limitation, for personal use in the campaign, on a secured or unsecured basis, but which prohibit the candidate's access to sums in excess of the \$1,000 federal limitation from national brokerage firms, or private lenders, on a fully secured basis at conventional rates and terms, is denying the candidate due process of law and equal protection of the law. The Congressional concern that donors would simply "loan" candidates sums in excess of federal \$1,000 limitation is meritorious, but the lawful restriction to

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prevent abuses is to prohibit unsecured lending other than by a national bank, and to prevent secured lending unless it is secured in a manner consistent with practices of national banks with collateral acceptable to national banks. This is a factual determination, and a \$50,000 loan by the Teamsters, secured by someone's automobile, would not qualify; a loan of \$130,000 secured by publicly traded securities having a market value of \$260,000 or more, meets the criteria of Regulation U and Regulation T that regulations loans by banks and by national securities firms against securities. This is precisely what was done by Charles Schwab & Co. and by Mary E. Huerta. It is an abuse of the federal machinery to even consider prosecution of the lender, or the borrower, or both, once the Commission has factually determined that the lender has a practice of lending money, the loan was secured by marketable collateral worth at least twice the amount of the financing advanced, the obligation was at-interest at a rate consistent with the marketplace. The Commission's files should disclose this is the case as to Mrs. Huerta and Charles Schwab & Co.

F. Schaefer is not aware of any contribution from Jay R. DeMiranda, and does not understand his mention in the Brief of General Counsel. DeMiranda's relationship with Schaefer was strictly that of debtor-creditor, on a mortgage note, which generated monthly interest payments

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from DeMiranda Management Co. to Michael Schaefer, then to Friends of Schaefer when the Note was assigned to the Friends of Schaefer Committee for purposes of accumulating the monthly interest-income for purposes of Schaefer personal funding of his campaign. The interest-income has been declared as personal income by Schaefer for federal and state income tax purposes, and fact that DeMiranda was payor of the funds, on a contractual mortgage secured by an apartment building DeMiranda had purchased from Schaefer, is immaterial.

G. The allegations as to failure to file 1987 and subsequent reports is without foundation, as the campaign, and the Committee, terminated with the September, 1986 election in Maryland, Schaefer within 30 days after said election moving to California and withdrawing from federal political concern, and filing his final statement as to the Campaign.

H. The Commission, or General Counsel, is unaware of what "500 shares of San Diego Financial Corporation" common stock is. Said stock, having a current bid of \$255.00 per share, per Exhibit A attached hereto, is the holding company for San Diego Trust & Savings Bank, a 101 year old San Diego based bank having in excess of \$1 billion in assets. The Commission's files disclose that Mary E. Huerta previously had loaned \$100,000 against 1500 shares of the stock valued at more than \$200,000, and that she

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had increased this loan to \$130,000, at the specific request of Schaefer, Schaefer depositing with her an additional 500 shares of stock having a market value in excess of \$60,000. Today the loan remains at \$100,000, and the 2000 shares of stock she holds have a market value of \$510,000. Schaefer has no legal ownership or control of these securities, they being an asset of his bankruptcy estate, subject to liquidation, the Estate having entered into a stipulated settlement of a personal injury action and judgment against Schaefer, the stipulated settlement being for \$1,950,000. The Commission's records indicate that the Huerta financing, of \$100,000, or \$130,000, at various times, has always been secured on a basis consistent with Regulations U and T that regulation securities loans, has always been at-interest, and interest has been timely paid. Mrs. Huerta is the retired widow of a service station owner, and her son, a high school classmate of Schaefer, is or was manager of a national bank, and arranged for investment of his mother's funds on a secure productive basis. The son arranged a \$500.00 de-facto contribution from his mother, perhaps in appreciation of Schaefer's long period of timely interest payments and the son's desire that his friend become a member of the national Congress. To label any of the funds paid to Schaefer, or loaned to Schaefer, in conventional routine business relationships, just because the source is not a bank, as a "contribution" defies logic, is inconsistent with the facts, and is enforcement of a

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statute in a manner inconsistent with Schaefer's due process and equal protection of the law protections of the U.S. Constitution, and brings into question the validity of the statute as written.

I. There is no evidence that the funds supplied by DeMiranda, or Huerta, or Charles Schwab, were for the purposes of influencing an election to federal office.

- a. DeMiranda is nonpolitical, were a mere buyer of property from Schaefer in 1981, and has no choice but to make payments on the mortgage note or else he'd be in default and risk loss of the apartment building he had purchased.
- b. Charles Schwab & Co. makes no inquiry into use of funds that they loan to customers, and they do not "loan" it in the conventional sense of individual "application"; a customer of a brokerage firm simply writes-a-check against his or her account, or simply asks that a check be sent to him or her. The money could be earmarked to pay for smuggling illegal drugs into the United States, for all the brokerage firm knows, and if they were so informed of such illegal purpose, they would probably be powerless to deny the funds.
- c. Mary E. Huerta's limit of interest in influencing a federal election is documented at \$500.00; if she had a greater interest, and ability, she would have contributed the maximum \$1,000, but such might be inconsistent with her financial posture. She placed no restrictions on use of the \$30,00 that was borrowed by Schaefer, there is no evidence that Schaefer could not have used the \$30,000 to purchase additional stock in San Diego Financial Corporation. (Schaefer could not have used the \$500 contribution for personal securities investment, as he could his loan proceeds against securities he then-owned).

J. The Commission is in error to view Friends of Schaefer as a federal political committee; it is an account that has been used for a multitude of purposes; Friends of Schaefer has donated \$500.00 in scholarship funds to a

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contest winner in Baltimore, Md., has contributed \$1,000 to Mercy Hospital in San Diego, California, has provided funds for a County of San Diego election. It is quite different than a "Schaefer for U.S. Senate" Committee, or any other entity having a federal indication in its name. It was simply an earmarked account that Schaefer would access if and when he desired funds to put into a political campaign or donate to a charity. He could have collapsed the Committee and spend its entire balance on a vacation. His Trustee in Bankruptcy liquidated the mortgage note and used it to pay administrative costs of the bankruptcy, which have far exceeded the \$671,142 not balance, to date. Schaefer could have expended the \$671,142 on his federal campaign, except for the basic fact that it was not available cash, it was a term mortgage note that did not come due until 1991. (It was prepaid by DeMiranda in 1988 in connection with DeMiranda refinancing of the apartments). One might say that Schaefer could also have spent his home, car, and securities on the campaign, having control over same (at that time, he has no control today), but like the DeMiranda Note, these are not "cash assets".

K. There is no evidence that Schaefer accessed and spent more than \$5,000 on his campaign until July, 1986, at the same time Statement of Organization was timely filed by Schaefer, for himself, and for his one-man Committee. There was no 'federal' nature or identification of any of the "Friends of Schaefer" charitable account until

July, 1986 when Schaefer withdrew funds from said account and expended them on the July, 1986 Campaign, giving these expended funds for the first time some federal characterization.

L. The \$30,000 loan from Mrs. Huerta, and funds received from Charles Schwab & Co. (and then still owing) and funds received regularly from DeMiranda, were never included on Schedule C as a political loan, because the funds were not made for a political purpose and were not restricted as to what would be done with them. If Schaefer's fundraising efforts had produced any cash, he might reasonably have used the \$30,000 to payoff the Charles Schwab & Co. margin account debit balance, or to purchase more securities. The fundraising efforts proved minimal, she he took funds out of his Charles Schwab account and his personal commercial account (having the Huerta \$30,000) and used these to pay his federal political campaign bills.

M. The General Counsel's Brief completely overlooks the legislative intent evidenced by statements by Senator Howard Cannon (D.Nev.) and Senator Prouty; they both indicate that financing made according to some established standards is not within the intended prohibitions. Money loaned on worthless stock of a mining company, or against someone's car, in amounts inconsistent with the 50% margin requirements found in federal law (See GC Brief, top of page 10), are what concerned the Congress.

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Page 11 of GC brief discloses:

"Testimony received from witnesses was unanimously in favor of the granting of loans...if such loans were made pursuant to applicable banking rules and regulations".

Of course it appears that banks make loans pursuant to applicable banking rules and regulations (50% of collateral value), and the hazard that concerns everyone is the prospect of someone making a candidate a loan against valueless collateral, or for 90% of market value when authorized federally-sanctioned lenders are stuck with 50% margin requirement for making securities loans. Loans consistent with "banking rules and regulations" can be made by Charles Schwab & Co., and by Mrs. Huerta, and neither one of these sources need to obtain a Charter as a National Bank to avoid prosecution.

Senator Prouty talks about:

"bona fide" bank loans.

It is submitted by Schaefer that the Commission needs to determine whether the funds obtained by Schaefer were in "bona fide" amounts, terms, conditions, that are consistent with what a National Bank would do. And they were.

N. The charges for filing to file subsequent reports rise or fall based on whether Mrs. Huerta's 2nd loan to Schaefer, after the \$100,000 a few years earlier, was a contribution intended to influence a federal election, or was an unrestricted supplemental loan made to boost Mrs. Huerta's interest-income beyond what she had been earning in CDs. General Counsel doesn't think it makes any difference.

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CONCLUSION

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The Trustee gave the Commission full notice of the bankruptcy status in a July 3, 1989 letter to Lawrence M. Noble, Esq., General Counsel, making demand upon the Commission that it file a claim "within 30 days of receipt of this letter in order to preserve the FEC's rights to satisfy any potential claims from the bankruptcy estate". This was not done, and the Commission's claims, if any, to the extent they have legal basis, are discharged by the bankruptcy. To allow otherwise would fly in the face of strong and overriding Congressional intent in enacting Title 28, the Bankruptcy Code, to give a debtor a "new life" free of all claims. The debtor pays dearly for this; he gives-up all he owns but is also freed of the pressures that previously drove debtors to suicide or to vanishing into society.

The Commission can "look under every rock" in administration of federal statutes, but it must be consistent, not selective, must recognize good faith activity as opposed to knowing violations, and must see that objects of its prosecution have adequate counsel when they are indigent, as is Schaefer.

Furthermore, due process of law mandates that in jurisdictions that compel misdemeanor prosecutions to be within one-year of alleged offense, that quasi-criminal/civil prosecutions of a non-felony nature also be timely pursued, and to litigate in 1990, and 1991, matters that could have been litigated in 1987, is a denial of Schaefer's rights as set forth herein.

The Commission should find that probable cause does not exist as to either Schaefer, or his alter-ego Friends of Schaefer.

Respectfully submitted,

Michael Schaefer
MICHAEL SCHAEFER
1150 Silverado, Suite 111
La Jolla, California 92037

Dated: May 29, 1990

Exhibits

- A: Stock market quotation
- B: Introduction to Michael Schaefer, who is currently a candidate for County of San Diego office, whose campaign has disbursed about \$10,000 to date, of which \$6,600 has come from loans from various sources and of which \$3,400 has come from contributions from various sources, and which would have been financed wholly by Friends of Schaefer if the Committee were not liquidated in order to pay attorney and accounting fees of the bankruptcy.

THIS IS EXHIBIT A:

EXHIBIT B: ATTACHED.

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SAN ★ DIEGO'S ★ CALL ★ FOR

New Leadership

JUNE ★ PRIMARY ★ ELECTION ★ NEWS

Michael Schaefer for County Supervisor. "You know him. He knows you."

This year's campaign slogan written by Michael Schaefer suggests that he has been around San Diego a long time. He has.

Michael Schaefer is a public interest attorney and prominent businessman in the San Diego community. Michael Schaefer is running for election as your San Diego County Supervisor in District 4.

He is a native San Diegan, born and raised in District 4. His family moved to Mission Hills over 75 years ago. Schaefer, 52, is a graduate of University of California, Berkeley and Georgetown Law School, Washington D.C.

He was twice elected City Councilman of Southeast and



Michael Schaefer
Candidate, San Diego County Supervisor

East San Diego, winning re-election with 78% of the citywide vote. These neighborhoods are

part of San Diego County's District 4, represented now by the challenged 22 year career of Leon Williams.

"I feel it's time to take a fresh look at the problems of government. Take a look at the list of San Diego County neighborhoods listed below. If yours is included, I may be knocking on your door, finding out what you think about the county's problems. I want to be the best County Supervisor you and San Diego have ever had. Feel free to contact me at my office anytime, at 664-7884. Or call me at my Mission Valley home, at 291-2878. You pay the taxes, you deserve the most responsive and qualified person to be your County Supervisor."

There are many serious issues affecting all of us, our homes, our neighborhoods and our families. Call out for new leadership. Call out for Michael Schaefer for your next San Diego County Supervisor.

Leadership begins with Michael Schaefer:

- Former San Diego City Councilman
- Former Deputy City Attorney, City of San Diego
- Former member San Diego County's Board of Public Health
- Longtime member of MADD (*Mothers Against Drunk Driving*)
- 1986 Counsel for National Center for Drunk Driving Control
- Organizer of several Kiwanis and Toastmasters Clubs
- Civil Rights Advocate - Member NAACP
- Honorary Alumnus, University of San Diego

San Diego neighborhoods represented in District 4:

- | | | |
|----------------------|------------------|-----------------------|
| • College Grove | • Linda Vista | • Old Town |
| • Downtown San Diego | • Logan Heights | • Paradise Valley |
| • East San Diego | • Mission Hills | • Rolando |
| • Encanto | • Mission Valley | • Serra Mesa |
| • Golden Hill | • Morena area | • Southeast San Diego |
| • Hillcrest | • Normal Heights | • University Heights |
| • Kensington | • North Park | • Uptown District |

— DISTRICT 4 —

★ VOTE ★
FOR
Mike Schaefer
JUNE 5

Leadership today...caution, slow progress ahead.

Why does someone run for county supervisor? The job is not very exciting; dealing with issues like zoning, where to dump our trash, how to finance jails and courts, how to eliminate traffic gridlock and how to prevent air pollution.

With our present leadership, the county is bombarded with growing problems and no solutions. So, why is the county budget close to bankruptcy? Leadership under Leon Williams means slow progress ahead:

- **A bloated budget.** The county's budget has gone from \$750 million to \$1.5 billion, up 100%; while the county population grew by only 32%.

- **"Styrofoam breakaway jails".** During recent months, the county has experienced the rampant escape of prisoners. Forty men have fled custody only to endanger area neighborhoods. A supervisor's chief of staff responded, "All these escapes left us with egg on our faces; we were penny-wise and pound foolish."

- **Drug exposed babies.** As many as 8,000 local children are born each year exposed to drugs or alcohol. What has been done or proposed to deter this problem?
- **Unfair share of state taxes.** California paid \$58 per citizen to San Francisco, \$31 to Los Angeles and only \$18 to San

Diego. Riverside has one Superior Court Judge for 43 cases, San Diego has one for each 161 cases. San Diego case-workers struggle with 600 cases each. Ask the county supervisor, is this fair?

- **Puff and fluff.** Board of Education member, Shirley Weber coined the term "puff and fluff" to describe William's task force to promote self esteem. The state's similar program cost taxpayers \$735,000.
- **Critical shortages of trash dump areas.** If this shortage continues, additional landfill areas could impose on the county's neighborhoods or recreational sites.



MICHAEL SCHAEFER

for

COUNTY SUPERVISOR



Leadership tomorrow...the future is now.

Why does Mike Schaefer want to be your County Supervisor? As a former city, county and federal official, he knows how to dive in and offer solutions to the county's present issues; not wade through them knee deep.

Schaefer believes, "these serious problems require new leadership and a fresh look at every aspect of our county's operations."

The future is now and Mike Schaefer offers solutions:

- **A balanced budget.** A reconstructed budget with monies directed at tangible county issues. The budget will also correspond more to population growth.
- **Secure jails.** Mike Schaefer will find the needed monies in the county's \$1.5 billion budget to escape-proof our jails.

- **Deter drug-related births.** As a former member of the county's Board of Public Health, Schaefer will work with the County Grand Jury to respond to 25 recommendations to deter this ongoing problem.

- **Fairer share of tax dollars.** As a supervisor, Schaefer will work with state lawmakers to get our fair share. He will lead county efforts for a ballot initiative to force the state to treat communities fairly.

- **Make neighborhoods safe.** Schaefer will "cut through the red tape", and work with lawmakers to enforce stronger laws to make our neighborhoods safe.

- **Recycling trash-to-energy plant.** In an effort to aid the problem of where to dump our trash, Schaefer has proposed a

recycling and trash-to-energy plant at the Otay Mesa state prison. State officials estimate that the \$90 million investment will turn a \$26 million annual profit.

- **Keep property taxes down.** If the county's fiscal managers could invest idle funds for short periods at an increase of just 1% in overall rate, the county would receive \$17 million in additional money to help keep property taxes down. Is this a Mike Schaefer idea? Yes.

The election for County Supervisor between Leon Williams and Mike Schaefer will be decided June 5, 1990. If Schaefer polls 50% plus one vote he'll be elected; otherwise there will be a run-off in November. Your future is now, you decide.

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DISTRICT 4

★ VOTE ★
FOR
Mike Schaefer
JUNE 5



San Diego has always celebrated holidays with a parade. Mike Schaefer's dad, Bert, 6th flag from left, marches past the U.S. Grant a half-century ago. Sander Schaefer was a commander of an American Legion post.



Here's Mike in his first uniform, looking forward to a bright future.



Mike Schaefer shares a special banquet honoring his longtime friend and client, World-Heavyweight Boxing Champion, Archie Moore, mentor to Muhammad Ali.

CITY HALL



Community planners have advocated a new city-county headquarters to be built just east of downtown. City Council has shelved the project, citing budget problems. Mike Schaefer discusses problems of the homeless at Resurrection City during the 1986 Walk-On-Washington by America's poor.

DISTRICT 4

★ VOTE ★
FOR
Mike Schaefer
JUNE 5

DISTRICT 4

★ VOTE ★
FOR
Mike Schaefer
JUNE 5



Legendary comedian, Bob Hope, a frequent San Diego visitor, shares a story with Mike Schaefer during the USO fundraiser that Schaefer helped promote during his city career.

Neil Good's
San Diego Report Survey

The recent results of the late Neil Good's San Diego Report exclusive survey, rating the San Diego City Council, received a lot of attention from the media.

This survey questioned at least 12 people who work with or near officeholders on a regular basis. The questions rated accessibility, intelligence, effectiveness, and staff, on a scale of 1 to 10.

Part II of the survey gives the results. Supervisor Leon Williams had the lowest overall score. Survey comments include: "Accessibility depends upon the time of day...Not effective on issues outside district...Decent human being, motives are pure and cares about the process...Doesn't have gumption for closure on issues...Has been a consistent presence for a long time...Inexperienced staff...Not as forceful as he could be...Needs stronger staff...Nice person...Needs things more prepared for him...Staff in transition...Lot of drive gone after being in office so long...Should be more vocal on issues...Very nice man...Staff doesn't seem to have knowledge of government...Pure heart, conscience of the board...Doesn't get to the point; has difficulty articulating points or getting support on anything that counts...Decent person, getting tired, has staff problems...Good knowledge of county, does what's right...Great person, not your typical politician...Did good job on growth management work."

Good was formerly administrative assistant to Supervisor Williams.



Mike is for the Bulls guy. Here he welcomes his friend Angela Rossini, star of "Mad Max Beyond Thunderdome", to San Diego.



Always the doing dad, Mike Schaefer encourages sons, Derek and Michael during their competitive run in the La Jolla Half Marathon.



Councilman, Mike Schaefer, puts in a good word for San Diego with President Ford, Secretary of Defense, Mel Laird and House GOP Leader, John Rhodes. Rhodes came to San Diego to keynote a banquet honoring Schaefer.

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DISTRICT 4

★ VOTE ★
FOR
Mike Schaefer
JUNE 5

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06-07753
PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 488-8826

SAN DIEGO OFFICE
1150 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
TELEPHONE (619) 488-7884

August 29, 1990

Chairman
Federal Election Commission
Washington, D.C. 20463

It is this citizen's opinion that you do a gross disservice to the American public when you allow cases to remain open for more than 4 years. I would suggest that two years should be an expectation and if you need additional funding from the Congress to accomplish this, I would appear and speak in favor of such.

My matter MUIR 2561 has been pending about 4 years, and I am tired of keeping this active file in my office and want to reduce it to either active litigation of a close-out.

Assigned staff counsel, Sandra J. Dunham, this date could not even assure me that it would be resolved in 1990. When I spoke with her July 25th, she definitely indicated that she 'expects something sometime during August', but today she indicated that these were my words, not hears, and possibly they could be.

Criminal limitations periods in most all jurisdictions are one year. Civil limitations period for negligence is generally 1 year, and for cases based on fraud or mistake 3 years. Yet your matters, which are really a mixed-bag, keep Respondents in the frying pan for more than 3 years, prejudicing us as to record keeping, change in circumstances (I am in federal bankruptcy now), death, new jobs, whatever. This itself is a denial of due process of law.

I will reiterate these thoughts to you in early 1991, and again in mid-1991, and semi-annually thereafter, so long as this open matter burdens me.

M Schaefer
MICHAEL SCHAEFER
Treasurer, Friends of Schaefer,
a former campaign general
committee

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FEDERAL ELECTION COMMISSION
STAFF COUNSEL

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PUBLIC INTEREST AND
GENERAL LITIGATION
ADMITTED TO PRACTICE
IN FEDERAL & STATE COURTS
AND THE UNITED STATES
SUPREME COURT

SAN DIEGO OFFICE:
1150 SILVERADO, SUITE 111
LA JOLLA, CALIFORNIA 92037
TELEPHONE (619) 455-7884

Law Office
Michael Schaefer

FAX TRANSMISSION (619) 455-2888

September 20, 1990

Honorable Danny L. McDonald, Chairman
Federal Election Commission
999 E St.
Washington, D.C. 20463

Re: Wasteful Mailings

Dear Mr. McDonald:

I have not had any nexus to a Federal campaign since September, 1986, over 4 years ago, when I was a Maryland candidate. That campaign is still pending action by the Commission in a M.U.R. 250. But I continue to get the attached mailings, and ask that you put a stop to them, if you can:

1. Not having any federal activity since 1986, I have nothing to Report, quarterly or otherwise, and the "forms" you send me every 3 months go into the wastebasket; a Termination report on my 1986 campaign was filed years-ago;
2. Friends of Schaefer has long since been dissolved and its assets seized by my Chapter 11 bankruptcy estate, being 100% funds contributed by myself;
3. The address lable is off-the-wall. 723 St. Paul St. is a Baltimore, Md. address, yet it appears on my mailing label as some sort of extra. to my home address in La Jolla, Cal.

For your information.

I would appreciate it very much if you would see that the mailings are terminated, and that the MUR is reduced either to a (a)closed file or (b)litigation.

Michael Schaefer
MICHAEL SCHAEFER

9 5 0 4 3 6 8 5 3 7 3

90 SEP 25 11 9:52

90 SEP 25 AM 11:34

RECEIVED
FEDERAL ELECTION COMMISSION

Law Offices

Michael Schaefer

Admitted to all courts
of California & Nevada, 99
United States Supreme Court
and United States Tax Court

SAN DIEGO OFFICE
LA CORPORATE CENTER

3252 Holiday Court, Suite 103
La Jolla, California 92037
Phone & Fax (619) 558-4750

LOS ANGELES OFFICE:

255 E. Grand Avenue, Suite 2806
Los Angeles, California 90012
Phone & Fax (213) 687-4638

October 28, 1990
Sunday
SAN DIEGO OFFICE

Lawrence Noble, General Counsel
F E C
Washington, D.C. 20463

Dear Mr. Noble:

What procedural steps can I take to light
a fire under you, or the Commission?

I am embarrassed, annoyed, imposed upon,
prejudiced, and harrassed by your inaction.

You have had MUR 2561 pending now for
over 4 years.

I have moved my office again, and do not
understand having to haul around with me
files on a case that I have no idea is
active or inactive.

Would you please go ahead and arrange for
in indictment, or civil action, or issue
a no-action letter?

I am a debtor in bankruptcy, made the best
offer I could with funds I didn't really have
but would get together, to settle it for \$1000
a year ago. I have since had that \$1,000
consumed by Luce Forward Hamilton & Scripps,
attorneys, in evaluating the files.

What would be your position if I filed a
matter in the U.S. District Court for an
Order declaring that there is no cause
for activity by your office and seeking
to enjoy further action(so I could throw-out
my files)??

The U.S. Supreme Court found me to be indigent
and granted In Forma Pauperis status, filing of
typed rather than printed motion to reconsider,
in June of this year, in Gallego v. Schaefer, my
petition for writ filed 5-15-90, denied 6-28-90,
Schaefer v. Gallgo. I cannot have your case linger
without you doing something definitive. Either way.
Please.

MUR
2561

90 NOV -2 AM 9:35

Note: change
of address

90 NOV -2 AM 11:49

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF FEDERAL COUNSEL

95043685374

M Schaefer

90 DEC 11 AM 9:31

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate,) MUR 2561
Friends of Schaefer and Michael)
Schaefer, as treasurer)

SENSITIVE
EXECUTIVE SESSION
DEC 18 1990

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 8, 1987, the Commission found reason to believe that the Friends of Schaefer Committee (the "Committee") and Michael Schaefer, as treasurer, violated: 2 U.S.C. § 441a(f) by accepting excessive contributions from Mary E. Huerta and Jay R. DeMiranda; 2 U.S.C. § 441b by accepting a loan from Charles Schwab & Co.; 2 U.S.C. § 434(b)(8) by failing to continuously report the debt owed to Mary E. Huerta; and 2 U.S.C. § 434(a)(2)(A)(iii) by failing to file a 1986 Year End Report. On March 15, 1988, the Commission found reason to believe that the Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(B)(i) and (ii) by failing to file a 1987 Mid-Year and 1987 Year End Report. On March 14, 1989, the Commission found reason to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) by not filing a Statement of Candidacy when he exceeded the \$5,000 threshold and that the Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. § 433(a) for failing to timely file a Statement of Organization.

On April 24, 1990, the Office of the General Counsel sent a brief to the Committee. In the brief, this Office recommended that the Commission find probable cause to believe that candidate Michael Schaefer violated 2 U.S.C. § 432(e)(1) and probable cause

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to believe that the Committee and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b in connection with the above activity.

On June 1, 1990, this Office received Mr. Schaefer's response to the brief. Attachment 1. In his brief, Schaefer argues that the Commission should find no probable cause to believe against either Michael Schaefer or "his alter-ego" Friends of Schaefer.

II. ANALYSIS (General Counsel's Brief incorporated by reference)

In his response, Mr. Schaefer addressed some of the issues presented in this Office's brief and raised some new arguments.

A. Contributions

One of the issues Mr. Schaefer addressed concerns the nature of the Committee. Pursuant to 2 U.S.C. § 431(2)(A), an individual becomes a candidate when he or she receives contributions aggregating in excess of \$5,000 or has made expenditures in excess of \$5,000. Each candidate must designate, in writing, a political committee to serve as his or her principal campaign committee within 15 days of becoming a candidate. 2 U.S.C. § 432(e)(1). The committee is then required to file a Statement of Organization no later than 10 days after designation pursuant to section 432(e)(1). 2 U.S.C. § 433(a).

Mr. Schaefer filed his Statement of Candidacy, which named Friends of Schaefer as his principal campaign committee, on July 17, 1986. The Committee filed a Statement of Organization on July 23, 1986. The Commission found reason to believe that Mr. Schaefer violated 2 U.S.C. § 432(e)(1) and the Committee

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violated section 433(a) because Mr. Schaefer made an assignment of \$671,142 (paid as monthly mortgage payments of \$6,711.42) to the Committee on February 28, 1986, several months before either document was filed.

In his response, Mr. Schaefer contended that Friends of Schaefer was not a federal political committee, rather it merely was an account that was used (and continued to be used until it was liquidated in bankruptcy) "for a multitude of purposes" such as political campaigns and donations to charity. Attachment 1 at 6.1/ He also argued that the assignment of the monthly payments of \$6,711 did not constitute political contributions. He made the assignment for his "personal funding of his campaign." Attachment 1 at 3 and 4. He further asserted that he did not make expenditures from the account in excess of \$5,000 for federal activities until July 1986. Attachment 1 at 7.

As discussed in the General Counsel's Brief, the \$671,142 note constitutes Mr. Schaefer's "personal funds" and the monthly payments were contributions by Mr. Schaefer to his own campaign.

1/ On July 17, 1987, Mr. Schaefer filed for bankruptcy under Chapter 11, Title 11, United States Code in the United States Bankruptcy Court in the Southern District of California. As discussed in a General Counsel's Report dated June 20, 1989 (recommendations approved by the Commission on June 23, 1989), Mr. Schaefer has argued that the Commission is precluded from pursuing any claims against him because the Commission was not scheduled as a creditor in the bankruptcy proceeding. This Office concluded at that time, and still believes, that the Commission's claims against Mr. Schaefer were not ripe when the time period for registering claims against the bankruptcy estate expired.

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Indeed, Mr. Schaefer confirms this as fact by his own statement that he assigned the \$671,142 to the account for "his personal funding of his campaign" (emphasis added). Therefore, he has admitted that he made contributions with the intention of using the money for the purpose of influencing a federal election, specifically the 1986 Republican primary for the U.S. Senate in the State of Maryland. Consequently, Schaefer triggered the threshold for filing as a candidate with the Commission in March 1986. Mr. Schaefer therefore was required to file his Statement of Candidacy within fifteen days and the Committee was required to file a Statement of Organization within ten days thereafter.

Mr. Schaefer also disputes the Brief's characterization of the "funds supplied" by Jay R. DeMiranda, Mary Huerta and Charles Schwab & Co. as contributions, arguing they were not meant to "influence an election to federal office." Attachment 1 at 6.2/ He also argues that these funds did not have to be reported on Schedule C of the financial disclosure forms because they were not made as political loans. Attachment 1 at 8. This is not correct.

2/ Mr. Schaefer also argues that a candidate is denied "due process of law and equal protection of the law" by the definition of a loan as a contribution (and consequently subject to the contribution limitations) merely because the loan was not made by an organization listed in 2 U.S.C. § 431(8)(B)(vii). Attachment 1 at 2 and 3. He contends that it "defies logic" to label a loan a contribution if its source is not a bank. Attachment 1 at 4 and 5. In this regard, he asserts that the loans he obtained were similar to "bona fide" loans that banks would make. Attachment 1 at 8 and 9. However, none of his arguments change the fact that a loan is statutorily defined as a contribution. The \$30,000 loan he obtained from Mary Huerta and the \$28,000 loan from Charles Schwab & Co. clearly were contributions.

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The Committee accepted and deposited money from these two individuals and the corporation. Therefore, the \$28,000 from Charles Schwab & Co. is a prohibited corporate contribution and the \$30,500 from Mary Huerta is an excessive individual contribution. (As discussed in the General Counsel's Brief, the \$671,142 from Jay R. DeMiranda was considered Mr. Schaefer's personal money.)

B. Reporting

The Committee failed to file reports with the Commission after Mr. Schaefer lost his bid in the primary. Mr. Schaefer alleged that the General Counsel's position that the Committee must continue to file is without foundation. Attachment 1 at 4. However, 2 U.S.C. § 433(d)(1) unequivocally states that a political committee can only terminate when it no longer is receiving any contributions and has no outstanding debts or obligations. The Committee still was receiving the monthly contribution of \$6,711.42 from Jay R. DeMiranda and owed Mary Huerta \$30,000. Mr. Schaefer therefore was instructed by the Reports Analysis Division and later by this Office to continue filing reports but he failed to do so.

C. Other Issues

Mr. Schaefer also raises various arguments concerning laches, selective enforcement, the appointment of counsel for Mr. Schaefer because he purportedly is an indigent due to his bankruptcy proceeding, and the violations of his constitutional rights, but they are all without merit.

There is no statute of limitations in a Commission

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enforcement matter. The Act's limitations provision, 2 U.S.C. § 455, applies solely to criminal prosecutions. Since this is a civil not a criminal proceeding, Mr. Schaefer is also not entitled to an appointed counsel. Furthermore, the Commission already considered the involvement of Jay R. DeMiranda, Mary Huerta and Charles Schwab & Co. in this matter and decided not to pursue violations against either of these individuals or the corporation. These decisions were fully justified and not for improper motives as Mr. Schaefer suggests. Finally, Mr. Schaefer has not demonstrated that his constitutional rights have been violated. See note 2, supra.

Accordingly, the Office of the General Counsel recommends that the Commission find probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) and probable cause to believe that Friends of Schaefer and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 433(A), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

Attached for the Commission's approval is a proposed conciliation agreement with Michael Schaefer, as candidate and Friends of Schaefer and Michael Schaefer, as treasurer.

95043685300

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Michael Schaefer, as candidate;
Friends of Schaefer and Michael Schaefer,
as treasurer.

)
) NUR 2561
)
)
)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 18, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in NUR 2561:

1. Find probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1).
2. Find probable cause to believe that Friends of Schaefer and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b.
3. Approve the conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated December 7, 1990.

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

Attest:

12-24-90
Date

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

95043685381



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 27, 1990

Michael Schaefer, Esquire
3252 Holiday Court, Suite 103
La Jolla, California 92037

RE: MUR 2561
Michael Schaefer, as candidate
Friends of Schaefer and
Michael Schaefer, as
treasurer

Dear Mr. Schaefer:

On December 18, 1990, the Federal Election Commission found that there is probable cause to believe that you, as candidate, violated 2 U.S.C. § 432(e)(1). On that same date the Commission also found that there is probable cause to believe that Friends of Schaefer (the "Committee") and you, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with information ascertained in the normal course of carrying out its supervisory responsibilities and information supplied by you.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

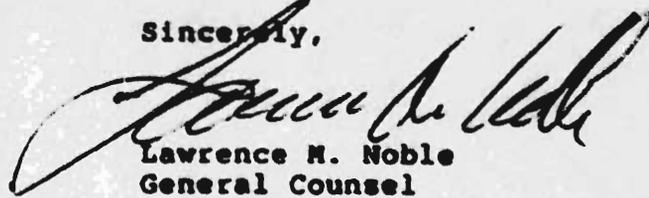
Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

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Michael Schaefer, Esquire
Page 2

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9 5 0 4 3 6 8 5 3 8 3

Law Offices

Michael Schaefer

Admitted to all courts
of California & Nevada, the
United States Supreme Court
and United States Tax Court

SAN DIEGO OFFICE

JOLLA CORPORATE CENTER
3303 Holiday Court, Suite 103
La Jolla, California 92037
Phone & Fax (619) 558-4750

LOS ANGELES OFFICE:

255 S. Grand Avenue, Suite 2006
Los Angeles, California 90012
Phone & Fax (213) 687-4638

SAN DIEGO OFFICE
December 29, 1990

Chairman,
Federal Election Commission
999 E St NW
Washington, D.C. 20463

Murphy

Re: Waste & Inefficiency in the
Operation of the Commission

If I receive another set of forms for filing
of reports from your office, I am going to file
a complaint with the office of my U.S. Senator
and Congressman as to inefficiency and waste
by the Commission.

In 1986 I was a federal candidate in the
jurisdiction of Maryland, lost in the
September, 1986 primary, filed a termination
statement, and have had nothing to do with
fund raising or political expenditures in
any federal context for well over 4 years.

It is a gross imposition on my mailbox, my
files, and on the federal budget, for you
to be sending out 20 to 40 page sets of
documents that have no purpose.

If I don't get a call from someone about
this, to (619)558-4750, within the next
20 days, I will call to see what you are
doing about it. Turn-off the mailing machine!

Sincerely,

Michael Schaefer
MICHAEL SCHAEFER

91 JAN -4 PM 2:55

91 JAN -8 AM 9:54

RECEIVED
FEDERAL ELECTION COMMISSION

95043685364

**YEAR-END
REPORT NOTICE**

FEDERAL ELECTION COMMISSION

CONGRESSIONAL CANDIDATES

December 27, 1990

I. 1990 GENERAL ELECTION CANDIDATE COMMITTEES

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Year-End	11/27/90** - 12/31/90	01/31/91	01/31/91

II. 1990 UNSUCCESSFUL PRIMARY CANDIDATE COMMITTEES

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Year-End	10/01/90** - 12/31/90	01/31/91	01/31/91

III. CANDIDATE COMMITTEES NOT ACTIVE IN 1990 ELECTIONS

REPORT	REPORTING PERIOD	REG./CERT. MAILING DATE*	FILING DATE
Year-End	07/01/90** - 12/31/90	01/31/91	01/31/91

WHO MUST FILE

ALL PRINCIPAL CAMPAIGN COMMITTEES must file the Year-End Report.

WHAT MUST BE REPORTED

All financial activity (not previously reported) that occurred during the reporting period must be disclosed.

REPORTING FORMS

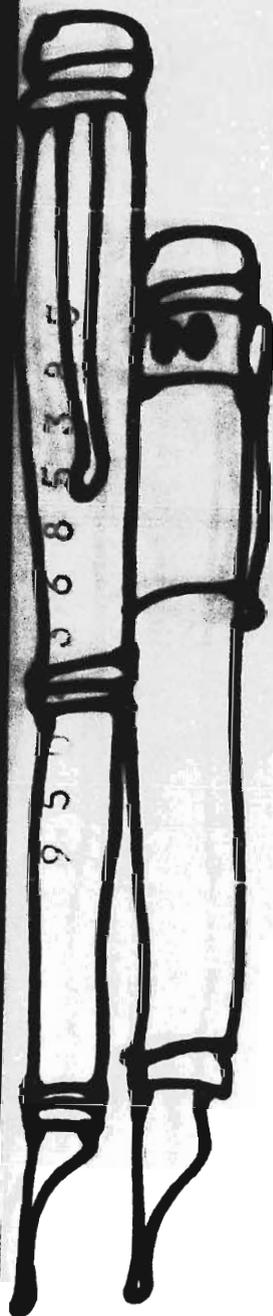
Candidate committees use Form 3 (enclosed). If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 32.

***Reports sent by registered or certified mail will be considered filed on the date of the U.S. postmark. Reports hand delivered or mailed first class must be received by the filing date.**

****The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.**

(over)

*Some 30-40
pages attached*



WHERE TO FILE

Consult the instructions on the back of the Summary Page of Form 3. Note State filing requirements also.

LABEL

Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

COMPLIANCE

TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-PEC FORMS WILL BE REQUIRED TO REFILE.

1991 REPORTING SCHEDULE

REPORT	PERIOD COVERED	REG./CERT. MAILING DATE*	FILING DATE
Mid-Year	01/01/91-06/30/91	07/31/91	07/31/91
Year-End	07/01/91-12/31/91	01/31/92	01/31/92

*Reports sent by registered or certified mail will be considered filed on the date of the U.S. postmark. Reports hand delivered or mailed first class must be received by the filing date.

FOR INFORMATION, Call: Information Services Division
202/376-3120 or 800/424-9530

95043685386

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate) MUR 2561
Friends of Schaefer and)
Michael Schaefer, as treasurer)

GENERAL COUNSEL'S REPORT

I. DISCUSSION

On December 18, 1990, the Commission found probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1) for not filing a Statement of Candidacy when he exceeded the \$5,000 threshold. On that same date, the Commission also found probable cause to believe that Friends of Schaefer and Michael Schaefer, as treasurer, violated the following: 2 U.S.C. § 433(a) for failing to timely file a Statement of Organization; 2 U.S.C. § 434(a)(2)(A)(iii) by failing to timely file a 1986 Year End Report; 2 U.S.C. § 434(a)(2)(B)(i) and (ii) by failing to timely file a 1987 Mid-Year and 1987 Year End Report; 2 U.S.C. § 434(b)(8) by failing to continuously report a debt owed to an individual; 2 U.S.C. § 441a(f) by accepting excessive contributions from two individuals; and 2 U.S.C. § 441b by accepting a loan from a brokerage company. Respondents were notified of the Commission's actions by a letter dated December 27, 1990, which enclosed the proposed conciliation agreement approved by the Commission.

On January 4, 1991, the Office of General Counsel received a letter from Mr. Schaefer dated January 2, 1991. Attachment 1.

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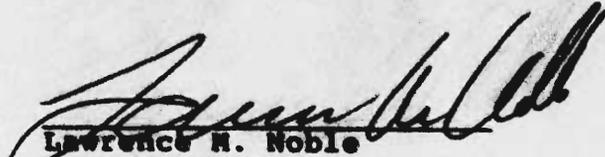
Therefore, this Office recommends that the Commission reject respondents' counteroffer and authorize this Office to file a civil suit for relief in the United States District Court against Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.

II. RECOMMENDATIONS

1. Reject the counteroffer of Michael Schaefer, as candidate and Friends of Schaefer and Michael Schaefer, as treasurer.
2. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.

3. Approve the appropriate letter.

1/10/91
Date


Lawrence H. Noble
General Counsel

Attachment

1. Response from Schaefer dated January 2, 1991
2. Response from Schaefer dated January 4, 1991

Staff Assigned: Sandra J. Dunham

95043685389

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate;) MUR 2561
Friends of Schaefer and)
Michael Schaefer, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 15, 1991, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2561:

1. Direct the Office of General Counsel to submit to the respondents a counterproposed conciliation agreement and to notify the respondents that if this offer is not accepted within ten days, that the Commission will proceed to the next stage of the enforcement process.
2. Direct the Office of General Counsel to report to the Commission at the conclusion of the ten day time period.

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

Attest:

Corrected
1-17-91
Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

95043685390



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 22, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Schaefer, Esquire
3252 Holiday Court, Suite 103
La Jolla, California 92037

RE: MUR 2561
Michael Schaefer, as candidate
Friends of Schaefer and Michael
Schaefer, as treasurer

Dear Mr. Schaefer:

This letter is to confirm the Federal Election Commission's receipt of the counter-proposed conciliation agreement you submitted on January 2, 1991. On January 15, 1991, the Commission reviewed and rejected your counterproposal. In an effort to resolve this matter, however, the Commission approved a second proposed agreement.

While the Commission is still hopeful that this matter can be settled through a conciliation agreement, please be advised that in the absence of your acceptance of the enclosed agreement within ten (10) days, the Commission has instructed the Office of General Counsel to proceed to the next stage in the enforcement process.

Should you have any questions, please contact Sandra J. Dunham, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

LM Noble (FJH)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

95043685391

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate,) MUR 2561
Friends of Schaefer and Michael)
Schaefer, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 18, 1990, the Commission found probable cause to believe that Michael Schaefer violated 2 U.S.C. § 432(e)(1), and that Friends of Schaefer and Michael Schaefer, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b. On that same date, the Commission approved a conciliation agreement

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II. DISCUSSION

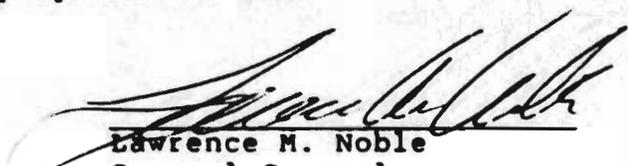
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For the foregoing reasons, the Office of General Counsel recommends that the Commission reject respondents' latest counterproposal. Since it does not appear that the Commission will be able to resolve this matter on favorable terms, this Office also recommends that the Commission authorize the filing of civil suit against respondents.

III. RECOMMENDATIONS

1. Reject the counteroffer submitted by Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.
2. Authorize the Office of General Counsel to file a civil suit for relief in United States District Court against Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.
3. Approve the appropriate letter.

Date 2/21/91


Lawrence M. Noble
General Counsel

Attachments:

1. Response from Schaefer (dated Jan. 28, 1991).

Staff assigned: Sandra J. Dunham

95043685394

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Michael Schaefer, as candidate;) NUR 2561
Friends of Schaefer and Michael)
Schaefer, as treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 26, 1991, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in NUR 2561:

1. Reject the counteroffer submitted by Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.
2. Authorize the Office of General Counsel to file a civil suit for relief in United States District Court against Michael Schaefer, as candidate, and Friends of Schaefer and Michael Schaefer, as treasurer.
3. Approve the appropriate letter as recommended in the General Counsel's report dated February 21, 1991.

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

Attest:

2-27-91
Date

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

95043685395



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20463

March 4, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Schaefer, Esquire
3252 Holiday Court, Suite 103
La Jolla, California 92037

RE: MUR 2561
Michael Schaefer, as candidate
Friends of Schaefer and Michael
Schaefer, as treasurer

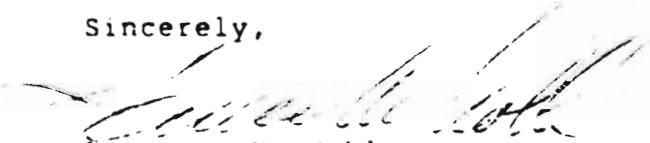
Dear Mr. Schaefer:

You were previously notified that on December 18, 1990, the Federal Election Commission found probable cause to believe that you, as candidate, violated 2 U.S.C. § 432(e)(1) and Friends of Schaefer (the "Committee") and you, as treasurer, violated 2 U.S.C. §§ 433(a), 434(a)(2)(A)(iii), 434(a)(2)(B)(i) and (ii), 434(b)(8), 441a(f) and 441b, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the captioned matter.

As a result of our inability to settle this matter through conciliation within the allowable time period, the Commission has authorized the General Counsel to institute a civil action for relief in the United States District Court.

Should you have any questions, or should you wish to settle this matter prior to suit, please contact David M. FitzGerald, Assistant General Counsel, at (202) 376-8200, within five days of your receipt of this letter.

Sincerely,


Lawrence M. Noble
General Counsel

95043685396

1
2 **LAWRENCE M. NOBLE**
General Counsel

3 **RICHARD B. BADER**
4 Associate General Counsel

5 **STEPHEN E. HERSHKOWITZ**
6 Assistant General Counsel

7 **FRANCISZKA A. MONARSKI**
Attorney

8 **FOR THE PLAINTIFF**
9 **FEDERAL ELECTION COMMISSION**
10 999 E Street, N.W.
Washington, D.C. 20463
(202) 219-3400



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REC'D
NOV 10 1992

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 **FEDERAL ELECTION COMMISSION,**)
14)
15 **Plaintiff,**) **Civil Action No. 91-0650-B (CM)**
16)
17 **v.**) **SATISFACTION OF JUDGMENT**
18)
19 **FRIENDS OF SCHAEFER, et al.**)
20)
21 **Defendants.**)

22 **PLAINTIFF FEDERAL ELECTION COMMISSION'S**
23 **ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT**

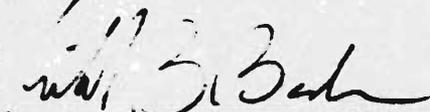
24 On April 7, 1992, the Court ordered a judgment in the sum of
25 three thousand dollar (\$3,000) against Michael Schaefer and in
26 favor of the Commission and injunctive relief.

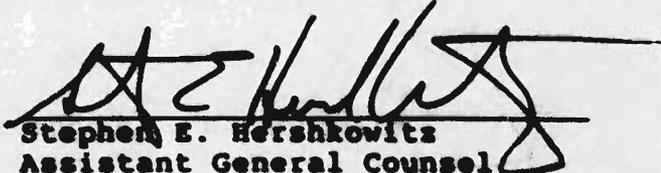
27 WHEREAS, the monetary portion of said judgment has been paid
28 to the satisfaction of the plaintiff Federal Election Commission;

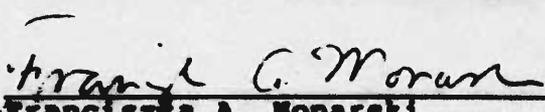
1
2 **THEREFORE, satisfaction of this judgment is hereby**
3 **acknowledged, and the Commission authorizes the Clerk of the Court**
4 **to close this matter.**

5
6 **Respectfully submitted,**

7
8 
9 **Lawrence M. Noble** (PAB)
10 **General Counsel**

11 
12 **Richard B. Bader**
13 **Associate General Counsel**

14 
15 **Stephen E. Hershkovitz**
16 **Assistant General Counsel**

17 
18 **Francis A. Monarski**
19 **Attorney**

20 **February 1, 1994**

21
22
23
24
25
26
27
28 **FOR THE PLAINTIFF**
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463
(202) 219-3400

1
2 **LAWRENCE N. NOBLE**
General Counsel

3
4 **RICHARD B. BADER**
Associate General Counsel

5
6 **STEPHEN E. HERSHKOWITZ**
Assistant General Counsel

7
8 **FRANCISZKA A. MONARSKI**
Attorney

9
10 **FOR THE PLAINTIFF**
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463
(202) 219-3400

11 **UNITED STATES DISTRICT COURT**
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 **FEDERAL ELECTION COMMISSION,**)

Plaintiff,)

v.)

FRIENDS OF SCHAEFER, et al.)

Defendants.)

Civil Action No. 91-0650-H (CM)

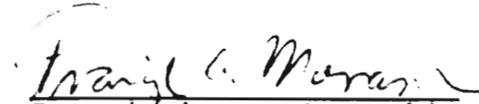
CERTIFICATE OF SERVICE

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21 **CERTIFICATE OF SERVICE**

I hereby certify on the 1st day of February 1994, I caused to be served by first-class mail, postage prepaid, a copy of the Commission's notice of acknowledgment of satisfaction of judgment in the above-captioned litigation on:

22 **Michael Schaefer**
23 **3050 Rue D'Orleans #391**
San Diego, CA 92110

24
25 February 1, 1994

26 
27 **Franciszka A. Monarski**
28 **Attorney**



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2561

DATE FILMED 11-3-85 CAMERA NO. 1

CAMERAMAN JMK

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